Maine Citizen's Guide to the

Referendum Election

Tuesday, November 7, 2023

In Accordance with
the April 7th, 2023 Proclamation of the Governor
and with the Acts Passed by the 131st Legislature
at the First Special Session

Shenna Bellows
Secretary of State

Appropriation 010-29A-4213-012

State of Maine
Office of the Secretary of State
Augusta, Maine 04333

Dear Fellow Citizen,

The information in this booklet is intended to help voters learn about the questions that will appear on the November 7, 2023 Referendum Election ballot. Referendum elections are an important part of the heritage of public participation in Maine.

Inside this booklet, you will find:

- the referendum questions;
- the legislation each question represents;
- a summary of the intent and content of the legislation;
- an explanation of the significance of a "yes" or "no" vote;
- an estimate of the fiscal impact of each referendum question on state revenues, appropriations and allocations; and
- public comments filed in support of or in opposition to each ballot measure.

For information about how and where to vote, please contact your local Municipal Clerk or call Maine's Division of Elections at 207-624-7650. Information is also available online at www.maine.gov/sos.

The Department of the Secretary of State, the Attorney General, the State Treasurer and the Office of Fiscal and Program Review have worked together to prepare this booklet of information, and we hope you find it helpful.

Sincerely,

Shenna Bellows
Secretary of State

State of Maine
Referendum Election, November 7, 2023
Listing of Referendum Questions

Question 1: Citizen's Initiative

Do you want to bar some quasi-governmental entities and all consumer-owned electric utilities from taking on more than $1 billion in debt unless they get statewide voter approval?

Question 2: Citizen's Initiative

Do you want to ban foreign governments and entities that they own, control, or influence from making campaign contributions or financing communications for or against candidates or ballot questions?

Question 3: Citizen's Initiative

Do you want to create a new power company governed by an elected board to acquire and operate existing for-profit electricity transmission and distribution facilities in Maine?

Question 4: Citizen's Initiative

Do you want to require vehicle manufacturers to standardize on-board diagnostic systems and provide remote access to those systems and mechanical data to owners and independent repair facilities?

Question 5: Constitutional Amendment

Do you favor amending the Constitution of Maine to change the time period for judicial review of the validity of written petitions from within 100 days from the date of filing to within 100 business days from the date of filing of a written petition in the office of the Secretary of State, with an exception for petitions filed within 30 calendar days before or after a general election?

Question 6: Constitutional Amendment

Do you favor amending the Constitution of Maine to require that all of the provisions of the Constitution be included in the official printed copies of the Constitution prepared by the Secretary of State?

Question 7: Constitutional Amendment

Do you favor amending the Constitution of Maine to remove a provision requiring a circulator of a citizen's initiative or people's veto petition to be a resident of Maine and a registered voter in Maine, requirements that have been ruled unconstitutional in federal court?

Question 8: Constitutional Amendment

Do you favor amending the Constitution of Maine to remove a provision prohibiting a person under guardianship for reasons of mental illness from voting for Governor, Senators and Representatives, which the United States District Court for the District of Maine found violates the United States Constitution and federal law?

Question 1: Citizen's Initiative

Do you want to bar some quasi-governmental entities and all consumer-owned electric utilities from taking on more than $1 billion in debt unless they get statewide voter approval?

STATE OF MAINE

"An Act to Require Voter Approval of Certain Borrowing by Government-controlled Entities and Utilities and to Provide Voters More Information Regarding That Borrowing"

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §158 is enacted to read:

§158. Limitation on borrowing

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Consumer-owned transmission and distribution utility" has the same meaning as in Title 35-A, section 3501, subsection 1.

B. "Cooperative" has the same meaning as in Title 35-A, section 4103, subsection 2.

C. "Municipal electric district" means a municipal power district formed pursuant to Title 35-A, chapter 39.

D. "Quasi-independent state entity" has the same meaning as in section 12021, subsection 5.

E. "Reporting entity" has the same meaning as in section 12021, subsection 6.

F. "Rural electrification cooperative" has the same meaning as in Title 35-A, section 3703, subsection 2.

2. Limitation on debt unless approved by voters. Notwithstanding any provision of law to the contrary in effect as of the effective date of this section, and except as provided in subsection 4, a quasi-independent state entity, reporting entity, municipal electric district, consumer-owned transmission and distribution utility, cooperative or rural electrification cooperative may not borrow money, incur debt, whether general obligation debt or revenue obligation debt, or issue bonds, notes or other evidences of indebtedness that would cause its total debt outstanding at any time to exceed $1,000,000,000 unless the action that would cause the total debt outstanding to exceed $1,000,000,000 is approved by the voters at a general election duly called and held in accordance with the provisions of Title 21-A. Any borrowing, incurrence of debt, or issuance of bonds, notes, other evidences of indebtedness or other obligations subject to this section by a quasi-independent state entity, reporting entity, municipal electric district, consumer-owned transmission and distribution utility, cooperative or rural electrification cooperative after the effective date of this section that is not approved by the voters as required by this subsection is invalid and not legally binding nor enforceable.

3. Statement to accompany referendum question. The Treasurer of State, with the assistance of the Secretary of State, shall prepare a signed statement to accompany any question

submitted to the voters for approval under subsection 2. The statement must include, at a minimum, an estimate of costs involved, including an explanation, based on such factors as interest rates that may vary, of the interest cost contemplated to be paid on the amount to be issued, the total cost of principal and interest that will be paid through maturity and any other substantive explanatory information relating to the debt as the Treasurer of State considers appropriate. The statement must be printed on the ballot or printed as a separate document that is available to voters as provided in Title 21-A, section 651. This statement must also be included in the citizen's guide to the referendum election issued by the Secretary of State pursuant to Title 21-A, section 605-A, subsection 2, paragraph E.

4. Exemptions. This section does not apply to borrowing or issuance of bonds, notes, other evidences of indebtedness or other obligations pursuant to chapter 421; Title 10, chapter 110; Title 20-A, Part 5; Title 22, chapter 413; Title 23, Part 1; or Title 30-A, chapter 201 or chapter 225.

5. Effective date. This section takes effect:

A. If the Act containing this section was referred to the people and approved by a majority of the votes given thereon, 90 days after the Governor has made a public proclamation of the result of the vote on the Act; or

B. If the Act containing this section was enacted without change by the Legislature at the session at which it was presented, 365 days after such enactment by the Legislature.

SUMMARY

This initiated bill prohibits a quasi-independent state entity, reporting entity, municipal electric district, consumer-owned transmission and distribution utility, cooperative or rural electrification cooperative from borrowing money, incurring debt, whether general obligation debt or revenue obligation debt, or issuing bonds, notes or other evidences of indebtedness that would cause its total debt outstanding at any time to exceed $1,000,000,000 unless the action that would cause the total debt outstanding to exceed $1,000,000,000 is approved by the voters at a general election. This initiated bill requires the Treasurer of State, with the assistance of the Secretary of State, to prepare a statement to accompany the question presented to the voters regarding the estimated costs of the increased debt and any other issues the Treasurer of State considers relevant.

Exemptions are provided for debt issued by the Maine Public Employees Retirement System, the Finance Authority of Maine, the Maine Health and Higher Education Facilities Authority, the Department of Transportation, the Maine Turnpike Authority, municipalities and counties and the Maine Municipal Bond Bank and for certain education-related programs.

Intent and Content
Prepared by the Office of the Attorney General

This citizen-initiated bill is intended to require some types of public bodies and electric utilities to get voter approval in a statewide referendum before they can exceed $1 billion in total outstanding debt.

Covered Entities. The voter-approval requirement applies to five types of entities:

A quasi-independent state entity: An independent board, commission or agency created by the Maine Legislature to fulfill governmental purposes and that receives revenues that are derived, in whole or part, from federal or state taxes or fees.

A reporting entity: A type of quasi-independent state entity required to file financial reports with the Maine Legislature. There are currently 24 reporting entities. Examples include the Finance Authority of Maine, the Maine Community College System, the Maine Human Rights Commission, and the Maine State Housing Authority.

A municipal electric district: An entity created by voters or officials of one or more municipalities that may, among other things, generate, transmit, or distribute electricity to individuals and corporations within the district.

A consumer-owned transmission and distribution utility: A transmission and distribution utility wholly owned by its consumers, including rural and other electrification cooperatives, municipal and quasi-municipal transmission and distribution utilities, and any transmission and distribution utility wholly owned by a municipality. The Pine Tree Power Company proposed by Question 3 would be classified as a consumer-owned utility if voters approve that proposed measure.

A rural electrification cooperative: A corporation organized by 5 or more individuals to, among other things, generate, transmit or distribute electricity to the cooperative's members.

Voter Approval Process. Voter approval of debts exceeding $1 billion for the above entities would occur through a statewide referendum held at a November general election. The State Treasurer would be required to prepare a signed statement estimating the costs involved, including interest costs, which would be printed on the ballot or posted at the voting place.

Exceptions. The initiated measure exempts several types of borrowing from the voter-approval requirement:

(1) Borrowing authorized by certain laws governing the state retirement system;

(2) Borrowing authorized by certain laws regulating the Finance Authority of Maine;

(3) Borrowing authorized by certain laws pertaining to post-secondary education;

(4) Borrowing authorized by certain laws regulating the Maine Health and Higher Educational Facilities Authority;

(5) Borrowing authorized by certain laws pertaining to state highways;

(6) Borrowing authorized by certain laws regulating the Maine State Housing Authority; and,

(7) Borrowing authorized by certain laws regulating the Maine Municipal Bond Bank.

A "YES" vote is to enact the initiated legislation.

A "NO" vote opposes the initiated legislation.

Fiscal Impact Statement
Prepared by the Office of Fiscal and Program Review

This citizen initiative prohibits certain entities from borrowing money, incurring debt or issuing bonds, notes or other evidences of indebtedness that cause their individual debt outstanding at any one time to exceed $1,000,000,000 unless such borrowing is approved by the voters at a general election. As is already required under current law for general obligation bonds issued by the State, the Treasurer of State is required to provide certain principal and interest cost information to the Secretary of State to be printed on the ballot or printed as a separate document and the Secretary of State must also include it in the citizen's guide to the referendum.

The large dollar threshold, along with language that exempts certain major debt-issuing entities from the requirement for voter approval, means that the number of times such a borrowing will need to be voted on is expected to be quite small. The Secretary of State's budget normally includes sufficient funds to accommodate one ballot of average length for a general election in November. If the number or size of the referendum questions requires production and delivery of a second ballot, an additional appropriation of $266,000 may be required for the Secretary of State. Whether this initiative will necessitate a second ballot will depend on what else is on the ballot at each particular general election when a borrowing appears. Any additional costs to the Treasurer of State to prepare the required information is expected to be insignificant.

If a proposed future borrowing is approved by the voters, there would be no additional fiscal impact from enactment of this initiative apart from possible ballot costs. If a future borrowing is rejected by the voters, there is the possibility of additional fiscal impact, but it would be contingent on the nature of the specific borrowing rejected and no estimate of fiscal impact can be made at this time on what might not occur because of this initiative.

Public Comments

No public comments were filed in support of or opposition to Question 1.

Question 2: Citizen's Initiative

Do you want to ban foreign governments and entities that they own, control, or influence from making campaign contributions or financing communications for or against candidates or ballot questions?

STATE OF MAINE

"An Act to Prohibit Campaign Spending by Foreign Governments and Promote an Anticorruption Amendment to the United States Constitution"

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 21-A MRSA §1064 is enacted to read:

§1064. Foreign government campaign spending prohibited

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Contribution" has the meanings given in section 1012, subsection 2 and section 1052, subsection 3.

B. "Electioneering communication" means a communication described in section 1014, subsection 1, 2 or 2-A.

C. "Expenditure" has the meanings given in section 1012, subsection 3 and section 1052, subsection 4.

D. "Foreign government" includes any person or group of persons exercising sovereign de facto or de jure political jurisdiction over any country other than the United States or over any part of such country and includes any subdivision of any such group and any group or agency to which such sovereign de facto or de jure authority or functions are directly or indirectly delegated. "Foreign government" includes any faction or body of insurgents within a country assuming to exercise governmental authority, whether or not such faction or body of insurgents has been recognized by the United States.

E. "Foreign government-influenced entity" means:

(1) A foreign government; or

(2) A firm, partnership, corporation, association, organization or other entity with respect to which a foreign government or foreign government-owned entity:

(a) Holds, owns, controls or otherwise has direct or indirect beneficial ownership of 5% or more of the total equity, outstanding voting shares, membership units or other applicable ownership interests; or

(b) Directs, dictates, controls or directly or indirectly participates in the decision-making process with regard to the activities of the firm, partnership, corporation, association, organization or other entity to influence the nomination or election of a candidate or the initiation or approval of a referendum, such as decisions concerning the making of contributions, expenditures, independent expenditures, electioneering communications or disbursements.

F. "Foreign government-owned entity" means any entity in which a foreign government owns or controls more than 50% of its equity or voting shares.
G. "Independent expenditure" has the meaning given in section 1019-B, subsection 1.
H. "Public communication" means a communication to the public through broadcasting stations, cable television systems, satellite, newspapers, magazines, campaign signs or other outdoor advertising facilities, Internet or digital methods, direct mail or other types of general public political advertising, regardless of medium.
I. "Referendum" means any of the following:
(1) A people's veto referendum under the Constitution of Maine, Article IV, Part Third, Section 17;
(2) A direct initiative of legislation under the Constitution of Maine, Article IV, Part Third, Section 18;
(3) A popular vote on an amendment to the Constitution of Maine under the Constitution of Maine, Article X, Section 4;
(4) A referendum vote on a measure enacted by the Legislature and expressly conditioned upon ratification by a referendum vote under the Constitution of Maine, Article IV, Part Third, Section 19;
(5) The ratification of the issue of bonds by the State or any state agency; and
(6) Any county or municipal referendum.

2. Campaign spending by foreign governments prohibited. A foreign government-influenced entity may not make, directly or indirectly, a contribution, expenditure, independent expenditure, electioneering communication or any other donation or disbursement of funds to influence the nomination or election of a candidate or the initiation or approval of a referendum.

3. Solicitation or acceptance of contributions from foreign governments prohibited. A person may not knowingly solicit, accept or receive a contribution or donation prohibited by subsection 2.

4. Substantial assistance prohibited. A person may not knowingly or recklessly provide substantial assistance, with or without compensation:
A. In the making, solicitation, acceptance or receipt of a contribution or donation prohibited by subsection 2; or
B. In the making of an expenditure, independent expenditure, electioneering communication or disbursement prohibited by subsection 2.

5. Structuring prohibited. A person may not structure or attempt to structure a solicitation, contribution, expenditure, independent expenditure, electioneering communication, donation, disbursement or other transaction to evade the prohibitions and requirements in this section.

6. Communications by foreign governments to influence policy; required disclosure. Whenever a foreign government-influenced entity disburses funds to finance a public communication not otherwise prohibited by this section to influence the public or any state, county or local official or agency regarding the formulation, adoption or amendment of any state or local government policy or regarding the political or public interest of or government relations with a foreign country or a foreign political party, the public communication must clearly and conspicuously contain the words "Sponsored by" immediately followed by the name of the foreign government-influenced entity that made the disbursement and a statement identifying that foreign government-influenced entity as a "foreign government" or a "foreign government-influenced entity."

7. Due diligence required. Each television or radio broadcasting station, provider of cable or satellite television, print news outlet and Internet platform shall establish due diligence policies, procedures and controls that are reasonably designed to ensure that it does not broadcast, distribute or otherwise make available to the public a public communication for which a foreign government-influenced entity has made an expenditure, independent expenditure, electioneering communication or disbursement in violation of this section. If an Internet platform discovers that it has distributed a public communication for which a foreign government-influenced entity has made an expenditure, independent expenditure, electioneering communication or disbursement in violation of this section, the Internet platform shall immediately remove the communication and notify the commission.

8. Penalties. The commission may assess a penalty of not more than $5,000 or double the amount of the contribution, expenditure, independent expenditure, electioneering communication, donation or disbursement involved in the violation, whichever is greater, for a violation of this section. In assessing a penalty under this section, the commission shall consider, among other things, whether the violation was intentional and whether the person that committed the violation attempted to conceal or misrepresent the identity of the relevant foreign government-influenced entity.

9. Violations. Notwithstanding section 1004, a person that knowingly violates subsections 2 through 5 commits a Class C crime.

10. Rules. The commission shall adopt rules to administer the provisions of this section. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

11. Applicability. Notwithstanding section 1051, this section applies to all persons, including candidates, their treasurers and authorized committees under section 1013-A, subsection 1; party committees under section 1013-A, subsection 3; and committees under section 1052, subsection 2.

Sec. 2. Accountability of Maine's Congressional Delegation to the people of Maine with respect to federal anticorruption constitutional amendment.

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Actively support and promote" means to sponsor or cosponsor in Congress a joint resolution proposing pursuant to the United States Constitution, Article V an anticorruption constitutional amendment, and to advance such constitutional amendment by engaging, working and negotiating with others in Congress, the State of Maine and the United States in good faith and without respect to party partisanship to secure passage of such constitutional amendment in Congress so that Maine and the several states may consider ratification of such constitutional amendment.

B. "Anticorruption constitutional amendment" means a proposed amendment to the United States Constitution that is consistent with the principles of the Maine Resolution and the reaffirmation of the Maine Resolution.

C. "The Maine Resolution" means the joint resolution, Senate Paper 548, adopted by the 126th Legislature of the State of Maine on April 30, 2013 calling for an amendment to the United States Constitution to "reaffirm the power of citizens through their government to regulate the raising and spending of money in elections."

2. Reaffirmation of the Maine Resolution. The Maine Resolution is hereby reaffirmed and clarified to call on each member of Maine's Congressional Delegation to actively support and promote an effective anticorruption amendment to the United States Constitution to secure the following principles and rights:

A. That governmental power derives from the people, and influence and participation in government is a right of all the people and under the Constitution of Maine and the United States Constitution, should not be allocated or constrained based on the use of wealth to influence the outcome of elections and referenda; and

B. That Maine and the several states, and Congress with respect to federal elections, must have the authority to enact reasonable limits on the role of money in elections and referenda to secure the rights of the people of Maine to free speech, representation and participation in self-government; the principles of federalism and the sovereignty of the State of Maine and the several states; and the integrity of Maine elections and referenda against corruption and foreign influence.

3. Accountability. For 7 consecutive years beginning on July 31, 2023, the Commission on Governmental Ethics and Election Practices shall issue a report, following public comment, identifying anticorruption amendment proposals introduced in Congress, and the members of Maine's Congressional Delegation sponsoring such proposals.

SUMMARY

This initiated bill makes the following changes to the election laws.

1. It prohibits a foreign government-influenced entity from making, directly or indirectly, a contribution, expenditure, independent expenditure, electioneering communication or any other donation or disbursement of funds to influence the nomination or election of a candidate or the initiation or approval of a referendum. It prohibits a person from knowingly or recklessly providing substantial assistance, with or without compensation, in the making of an expenditure, independent expenditure, electioneering communication or disbursement in violation of this prohibition. It prohibits a person from knowingly soliciting, accepting or receiving a contribution or donation in violation of this prohibition and prohibits a person from knowingly or recklessly providing substantial assistance, with or without compensation, in the making, solicitation, acceptance or receipt of a contribution or donation in violation of this prohibition.

2. It prohibits a person from structuring or attempting to structure a solicitation, contribution, expenditure, independent expenditure, electioneering communication, donation, disbursement or other transaction to evade the prohibitions and requirements in the initiated bill.

3. It requires, whenever a foreign government-influenced entity disburses funds to finance a public communication to influence the public or government officials on issues of state or local policy or foreign relations, that the communication include a clear and conspicuous statement naming the foreign government-influenced entity as a sponsor of the communication.

4. It directs each television or radio broadcasting station, provider of cable or satellite television, print news outlet and Internet platform to establish due diligence policies to prevent

the distribution of communications for which foreign government-influenced entities have made prohibited expenditures, independent expenditures, electioneering communications or disbursements and further directs an Internet platform to, upon discovery, immediately remove any such communications from its platform.

5. It provides that the Commission on Governmental Ethics and Election Practices may assess a penalty of not more than $5,000 or double the amount of the contribution, expenditure, independent expenditure, electioneering communication, donation or disbursement involved in the violation, whichever is greater, for a violation of the initiated bill.

6. The initiated bill also calls on each member of Maine's Congressional Delegation to actively support and promote an effective anticorruption amendment to the United States Constitution to reaffirm the power of citizens through their government to regulate the raising and spending of money in elections.

7. For 7 consecutive years beginning July 31, 2023, the initiated bill requires the Commission on Governmental Ethics and Election Practices to issue a report, following public comment, identifying anticorruption amendment proposals introduced in Congress and the members of Maine's Congressional Delegation sponsoring such proposals.

Intent and Content
Prepared by the Office of the Attorney General

This citizen-initiated bill is intended to ban foreign governments and entities with certain connections to foreign governments from seeking to influence Maine election campaigns. The measure is also intended to encourage Maine's congressional delegation to support amending the U.S. Constitution to undo or narrow certain U.S. Supreme Court decisions limiting regulation of campaign spending.

Entities Subject to the Law. The initiated measure would restrict the political activities of a class of entities that the measure calls "foreign government–influenced entities." The measure defines these entities to include both foreign governments, whether or not recognized by the United States, and "firms, partnerships, corporations, associations, organizations and other entities" that meet one of two criteria:

(1) A foreign government or entity that is majority-owned by a foreign government controls or owns, directly or indirectly, 5% or more of the entity; or,

(2) A foreign government or entity that is majority-owned by a foreign government "directs, dictates, controls, or directly or indirectly participates in the decision-making process" with regard to the entity's participation in election campaigns.

Prohibitions on Election Activities. The initiated bill would ban foreign government–influenced entities from engaging in certain election activities. Included in the ban would be making monetary or in-kind contributions, making expenditures (whether they are independent or in coordination with a candidate), making electioneering communications, and making any other donations or disbursement of funds to influence a campaign. The ban would apply to both candidate campaigns and referenda campaigns, including referenda for direct initiatives, people's vetoes, constitutional amendments, bonds, Legislature-directed referenda, and county and municipal referenda.

The initiated measure also bans soliciting, accepting, or receiving a contribution by a foreign government–influenced entity or providing substantial assistance in carrying out any of the prohibited activities. It further prohibits structuring or attempting to structure transactions to evade the measure's prohibitions.

The initiated measure would make a knowing violation of any of the above restrictions a Class C crime punishable by up to 5 years in prison and a criminal fine of up to $5,000 for an individual. An entity could be punished with a criminal fine of up to $20,000. The measure would also authorize the Commission on Governmental Ethics and Election Practices to impose civil fines of up to $5,000 for a violation, whether the violation was knowing or inadvertent.

Disclosure Requirement for Other Public Communications. The initiated bill does not ban foreign government–influenced entities from seeking to influence the public or any state, county, or local official or agency on matters of public policy. However, if these entities make expenditures to finance a public communication to influence government policy or a government's relations with a foreign country or foreign political party, that communication would be required to contain a

disclaimer. Specifically, the communication would have to conspicuously state that it is "sponsored by" the entity and disclose that the entity is a foreign government or foreign government–influenced entity. To be subject to this requirement, the communication must be to the public and made through television, newspaper, magazine, campaign sign, the Internet, other digital methods, direct mail, or another type of general public political advertising, regardless of medium.

Violation of this disclosure provision would not be a crime but would be punishable by a civil fine of up to $5,000, imposed by the Commission on Governmental Ethics and Election Practices.

Obligations on the Media and Internet Platforms. The law would impose "due diligence" requirements on television and radio broadcasting stations, providers of cable or satellite television, print news outlets, and Internet platforms. These entities would be subject to two requirements. First, they would be required to create policies reasonably designed to ensure that they did not disseminate communications illegally financed by foreign government–influenced entities. Second, if the entities discover they have distributed such a communication, they would be required to immediately remove it and report it to the Commission on Governmental Ethics and Elections Practices.

U.S. Constitutional Amendment. The initiated measure would call on Maine's congressional delegation to support and promote an amendment to the United States Constitution. The initiated measure does not specify language for the proposed amendment. Instead, it sets forth principles and rights that any proposed amendment should secure. These principles and rights include recognizing that all people have a right to influence and participate in government, which should not be allocated or constrained based on wealth; recognizing that Maine and other states must have authority to enact reasonable limits on the role of money in elections; recognizing principles of federalism and the sovereignty of Maine and other states; and recognizing the need for integrity of Maine elections and referenda against corruption and foreign influence. The initiated measure also reaffirms a joint resolution adopted by the Maine Legislature in 2013 that included language critical of certain United States Supreme Court decisions relating to campaign finance regulation, naming in particular *Buckley v. Valeo* and *Citizens United v. Federal Election Commission.*

The initiated measure does not purport to be binding on Maine's congressional delegation. Instead, the initiated measure would require the Commission on Governmental Ethics and Elections Practices to issue an annual report identifying anticorruption amendment proposals in Congress and the members of Maine's congressional delegation sponsoring such proposals.

A "YES" vote is to enact the initiated legislation.

A "NO" vote opposes the initiated legislation.

<u>Fiscal Impact Statement</u>
Prepared by the Office of Fiscal and Program Review

This citizen initiative prohibits expenditures by foreign governments or foreign government-influenced entities to influence the nomination or election of a candidate or the initiation or approval of a referendum. These prohibitions and new requirements for additional annual reporting by the Commission on Governmental Ethics and Election Practices about federal anticorruption efforts are not anticipated to create additional costs for the State or local units of government.

The initiative also creates a new Class C crime for violations of the proposed changes. The average cost of incarcerating one individual for a single year is $55,203. No assumption is made at this time of the number of individuals who may be incarcerated for violations of such crimes in the future, if any. Any additional workload associated with the minimal number of new cases that might be filed in the court system will not require additional funding. The collection of additional fine and/or fee revenue may increase General Fund and dedicated revenue by minor amounts.

Public Comments

Public Comment in Support of Question 2

Comment submitted by:
Anna Kellar
Maine Citizens for Clean Elections
129 Grant Street, Apt. 18
Portland, ME 04101

Maine Citizens for Clean Elections (MCCE) supports a yes vote on Question 2. MCCE is a nonpartisan organization that has been working for over thirty years to ensure elections remain in the hands of voters, not big money donors.

Question 2 would close a loophole in our laws and ensure that foreign governments cannot drown out the voices of Maine voters.

Too often big-money interests try to use campaign spending to sway the outcome of elections away from what voters want. Foreign governments and foreign government controlled entities have the resources to distort our political discourse. You don’t have to believe that foreign interests are bad or hostile to our government. The simple fact is that their interests and loyalties are to their foreign owners and multinational markets, not to Maine people.

Federal law now prohibits any foreign national from making contributions or expenditures in connection with a candidate election. Importantly, this federal statute also bans contributions in state and local candidate elections, in addition to those in congressional and presidential races. Maine should expand this ban to include foreign-government controlled entities in state and local referendum campaigns.

Voting Yes on 2 also makes an important statement about the need for broader reforms to reign in money in politics. Question 2 also calls on our congressional delegation to support a 28th amendment to the U.S. Constitution that would fight corruption and reduce the influence of money in politics. This amendment is more important than ever.

The printing of this public comment does not constitute an endorsement by the State of Maine, nor does the State warrant the accuracy or truth of any statements made in the public comment.

Public Comment in Support of Question 2

Comment submitted by:
Kaitlin LaCasse
Protect Maine Elections
PO Box 182
Raymond, ME 04071

Vote YES ON 2 to protect our elections from the foreign governments that seek to disrupt our democracy.

A cross-partisan group of Maine voters formed Protect Maine Elections in support of banning foreign governments and entities that they own, control, or influence from making campaign contributions or financing communications for or against candidates or ballot questions. Volunteers spent a year collecting over 80,000 signatures from neighbors and friends, family members and colleagues so we can ensure this protection in law.

The Maine government isn't permitted to make such campaign contributions, it is unthinkable that we would continue to allow foreign governments to do so.

82% of Maine voters support banning foreign governments, and foreign government-owned entities from spending in our elections – including 91% of Republicans, 83% of Democrats, and 82% of Independents. There are few issues – if any – where we see such a consensus among Maine voters.

Voting YES ON 2 reflects our shared values about democracy. Maine voices should not be silenced by foreign governments or dark money special interest groups.

As voters of Maine, we are responsible stewards of our democracy and want our voices and our votes to count. Vote YES ON 2 to protect our Maine elections from foreign government interference.

The printing of this public comment does not constitute an endorsement by the State of Maine, nor does the State warrant the accuracy or truth of any statements made in the public comment.

Question 3: Citizen's Initiative

Do you want to create a new power company governed by an elected board to acquire and operate existing for-profit electricity transmission and distribution facilities in Maine?

STATE OF MAINE

"An Act to Create the Pine Tree Power Company, a Nonprofit, Customer-owned Utility"

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §12004-G, sub-§36 is enacted to read:

36.

Public Utilities	Pine Tree Power Company Board	$110/Day and Expenses	35-A MRSA §4002

Sec. 2. 21-A MRSA §354, sub-§5, ¶G, as enacted by PL 1985, c. 161, §6, is amended to read:

G. For a candidate for State Representative, at least 50 and not more than 80 voters; ~~and~~

Sec. 3. 21-A MRSA §354, sub-§5, ¶H, as enacted by PL 1985, c. 161, §6, is amended to read:

H. For a candidate for county charter commission member, at least 50 and not more than 80 voters~~.~~; and

Sec. 4. 21-A MRSA §354, sub-§5, ¶I is enacted to read:

I. For a candidate for member of the Pine Tree Power Company Board under Title 35A, section 4002, subsection 2, paragraph A, at least 300 and not more than 400 voters.

Sec. 5. 21-A MRSA §1011, first ¶, as amended by PL 2013, c. 334, §2, is further amended to read:

This subchapter applies to candidates for all state and county offices and to campaigns for their nomination and election. Candidates for municipal office as described in Title 30-A, section 2502, subsection 1 and candidates for the Pine Tree Power Company Board as described in Title 35-A, section 4002 are also governed by this subchapter. The commission does not have jurisdiction over financial activities to influence the nomination or election of candidates for federal office.

Sec. 6. 35-A MRSA §1511-A is enacted to read:

§1511-A. Fitness to serve

The commission shall find a transmission and distribution utility with 50,000 or more customers unfit to serve and shall require and ensure the sale of the utility, to be completed within 24 months, if 4 or more of the following statements are true of the utility:

1. Customer satisfaction. The utility has been rated for 2 or more of the past 5 years among the lowest decile of utilities of a similar size for customer satisfaction on a nationally recognized survey of United States utility business or residential customers;

2. Reliability. The utility has been found by the commission or by the United States Energy Information Administration for 2 or more of the past 5 years to have overall reliability in terms of outage minutes per year, with or without major event days, in the lowest decile of utilities of a similar size in the country;

3. Affordability. In 2 or more of the past 5 years, the utility charged residential delivery rates reasonably estimated to be in the highest decile among utilities of a similar size in the country, based on data from the United States Energy Information Administration and based on the commission's analysis of average delivery rates as a proportion of the average total bill for integrated utilities;

4. Employees. The utility has within the previous year contracted with a business to perform work valued at more than $100,000 that could reasonably have been performed by qualified, nonexempt employees of the utility;

5. Security. The utility owns critical infrastructure vital to the security and welfare of the State and is presently owned, either wholly or in a part greater than 5%, by a government that does not represent or govern the captive customers of the utility;

6. Customer obligations. The utility, due to its corporate structure, requires that customers pay for the cost of the utility's corporate taxes, and also pay for shareholder profits exceeding 10% on prudent capital investment in transmission infrastructure, with little to no risk for poor performance;

7. Disaster assistance. The utility, due to its corporate structure, may require that customers pay directly or indirectly for 90% or more of damages to the utility's assets caused by extreme weather events, and may also deny the utility access to federal emergency management assistance to reduce or eliminate these costs; or

8. Priorities. The utility, due to its corporate structure and fiduciary obligations, is unable to place the needs of customers, workers or the State's climate and connectivity goals ahead of the desires of shareholders to earn a profit.

Sec. 7. 35-A MRSA §3501, sub-§1, ¶D, as amended by PL 2019, c. 311, §2, is further amended to read:

D. The portion of any municipal or quasi-municipal entity located in the State providing transmission and distribution services; ~~and~~

Sec. 8. 35-A MRSA §3501, sub-§1, ¶E, as amended by PL 2019, c. 311, §2, is further amended to read:

E. Any transmission and distribution utility wholly owned by a municipality located in the State~~.~~; and

Sec. 9. 35-A MRSA §3501, sub-§1, ¶F is enacted to read:

F. The Pine Tree Power Company established in chapter 40.

Sec. 10. 35-A MRSA §3502, first ¶, as amended by PL 1999, c. 398, Pt. A, §86 and affected by §§104 and 105, is further amended to read:

Notwithstanding section 310, any consumer-owned transmission and distribution utility, except for the Pine Tree Power Company established in chapter 40, that proposes to increase rates, tolls or charges by not more than 15% of the utility's annual operating revenues or proposes to decrease rates, tolls or charges in any amount may elect to set rates pursuant to this section and section 3503.

Sec. 11. 35-A MRSA §3506 is enacted to read:

§3506. Voter approval conditioned on parity

Notwithstanding any other provision of law, neither utility debt nor the incurrence of utility debt is subject to statewide voter approval, unless and until voter approval of utility debt and of the incurrence of such debt is required equally for both investor-owned and consumer-owned utilities operating in the State.

Sec. 12. 35-A MRSA c. 40 is enacted to read:

CHAPTER 40

PINE TREE POWER COMPANY

§4001. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Acquired utility. "Acquired utility" means an investor-owned transmission and distribution utility whose facilities or property are purchased or intended for purchase pursuant to this chapter.

2. Board. "Board" means the Pine Tree Power Company Board established in Title 5, section 12004-G, subsection 36.

3. Company. "Company" means the Pine Tree Power Company established in section 4002.

4. Cost of service. "Cost of service" means the total amount that must be collected by the company to recover its costs but does not include any return on capital investment unless a return is required as security for debt service.

5. Customer-owner. "Customer-owner" means a person to whom the company provides electricity.

6. Generating source. "Generating source" means a machine or device that produces electric energy by any means.

7. Utility facility. "Utility facility" means any portion of a plant used or useful in providing transmission and distribution utility service and includes, but is not limited to, transmission lines, office buildings, equipment and transportation equipment.

8. Utility property. "Utility property" means any tangible or intangible asset, liability, obligation, plan, proposal, share, agreement or interest of a utility; any facility in development or planning by the utility as of January 1, 2020; and, without limitation, the entire utility and any part or portion of the utility.

§4002. Pine Tree Power Company established; purpose

The Pine Tree Power Company is established to provide for its customer-owners in this State reliable, affordable electric transmission and distribution services in accordance with this chapter.

1. Company purposes. The company shall use its access to low-cost capital and its ability to manage the electric transmission and distribution system in a manner that is not focused on ensuring shareholder profits for the following purposes:

A. To deliver electricity to the company's customer-owners in a safe, affordable and reliable manner;

B. To ensure excellence, timeliness and accuracy in billing, metering and customer service;

C. To provide an open, supportive and competitive platform to develop and deploy renewable generation, storage, efficiency and beneficial electrification technologies;

D. To assist the State in rapidly meeting or exceeding the climate action plan goals established in Title 38, chapter 3-A;

E. To improve the State's Internet connectivity through more affordable access to utility poles and other infrastructure in unserved or underserved areas of the State, as defined in section 9202, subsection 5;

F. To advance economic, environmental and social justice and to benefit company workers and all communities in the State;

G. To provide for transparent and accountable governance; and

H. To support, secure and sustain economic growth and benefits for the State.

2. Governance; board. The company is created as a body corporate and politic and is governed by the Pine Tree Power Company Board in accordance with this section.

The board is composed of 13 voting members, 7 of whom are elected members and 6 of whom are designated members chosen by the elected members. All members must be residents of the State.

A. As of the last date for filing a nomination petition under Title 21-A, section 354, each of the 7 elected members must be a legal citizen of the United States for at least 5 years, must be at least 21 years of age, must be a legal Maine resident for at least one year, must be a resident of the area the member represents as provided in this paragraph for at least 3 months and may not hold a state elected office. Each elected member represents 5 of the State's 35 State Senate districts, as set out in Title 21-A, section 1203-B, as follows:

(1) One member represents State Senate districts 1 to 5;

(2) One member represents State Senate districts 6 to 10;

(3) One member represents State Senate districts 11 to 15;

(4) One member represents State Senate districts 16 to 20;

(5) One member represents State Senate districts 21 to 25;

(6) One member represents State Senate districts 26 to 30; and

(7) One member represents State Senate districts 31 to 35.

If during an elected member's term the member's place of residence as a result of reapportionment is no longer included in the area the member was elected to represent, the member may continue to serve the remainder of the term.

B. The 6 designated members must be selected by the elected members. The designated members must collectively possess expertise and experience across the following 6 areas:

(1) Utility law, management, planning, operations, regulation or finance;

(2) The concerns of utility employees and other workers;

(3) The concerns of commercial or industrial electricity consumers;

(4) Electricity generation, storage, efficiency, delivery, cybersecurity, connectivity or related technologies;

(5) Planning, climate mitigation, adaptation or the environment; and

(6) Economic, environmental and social justice, including the needs of low-income and moderate-income persons.

C. Candidates for election to the board pursuant to paragraph A are eligible for funding through the Maine Clean Election Act, in amounts and under terms commensurate with those for candidates for the State Senate. The Commission on Governmental Ethics and Election Practices, established pursuant to Title 5, section 12004-G, subsection 33, shall adopt rules to implement this paragraph. Rules must include, at a minimum, the procedures for qualifying and certification and for allocation of distributions from the fund and other provisions necessary to ensure consistency with the provisions of the Maine Clean Election Act. Rules adopted pursuant to this paragraph are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

D. Candidates for election to the board pursuant to paragraph A are subject to the requirements of Title 21A, chapter 13.

E. The nomination of candidates for elected members of the board is governed by Title 21-A, chapter 5, subchapter 2, and the determination of the election is governed by Title 21-A, section 723-A. The Secretary of State may adopt rules governing the election of members of the board and shall consult with the commission in developing the rules. Rules adopted under this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

3. Term of office. An elected member of the board serves for a term of 6 years and a designated member of the board serves for a term of 6 years. An elected member serves from January 1st to December 31st and a designated member serves from March 1st to the end of February. A majority of members shall declare a vacancy on the board upon the resignation, death or incapacitation of an elected member, in the event that a member is absent without leave of the chair for at least half of all board meetings held in a 180-day period or in the event of a member's gross and continual neglect of duty. If there is a vacancy on the board of a designated member, it must be filled within 180 days in the same manner as described in subsection 2, paragraph B, and the person selected to fill a vacancy serves for the unexpired term of the member whose vacancy the person is filling. If there

is a vacancy on the board of an elected member, the board shall notify the Secretary of State, who shall establish a deadline of no sooner than 60 days after being notified of the vacancy to accept nomination petitions for a special election. A special election must be held within 180 days of notification of the vacancy and declared in the manner prescribed by Title 21-A, section 366. The person elected to fill a vacancy serves for the unexpired term of the member whose vacancy the person is filling. Designated members may be reselected and elected members may be reelected.

4. Quorum and chair. Seven members of the board constitute a quorum. The board shall elect from its members a chair and a vice-chair. The vice-chair shall serve as acting chair in the absence of the chair.

5. Voting. Except as otherwise provided in this Title, all decisions of the board must be made by a majority vote of the members present. Whenever possible, the board shall attempt to achieve consensus among members.

6. Bylaws; due diligence. Prior to making a purchase price offer for any utility facility or utility property, the board shall adopt bylaws, retain expert professional staff and consultants, secure initial financing, conduct due diligence as it considers necessary and develop a transition plan and a business plan for the company.

7. Board review. Four years after the first meeting of the board, the board shall review the effectiveness of the company governance structure and shall report to the joint standing committee of the Legislature having jurisdiction over energy and utilities matters the outcome of this review. The report may suggest necessary changes to the governance structure of the company. The committee may report out legislation pertaining to the recommendations in the report.

§4003. Powers and duties; acquisition of utility facilities and utility property

1. Powers; generally. The company is a consumer-owned transmission and distribution utility and has all the powers and duties of a transmission and distribution utility under this Title, as affected by the provisions of chapter 35, within the service territories of the investor-owned transmission and distribution utilities whose utility facilities it acquires under this chapter.

2. Limits on company; generating property. The company may not own or operate a generating source or purchase electric capacity or energy from a generating source, except as the commission may approve in order to allow the company to maintain or improve system reliability.

3. Private sector, competitive, performance-based operations. The company shall contract by means of a competitive public solicitation the services of at least one qualified nongovernmental entity, referred to in this chapter as "the operator" or "the operations team," to provide cost-effective, private sector operations, maintenance, customer accounts management and customer service and information and to assist as necessary in regulatory affairs, capital planning and administrative services. The company may not contract with an operator that has managed a company found to be unfit within the previous 10 years. The company may contract with separate operators for each of the service territories of the acquired utilities, or to meet discrete operations, maintenance or other requirements. In requesting and evaluating bids pursuant to this section, the board shall consider anticipated costs; professional, operational and managerial experience; familiarity with the systems to be administered; and ability to improve customer service and employee morale. The company may establish additional criteria for its solicitation and shall determine the period and the specific terms of each operations contract. The commission shall review and approve, reject or approve with

conditions any contract between the company and an operator before it takes effect. A contract with an operations team must reward proven performance, not the provision of capital, and must provide for the efficient and effective fulfillment of the company's purposes under section 4002.

4. Retention of employees. The operator shall hire any person who was an employee of the acquired utility at the time the company acquired the utility facilities who is a qualified, nonexempt employee subject to collective bargaining agreements of the acquired utility and may hire any other person who was an employee of the acquired utility with the exception of those employees on the executive board of the acquired utility. To ensure continuity and an experienced local workforce, the operations team shall offer to these employees a retention bonus of 8% of annual gross pay for the first year of work and 6% of annual gross pay for the 2nd year of work. This bonus must be payable on the earlier of the anniversary of the date of hire by the operator and the date of a termination of employment that occurs following the date of hire, as long as the termination is due to the employee's death or disability, by the employer without cause or by the employee for good reason. The operations team shall maximize opportunities for internal promotion, additional staffing and on-the-job training for all employees and may not contract with other businesses to perform work that could reasonably have been performed by qualified, nonexempt employees of the operations team.

5. Rights of employees. The employees of the operations team retained to operate the company's facilities are private employees. Notwithstanding any provision of law to the contrary, the company shall at a minimum accord all qualified, nonexempt employees and their representatives the same rights as would an investor-owned transmission and distribution utility. The operator may not limit or impair the ability and right of its employees to strike or to engage in any work stoppage or slowdown and may not hire replacement employees permanently during an employee strike. The operator shall notify employee representatives of new hires and shall allow representatives of employees reasonable access to work sites during work hours. The operator shall assume all retirement benefit obligations to the employees of and retirees of an acquired utility, unless these obligations have remained with the acquired utility, its corporate parent or a pension plan trust regulated by the federal Employee Retirement Income Security Act of 1974. The operator shall honor and maintain the terms of any collective bargaining agreements in effect at the time the company acquired the investor-owned transmission and distribution utility for the remaining term of any collective bargaining agreement, except that, when 2 or more contracts exist, the employees' wages, salaries and benefits must be made reasonably equal to the higher of those provided in the contracts or must exceed those previously paid by the acquired utility.

Upon the conclusion of a contract pursuant to subsection 3, the company, in soliciting for a new contract, shall give preference to service providers that agree to maintain or improve the terms of the collective bargaining agreement in existence on the conclusion of the prior contract.

6. Acquisition of utility facilities and utility property. Notwithstanding any other provision of this Title, rules adopted under this Title or any other applicable law to the contrary, the company shall purchase or acquire by the exercise of the right of eminent domain all utility facilities in the State owned or operated or held for future use by any investor-owned transmission and distribution utility, in accordance with this subsection, and may also purchase or acquire by the exercise of the right of eminent domain in accordance with this subsection any other investor-owned transmission and distribution utility property should the board determine such an acquisition to be in the interest of its customer-owners. The company shall finance the purchase or acquisition of utility facilities or

utility property under this subsection by issuing debt in accordance with chapter 9. The board may not purchase or acquire by the right of eminent domain any utility facilities or utility property under this subsection until 12 months after the effective date of this chapter or 6 months after the first meeting of the board, whichever is later.

A. Within 18 months after the effective date of this chapter or 12 months after the first meeting of the board, whichever is later, unless further delayed to a date certain by a vote of at least 9 members of the board, the company shall:

(1) Identify the utility facilities and any other utility property in the State owned or operated or held for future use by any investor-owned transmission and distribution utility to be purchased by the company;

(2) Determine a purchase price offer to be made for the utility facilities and other utility property. The purchase price offer must include compensation for the cost of preparing and submitting necessary regulatory filings, including but not limited to those required by the federal Department of Energy, Federal Energy Regulatory Commission; and

(3) Deliver notice of the purchase price offer, including detailed description of the utility facilities and other utility property to be purchased, to the investor-owned transmission and distribution utility that owns, operates or holds for future use the subject utility facilities and utility property.

By a vote of at least 9 members of the board, the company may delay by up to one year the purchase of the utility facilities and any other utility property of one of the 2 investor-owned transmission and distribution utilities in the State and proceed with the purchase of the utility facilities and any other utility property of the other investor-owned transmission and distribution utility in the State. A delay approved by the board under this paragraph may be renewed once in the same manner for up to one additional year.

B. After the receipt of a notice of the purchase price offer under paragraph A, subparagraph (3), the investor-owned transmission and distribution utility may, within 30 days of the date of receipt, submit a counteroffer to the company. If the company rejects the counteroffer, within 30 days of the date of receipt of the rejection the investor-owned transmission and distribution utility may petition the Superior Court of Kennebec County to determine and order an alternative purchase price for the subject utility facilities or utility property in accordance with this paragraph. The purchase price determined by the court must include compensation for the cost of preparing and submitting necessary regulatory filings, including but not limited to those required by the federal Department of Energy, Federal Energy Regulatory Commission. After the filing of a petition by an investor-owned transmission and distribution utility under this paragraph, the Superior Court, as expeditiously as possible, shall:

(1) Select, in consultation with the company and the petitioner, a referee or referees with relevant expertise and capabilities to determine a recommended purchase price for the utility facilities and utility property;

(2) Complete a trial or hearing, as appropriate, for the presentation of evidence to referees, who shall submit a recommended purchase price to the court; and

(3) Render a decision and, based upon the recommended purchase price submitted under subparagraph (2) and any other information available to the court, order a purchase price to

be paid by the company to the petitioner for possession and ownership of the subject utility facilities and utility property.

The decision of the Superior Court under this paragraph is appealable to the Law Court as in any civil action.

C. The taking of utility facilities and utility property by the company is governed by this paragraph.

(1) Notwithstanding chapter 65 or any other provision of law to the contrary, if a petition is filed under paragraph B and if the company and subject utilities do not reach an agreement, the company shall, after any appeals are resolved, immediately take the subject utility facilities and utility property identified in paragraph A at the final price rendered by the court.

(2) Notwithstanding chapter 65 or any other provision of law to the contrary, if a petition is not filed under paragraph B and if the company and subject utilities do not reach an agreement, the company shall immediately take the subject utility facilities and utility property identified in paragraph A at the purchase price offer.

Within 45 days of the date upon which the purchase price is either mutually agreed upon by the company and the investor-owned transmission and distribution utility or is finally determined through the judicial process set forth under paragraph B, the investor-owned transmission and distribution utility shall prepare and submit any regulatory filings necessary to the transfer of subject utility facilities and utility property, including but not limited to those required by the federal Department of Energy, Federal Energy Regulatory Commission. If the investor-owned transmission and distribution utility does not prepare and submit such filings within 45 days, the company may request that the commission investigate the utility's failure to prepare and submit the filings. Upon such a request from the company, the commission shall, in a timely manner, investigate the utility's failure to prepare and submit the filings. If the commission finds the investor-owned transmission and distribution utility unreasonably delayed or failed to prepare and submit the filings, or failed to prosecute and pursue federal regulatory approvals of the transfer in good faith, the commission shall direct the utility to do so by a date certain and may order other remedies, including deducting the cost of preparing and submitting such regulatory filings from the purchase price or otherwise preventing the utility from recouping the cost and requiring the utility to pay for costs to other parties caused by the delay.

If at any time during the process prescribed in this subsection the company and either of the investor-owned transmission and distribution utilities reach an agreement on the purchase price of all utility facilities and utility property in the State owned or operated or held for future use by that investor-owned transmission and distribution utility, the sale may be finalized in accordance with that agreement.

The commission shall impose such conditions on the acquisition of all utility facilities and utility property in the State owned or operated or held for future use by any investor-owned transmission and distribution utility as it determines are necessary to protect the public interest during the period between the effective date of this chapter and the date on which ownership and control are fully assumed by the company and the operations team. The commission shall take all necessary actions to ensure that the investor-owned transmission and distribution utilities and their owners cooperate fully, promptly and cost-effectively with the company during the transition in ownership and control. The commission may allow recovery by or reimbursement to the utility of necessary expenses

associated with the transition. At a minimum, the utility must be required to plan, construct, operate and maintain facilities and to cooperate with customers, generators and other stakeholders to the same extent that the commission would require of any transmission and distribution utility and to provide the company such information as may be necessary to meet its responsibilities under this Title, including but not limited to a detailed inventory of assets.

7. Existing obligations. All existing agreements, obligations and contracts, including but not limited to long-term contract obligations and net energy billing agreements of an investor-owned transmission and distribution utility, must be transferred to the company and any counterparty to an agreement, obligation or contract shall accept the assignment of the investor-owned transmission and distribution utility to the company.

8. Regional transmission. The service territories of the company initially remain in the transmission system to which they belonged on the effective date of this chapter until changed by majority vote of the board.

9. Names. The company may adopt one or more alternative or regional names to distinguish its service territories or for any other purpose.

10. Rules. The company may adopt rules pursuant to Title 5, chapter 375, subchapter 2-A for establishing and administering the company and carrying out its duties. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

11. Bylaws. The company shall adopt bylaws, through the board, consistent with this section for the governance of its affairs.

12. Consumer-owned transmission and distribution utilities; application. This subsection controls the treatment of consumer-owned transmission and distribution utilities and the application of law to the company.

A. This chapter may not be construed to affect the powers, authorities or responsibilities of any consumer-owned transmission and distribution utility other than the company created under this chapter. The company may not oppose the extension of the service territory of a consumer-owned transmission and distribution utility existing prior to the effective date of this chapter to include the entirety of a municipality in which the consumer-owned transmission and distribution utility provides electric service as long as the company is reasonably compensated for the assets and appurtenances required.

B. Notwithstanding any other provision of this chapter or any other provision of law to the contrary, the company is subject to section 310; section 3104; section 3132, subsection 2-D; sections 3132-A, 3132-B, 3132-C and 3132-D; section 3144; section 3210-C, subsections 3, 7 and 11; sections 3212 and 3212-B; and section 3214, subsection 2-A.

13. Board staff; initial activities. The board shall hire qualified and professional staff, including but not limited to a director or manager, chief financial officer, support staff and legal counsel. Assistance and counsel may be provided to the board by the Office of the Treasurer of State, the Office of the Attorney General, the Maine Municipal Bond Bank, the Finance Authority of Maine, the commission, the Office of the Public Advocate and any other state entity. All initial activities and expenditures of the board prior to the final acquisition of utility facilities and utility property must be funded by short-term debt of the company, to be retired in the initial financing and acquisition of the investor-owned transmission and distribution utility facilities and utility property.

Notwithstanding any provision of the law to the contrary, debt incurred by the board for its initial activities and expenditures is presumed to be prudently incurred on behalf of the customers of the investor-owned transmission and distribution utilities and is recoverable in rates, except where proven to be imprudent beyond a reasonable doubt. To the extent that the company's initial activities are specifically attributable to one but not both acquired utilities, those separately attributable costs must be recovered from ratepayers of the utility to which they are attributable.

§4004. Cost-of-service rates

The rates and all other charges of the company must be sufficient to pay in full the cost of service, including the cost of debt and property taxation.

§4005. No use of state funds or tax dollars

Debt or liability of the company is not a general obligation or moral obligation of the State or any agency or instrumentality of the State other than the company, and neither the State nor any agency or instrumentality of the State other than the company guarantees any debt or liability of the company.

§4006. No debt or liability of the State

The company serves a public purpose in the carrying out of the provisions of this chapter, but debt or liability of the company is not a general obligation or moral obligation of the State.

§4007. Voter approval

Notwithstanding any other provision of law enacted on or before the date upon which this chapter is enacted, if this chapter is approved by voters of the State at a statewide election, debt or liability of the company is not subject to additional voter approval.

§4008. Property and income tax status

1. Property tax. Notwithstanding Title 36, chapter 105, subchapter 4, the company is subject to property taxation pursuant to the laws of the State and must pay property tax in the same manner as an investor-owned transmission and distribution utility. Rates charged by the company must include sufficient amounts to pay property taxes due under this subsection.

2. Income tax. Notwithstanding any provision of law to the contrary, income of the company is exempt from all taxation or assessment by the State or any political subdivision of the State. All bonds, notes and other evidences of indebtedness issued by the company in accordance with chapter 9 are legal obligations of the company, and the company is a quasi-municipal corporation within the meaning and for the purposes of Title 30-A, section 5701. All bonds, notes and other evidences of indebtedness issued by the company are legal investments for savings banks in this State and are exempt from state income tax.

3. Tax increment financing agreements. If an investor-owned transmission and distribution utility acquired by the company is subject to a tax increment financing agreement under Title 30-A, chapter 206, the company acquires the same rights and responsibilities as applied to the investor-owned transmission and distribution utility under the agreement.

§4009. Termination of the company

The company may not be dissolved or cease operations except by authorization of law and only if all debt and liabilities of the company have been paid or a sufficient amount for the payment of all

debt and liabilities has been placed in an irrevocable trust for the benefit of the holders of the debt and only if any remaining equity of the company is returned in an equitable manner to the customers of the company.

§4010. Freedom of access; confidentiality

The proceedings and records of the company are subject to the freedom of access laws, Title 1, chapter 13, except as specifically provided in this section.

1. Confidential records. The following records are designated as confidential for purposes of Title 1, section 402, subsection 3, paragraph A:

A. A record obtained or developed by the company that a person, including the company, to whom the record belongs or pertains has requested be designated confidential and that the company has determined contains information that gives the owner or a user an opportunity to obtain a business or competitive advantage over another person that does not have access to the information, except through the company's records, or access to which by others would result in a business or competitive disadvantage, loss of business or other significant detriment to any person to whom the record belongs or pertains; and

B. A record that contains usage or other nonpublic information regarding a customer of a transmission and distribution utility in the State.

The company shall provide to a legislative committee, on written request signed by the chairs of that committee, any information or records, including information designated confidential under this subsection, specified in the written request. The information or records may be used only for the lawful purposes of the committee and in any action arising out of any investigation conducted by the committee, subject to protective order.

2. Exceptions. Notwithstanding subsection 1, the following are not confidential and are public records:

A. Any otherwise confidential information the confidentiality of which the company determines to have been satisfactorily and effectively waived;

B. Any otherwise confidential information that has already lawfully been made available to the public; and

C. Impersonal, statistical or general information.

3. Disclosure prohibited; further exceptions. A board member, employee, agent, other representative of the company or other person may not knowingly divulge or disclose records designated confidential by this section, except that the company, in its discretion and in conformity with legislative freedom of access criteria in Title 1, chapter 13, subchapter 1-A, may make or authorize any of the following disclosures of information:

A. If necessary in connection with processing any application for, obtaining or maintaining financial assistance for any person;

B. To a financing institution or credit reporting service;

C. Information necessary to comply with any federal or state law, regulation or rule or with any agreement pertaining to financial assistance;

D. If necessary to ensure collection of any obligation in which the company has or may have an interest;

E. In any litigation or proceeding in which the company has appeared, introduction for the record of any information obtained from records designated confidential by this section; and

F. Pursuant to a subpoena, request for production of documents, warrant or other order, as long as the order appears to have first been served on the person to whom the confidential information sought pertains or belongs and as long as the order appears on its face or otherwise to have been issued or made lawfully.

§4011. Annual report

By April 15th of each year, beginning no more than one year after the first meeting of the board, the company shall submit a report to the joint standing committee of the Legislature having jurisdiction over energy and utilities matters summarizing the activities and performance of the company in meeting its obligations to its customer-owners and its responsibilities under sections 4002 and 4003 during the preceding calendar year and its plans for the current year and subsequent 5 years. Each annual report must describe in detail how the company's decisions, operations and use of low-cost financing have supported and will support the State's progress toward the climate action plan goals established in Title 38, chapter 3-A and how such financing has affected and will affect job creation and gross state product.

§4012. Initial 5-year plan

Within 18 months of the date in which the company and the operations team fully take ownership and control of all utility facilities in the State owned or operated or held for future use by any investor-owned transmission and distribution utility, the company shall submit to the commission for approval a 5-year plan to meet initial affordability, reliability, decarbonization and connectivity goals.

1. Plan minimum requirements. At a minimum, the 5-year plan under this section must also include a program to:

A. Establish lower rates for low-income residential customers;

B. Build across the State accessible, rapid charging infrastructure for electric vehicles;

C. Reduce make-ready and pole attachment costs for open-access fiber-optic cable in unserved and underserved areas of the State as defined in section 9202, subsection 5; and

D. Make rapid investments in the distribution network to upgrade reliability and to improve capacity for interconnections of new renewable generation and storage facilities.

Sec. 13. Review of laws and report. The Public Utilities Commission shall examine all laws that may be affected by this Act or need to be changed as a result of this Act, including laws governing the Pine Tree Power Company as established under the Maine Revised Statutes, Title 35-A, section 4002, and laws relating to investor-owned transmission and distribution utilities that may be eliminated as a result of this Act. The commission shall determine any modifications to laws that may be necessary or appropriate as a result of this Act or to effectuate the purposes of this Act and shall submit proposed legislation to the joint standing committee of the Legislature having jurisdiction over energy, utilities and technology matters no later than 6 months after the first meeting of the Pine Tree Power Company Board under Title 35-A, section 4002. The joint standing

committee of the Legislature having jurisdiction over energy, utilities and technology matters may report out a bill relating to the subject matter of this Act and to the commission's report.

Sec. 14. Staggered terms of initial members of Pine Tree Power Company Board. Notwithstanding the Maine Revised Statutes, Title 35-A, section 4002, subsection 3, the terms of the initial members of the Pine Tree Power Company Board must be staggered as provided in this section.

1. The initial designated members of the board serve as follows, determined by lot by those members after their selection: 2 members serve 6-year terms, 2 members serve 4-year terms and 2 members serve 2-year terms.

2. The initial elected members of the board serve as follows, determined by lot by those members after their election: 3 members serve 6-year terms, 2 members serve 4-year terms and 2 members serve 2-year terms.

Sec. 15. Code of ethics; recommendations. On or before February 15, 2024, the Office of the Attorney General shall submit to the joint standing committee of the Legislature having jurisdiction over state and local government matters recommendations regarding the establishment of a code of ethics applicable to the members of the Pine Tree Power Company Board, as established in the Maine Revised Statutes, Title 5, section 12004-G, subsection 36. After receiving the recommendations, the joint standing committee may report out a bill related to those recommendations to the Second Regular Session of the 131st Legislature.

Sec. 16. Effective date. That section of this Act that enacts the Maine Revised Statutes, Title 35-A, section 1511-A takes effect January 1, 2025.

SUMMARY

This initiated bill creates the Pine Tree Power Company, a privately operated, nonprofit, consumer-owned utility controlled by a board the majority of the members of which are elected. The company's purposes are to provide for its customer-owners in this State reliable, affordable electric transmission and distribution services and to help the State meet its climate, energy and connectivity goals in the most rapid and affordable manner possible.

The Pine Tree Power Company is not permitted to use general obligation bonds or tax dollars of the State. The company finances itself by issuing debt against its future revenues to purchase the facilities of investor-owned electric transmission and distribution utilities in the State. The fair market value of the acquisition is either negotiated or determined by a refereed process. The Pine Tree Power Company Board contracts a nongovernmental team to operate the facilities, and the operations team is required to retain all workers of the purchased utilities.

The company is subject to property taxation and must pay property tax in the same manner as an investor-owned transmission and distribution utility. The company is subject to ratemaking and other oversight by the Public Utilities Commission and is required to administer programs for net energy billing, nonwires alternatives, supply procurement and low-income assistance programs.

The company is governed by a board of 13 members, 7 of whom are each elected to represent 5 State Senate districts, as well as 6 designated expert members. The board is subject to freedom of access laws and to laws preventing conflicts of interest.

The initiated bill also directs the Public Utilities Commission beginning January 1, 2025 to find a transmission and distribution utility unfit to serve and to direct the sale of the utility if the utility meets certain criteria.

Intent and Content
Prepared by the Office of the Attorney General

This citizen-initiated bill is intended to replace Maine's two investor-owned electricity transmission and distribution utilities, Central Maine Power and Versant Power, with a new publicly owned utility called the Pine Tree Power Company (the "Company").

Company Purposes. The initiated measure specifies 8 purposes of the Company. They include delivering electricity in a safe, affordable, and reliable manner; ensuring excellence, timeliness and accuracy in billing, metering and customer service; providing an open, supportive and competitive platform to develop and deploy renewable generation, storage, efficiency and beneficial electrification technologies; assisting the State in rapidly meeting or exceeding climate goals; improving Internet connectivity; advancing economic, environmental and social justice; providing for accountable governance; and providing economic growth and benefits for the State.

Company Organization. The Company would be governed by a board of directors consisting of 13 voting members. Seven of the board members would be elected and 6 would be appointed. Board members would serve for staggered 6-year terms.

Each of the 7 elected board members would be elected by voters at a November general election. They would each represent 5 State Senate districts. A candidate for the board must be at least 21 years old, a U.S. citizen for at least 5 years, a Maine resident for at least 1 year, a resident of the area they seek to represent at least 3 months, and may not hold a state elected office. Candidates must qualify for the ballot under the laws governing non-party candidates; they may not run in party primaries. Board candidates are subject to the same campaign-finance laws as other candidates for state office.

The 6 non-elected board members would be appointed by the elected members. These members must collectively have expertise and experience in certain topics relating to utilities, utility employees, commercial or industrial electricity consumers, electricity, climate, and economic, environmental and social justice.

Acquisition of Current Investor-Owned Utilities. The Company would be required to acquire all "utility facilities" located in Maine that are owned or operated or held for future use by investor-owned transmission and distribution utilities. A "utility facility" is defined as any portion of a plant used or useful in providing transmission and distribution utility service. It includes transmission lines, office buildings, equipment, and transportation equipment.

The measure also permits, but does not require, the Company to acquire "utility property" from an investor-owned utility. "Utility property" is more broadly defined than "utility facility," and includes any tangible or intangible asset, liability, obligation, plan, proposal, share, agreement or interest of a utility.

The measure provides a process for the Company to acquire these facilities and property. Under this process, the Company would first make a purchase offer to the current owner of the facilities or property. The owner could submit a counteroffer to the Company. If the Company rejects

the counteroffer, the owner could then ask a court to determine the purchase price. If the owner did not file this court action within 30 days of the Company's rejection of its counteroffer, the Company would be required to immediately take the facilities or property using eminent domain, paying the initial offer price as compensation.

If the investor-owned utility filed a timely court action, the court would conduct proceedings and issue an order establishing the purchase price. Once any appeals were completed, the Company would be required to immediately take the facilities or property using eminent domain, paying the court-determined purchase price as compensation. At any time during this process, the Company and the investor-owned utility could agree to a voluntary sale of the facilities or property. The Company would be required to finance the purchase or acquisition of utility facilities and property by issuing debt under the laws governing Maine public utilities.

Once a purchase price is established by agreement or court order, the investor-owned utility would be required to make the necessary regulatory filings and cooperate with the Company during the transition in ownership and control.

Operation of Transmission and Distribution Facilities. The Company would be required to contract with one or more private-sector "operators," which would be responsible for operating the transmission and distribution facilities that the Company must acquire. The operator would also be responsible for maintenance, customer accounts management, and customer service and information. The contract must reward the operator's performance and not the provision of capital, and must provide for the efficient and effective fulfillment of the Company's purposes.

The Company would be barred from contracting with any operator that the Public Utilities Commission had, in the past 10 years, found "unfit to serve" under criteria set out in the initiated bill. The Commission would be required to find an operator unfit to serve if the operator was a transmission and distribution utility with more than 50,000 customers and met at least 4 of 8 unfitness criteria set forth in the initiated measure.

The operator would be required to offer to hire all qualified, nonexempt employees of Central Maine Power and Versant Power. The operator could also hire other employees of those utilities, except for members of the utility's executive board. The operator would be required to offer former utility employees retention bonuses. The operator would be required to honor existing collective bargaining agreements and could not limit or impair the ability and right of its employees to strike. The operator could not contract with other businesses to perform work that could reasonably be performed by the operator's qualified nonexempt employees.

Other Provisions. The initiated bill contains several other features, including the following:

- The Company must charge rates that cover the full costs of service, including debt and property tax costs;
- State Government is not responsible for the Company's debts;
- The Company is exempt from state and local income taxes but must pay property taxes;

- Company records are subject to Maine's Freedom of Access Act, with exceptions for customer and other sensitive records;

- The Company must propose an initial 5-year plan to meet certain affordability, reliability, decarbonization, and connectivity goals. The Public Utilities Commission must approve the plan.

A "YES" vote is to enact the initiated legislation.

A "NO" vote opposes the initiated legislation.

Fiscal Impact Statement
Prepared by the Office of Fiscal and Program Review

This citizen initiative creates the Pine Tree Power Company (PTPC), a privately operated, nonprofit, consumer-owned transmission and distribution utility. It establishes a process for the PTPC to purchase the assets of an investor-owned electric transmission and distribution facility operating in the State. The PTPC will be subject to oversite by the Public Utilities Commission (PUC) as a consumer-owned utility. It is important to clarify that this fiscal impact statement does not attempt to quantify or include the cost to the PTPC to purchase and operate a decertified utility. The purchase is anticipated to be financed through the issuance of bonds and the debt service costs of those bonds and the costs of operation will be funded through utility rates charged to the consumers.

The PUC has indicated that its additional regulatory authority will require 3 Staff Attorney positions and 6 Utility Analyst positions at a projected cost of $1,294,169 in the first year and $2,275,349 in subsequent years. Since the PUC is funded by an assessment set to produce sufficient revenue for the expenditures allocated by the Legislature for operating the PUC, the increased expenditures will require a corresponding increase in revenue from assessments on transmission and distribution utilities. These costs may be passed on to electric utility customers through scheduled rate cases in the future.

The initiative also requires that no earlier than January 1, 2025, the PUC shall decertify investor-owned electric transmission and distribution utilities operating in the State that fail to meet criteria established in this initiative. This action, combined with provisions designed to force the utilities subject to decertification to sell assets to the PTPC, may result in litigation. Any litigation costs may be passed on to consumers.

The 7 elected members of a 13-person governing board may participate in the Maine Clean Elections program. The Commission on Governmental Ethics and Election Practices estimates that up to 11 candidates may choose to use the program in the first election cycle after the PTPC is established for a cost to the Commission of $335,450 from April through June in the first fiscal year and $273,750 from July through October in the second fiscal year. Qualifying contributions from candidates are anticipated to generate additional revenue of $13,900 in the first year and $9,900 in the second fiscal

year. Subsequent election cycles are estimated to require payments to candidates of $110,764 or $166,145, depending on whether 2 or 3 board members are being elected.

Additional costs to any state agencies and departments that provide assistance and counsel to the board, and to the Office of the Attorney General to make recommendations regarding a code of ethics for members of the board, can be absorbed within existing budgeted resources and will not require additional funding.

Since the PTPC will be exempt from income taxes, the State will see a decrease in General Fund revenue from the corporate income taxes that are currently being paid by the investor-owned utilities currently operating in the State. Confidentiality of tax records prevents disclosure of the amounts of tax paid by the existing utilities that will be decertified if this initiative is approved. However, some of this income tax revenue loss could be offset to the extent that the non-governmental entity contracted by the PTPC for certain operations has taxable income. The PTPC will still be subject to property taxes, so municipal property tax revenues are not expected to be significantly impacted unless there is a change in the location of facilities.

Public Comments

No public comments were filed in support of or opposition to Question 3.

Question 4: Citizen's Initiative

Do you want to require vehicle manufacturers to standardize on-board diagnostic systems and provide remote access to those systems and mechanical data to owners and independent repair facilities?

STATE OF MAINE

"An Act Regarding Automotive Right to Repair"

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 29-A MRSA §1801, sub-§2-A is enacted to read:

2-A. Mechanical data. "Mechanical data" means any vehicle-specific data, including telematics system data, generated by, stored in or transmitted by a motor vehicle and used in the diagnosis, repair or maintenance of a motor vehicle.

Sec. 2. 29-A MRSA §1801, sub-§6 is enacted to read:

6. Telematics system. "Telematics system" means a system in a motor vehicle that collects information generated by the operation of the vehicle and transmits that information using wireless communications to a remote receiving point where the information is stored or used.

Sec. 3. 29-A MRSA §1810 is enacted to read:

§1810. Right to repair

1. Access to diagnostic systems. Access to the vehicle on-board diagnostic systems of all motor vehicles, including commercial motor vehicles and heavy duty vehicles having a gross vehicle weight rating of more than 14,000 pounds, must be standardized and made accessible to owners and independent repair facilities and the access may not require authorization by the manufacturer, directly or indirectly, unless that authorization is standardized across all makes and models of motor vehicles sold in this State and is administered by the independent entity described in subsection 2.

2. Independent entity. The Attorney General shall designate an independent entity not controlled by one or more motor vehicle manufacturers to establish and administer access to vehicle-generated data that is available through the on-board diagnostic system or that is transmitted by the standardized access platform authorized under this section. The independent entity must consist of one representative each from a cross section of industry trade groups including but not limited to organizations representing motor vehicle manufacturers, aftermarket parts manufacturers, aftermarket parts distributors and retailers, independent motor vehicle service providers and new car dealers. The independent entity shall manage cyber-secure access to motor vehicle-generated data, including ensuring on an ongoing basis that access to the on-board diagnostic system and standardized access platform is secure based on all applicable United States and international standards. The independent entity shall:

A. Identify and adopt relevant standards for implementation of this section and relevant provisions for accreditation and certification of organizations and for a system for monitoring policy compliance;

B. Monitor and develop policies for the evolving use and availability of data generated by the operations of motor vehicles; and

C. Create policies for compliance with relevant laws, regulations, standards, technologies and best practices related to access to motor vehicle data.

3. Model year 2002 motor vehicles. For model year 2002 motor vehicles, including commercial motor vehicles and heavy duty vehicles having a gross vehicle weight rating of more than 14,000 pounds, each manufacturer of motor vehicles sold in this State shall make available for purchase under fair and reasonable terms by owners and independent repair facilities all diagnostic repair tools, parts, software and components incorporating the same diagnostic, functional repair and wireless capabilities that the manufacturer makes available to its authorized repair shops. Each manufacturer shall:

A. Provide diagnostic repair information to each aftermarket scan tool company and each 3rd-party service information provider with whom the manufacturer has appropriate licensing, contractual or confidentiality agreements for the sole purpose of building aftermarket diagnostic tools and 3rd-party service information publications and systems. Once a manufacturer makes information available pursuant to this paragraph, the manufacturer is considered to have satisfied its obligations under this paragraph and thereafter is not responsible for the content and functionality of aftermarket diagnostic tools or service information systems;

B. Make available for purchase by owners of motor vehicles and by independent repair facilities the same diagnostic and repair information, including repair technical updates, that the manufacturer makes available to its authorized repair shops through the manufacturer's Internet-based diagnostic and repair information system; and

C. Provide access to the manufacturer's diagnostic and repair information system for purchase by owners of motor vehicles and independent repair facilities on a daily, monthly and yearly subscription basis and upon fair and reasonable terms.

All parts, tools, software and other components necessary to complete a full repair of the vehicle, as referenced in this subsection, must be included and provided to owners of motor vehicles and authorized independent repair shops.

4. Model year 2002-2017 motor vehicles. For model year 2002-2017 motor vehicles, including commercial motor vehicles and heavy duty vehicles having a gross vehicle weight rating of more than 14,000 pounds, access to a vehicle's on-board diagnostic and repair information system must be the same for an owner or an independent repair facility as that provided to a new vehicle dealer.

5. Model year 2018 and later motor vehicles. For model year 2018 and later motor vehicles, including commercial motor vehicles and heavy duty vehicles having a gross vehicle weight rating of more than 14,000 pounds, access to the on-board diagnostic and repair information system must be available through use of an off-the-shelf personal computer with sufficient memory, processor speed, connectivity and other capabilities as specified by the vehicle manufacturer and:

A. A nonproprietary vehicle interface device that complies with SAE International standard J2534, SAE International standard J1939, commonly referred to as SAE J2534 and SAE J1939, the International Organization for Standardization standard 22900, commonly referred to as ISO 22900, or any successor to SAE J2534, SAE J1939 or ISO 22900 as may be accepted or published by SAE International or the International Organization for Standardization, as appropriate;

B. An on-board diagnostic and repair information system integrated into and entirely self-contained within the vehicle, including, but not limited to, service information systems integrated into an on-board display; and

C. A system that provides direct access to on-board diagnostic and repair information through a nonproprietary vehicle interface, such as ethernet, universal serial bus or digital versatile disc.

Each manufacturer shall provide access to the same on-board diagnostic and repair information available to their dealers, including technical updates to such on-board systems, through such nonproprietary interfaces as referenced in this subsection. All parts, tools, software and other components necessary to complete a full repair of a vehicle, as referenced in this subsection, must be included and provided to motor vehicle owners and authorized independent repair shops.

6. Required equipment. Not later than one year from the effective date of this section, a manufacturer of motor vehicles sold in this State, including commercial motor vehicles and heavy duty vehicles having a gross vehicle weight rating of more than 14,000 pounds, that uses a telematics system is required to equip vehicles sold in this State with an inter-operable, standardized and owner-authorized access platform across all of the manufacturer's makes and models. The platform must be capable of securely communicating all mechanical data emanating directly from the motor vehicle via direct data connection to the platform. The platform must be directly accessible by the motor vehicle owner through a mobile-based application and, upon the authorization of the owner, all mechanical data must be directly accessible by an independent repair facility or a licensed dealer as described in section 851, subsections 2 and 9, limited to the time to complete the repair or for a period of time agreed to by the motor vehicle owner for the purposes of maintaining, diagnosing and repairing the motor vehicle. Access must include the ability to send commands to in-vehicle components if needed for purposes of maintenance, diagnostics and repair. All parts, tools, software and other components necessary to complete a full repair of the vehicle, as referenced in this subsection, must be included and provided to motor vehicle owners and authorized independent repair shops.

7. Exclusions. Manufacturers of motor vehicles sold in the United States may exclude diagnostic, service and repair information necessary to reset an immobilizer system or security-related electronic modules from information provided to motor vehicle owners and independent repair facilities. If excluded under this subsection, the information necessary to reset an immobilizer system or security-related electronic modules must be made available to motor vehicle owners and independent repair facilities through the secure data release model system as used on the effective date of this section by the National Automotive Service Task Force or other known, reliable and accepted systems.

8. Enforcement. If the independent entity described by subsection 2 has reason to believe that a manufacturer has violated any provision of this section, the independent entity shall notify the Attorney General. The Attorney General shall promptly institute any actions or proceedings the Attorney General considers appropriate. The independent entity, through the Attorney General, may apply to the Superior Court of any county of the State to enforce any lawful order made or action taken by the independent entity pursuant to this section.

A motor vehicle owner or independent repair facility authorized by an owner who has been denied access to mechanical data in violation of this section may initiate a civil action seeking any remedies under law. Each denial of access is compensable by an award of treble damages or $10,000, whichever amount is greater.

Sec. 4. 29-A MRSA §1811 is enacted to read:

§1811. Telematics system notice

1. Notice. The Attorney General shall establish for prospective motor vehicle owners a motor vehicle telematics system notice that includes, but is not limited to, the following features:

A. An explanation of telematics systems and their purposes;

B. A description summarizing the mechanical data collected, stored and transmitted by a telematics system;

C. The prospective motor vehicle owner's ability to access the vehicle's mechanical data through a mobile device; and

D. A motor vehicle owner's right to authorize an independent repair facility to access the vehicle's mechanical data for vehicle diagnostics, repair and maintenance purposes.

2. Notice form. The notice form must provide for the prospective motor vehicle owner's signature certifying that the prospective owner has read the telematics system notice under subsection 1.

3. Provision of notice. When selling or leasing motor vehicles containing a telematics system, a dealer as defined in section 851, subsection 2 and a new vehicle dealer as defined in section 851, subsection 9 shall provide the telematics system notice under subsection 1 to the prospective owner, obtain the prospective owner's signed certification that the prospective owner has read the notice and provide a copy of the signed notice to the prospective owner. A dealer's failure to comply with the provisions of this subsection is grounds for any action by the licensing authority relative to the dealer's license, up to and including revocation.

SUMMARY

This initiated bill requires manufacturers of certain motor vehicles to standardize the vehicle on-board diagnostic systems and make those systems accessible to owners and independent repair facilities. It requires the Attorney General to designate an independent entity to administer the accessibility of vehicle on-board diagnostic systems by adopting standards and developing policies. The initiated bill requires the release of certain diagnostic repair tools, parts, software and components depending on model year of the motor vehicle. It also requires certain motor vehicles to be equipped with a standard access platform and provides exclusions for information otherwise required to be shared with owners or independent repair shops if that information is necessary for immobilizer systems or security-related modules. The initiated bill provides for enforcement by civil action of the provisions related to access and information sharing and provides the available damages. It also requires that the Attorney General establish a notice relating to motor vehicle telematics systems and requires dealers of certain motor vehicles to provide that notice to potential owners of motor vehicles, and it provides for an administrative consequence if a dealer does not comply.

Intent and Content
Prepared by the Office of the Attorney General

This citizen-initiated bill is intended to require automakers to take steps, including expanding access to on-board vehicle diagnostic systems, to make it easier for vehicle owners and independent repair shops to diagnose, repair, and maintain motor vehicles.

Access to On-Board Diagnostic Systems. The initiated measure would require vehicle manufacturers to standardize and make available to owners and independent repair shops the on-board diagnostic systems of all vehicles, including commercial vehicles and heavy-duty vehicles. Manufacturers could not require authorization for owners and independent repair shops to access these systems, except through a standardized authorization process administered by an independent entity chosen by the Maine Attorney General.

Specific access requirements would depend on the model year of the vehicle:

Model year 2018 and later. Vehicles with model years of 2018 and later would be required to have an on-board diagnostic system that could be accessed using an off-the-shelf personal computer. The system would also have to be accessible using certain other technologies. Manufacturers would also need to provide access to all parts, tools, software, and other components necessary to repair the vehicle.

Model years 2002 to 2017. Vehicles with model years between 2002 and 2017 would have to provide the same access to on-board diagnostic and repair information systems to owners and independent repair shops as is provided to new vehicle dealers.

Model year 2002. For vehicles with a 2002 model year, manufacturers would have to sell, under fair and reasonable terms, diagnostic repair tools, parts, software, and components that have the same capabilities as those the manufacturer makes available to its authorized repair shops. Manufacturers would also have to provide information to certain aftermarket scan tool companies, make available for purchase the same diagnostic repair information that the manufacturer makes available through its Internet-based diagnostic and repair information system, and provide access to the manufacturer's diagnostic and repair information system for purchase on a daily, monthly, and yearly subscription basis. Finally, manufacturers would have to provide access to all parts, tools, software, and other components necessary to repair the vehicle.

Model years prior to 2002. The initiated measure has no provisions specifically addressing vehicles older than model year 2002.

Telematics Access Platform. The initiated measure would require manufacturers that use telematics systems to equip all new vehicles with a standardized platform to access vehicle information. A telematics system, as defined by the measure, collects information generated by a vehicle's operation and transmits that information using wireless communications to a remote receiving point. The required telematics access platform must be able to securely communicate all vehicle-specific data generated by, stored in or transmitted by the vehicle and used for diagnosis, repair, or maintenance of the vehicle. The platform must be accessible to the owner through a mobile

app and must permit the owner to authorize dealers and independent repair shops to access the data. The platform must also include the ability to send commands to vehicle components if needed for maintenance, diagnosis, or repair.

Exception for Security Systems. Vehicle manufacturers would not be required to provide access to information needed to reset a vehicle immobilizer system or security-related electronic modules. However, if such information is withheld, the manufacturers must make such information available through the secure data release model system used by the National Automotive Service Task Force, or some other known, reliable and accepted system.

Oversight. The measure requires the Maine Attorney General to designate an independent entity to establish and administer access to vehicle data. The entity must include representatives of various industry trade groups and may not be controlled by vehicle manufacturers. The entity must manage cyber-secure access to vehicle data. It must also ensure that access to vehicles' on-board diagnostic system and standardized access platform is secure under United States and international standards. The entity must identify and adopt various standards and policies relating to data access.

If the independent entity has reason to believe that a manufacturer has violated any provision of the measure, it must notify the Attorney General. The measure directs the Attorney General to promptly institute any actions or proceedings he or she deems appropriate. The Attorney General may also seek court enforcement of any lawful order made or action taken by the independent entity.

The measure also requires the Attorney General to establish a notice for prospective vehicle owners containing certain information, including the owner's ability to access the vehicle's mechanical data through a mobile device and right to authorize an independent repair facility to access the vehicle's mechanical data. Dealers would be required to provide the notice to prospective owners and obtain a signed certification that the prospective owner has read the notice.

Civil Remedy. The initiated measure allows a vehicle owner or independent repair shop authorized by an owner to sue a vehicle manufacturer for denying access to mechanical data. For each denial of access, the owner or repair shop is entitled to recover 3 times their actual damages or $10,000, whichever is greater.

A "YES" vote is to enact the initiated legislation.

A "NO" vote opposes the initiated legislation.

Fiscal Impact Statement
Prepared by the Office of Fiscal and Program Review

This citizen initiative proposes to require manufacturers of certain motor vehicles to standardize the vehicle on-board diagnostic systems and to make those systems accessible to motor vehicle owners and independent repair facilities.

Enforcement of this initiative may require the Office of the Attorney General (AG) to take court action. Assuming that this requires one half-time Assistant Attorney General position in the Office of the Attorney General, the ongoing annual costs to pursue and address violations will be approximately $65,000 annually. In the event the initiative itself becomes the subject of litigation, there may be additional costs to the AG to defend the new law in court. Any additional costs to the AG to establish a notice for prospective motor vehicle owners regarding motor vehicle telematics systems are not expected to be significant.

This initiative may increase the number of civil suits filed in the court system. The additional workload associated with the minimal number of new cases does not require additional funding for the Judicial Department. The collection of additional filing fees will increase General Fund and dedicated revenue by minor amounts.

Public Comments

Public Comment in Support of Question 4

Comment submitted by:
Tim Winkeler
Maine Automotive Right to Repair
15 Rebecca Way
Falmouth, ME 04105

Maine's automotive right to repair citizen's initiative allows access to owners and independent auto repair shops to the vehicle on-board diagnostic systems, parts, software, and components of all motor vehicles, including commercial motor vehicles and heavy-duty vehicles having a gross vehicle weight rating of more than 14,000 pounds through the following:

- This initiated bill requires manufacturers of certain motor vehicles to standardize the vehicle on-board diagnostic systems and make those systems accessible to owners and independent repair facilities.

- It requires the Attorney General to designate an independent entity to administer the accessibility of vehicle on-board diagnostic systems by adopting standards and developing policies.

- The initiated bill requires the release of certain diagnostic repair tools, parts, software and components and it also requires certain motor vehicles to be equipped with a standard access platform and provides exclusions for information otherwise required to be shared with owners or independent repair shops if that information is necessary for immobilizer systems or security-related modules.

- The initiated bill provides for enforcement by civil action of the provisions related to access and information sharing and provides the available damages. It also requires that the Attorney General establish a notice relating to motor vehicle telematics systems and requires dealers of certain motor vehicles to provide that notice to potential owners of motor vehicles, and it provides for an administrative consequence if a dealer does not comply.

  Protect your car repair choice and vote YES on question 4!

The printing of this public comment does not constitute an endorsement by the State of Maine, nor does the State warrant the accuracy or truth of any statements made in the public comment.

Public Comment in Opposition to Question 4

Comment submitted by:
Robert L. Redding, Jr.
Washington, D.C. Representative
Automotive Service Association
313 Massachusetts Avenue, N.E.
Washington, D.C. 20002

The Automotive Service Association (ASA) is the oldest and largest national organization committed solely to protecting independent automotive repair shops. Our members own and operate automotive mechanical and collision repair facilities. Independent repair shops are responsible for the majority of all post-warranty repairs and collision repairs in the United States.

Our members are on the front lines of the right-to-repair issue. That is why, over the past several decades, ASA reached agreements with automotive manufacturers to secure the right of vehicle owners to repair their vehicle or bring it to a repair facility of their choosing. In July 2023, ASA, the Society of Collision Repair Shops, and the Alliance for Automotive Innovation (the trade group whose members manufacture 98% of vehicles on the road in the United States) reached a new vehicle data access agreement. Manufacturers committed to provide owners and independent repairers access to the data, systems, and tools needed to diagnose and repair vehicle issues, even if it requires telematics (wireless communication between a vehicle and an external device) access, the vehicle operates on alternative fuel sources, or it is equipped with any other technology. Not only have these agreements endured, but they also have provided direct channels of communication between repairers and manufacturers, enabling quick resolution to instances in which a repairer lacked data access.

Ballot Question 4 is unnecessary because the agreements in place already provide vehicle owners a competitive automotive repair market. However, approving Ballot Question 4 would create new legal obstacles that could impede repairers from working directly with manufacturers to quickly resolve data access issues. Furthermore, it could burden independent repairers with new cybersecurity liabilities based on access to data beyond what is needed to diagnose and repair their customers' vehicles.

ASA urges you to vote NO on Ballot Question 4.

The printing of this public comment does not constitute an endorsement by the State of Maine, nor does the State warrant the accuracy or truth of any statements made in the public comment.

Public Comment in Opposition to Question 4

Comment submitted by:
Wayne Weikel
Automakers and Repairers for Vehicle Repair Choice
P.O. Box 4543
Portland, ME 04112

Question 4 is entirely unnecessary.

Automotive right to repair already exists. Every vehicle owner in Maine today has a choice and the absolute right to get your car fixed anytime, anyplace and anywhere.

In fact, automakers and independent repairers are in total agreement: Maine repairers should be guaranteed access to the same repair information and tools provided to auto dealers.

If you ask repairers, they will say they already have all the necessary repair information.

That's not going to change and why Question 4 isn't necessary.

Question 4 is backed by out-of-state, big box retailers.

The referendum is backed by companies headquartered outside of Maine that really want instant and remote access to the electronic data produced by today's high-tech vehicles.

Like what? Navigation, location information, airbag deployment and crash notifications.

Why? So, they can use your private information to try and sell or market their products directly through your vehicle's computer screen.

Question 4 puts your privacy and vehicle security at risk.

Instant and remote access to your vehicle data puts your personal privacy at risk and presents a security threat to you and other vehicles on the road.

How? The cybersecurity protections that manufacturers currently install in vehicles sold across Maine will need to be disabled if Question 4 passes.

Government car safety authorities have warned this could make your vehicle vulnerable to hacking and cyberattacks.

(cont'd next pg.)

The printing of this public comment does not constitute an endorsement by the State of Maine, nor does the State warrant the accuracy or truth of any statements made in the public comment.

Responsible Maine Car Owners should Vote No on Question 4.

Today's automotive repair market is working just fine. Automotive right to repair already exists.

Car owners have a range of vehicle repair options. Independent repairers have said they have all the information necessary to repair vehicles.

Question 4 will undo what already works and put your privacy – and the security of vehicles on the road – at risk.

Vote NO on Question 4.

The printing of this public comment does not constitute an endorsement by the State of Maine, nor does the State warrant the accuracy or truth of any statements made in the public comment.

Question 5: Constitutional Amendment

Do you favor amending the Constitution of Maine to change the time period for judicial review of the validity of written petitions from within 100 days from the date of filing to within 100 business days from the date of filing of a written petition in the office of the Secretary of State, with an exception for petitions filed within 30 calendar days before or after a general election?

STATE OF MAINE

"RESOLUTION, Proposing an Amendment to the Constitution of Maine Regarding the Timing of Judicial Review of the Determination of the Validity of Written Petitions"

Constitutional amendment. Resolved: Two thirds of each branch of the Legislature concurring, that the following amendment to the Constitution of Maine be proposed:

Constitution, Art. IV, Pt. Third, §22 is amended to read:

Section 22. Election officers and officials, how governed. Until the Legislature shall enact further laws not inconsistent with the Constitution for applying the people's veto and direct initiative, the election officers and other officials shall be governed by the provisions of this Constitution and of the general law, supplemented by such reasonable action as may be necessary to render the preceding sections self executing. The Legislature may enact laws not inconsistent with the Constitution to establish procedures for determination of the validity of written petitions. Such laws shall include provision for judicial review of any determination, to be completed within 100 business days from the date of filing of a written petition in the office of the Secretary of State, except that, if a petition is filed within 30 calendar days before or after a general election, the judicial review must be completed within 100 business days after the 30th calendar day following that general election.

Constitutional referendum procedure; form of question; effective date. Resolved: That the municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, at a statewide election held in the month of November following the passage of this resolution, to vote upon the ratification of the amendment proposed in this resolution by voting upon the following question:

> "Do you favor amending the Constitution of Maine to change the time period for judicial review of the validity of written petitions from within 100 days from the date of filing to within 100 business days from the date of filing of a written petition in the office of the Secretary of State, with an exception for petitions filed within 30 calendar days before or after a general election?"

The legal voters of each city, town and plantation shall vote by ballot on this question and designate their choice by a cross or check mark placed within the corresponding square below the word "Yes" or "No." The ballots must be received, sorted, counted and declared in open ward,

town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns. If it appears that a majority of the legal votes are cast in favor of the amendment, the Governor shall proclaim that fact without delay and the amendment becomes part of the Constitution of Maine on the date of the proclamation.

Secretary of State shall prepare ballots. Resolved: That the Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this resolution necessary to carry out the purposes of this referendum.

Intent and Content
Prepared by the Office of the Attorney General

The intent of this proposed amendment to the Maine Constitution is to give the Department of Secretary of State and the judicial branch more time to review whether petitions for citizens' initiatives and people's vetoes have enough valid signatures to meet constitutional requirements and to shield the Department of Secretary of State from having to divert resources to reviewing petitions while it is administering a general election.

The Maine Constitution currently provides in article IV, part third, section 22, that laws governing judicial review of the Secretary of State's determination of the validity of a citizens' initiative petition or people's veto petition must ensure that review is completed within 100 calendar days of when the petition is filed with the Secretary of State. Consistent with this provision, the Maine Legislature has enacted laws that establish deadlines for the Secretary of State's determination of validity, Superior Court review of that determination, and appeal to the Maine Supreme Judicial Court, that add up to 100 calendar days.

Under the proposed amendment, the Legislature would be permitted to extend the deadlines for Secretary of State and judicial review, so that they collectively add up to 100 business days instead of 100 calendar days. Such an expansion would add approximately 40 calendar days to the maximum permitted review period. The Legislature could, through implementing legislation, allocate these extra days to the Secretary of State, the Superior Court, and the Maine Supreme Judicial Court as it saw fit.

The proposed amendment also contains language that would allow the Legislature to further extend the deadlines for written petitions filed with the Secretary of State around the time of a November general election. Specifically, if a petition for a direct initiative or people's veto were filed with the Secretary of State within 30 calendar days before or after a November general election, the proposed amendment would allow any time that elapses between the date of filing and the date 30 calendar days after the election to be excluded from the calculation of the 100-day deadline.

A "YES" vote is to amend the Maine Constitution to allow more time for review of citizens' initiative and people's veto petitions.

A "NO" vote opposes this change to the Maine Constitution.

Fiscal Impact Statement
Prepared by the Office of Fiscal and Program Review

The Constitution of Maine provides that a judicial review of a determination of the validity of a written petition occur within 100 calendar days from the date of filing of a written petition with the Secretary of State. This resolution proposes to amend the Constitution to provide that the time period for judicial review is 100 business days from the date of filing, unless the petition is filed within 30 calendar days before or after a general election, in which case the judicial review must be completed within 100 business days after the 30th calendar day following that general election. This proposed amendment to the Constitution of Maine is not expected to have an impact on the costs to State Government of judicial review.

Public Comments

No public comments were filed in support of or opposition to Question 5.

<u>Question 6: Constitutional Amendment</u>

Do you favor amending the Constitution of Maine to require that all of the provisions of the Constitution be included in the official printed copies of the Constitution prepared by the Secretary of State?

STATE OF MAINE

"RESOLUTION, Proposing an Amendment to the Constitution of Maine to Require All Provisions in the Constitution to Be Included in the Official Printing"

Constitutional amendment. Resolved: Two thirds of each branch of the Legislature concurring, that the following amendment to the Constitution of Maine be proposed:

Constitution, Art. X, §7 is repealed.

Constitutional referendum procedure; form of question; effective date. Resolved: That the municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, at a statewide election held in the month of November following the passage of this resolution, to vote upon the ratification of the amendment proposed in this resolution by voting upon the following question:

> "Do you favor amending the Constitution of Maine to require that all of the provisions of the Constitution be included in the official printed copies of the Constitution prepared by the Secretary of State?"

The legal voters of each city, town and plantation shall vote by ballot on this question and designate their choice by a cross or check mark placed within the corresponding square below the word "Yes" or "No." The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns. If it appears that a majority of the legal votes are cast in favor of the amendment, the Governor shall proclaim that fact without delay and the amendment becomes part of the Constitution of Maine on the date of the proclamation.

Secretary of State shall prepare ballots. Resolved: That the Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this resolution necessary to carry out the purposes of this referendum.

<u>Intent and Content</u>
Prepared by the Office of the Attorney General

The intent of this proposed amendment to the Maine Constitution is to require inclusion in the official printing of the Maine Constitution of three provisions that are already part of the Constitution but, under current law, cannot be included in its official printings.

The proposed amendment would accomplish this purpose by repealing article X, section 7, of the Maine Constitution. That section requires sections 1, 2, and 5, of article X to be omitted in copies of the Maine Constitution that appear in printings of the laws of Maine. That section also contains language ensuring that the omitted provisions have the same legal effect as if they were printed.

A brief description of each currently omitted provision follows:

- *Section 1* of article X contains a schedule for the election and convening of the first Maine Legislature in 1821. It also established initial electoral districts for the Maine House of Representatives and Maine Senate.
- *Section 2* of article X established special terms of office for officials elected in the 1821 election.
- *Section 5* of article X reprints and incorporates into the Maine Constitution provisions of the 1819 Massachusetts law authorizing the separation of Maine from Massachusetts. These provisions are known as the Articles of Separation. There are nine Articles. The Articles describe rights and obligations of Maine and Massachusetts relating to separation, including division of property and assets, the assignment of certain Massachusetts obligations to Maine, and the treatment of certain public lands.

If the proposed constitutional amendment is approved, the Chief Justice of the Supreme Judicial Court, who is responsible for periodically arranging the Maine Constitution, could include these previously omitted provisions in the next official arrangement of the Constitution. Once approved by the Legislature, such an arrangement could lawfully be printed by the Secretary of State.

A "YES" vote is to <u>amend</u> the Maine Constitution to remove restrictions on printing some of its provisions.

A "NO" vote <u>opposes</u> this change to the Maine Constitution.

Fiscal Impact Statement
Prepared by the Office of Fiscal and Program Review

Amending the Constitution of Maine to require that all of the provisions of the Constitution be included in the official printed copies prepared by the Secretary of State will create minor costs that can be absorbed by the Secretary of State within existing budgeted resources.

Public Comments

No public comments were filed in support of or opposition to Question 6.

Question 7: Constitutional Amendment

Do you favor amending the Constitution of Maine to remove a provision requiring a circulator of a citizen's initiative or people's veto petition to be a resident of Maine and a registered voter in Maine, requirements that have been ruled unconstitutional in federal court?

STATE OF MAINE

"RESOLUTION, Proposing an Amendment to the Constitution of Maine to Align the Proceedings for Circulating Written Petitions for People's Vetoes and Direct Initiatives with Federal Law"

Constitutional amendment. Resolved: Two thirds of each branch of the Legislature concurring, that the following amendment to the Constitution of Maine be proposed:

Constitution, Art. IV, Pt. Third, §20, as amended by CR 2019, c. 1, is further amended to read:

Section 20. Meaning of words "electors," "people," "recess of Legislature," "statewide election," "measure," "circulator," and "written petition"; written petitions for people's veto; written petitions for direct initiative. As used in any of the 3 preceding sections or in this section the words "electors" and "people" mean the electors of the State qualified to vote for Governor; "recess of the Legislature" means the adjournment without day of a session of the Legislature; "statewide election" means any election held throughout the State on a particular day; "measure" means an Act, bill, resolve or resolution proposed by the people, or 2 or more such, or part or parts of such, as the case may be; "circulator" means a person who solicits signatures for written petitions~~, and who must be a resident of this State and whose name must appear on the voting list of the city, town or plantation of the circulator's residence as qualified to vote for Governor~~; "written petition" means one or more petitions written or printed, or partly written and partly printed, with the original signatures of the petitioners, or, as authorized by law, the alternative signatures of persons with physical disabilities that prevent them from signing their own names, attached, verified as to the authenticity of the signatures by the oath of the circulator that all of the signatures to the petition were made in the presence of the circulator and that to the best of the circulator's knowledge and belief each signature is the signature of the person whose name it purports to be, and accompanied by the certificate of the official authorized by law to maintain the voting list or to certify signatures on petitions for voters on the voting list of the city, town or plantation in which the petitioners reside that their names appear on the voting list of the city, town or plantation of the official as qualified to vote for Governor. The oath of the circulator must be sworn to in the presence of a person authorized by law to administer oaths. Written petitions for a people's veto pursuant to Article IV, Part Third, Section 17 must be submitted to the appropriate officials of cities, towns or plantations, or state election officials as authorized by law, for determination of whether the petitioners are qualified voters by the hour of 5:00 p.m., on the 5th

day before the petition must be filed in the office of the Secretary of State, or, if such 5th day is a Saturday, a Sunday or a legal holiday, by 5:00 p.m., on the next day which is not a Saturday, a Sunday or a legal holiday. Written petitions for a direct initiative pursuant to Article IV, Part Third, Section 18 must be submitted to the appropriate officials of cities, towns or plantations, or state election officials as authorized by law, for determination of whether the petitioners are qualified voters by the hour of 5:00 p.m., on the 10th day before the petition must be filed in the office of the Secretary of State, or, if such 10th day is a Saturday, a Sunday or a legal holiday, by 5:00 p.m., on the next day which is not a Saturday, a Sunday or a legal holiday. Such officials must complete the certification of only those petitions submitted by these deadlines and must return them to the circulators or their agents within 2 days for a petition for a people's veto and within 5 days for a petition for a direct initiative, Saturdays, Sundays and legal holidays excepted, of the date on which such petitions were submitted to them. Signatures on petitions not submitted to the appropriate local or state officials by these deadlines may not be certified. The petition shall set forth the full text of the measure requested or proposed. Petition forms shall be furnished or approved by the Secretary of State upon written application signed and notarized and submitted to the office of the Secretary of State by a resident of this State whose name must appear on the voting list of the city, town or plantation of that resident as qualified to vote for Governor. The full text of a measure submitted to a vote of the people under the provisions of the Constitution need not be printed on the official ballots, but, until otherwise provided by the Legislature, the Secretary of State shall prepare the ballots in such form as to present the question or questions concisely and intelligibly.

Constitutional referendum procedure; form of question; effective date. Resolved: That the municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, at a statewide election held in the month of November following the passage of this resolution, to vote upon the ratification of the amendment proposed in this resolution by voting upon the following question:

> "Do you favor amending the Constitution of Maine to remove a provision requiring a circulator of a citizen's initiative or people's veto petition to be a resident of Maine and a registered voter in Maine, requirements that have been ruled unconstitutional in federal court?"

The legal voters of each city, town and plantation shall vote by ballot on this question and designate their choice by a cross or check mark placed within the corresponding square below the word "Yes" or "No." The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns. If it appears that a majority of the legal votes are cast in favor of the amendment, the Governor shall proclaim that fact without delay and the amendment becomes part of the Constitution of Maine on the date of the proclamation.

Secretary of State shall prepare ballots. Resolved: That the Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this resolution necessary to carry out the purposes of this referendum.

<u>Intent and Content</u>
Prepared by the Office of the Attorney General

The intent of this proposed amendment to the Maine Constitution is to remove a provision that can no longer be enforced due to an injunction issued by a federal court.

The Maine Constitution currently provides in article IV, part third, section 20, that individuals who gather signatures for petitions for citizens' initiatives or people's vetoes must be Maine residents registered to vote in their town of residence. In 2020, a group of plaintiffs in a federal lawsuit, *We the People PAC v. Bellows*, No. 1:20-cv-00489, claimed that these requirements violated their First Amendment rights under the United States Constitution. After proceedings in the United States District Court for the District of Maine and the First Circuit Court of Appeals, the District Court entered a permanent injunction prohibiting the Maine Secretary of State from enforcing the circulator residency and registration requirements.

The proposed constitutional amendment would remove from the Maine Constitution these now-unenforceable requirements.

A "YES" vote is to <u>remove</u> the residency and registration requirements for petition circulators from the Maine Constitution.

A "NO" vote <u>opposes</u> this change to the Maine Constitution.

<u>Fiscal Impact Statement</u>
Prepared by the Office of Fiscal and Program Review

This resolution proposes to amend the Constitution of Maine to remove a provision requiring a circulator of a citizen's initiative or people's veto petition to be a resident of the State of Maine and registered to vote in Maine. Removing this provision will not create additional costs for the State.

<u>Public Comments</u>

No public comments were filed in support of or opposition to Question 7.

Question 8: Constitutional Amendment

Do you favor amending the Constitution of Maine to remove a provision prohibiting a person under guardianship for reasons of mental illness from voting for Governor, Senators and Representatives, which the United States District Court for the District of Maine found violates the United States Constitution and federal law?

STATE OF MAINE

"RESOLUTION, Proposing an Amendment to the Constitution of Maine to Allow Persons Under Guardianship for Mental Illness to Be Electors"

Constitutional amendment. Resolved: Two thirds of each branch of the Legislature concurring, that the following amendment to the Constitution of Maine be proposed:

Constitution, Art. II, §1 is amended to read:

Section 1. Qualifications of electors; written ballot; military ~~servicemen~~ service members; students. Every citizen of the United States of the age of 18 years and upwards, ~~excepting persons under guardianship for reasons of mental illness,~~ having his or her residence established in this State, shall be an elector for Governor, Senators and Representatives, in the city, town or plantation where his or her residence has been established, if he or she continues to reside in this State; and the elections shall be by written ballot. But persons in the military, naval or marine service of the United States, or this State, shall not be considered as having obtained such established residence by being stationed in any garrison, barrack or military place, in any city, town or plantation; nor shall the residence of a student at any seminary of learning entitle the student to the right of suffrage in the city, town or plantation where such seminary is established. No person, however, shall be deemed to have lost residence by reason of the person's absence from the state in the military service of the United States, or of this State.

Indians. Every Indian, residing on tribal reservations and otherwise qualified, shall be an elector in all county, state and national elections.

Constitutional referendum procedure; form of question; effective date. Resolved: That the municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, at a statewide election held in the month of November following the passage of this resolution, to vote upon the ratification of the amendment proposed in this resolution by voting upon the following question:

> "Do you favor amending the Constitution of Maine to remove a provision prohibiting a person under guardianship for reasons of mental illness from voting for Governor, Senators and Representatives, which the United States District Court

for the District of Maine found violates the United States Constitution and federal law?"

The legal voters of each city, town and plantation shall vote by ballot on this question and designate their choice by a cross or check mark placed within the corresponding square below the word "Yes" or "No." The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns. If it appears that a majority of the legal votes are cast in favor of the amendment, the Governor shall proclaim that fact without delay and the amendment becomes part of the Constitution of Maine on the date of the proclamation.

Secretary of State shall prepare ballots. Resolved: That the Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this resolution necessary to carry out the purposes of this referendum.

<u>Intent and Content</u>
Prepared by the Office of the Attorney General

The intent of this proposed amendment to the Maine Constitution is to remove a provision that a federal court determined violates the United States Constitution and federal law.

The Maine Constitution currently provides in article II, section 1, that persons who are "under guardianship for reasons of mental illness" are not qualified to vote for Governor, State Representative, or State Senator. In 2000, a group of plaintiffs filed a federal lawsuit, *Doe v. Rowe*, No. 00-cv-206, in the United States District Court for the District of Maine claiming that this restriction violated their rights under the due process and equal protection provisions of the United States Constitution as well as under the federal Americans with Disabilities Act (ADA). In a 2001 decision, the District Court agreed with the plaintiffs, ruling that this restriction on voting was facially unconstitutional and violated the ADA. As a result of the ruling, the State no longer enforces this restriction.

The proposed constitutional amendment would remove from the Maine Constitution this now-unenforceable restriction.

A "YES" vote is to <u>remove</u> the provision making people under guardianship for reasons of mental illness ineligible to vote.

A "NO" vote <u>opposes</u> this change to the Maine Constitution.

<u>Fiscal Impact Statement</u>
Prepared by the Office of Fiscal and Program Review

Amending the Constitution of Maine to allow persons under guardianship for reasons of mental illness to be electors for Governor, Senators and Representatives will not create additional costs for the State.

Public Comment in Support of Question 8

Comment submitted by:
Kim Moody, Executive Director
Disability Rights Maine
160 Capitol Street, Suite 4
Augusta, ME 04330

People placed under guardianship based on being diagnosed with a mental illness can vote in Maine and have been able to do so for the past 22 years.

In 2001, the United States District Court for the District of Maine found that denying someone the right to vote was denying them a fundamental liberty. See Doe v. Rowe, 156 F. Supp. 2d 35 (D. Me. 2001); online at https://casetext.com/case/doe-v-rowe. The Court found that the provision within the Maine Constitution that automatically prohibits people under guardianship by reason of mental illness from registering to vote and from voting, violated the Due Process Clause and the Equal Protection Clause of the U. S. Constitution. The Court also said that this provision of the Maine Constitution violated the Americans with Disabilities Act (ADA).

That case resolved the issue of whether someone under guardianship by reason of mental illness could vote in Maine. It clearly said that people under guardianship cannot be automatically disenfranchised and the provision is unconstitutional. But it did not change the Maine Constitution itself, so that outdated provision remains part of the Maine Constitution today and should be removed.

In the last legislative session, two-thirds of the members of the Maine Legislature passed a resolution amending the Maine Constitution to remove the provision that says people under guardianship are prohibited from voting. Now, in order for that provision to be removed from the Maine Constitution, a majority of Maine voters must vote in the November election, to approve the amendment passed by the Legislature.

On behalf of our clients, Disability Rights Maine fully supports removing this provision from the Maine Constitution. It is long overdue.

The printing of this public comment does not constitute an endorsement by the State of Maine, nor does the State warrant the accuracy or truth of any statements made in the public comment.