

MAINE STATE LEGISLATURE

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***Report Regarding Establishing a
Presidential Primary System in Maine***

*Prepared for the 128th Maine Legislature
Pursuant to the Public Laws of 2015, Chapter 474*

December 1, 2017



*Prepared by the Department of the Secretary of State
Secretary of State Matthew Dunlap*

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I. INTRODUCTION

This report is being submitted to the Joint Standing Committee on Veterans and Legal Affairs in the 128th Maine Legislature, pursuant to the Public Laws of 2015, c. 474, entitled *An Act to Establish a Presidential Primary System in Maine* (provided as Appendix A of this report).

Chapter 474 was originally introduced as L.D. 1673 in the First Regular Session of the 127th Legislature. Over 90 Legislators co-sponsored the bill, which was sponsored by Senator Justin Alford of Portland. The bill proposed a process for determining the date for a presidential primary (between January 1st and the first Saturday after the first Friday in March of the presidential election year) and specified how the Secretary of State would conduct the election. Senator Alford articulated in his written testimony the following reasons for proposing the legislation:

- Turnout for the 2016 Democratic caucuses was the best the Party had ever experienced;
- Many of the Democratic caucuses were overcrowded and had long waiting lines – some as long as 5 ½ hours;
- The caucuses excluded many people who would otherwise vote, such as elderly voters, young parents and others for whom it was difficult to access the caucuses;
- The Republicans had regional caucus locations, which led to complaints from voters who had to drive long distances to vote;
- Voters from across the state commented about caucuses in their areas being confusing, and not able to handle the large turnout, with some voters being turned away by the long wait times;
- Both the 2008 Democratic caucuses and the 2012 Republican caucuses had issues as well; and
- In 2012, Senator Kevin Raye had introduced essentially the same bill for many of the same reasons and citing many of the same problems as those that led to this bill being proposed. The Legislature did not enact the bill in 2012, leaving the State in the same spot four years later.

Representative Will Tuell, of East Machias, testified in support of LD 1673, and provided the following points in his written testimony:

- He does not feel that Maine voters have been served well since the State went from primaries to caucuses several years ago;
- In Washington County for the 2016 Republican Caucus, a little group of 10-15 party faithful did their best to manage, verify, distribute ballots and get voters through the line as quickly as possible. In four hours of voting, they processed 475 voters – the highest number of voters for a Republican presidential caucus since going back to a caucus system in 2004;
- Caucus goers repeatedly remarked that the State should be having a primary because lines would move faster, more people could vote, and that some who came from 2 hours away would rather have voted in their own towns or by

absentee ballot. Some voters were discouraged by the lines, and some arrived after the Registrar of Voters had already left and couldn't register to vote; and

- Although the primary costs more to administer, it only happens every four years, everybody who wants to vote will have a chance to vote, turnout will be higher and the State and towns can prepare for it. With a primary system, everyone would be playing with the same rules, polling places would be accessible, and voters would be best served.

The Maine Democratic Party Chair, Phil Bartlett, testified “Neither For nor Against” the bill, but offered the following points in written testimony:

- In 2016, the Maine Democratic Party convened 493 local caucuses throughout the state and had a record-breaking turnout (over 48,000 voters). Their post-caucus survey revealed that 75% of participants had a good experience but there was strong voter interest in returning to a primary;
- Each major party establishes windows for when primaries can be held and that these windows need not be the same. They recommended that if a party does not choose a date or there is no agreement between parties on a date, the State should hold the presidential primary election on the first Saturday permitted by each national party's rules;
- The original bill left it to the Secretary of State's *sole discretion* to determine which candidates are nationally recognized candidates. The Party strongly believes that the state parties should also have the opportunity to designate candidates they deem to be of nationwide stature; and
- The selection of delegates should be in accordance with a delegate selection plan established by the state party. (The default delegate allocation plan in the original bill was at odds with the national Democratic Party rules.)

Jake Stoddard of Buxton testified against LD 1673 as drafted, but was neither for nor against the concept of moving to a presidential primary from a caucus system. He objected to the bill for several reasons, as stated in the written testimony:

- The bill would add significant expenses to the State's budget that could be better spent on other things. It would also add significant costs to municipalities. He commented that the “state would nickel and dime the municipalities, and the municipalities would Gold-plate their Presidential Primary expenditures; and only the taxpayer would lose in the end...”;
- There are logistical shortcomings in the bill, such as the language that establishes a de facto primary date on the first Saturday after the first Friday in March, but then allows the political parties to agree to another date;
- The requirement for candidates to gather 2,000 valid signatures would winnow the field of potential candidates to only those extremely well-funded, or those with great party influence;
- The bill is misguided in requiring proportional allocation of delegates – this should be entirely determined by the respective national and state parties; and
- It is misguided to have an “Uncommitted” option (for candidate's names) and to foreclose the possibility of a write-in candidate.

A representative of the Maine Municipal Association, Kate Dufour testified in support of LD 1673, but raised the following issues with the original language of the bill:

- MMA's support was conditioned on the municipalities not having to absorb the costs of conducting the election;
- Statutory requirements for state government to reimburse municipalities for other programs have not been honored in the past and there is no way to guarantee that the State will reimburse the presidential primary election costs;
- Don't schedule a presidential primary on a Saturday – many of the usual voting facilities will not be available or will be costly to secure for use on a Saturday. Also, voters are accustomed to voting on a Tuesday for other statewide elections; and
- Provide ample time to allow for the administration of absentee ballots (by not allowing a late withdrawal deadline for candidates).

Kathleen Montejo, City Clerk of Lewiston and Chair of the Legislative Policy Committee of the Maine Town and City Clerks' Association (MTCCA) testified "Neither for Nor Against" the bill, as some MTCCA members were in support while others were opposed. Ms. Montejo raised the following points in her written testimony:

- Some Clerks who supported the bill did so because they heard concerns from voters regarding the logistical operations of the caucuses, including limited parking, lack of adequate accessible parking, insufficient building space or meeting setup, confusion from the party volunteers organizing the event, etc.;
- Other Clerks supported the bill because they feel the voters would be better served with an election-style process that is similar to how the State primary election already is conducted in June;
- Clerks who opposed the bill did so because they were concerned with the timing of the election – it would be conducted when the municipal offices would be busy with processing state petitions or they had concerns with the logistics of running an election during the winter months;
- The MTCCA favored a delay in passage of the bill to allow the Secretary of State to survey the municipalities to determine the local costs to run an election;
- The original bill language provided uncertainty about the date of the election, and offered the possibility of the election to be held on a Saturday. Not having a date certain for the election makes it difficult to schedule and secure the voting place facilities far in advance of the election, which is necessary in many cases. Many of the facilities would not be available on Saturdays, would have a higher cost for their usage, and might be in conflict with the towns that hold their Annual Town Meetings on the first Saturday in March.

Finally, Secretary of State Matthew Dunlap testified in support of LD 1673, and made the following points in his written testimony:

- Maine had a primary system on the books, but it was never used, because by the time of the June primary Maine's participation was irrelevant. In an effort to have Maine cast a meaningful vote, the Legislature adopted the Presidential

Preference Primary law, which was used in 1996 and 2000, but was repealed prior to 2004 in favor of going back to caucuses;

- The caucuses have many advantages: they can be scheduled much more flexibly than official state elections, they help build party activism as community events, and they don't cost the state anything to host, as they are purely party activities;
- In the 2016 caucuses, interest was very high as there was no incumbent running for re-election. Problems and complaints surged over long lines and drawn-out and confusing processes for voting and selection of party delegates to the respective party conventions, resulting in people calling for a return to the primary system; and
- We support the bill with the following amendments:
 - Signature threshold of 2,000 voters enrolled in the candidate's party
 - Nomination petitions available by November 1st
 - Candidates submit their nomination petitions by 3rd week in December
 - Primary to be scheduled for the 1st Tuesday after the 1st Monday in March
 - Direct the Secretary of State to examine municipal election costs and return in the next Legislature to describe the fiscal impact that the State should bear.

The Legislature acknowledged the concerns expressed by those who testified at the hearing and amended LD 1673 to include a more simplified presidential primary process and to direct the Secretary of State to examine both State and municipal costs associated with conducting a presidential primary and submit a report to the Joint Standing Committee on Veterans and Legal Affairs by December 1, 2017. This was enacted as Chapter 474 of the Public Laws of 2015.

II. BACKGROUND

History of Presidential Primary Laws in Maine

In 1987, the Maine Legislature enacted a statute allowing each of the qualified political parties the option to hold a presidential primary election. This section of law, which included a complex formula for the selection of delegates to the national convention, was never utilized by either party. It was repealed and replaced in 1995 with a new law that established a simplified presidential preference primary election process.

Both major qualified parties opted to conduct presidential preference primaries in 1996 and 2000. The preference primary was held on the first Tuesday of March in these years. Candidates could qualify for the ballot by either submitting nomination petitions containing at least 2,000 valid signatures from voters enrolled in the candidate's party, or paying a \$2,500 filing fee. All candidates submitted the petition signatures **and** paid the filing fee, although only one method was required. State costs for conducting the presidential preference primaries in 1996 were \$42,000 (ballot printing costs were \$37,292 of the total because all hand-count ballots were used). State costs for conducting the 2000 presidential preference primaries were \$50,667 (ballot printing costs were \$47,612 of the total because all hand-count ballots were used).

The chart below shows the number of votes cast in each of the preference primaries as well as the number of voters enrolled in each party at the time of the primaries.

Year of Election	Party	Number of Candidates	Votes Cast	Enrolled Voters	Turnout (as % of Enrolled Voters)
1996	D	2	27,027	298,295	9%
1996	R	8	67,280	271,644	25%
2000	D	4	64,279	281,009	23%
2000	R	5	96,624	256,178	38%

The presidential preference primary law was repealed in 2003. At that time, party officials expressed a desire to return to conducting caucuses, which they viewed as valuable organizational and voter engagement events and deemed to be a better method of nominating delegates to the national convention.

The parties held caucuses in the presidential election years of 2004, 2008, 2012 and 2016. Problems were reported in 2008, 2012 and 2016, as an increasing number of voters each cycle exceeded the capacity of the largely volunteer-run caucuses to accommodate efficiently. However, although the total number of participants in the 2016 Republican and Democratic caucuses was over 18,000 and 46,000 respectively; the turnout was much lower than the turnout in 3 of the 4 preference primary elections held in 1996 and 2000.

In addition to the caucus problems related during the testimony on LD 1673 (as described in the previous section of this report) another major issue relates to the role of the Municipal Registrar of Voters, who is required to attend the caucuses to register new voters and allow unenrolled voters to enroll in the party holding the caucus. Although state election law requires the Registrar to attend the caucuses only for one hour before the start of the caucus, in 2016, the lines of people waiting to register or enroll often exceeded the one-hour required registration period, causing municipal officials to remain longer or face the anger of the waiting applicants. In Portland, for example, the municipal officials stayed at the caucus for several hours beyond their allotted time. In fact, they only left when they ran out of registration applications and other supplies, despite having worked without a break or food for many hours more than required by law. Frequently, the party officials requested the help of the municipal officials to check in the voters – which is not the role of the Registrars.

In 2016, the Elections Division received calls and emails from many UOCAVA voters (i.e., uniformed service and overseas voters) who were trying to obtain absentee ballots to vote in the presidential caucuses. Because this was not a state election, this office could not assist the voters beyond directing them to the state party offices. We were told after the caucuses that many UOCAVA voters were not able to receive or return an absentee ballot in time to be counted at the caucuses.

III. DATA COLLECTED AND INFORMATION REVIEWED

All statewide elections in Maine (elections for Federal, state and county offices and statewide referenda) are conducted through a partnership between the Secretary of State and Maine's nearly 500 municipalities. The Secretary of State, Division of Elections, centrally designs, prepares, and distributes ballots and all forms (such as absentee ballot envelopes, tally sheets and Return of Votes Cast) needed to conduct and report on the election. The Secretary of State also leases ballot tabulators and provides coding and memory devices to each of the 264 municipalities that utilize this equipment. The Municipal Clerk in each municipality administers the election locally. In this role, the Clerk is required to secure voting places adequate to meet the need of the municipality's voters; recruit, train and compensate election officials; administer absentee voting and complete other preparations as needed. The cost of conducting statewide elections is currently split between the Secretary of State and the municipalities.

Chapter 474 of the Public Laws of 2015 required the Secretary of State to examine the fiscal impact on municipalities and the State of the costs associated with conducting a presidential primary election and to submit a report to the Legislature. This report must include the ordinary costs of conducting elections at the municipal level, including any costs that are not typical of a regular election but might be experienced at presidential primary election. The report also must include information related to the costs for personnel and the types of facilities required to conduct a primary and aggregate costs to the both the State and municipalities.

Municipal Election Costs

In order to identify the municipal costs for conducting an election, the Division of Elections distributed a *Survey of Municipal Costs for Statewide Elections* (provided as Appendix B of this report). The survey asked the Municipal Clerk to identify and report the costs they typically encounter for each statewide election. The survey also included a question for Clerks to describe and estimate any costs that might be unique to a presidential primary.

Upon receipt of the surveys from each municipality (489 surveys were received), the Division of Elections entered the data from each survey into a database and reviewed the data in order to determine that all expenses provided were directly related to a statewide election. Many municipalities opt to conduct a municipal election on the same day as a statewide election as a cost savings. While this practice is acceptable, for the purpose of the survey, the Division instructed Clerks to identify only costs related to a State election. If a cost appeared to be related to a municipal election, the cost was not included in the statewide compilation of election costs.

Appendix C of this report provides a summary of the costs identified by the Municipal Clerks. This section of the report will provide a description of each cost that was identified and a general analysis of what is included in each cost.

Compensation for Municipal Clerk (if not covered by regular salary)

The first two questions of the survey asked for information on how the Municipal Clerk is compensated for Election Day. Most Municipal Clerks are required to work more than a typical 8-hour day on Election Day in order to be available the entire time the polls are open, as well as additional hours to set-up for the election and to count the ballots and prepare the results for the Secretary of State.

The aggregate total of this cost (reported on 249 of 489 surveys) was almost \$57,000. This appears to be a minor cost to most municipalities as 243 of the 249 municipalities that included this cost indicated a total of less than \$500.

Compensation for Municipal Registrar (if not covered by regular salary)

The next two questions of the survey asked for similar information regarding compensation for the Municipal Registrar. As state election law requires the Registrar to be available the entire time the polls are open on Election Day, the Registrar generally is required to work more than 8 hours for any election. The aggregate total for this question was almost \$28,000 as only 149 surveys identified this cost. Again, this cost was generally minor as 135 of the 149 towns including this cost indicated a total cost of less than \$300.

Compensation for Election Officials

The next cost identified on the survey was the cost to compensate election officials, including the Warden, deputy wardens, election clerks and deputy registrars. These officials – unlike the Municipal Clerk and Municipal Registrar who are required to be available for some hours year-round – work only on Election Day. State election law requires, at a minimum, a warden, registrar and two election clerks – one from each of the major parties – to work at each voting place during polling hours as well as additional time required to count ballots and wrap-up the election. The statewide total for this cost was identified as over \$476,000, representing more than half of the total costs identified in the survey.

Results of the survey indicate a great range in the amount municipalities require to compensate election officials. Although nine municipalities did not include this cost on the survey (indicating instead that either these officials volunteer or that compensation for their Election Day duties already was included in their salary received for another municipal position), all other municipalities reported a cost of at least \$100. On the high end of the range, 30 municipalities reported a cost of over \$2,500, with the highest being Portland at almost \$27,000.

The number of election officials needed for each voting place obviously dictates how much total compensation is required. Towns with multiple voting districts require more officials to staff each voting place. Towns with the largest number of registered voters also require more officials to insure a smooth administration of the election.

Compensation for additional office staff

Municipalities also identified as a cost of conducting statewide elections the requirement to employ additional office staff to process absentee ballots requests and other preparatory work prior to Election Day. Because elections only happen at certain times throughout the year, most municipal offices cannot maintain the staffing levels needed for election preparation in the weeks leading up to Election Day. To handle the extra workload, many offices hire temporary workers to assist. These workers are often employees from other departments in the municipality or election officials who are brought in to assist in the office. This cost generally is incurred by the larger municipalities that issue the most absentee ballots and have the most election preparation (such as testing voting equipment and printing multiple incoming voting lists) before the election.

This cost was identified by only 106 municipalities, but the total amount of over \$140,000 was significant. Sixty-three municipalities reported a cost of over \$500, with three towns reporting price tags of between \$11,000 and \$30,000.

Facility Costs

A significant cost identified by 90 municipalities is facility costs. The total amount from the 90 municipalities reporting this cost was nearly \$30,500.

Rental fees for voting places are a major portion of facility costs. If a municipality does not own a building that is adequate to be used as a voting place, a suitable building must be rented. Buildings that are rented generally are rented for multiple days to facilitate set-up and tear down of the voting area as well as the actual voting on Election Day. Some municipalities with multiple voting places reported that they must rent multiple facilities.

Another significant facility cost is the expense for compensating other town departments to assist with the set up and tear down. For any election, voting booths, tables, and barriers must be utilized. Many municipalities reported recruiting the public works or maintenance departments to assist. In some municipalities, the assistance is provided at no charge while other municipalities reported they must reimburse the assisting departments. Many municipalities also reported custodial fees as a cost of conducting elections.

Other municipalities reported reimbursement to police departments for security and parking details. Some municipalities must also rent miscellaneous equipment, such as a golf cart, wheelchair, signs and additional lighting.

Additional costs for typical election

Municipalities were asked to report additional costs that they would experience at a typical election. Costs included in this section were postage for absentee ballots, advertising, meals for workers, election officials' training, supplies and mileage. This cost was reported by 283 of the 489 municipalities responding to the survey. The total amount was just over \$96,000. The additional costs reported increased significantly based on the size of the municipality. The average cost for jurisdictions with between 7 and 500 registered voters was \$52, while the average costs for municipalities with between 10,000 and 57,000 voters was \$1,860.

Postage for absentee ballots was the most frequent and oftentimes largest additional cost reported. As municipalities with the most voters often issue a larger percentage of absentee ballots, this cost is borne heaviest by the larger municipalities. Postage alone exceeded \$1,000 for several municipalities. Larger municipalities also face greater costs for training and meals (as there are more election officials that must be fed and trained).

Additional costs for Presidential Primary

As the last question to the survey, Municipal Clerks were asked to identify costs that might be incurred only for a presidential primary election. In response to this question, 88 Clerks reported a total statewide cost of over \$29,000. Items included in this total were additional postage for absentee voting, snow removal (no other regular statewide election is held during the winter months), additional election clerks for counting after the polls are closed, additional training (the State recommends that training be held prior to each election) and additional fees related to early processing of absentee ballots.

Most of the costs identified for this survey question are based on the anticipation that turnout for the presidential primary will be high. Turnout for the two presidential primaries held in Maine has not been historically large. A combined turnout number for 1996 was just over 94,000, while in 2000, nearly 161,000 voters participated. In comparison, nearly 346,000 voters participated in the recent November 2017 referendum election. As the last presidential primary was held in 2000, many current election officials may have never participated in this type of election. Although it is prudent to always plan for heavy turnout at any election, historically there is no precedent for this.

Total Municipal Election Costs

Practically all of the municipalities responding (486 of 489) reported at least a minimal cost for conducting a statewide election. Costs on a municipal basis ranged from a low of \$170 to a high of \$62,325 – reported by Portland – Maine's largest jurisdiction with almost 57,000 registered voters and eleven voting places. The total of the municipal costs statewide was over \$857,000.

As the table provided below indicates, the cost of conducting elections is directly tied to the number of registered voters in the municipality.

Total Municipal Election Costs (By # of registered voters)

# of Reg. Voters	# of Jurisdictions	Total Cost	Average
7-500	144	\$84,393.13	\$586.06
501-1,000	101	\$85,061.83	\$842.20
1,001-2,000	105	\$120,230.57	\$1,145.05
2,001-5,000	89	\$156,203.36	\$1,755.09
5,001-10,000	30	\$158,675.31	\$5,289.18
10,000-57,000	17	\$252,877.93	\$14,875.17
Statewide Total		\$857,442.13	

State Election Costs

In addition to the costs identified as municipal election costs, there will also be costs for the Department of the Secretary of State to conduct a presidential primary election. The Elections Division has prepared a summary of the anticipated costs. As the last presidential primary was held in 2000, the Department looked at costs from recent elections rather than referring to costs for an election held over 15 years ago. Based on this estimate, the Secretary of State would require almost \$122,000 to conduct a presidential primary. Ballot printing costs are based on using tabulators in 264 municipalities, rather than using all hand-counted ballots. Although some savings can be realized by the State by using all hand-counted ballots, this actually increases the costs for municipalities to hire additional ballot counters, and results in more human errors than using tabulator machines.

	Quantity	Price	Cost
Absentee Envelopes	165,165	\$50.87/1000	\$8,402
DS Supplies - pens	1,600	.93/ea	\$1,488
DS Supplies - tape	300	1.75/ea	\$525
DS - Postage for DS supplies			\$255
Tamper-proof seals	2,000	0.154	\$308
White Voter Registration Cards	50,000	15.68/1000	\$784
Green Voter Registration Cards	50,000	15.68/1000	\$784
IVL Certification Seals	1,000	42.60/1000	\$43
ExpressVote Ballot Cards			\$200
UOCAVA Election Officials	5 officials X 6 hrs	15/hr	\$450
Ballot Printing Cost	330,000	.25/ballot	\$82,500
Ballot Delivery Cost			\$14,800
Meter Postage for Mailings			\$11,400
Total:			\$121,939

IV. ANALYSIS AND RECOMMENDATIONS

Re-instituting a Presidential Primary

The Secretary of State supports the change from party caucuses to a presidential primary. The party caucuses have many laudable advantages, such as more flexibility in scheduling based on the needs of each party (and the ability for each party to hold caucuses on different days), building party activism and civic engagement, and no cost to the state or municipalities.

However, as the past three presidential caucus cycles have shown, voters increasingly want the ability to cast a ballot for president at a primary election that is administered uniformly and efficiently by election administrators in each municipality. Many interested voters could not commit the time necessary to engage in typical caucus events – such as listening to candidate speeches and formation of municipal and county party committees – they simply wanted to cast their ballots and leave. Voters also have expressed the desire to vote by absentee ballot for any reason, just as they do for all other statewide elections.

Party officials do not administer voter registration and have no way to access the Central Voter Registration (CVR) database to determine current voter information, which is why the law requires the Registrar of Voters to attend the caucuses to provide registration and enrollment opportunities. Clearly, at the 2016 caucuses, when there was no incumbent candidate, both major parties saw an influx of new voters at many caucus locations that exceeded the ability of the Registrars to provide voter registration in the one-hour time period required by law. Although many Registrars stayed beyond the one-hour period, many others did not; this resulted in unequal access to voter registration at different locations.

Party officials rely primarily on local volunteers to manage and staff the caucuses, including checking in voters and providing and counting the ballots. Most of these volunteers are not professional election administrators, and thus are not experienced with managing the type of logistics needed for the orderly flow of voters through the election process, resulting in long waiting lines and the dissatisfaction of many voters.

Changes to Presidential Primary Statute Enacted in Ch. 474

Chapter 474 of the Public Laws of 2015 included language enacting procedures necessary to conduct a presidential primary. This enacting language will automatically be repealed on December 1, 2018, if the Legislature chooses not to go forward with the option to re-institute the presidential primary. The Secretary of State would like to suggest several amendments to this enacting legislation that would be necessary to conduct a successful presidential primary.

Establish a date-certain for the presidential primary

The enacting legislation, as currently written, provides that “No later than November 1st of the year prior to a presidential election year, the Secretary of State shall set the date of the presidential primary election, which must be held on a Tuesday in March of the year in which a presidential election is held.”

The Secretary of State recommends that the date be set in statute so that state and municipal officials can begin important planning steps prior to November 1st of the year prior to the election. As mentioned previously in this report, many municipalities must rent some or all of their voting places. If a town has to wait until November 1st to make arrangements for the voting place, there is a good possibility that some venues might already be booked for other events.

Many election events are tied to the date of the election (i.e., UOCAVA ballots must be available no later than 45 days before the election and regular absentee ballots must be provided to Municipal Clerks 30 days prior to the election). Having a date certain for the presidential primary election will allow the Secretary of State to begin planning for these key events earlier and entering into printing and other contracts in a timely manner.

The Secretary of State does not recommend that the presidential primary be held on a Saturday. Holding a weekend primary might affect the availability of certain voting places or increase the rental fees of such facilities. A weekend primary would also increase personnel costs as many municipalities, and the State, would be required to pay officials and staff overtime wages.

Specify that the procedure for selecting delegates will be based on party rules

While the Secretary of State has no opinion on the best way to allocate delegates based on the results of the primary, it appears that each party has different procedures. Some testimony indicated that providing for a specific procedure in statute might cause a party to lose its votes at the national nominating convention.

Reimbursement of Municipal Election Costs

The biggest impact of switching to a presidential primary is the cost to state and municipal officials – estimated at about \$122,000 for the state and over \$857,000 for municipalities, for a total cost of almost \$980,000. While we do understand the desire of municipalities to be reimbursed for taking on another election, we recommend that the Legislature consider the possible issues involved with reimbursing municipalities for conducting the presidential primary election.

Historically, municipalities have been responsible for bearing the costs of conducting the statewide elections at the local level, whether the election is a primary, referendum or general election. Those costs include the expenses related to securing and

using the voting place facilities, postage and other costs for administering absentee voting and other pre-election preparations, and the costs of providing sufficient election officials for Election Day activities. If reimbursement is provided for the presidential primary election, there may be a movement to reimburse local costs for other state elections.

The results from the *Survey of Municipal Costs for Statewide Elections* highlight the difficulties of gathering accurate cost data from all municipalities statewide. The Elections Division staff spent many hours calling individual municipalities to request the survey to be completed initially and to follow up on missing or unclear responses. Additionally, without reviewing backup documentation for each cost component, it was challenging to determine whether some costs were legitimate, or whether these expenses were already provided for in the municipality's budget or were attributable to the local election.

Despite the Elections Division's instructions directing municipalities to only include costs for conducting a statewide election, it was clear from many of the responses that costs for conducting a concurrent local election were included. For example, several municipalities reported tabulator or Accessible Voting System (AVS) coding costs in their responses. For a state election, the Elections Division staff completes the coding for the ballot tabulators and the AVS, and does not pass these costs on to the municipalities. Some municipalities had advertising as an identified cost. We determined that the cost of advertising of the local ballots was included in some cases, rather than just the cost of advertising of the Registrar's hours prior to the election. Only the latter is a legitimate state election cost.

If a municipality opts to hold a local election at the same time as the presidential primary election, in an effort to save money on the local election, then we believe the election costs should be appropriately apportioned between the state and local elections before the State reimburses the municipalities. Many costs could simply be split equally between the state and municipality (e.g., facilities rental, election officials cost), while others should be apportioned based on whether the activity is one required by state law (such as advertising the Registrar's hours) or by municipal election law (such as advertising the local ballot in the newspaper). Absentee ballots for the state and local elections usually are sent in the same envelope to the voter. If adding one or more local ballots to the envelope increases the cost of mailing over the cost for the state ballot only, then the additional mailing cost for the local ballot should not be reimbursed by the state.

If the Legislature decides that the state should pay the municipal election costs for presidential primaries, we would recommend that the Legislature first consider whether another method of conducting the presidential primary (e.g., an all vote-by-mail election) could be administered more efficiently and cost-effectively than the current system of voting in approximately 500 municipalities.

However, should the Legislature wish to proceed with a traditional election process, and decide to reimburse municipal election costs, we strongly recommend against having municipalities submit individual invoices for reimbursement of identified costs. Having just spent a significant amount of time reviewing 489 municipal surveys, we believe it would be time-consuming and inefficient to have each municipality submit an invoice detailing the election costs, and to require the Secretary of State to review and approve payments based on actual costs reported. From an auditing prospective, such a method would also necessitate receiving documentation of actual expenditures along with the invoice.

Instead, we recommend that a tiered, flat-rate reimbursement be determined based on the size of the municipality (i.e., number of registered voters), and based on a certain set of allowable cost components. We would also recommend language that makes the reimbursement payment contingent on the municipality submitting all required reports and filings to the Secretary of State, including the post-election certifications of resolving all absentee ballots, entering all new voter registrations and changes and completing the processing of the Voter Participation History after the election. We would be happy to work with the Legislature to determine the final reimbursement formula and process.

Appendix A

Public Laws of 2015, Chapter 474

APPROVED
APRIL 15, 2016
BY GOVERNOR

CHAPTER
474
PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND SIXTEEN

S.P. 685 - L.D. 1673

An Act To Establish a Presidential Primary System in Maine

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

Sec. 1. 21-A MRSA §335, sub-§5, ¶B-2 is enacted to read:

B-2. For a candidate for the office of President of the United States, at least 2,000 and not more than 3,000 voters.

This paragraph is repealed December 1, 2018;

Sec. 2. 21-A MRSA §335, sub-§6, as enacted by PL 1985, c. 161, §6, is amended to read:

6. When signed. A Except as provided in subchapter 7, a petition may not be signed before January 1st of the election year in which it is to be used.

Sec. 3. 21-A MRSA §335, sub-§8, as amended by PL 1995, c. 459, §23, is further amended to read:

8. When filed. A Except as provided in subchapter 7, a primary petition must be filed in the office of the Secretary of State before 5 p.m. on March 15th of the election year in which it is to be used.

Sec. 4. 21-A MRSA c. 5, sub-c. 7 is enacted to read:

SUBCHAPTER 7

PRESIDENTIAL PRIMARY ELECTIONS

§431. Determination and date of primary; voter eligibility

1. Determination of primary. No later than November 1st of the year prior to a presidential election year, the Secretary of State shall set the date of the presidential primary election, which must be held on a Tuesday in March of the year in which a

presidential election is held. Whenever the state committee of a party certifies that there is a contest among candidates for nomination as the presidential candidate, the Secretary of State shall consult with the state committee of each party to determine the date of the presidential primary.

2. Eligible voter. Notwithstanding section 340, subsection 1, only a voter who is enrolled in a party may vote in the party's presidential primary election.

§432. Petitions

On or before November 1st of the year prior to a presidential election year, the Secretary of State shall prepare and make available petitions for circulation by a person desiring to be a contestant in the Maine presidential primary election of any party. This petition must be completed and filed no later than 5:00 p.m. on December 21st of the year prior to a presidential election year in the manner provided in sections 335 and 336.

§433. Ballot preparation

The Secretary of State shall prepare ballots for a presidential primary election. A ballot must include the name of a person who files with the Secretary of State a petition in accordance with section 432. The Secretary of State shall determine if a petition meets the requirements of sections 335, 336 and 432, subject to challenge and appeal under section 337.

§434. Repeal

This subchapter is repealed December 1, 2018.

Sec. 5. Secretary of State directed to examine costs associated with presidential primaries and submit recommendations for legislation. The Secretary of State shall examine the fiscal impact on municipalities and the State associated with the requirement under the Maine Revised Statutes, Title 21-A, chapter 5, subchapter 7 to conduct a presidential primary and submit a report by December 1, 2017 to the joint standing committee of the Legislature having jurisdiction over elections matters. The report must describe the fiscal impact and suggest methods for mitigating the costs of conducting a presidential primary, including but not limited to appropriations and allocations. For the purposes of this section, "fiscal impact" includes, but is not limited to:

1. Ordinary costs of conducting elections at the municipal level;
2. Costs that are not typical in a regular election conducted at the state and municipal level that are anticipated with the addition of a presidential primary;
3. Costs related to personnel and the need for facilities to conduct a presidential primary, if any; and
4. Aggregate costs to both the State and municipalities.

The Secretary of State shall include in the report recommendations regarding the administration of presidential primaries, including any implementing legislation. These recommendations must include, but are not limited to, provisions that address the arrangement and content of the ballot, including the order of candidates to be listed on the ballot if a party has multiple candidates; necessary changes to ensure proper and timely administration of absentee ballots for a presidential primary and compliance with the federal Uniformed and Overseas Citizens Absentee Voting Act; and other issues as determined by the Secretary of State to be necessary for proper administration of a presidential primary in the State.

In developing the recommendations and implementing legislation required by this section, the Secretary of State shall seek recommendations from recognized political parties in the State and organizations representing municipal and town election clerks.

The joint standing committee of the Legislature having jurisdiction over elections matters may submit a bill regarding presidential primaries to the Second Regular Session of the 128th Legislature.

Appendix B

Survey of Municipal Costs for Statewide Elections



Survey of Municipal Costs for Statewide Elections

June, 2017

Municipality _____

1. **How is the Municipal Clerk paid for Election Day?** (Please check all that apply)
 - A. _____ included in salary/stipend (If "A" only, skip to Question 3)
 - B. _____ hourly rate
 - C. _____ overtime
 - D. _____ other; please describe _____

2. **If Election Day is not covered by the Clerk's salary/stipend, please estimate the total cost for the Clerk for a typical Election Day** _____

3. **How is the Registrar paid for Election Day?** (Please check all that apply)
 - A. _____ included in salary/stipend (If "A" only, skip to Question 5)
 - B. _____ hourly rate
 - C. _____ overtime
 - D. _____ other; please describe _____

4. **If Election Day is not covered by the Registrar's salary/stipend, please estimate the total cost for the Registrar for a typical Election Day** _____

5. **Number of Voting Places** _____

6. **Poll open hours** _____ a.m. to 8:00 p.m.

Note: If Clerk/Deputy acts as Warden/Deputy Warden on Election Day, do not include salary or pay in both responses to Questions #1 and #7 unless Clerk is paid separately for each position.

7. **Total number of Election Officials used (all Voting Places):**
 - A. _____ Warden(s)
 - B. _____ Deputy Warden(s)/Ward Clerk(s)
 - C. _____ Election Clerks
 - D. _____ Deputy Registrars (in addition to Registrar)

8. **How are the Election Officials paid for Election Day?** (Please check all that apply)
 - A. _____ included in salary/stipend
 - B. _____ hourly rate
 - C. _____ overtime
 - D. _____ volunteer
 - E. _____ other; please describe _____

9. **Total cost of all Election Officials described in Question #8:** \$ _____

Please Continue on Page 2

10. Do you hire additional office staff or offer paid overtime for staff to process absentee ballots or do other preparations? (Y/N) _____

If yes, please describe the number of staff and total costs for a typical election _____

11. Do you have facilities costs associated with using the Voting Place(s) - (e.g. rental, custodial fees, set-up fees, etc.)? (Y/N) _____ If Yes, please provide costs and itemize below:

Description of Facilities Costs	Cost

12. Do you have other costs for a typical election (e.g. printing, postage, supplies, etc.)? (Y/N) _____ If yes, please provide costs and itemize below:

Description of Typical Costs	Cost

13. Can you think of any other issues or costs that may be incurred for a Presidential Primary Election in your municipality? If it is a cost, please give your best estimate of that cost.

Signature of Municipal Clerk _____ Date _____

DEADLINE: July 25, 2017

Please return this form by email to cec.officials@maine.gov,
or by fax to 287-6545 or 287-5428

Appendix C

Summary of Reported Municipal Election Costs

**Summary of Reported Municipal Election Costs
Prepared by the Secretary of State, December 2017**

Summary of Reported Costs

Cost Description	Total
Compensation for Municipal Clerk (not covered by regular salary)	\$56,827.81
Compensation for Municipal Registrar (not covered by regular salary)	\$27,747.02
Compensation for Election Officials	\$476,203.15
Additional Office Staff Compensation	\$140,044.22
Facility Costs	\$30,464.01
Other Costs	\$96,920.57
Costs related to Presidential Primary Only	<u>\$29,235.35</u>
Total All Identified Costs	\$857,442.13

Identified Cost: Compensation for Municipal Clerk (not covered by regular salary)

Number of jurisdictions reporting this cost:	249
Total amount reported	\$56,827.81
Average cost per jurisdiction	\$228

Cost Reported	# of Jurisdictions
\$30-\$100	30
\$101-\$200	104
\$201-\$300	62
\$301-\$400	33
\$401-\$500	14
\$501-\$600	1
\$601-\$700	1
\$701-\$800	3
\$801-\$900	0
\$901-\$1000	0
\$1001-\$1100	1

Identified Cost: Compensation for Municipal Registrar (not covered by regular salary)

Number of Jurisdictions reporting this cost:	149
Total amount reported	\$27,747.02
Average cost per jurisdiction	\$186

Cost Reported	# of Jurisdictions
\$50-\$100	23
\$101-\$200	75
\$201-\$300	37
\$301-\$400	7
\$401-\$500	4
\$501-\$600	2
\$601-\$700	0
\$701-\$800	1

Summary of Reported Municipal Election Costs
Prepared by the Secretary of State, December 2017

Identified Cost: Compensation for Election Officials*

Number of Jurisdictions reporting this cost:	480
Total amount reported	\$476,203.15
Average cost per jurisdiction	\$992

Cost Reported	# of Jurisdictions
\$100-\$200	24
\$201-\$400	128
\$401-\$600	118
\$601-\$800	64
\$801-\$1000	40
\$1001-\$1200	26
\$1201-\$1400	17
\$1401-\$2000	21
\$2001-\$2500	12
\$2501-\$3500	13
\$3501-\$6000	8
\$6,001-\$27,000	9

Compensation of Election Officials (By # of officials employed)

# of Officials	# of Jurisdictions	Total Cost	Average
3-5	225	\$102,607.31	\$456.03
6-10	151	\$114,827.59	\$760.45
11-15	61	\$75,342.94	\$1,235.13
16-25	23	\$40,899.64	\$1,778.25
26-50	14	\$75,219.42	\$5,372.82
51-155	6	\$67,306.25	\$11,217.71

Compensation of Election Officials (By # of Registered Voters)

# of Reg. Voters	# of Jurisdictions	Total Cost	Average
7-500	143	\$57,996.67	\$405.57
501-1000	99	\$62,444.59	\$630.75
1001-2000	105	\$76,493.40	\$728.51
2001-5000	86	\$88,461.37	\$1,028.62
5001-10000	30	\$68,000.32	\$2,266.68
10,000-57,000	17	\$122,806.80	\$7,223.93

* Includes Warden, Deputy Warden/Ward Clerk, Election Clerk, Deputy Registrar

**Summary of Reported Municipal Election Costs
Prepared by the Secretary of State, December 2017**

Identified Cost: Compensation for additional office staff to process absentee ballots and other duties

Number of Jurisdictions reporting this cost:	106
Total amount reported	\$140,044.22
Average cost per jurisdiction	\$1,321

Cost Reported	# of Jurisdictions
\$20-\$100	25
\$101-\$250	27
\$251-\$500	21
\$501-\$1,500	15
\$1,501-\$8,000	15
\$8,001-\$30,000	3

Additional office staff (By # of registered voters)

# of Reg. Voters	# of Jurisdictions	Total Cost	Average
7-500	10	\$1,480.00	\$148.00
501-1000	9	\$2,090.00	\$232.22
1001-2000	16	\$4,417.26	\$276.08
2001-5000	35	\$11,279.00	\$322.26
5001-10000	22	\$42,917.46	\$1,950.79
10,000-57,000	14	\$77,860.60	\$5,561.47

Identified Cost: Facility Costs**

Number of Jurisdictions reporting this cost:	90
Total amount reported	\$30,464.01
Average cost per jurisdiction	\$338

Cost Reported	# of Jurisdictions
\$10-\$100	43
\$101-\$250	18
\$251-\$500	15
\$501-\$1,500	8
\$1,501-\$3,000	6

Facility Costs (By # of registered voters)

# of Reg. Voters	# of Jurisdictions	Total Cost	Average
25-500	13	\$911.00	\$70.08
501-1000	14	\$891.00	\$63.64
1001-2000	19	\$1,968.00	\$103.58
2001-5000	22	\$6,593.80	\$299.72
5001-10000	11	\$6,010.21	\$546.38
10,000-57,000	11	\$14,090.00	\$1,280.91

** Facility costs identified included voting place (facility) rent, voting place set-up and tear-down, custodial fees, police/security, signage, miscellaneous rental fees (wheelchair, golf cart, lighting)

**Summary of Reported Municipal Election Costs
Prepared by the Secretary of State, December 2017**

Identified Cost: Additional Costs for typical election***

Number of Jurisdictions reporting this cost:	283
Total amount reported	\$96,290.57
Average cost per jurisdiction	\$340

Cost Reported	# of Jurisdictions
\$2-\$100	145
\$101-\$250	59
\$251-\$500	34
\$501-\$1500	28
\$1501-\$5000	17

Additional Costs (By # of registered voters)

# of Reg. Voters	# of Jurisdictions	Total Cost	Average
7-500	49	\$2,529.06	\$51.61
501-1000	50	\$2,633.97	\$52.68
1001-2000	67	\$15,555.49	\$232.17
2001-5000	74	\$22,350.98	\$302.04
5001-10000	26	\$22,234.28	\$855.16
10,000-57,000	17	\$31,616.79	\$1,859.81

*** Additional costs identified included postage for absentee ballots, advertising, meals for election officials, training, supplies and mileage.

Identified Cost: Additional costs specific to Presidential Primary Election****

Number of Jurisdictions reporting this cost:	88
Total amount reported	\$29,235.35
Average cost per jurisdiction	\$332

Cost Reported	# of Jurisdictions
\$5-100	36
\$101-\$200	23
\$251-\$500	16
\$501-\$1000	7
\$1001-\$5000	6

Additional Costs (By # of registered voters)

# of Reg. Voters	# of Jurisdictions	Total Cost	Average
7-500	23	\$2,785.25	\$121.10
501-1000	15	\$2,275.40	\$151.69
1001-2000	16	\$2,265.00	\$141.56
2001-5000	21	\$5,421.00	\$258.14
5001-10000	9	\$11,918.70	\$1,324.30
10,000-57,000	4	\$4,570.00	\$1,142.50

****Additional costs specific to Presidential Primary election included additional postage for absentee ballots, snow removal, hiring additional clerks for counting after the polls close and early processing staff.

**Summary of Reported Municipal Election Costs
Prepared by the Secretary of State, December 2017**

Total Municipal Election Costs

Number of Jurisdictions reporting cost:	486
Total amount reported	\$857,442.13
Average cost per jurisdiction	\$1,764

Cost Reported	# of Jurisdictions
\$170-\$500	117
\$501-\$1000	169
\$1001-\$2500	137
\$2501-\$5000	35
\$5001-\$10000	15
\$10,001-\$25,000	11
\$25,001-\$63,000	2

Total Municipal Election Costs (By # of registered voters)

# of Reg. Voters	# of Jurisdictions	Total Cost	Average
7-500	144	\$84,393.13	\$586.06
501-1000	101	\$85,061.83	\$842.20
1001-2000	105	\$120,230.57	\$1,145.05
2001-5000	89	\$156,203.36	\$1,755.09
5001-10000	30	\$158,675.31	\$5,289.18
10,000-57,000	17	\$252,877.93	\$14,875.17
Statewide Total		\$857,442.13	