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JOINT STANDING COMMITTEE ON VETERANS AND LEGAL AFFAIRS

**LD 176 “An Act To Amend the Law Governing the Gathering of Signatures
for Direct Initiatives and People’s Veto Referenda”**

Testimony Provided by Julie L. Flynn, Deputy Secretary of State

Senator Cyrway, Representative Luchini and Members of the Committee:

The Secretary of State is neither for nor against this legislation but would like to provide some information to the Committee. As we read this bill, it would require petition circulators who are receiving compensation for signature gathering to wear an identification badge while circulating petitions, and require that circulators register with the Commission on Governmental Ethics and Election Practices as well as impose monthly and quarterly reporting to the Commission on the circulator’s signature gathering efforts. The bill also prohibits persons who are not residents of the State from collecting signatures on a petition and from handling a petition in any manner. Finally, the bill requires the petition organization to post a \$2,000 bond with the Secretary of State for each circulator the organization has paid more than \$2,500.

In 1999, in a case entitled *Buckley v. American Constitutional Law Foundation*, the U.S. Supreme Court struck down a Colorado state law that required petition circulators to wear name badges identifying themselves and including information indicating whether they were being paid to circulate. The interaction between petition circulators and individual voters who are being asked to sign a petition is considered “core political speech” which receives the highest level of protection under the First Amendment. Any state law that requires certain information to be communicated at that point is likely to be subjected to strict scrutiny and to be struck down unless the state can demonstrate that it is narrowly tailored to achieve a compelling state interest. Accordingly, the requirement in this bill that paid circulators must wear name badges would likely be struck down if challenged.

In 1988, in a case entitled *Meyer vs. Grant*, the U.S. Supreme Court struck down a Colorado statute that made it unlawful to pay petition circulators. The Court held that such a prohibition violates the First Amendment of the U.S. Constitution by placing an unreasonable burden on political speech. Although this bill does not attempt to prohibit payment of petition circulators, the monthly and quarterly reporting requirements imposed on paid circulators in this bill might be considered equally burdensome and could effectively discourage persons from being circulators. Political action committees and ballot question committees involved in initiative petition efforts are already reporting information on what they spend on paid circulators. The requirement that a petition organization post a bond with the Secretary of State on behalf of each circulator who is paid more than \$2,500 also may be considered burdensome. It is not clear what the compelling state interest is in imposing any of these requirements.

Finally, this bill provides that a person who is not a resident of the State may not act as a circulator. Article IV, Part Third, Section 20 already requires the circulator of a direct initiative or people's veto referendum to be a resident of the State. The Maine Constitution also requires that the circulator of each petition take an oath that all the of the signatures on 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. The person who signs that oath before a Notary Public is considered to be circulator of the petition. While our office has heard anecdotally that it has become common practice for petition efforts to employ an additional person, often a non-resident, to also be present when signatures are solicited and provide information to the potential signer, there is no way for our office to enforce the provision that a non-resident may not handle a petition. The bill does allow a person who is not a resident of the State to provide another person with information about a petition. Indeed such communication is considered core political speech.

In closing, we suggest that some of the concerns regarding non-resident circulators might be more simply addressed by defining in statute what it means to be a circulator of a petition or to "solicit" signatures on petitions.

I would be happy to answer any questions of the Committee, either now or at the work session.