# MAINE STATE LEGISLATURE

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February 15, 2011

Honorable Nichi S. Farnham
Chair, Joint Standing Committee on Veterans and Legal Affairs
100 State House Station
Augusta, Maine 04333-0100

Honorable Michael G. Beaulieu
Chair, Joint Standing Committee on Veterans and Legal Affairs
100 State House Station
Augusta, Maine 04333-0100

Dear Senator Farnham, Representative Beaulieu and Members of the Committee:

This report is being submitted to the Joint Standing Committee on Veterans and Legal Affairs in
the 125th Maine Legislature, pursuant to the Resolves of 2009, Chapter 94, entitled, *Resolve,
Directing the Secretary of State To Conduct a Pilot Program for Ongoing Absentee Voter Status.*
As required by the resolve, this report will describe the Secretary of State's efforts to conduct the
pilot.

**Absentee Voting -- An Overview of the Process**

Maine currently allows any registered voter to cast an absentee ballot at any election without
specifying a reason; the voter simply has to request a ballot by one of the methods authorized in
law.  This change in law was implemented in 2000, by the Public Laws of 1999, c. 645, section 4,
and was first effective for the November 2000 General Election. Prior to that time, the law
provided the allowable reasons for voting by absentee ballot and permitted a voter to state that the
voter believed he/she would be unable to vote in person at the voting place on election day as
sufficient reason to vote by absentee ballot.

Currently, Maine election law requires a voter to request an absentee ballot prior to each election. The law currently provides for various methods that a voter can utilize to request an absentee ballot, including:

1. **Request in writing -- no third person designated.** The voter or the voter's immediate family member (as defined in statute) requests a ballot by providing a written, signed request. Three months prior to each election, as required by law, the Division of Elections provides an absentee ballot application form, which includes all the required information for a valid request. Alternatively, the voter or immediate family member may submit a free- form signed request as long as it includes all the required information.
2. **Telephone request.** The voter calls the municipal clerk to request the voter's own ballot. The clerk verifies the voter's identity by confirming the voter's residence and birth date.
3. **Electronic request.** The voter requests the voter's own ballot using an online form designed by the Secretary of State.
4. **Voting in the presence of the clerk.** The voter requests and completes the absentee ballot in the clerk's presence (usually in the municipal office). No written application is required as long as the ballot is not taken out of the office.
5. **Request in writing -- third person designated.** The voter, in writing, designates a third-person (someone other than the voter or the voter's immediate family member) to obtain and return an absentee ballot for the voter.

Once a valid absentee ballot request is received by the municipal clerk, the clerk issues the absentee ballot to be delivered by mail, by an immediate family member or by the third person designated in the application. The voter also is provided with a return envelope that must be signed by the voter, as well as by witnesses, if applicable. Generally, ballots obtained by the voter or an immediate family member do not require witnesses, unless the voter receives assistance from another person in reading or marking the ballot. When a voter is assisted in reading or marking a ballot, the aide signs the return envelope as aide and one other witness is also needed. Ballots obtained and returned by a third person must be witnessed by either a notary public, a municipal clerk, a clerk of courts, or 2 other witnesses.

### Ongoing Absentee Voting Pilot Implementation

In designing the pilot program, the Secretary of State first determined the other states that currently allow ongoing absentee voting in some manner. This research revealed that Arizona, California, Colorado, Hawaii, Montana, New Jersey, Utah, Washington and the District of Columbia allow permanent no-excuse absentee voting. Other states, including Louisiana, Minnesota and Tennessee allow voters who meet certain criteria (i.e., permanent illness or disability, religion, absence from precinct) to automatically receive an absentee ballot for all elections. (A complete survey of all states was not conducted so there may be other states that also allow ongoing absentee status in some format.)

Staff from the Division of Elections reviewed the statutes and web sites of the states identified that allow permanent no-excuse absentee voting. Staff also called the elections divisions in some of these states to get further clarification of policies and procedures.

**Cancellation of participation.** All of the states studied or contacted about their ongoing absentee program stressed the importance of establishing reasons that a participant would be cancelled from the program. These reasons were necessary to insure that any attempts at voter fraud could be detected and resolved. The Secretary of State chose to include the following reasons for cancellation from the program:

1. Written request of a voter;
2. Death or disqualification of a voter;
3. Cancellation of a voter's registration record in the central voter registration system (CVR);
4. Return of an absentee ballot as undeliverable (by the U.S. Postal Service);
5. The voter's moving from the municipality in which the voter has applied for ongoing absentee voter status; or
6. Designation of the voter's status as inactive in the CVR.

**Form of application.** Notwithstanding the current application methods allowed for voters requesting an absentee ballot prior to each election, the Secretary of State determined that the application for ongoing absentee ballot status should be in writing and required that only the voter may complete and sign the application. This decision was made to ensure that the voter was personally making the decision to receive ballots for multiple elections. The application also informed the voter of the reasons that the ongoing status would be terminated and informed the voter of the requirement to update the clerk with any address or name changes.

The standard absentee ballot application designed by the Secretary of State includes a space where the clerk can record the date/time the application was received as well as the date/time the ballot was issued. The application for this pilot also included a blank for the clerk to indicate when the application was received as well as an area where the clerk could indicate when the absentee ballot for each election was issued and received back from the voter. A copy of the application and instructions for the ongoing absentee pilot is attached to this report.

**Tracking mechanism for ongoing absentee status.** The state's Central Voter Registration System (CVR) includes a module in which election officials can track absentee ballots (i.e. date and method by which the application was received, and the date and method by which the ballot was issued to and returned by the voter, etc.) Because ongoing absentee ballot status was only a pilot program, no changes were made to the CVR for officials to record the ongoing status. The Division of Elections advised the officials participating in the pilot to either create a separate tracking spreadsheet or simply make a photocopy of the application for each election that the application would be effective. The CVR is not designed for implementing pilot programs in only certain municipalities; instead, the software is programmed to handle existing legal requirements that apply to all municipalities.

**Analysis of the Pilot and Municipal Clerk Feedback**

Four municipalities -- Portland, Biddeford, Cumberland and Brunswick -- were asked to and agreed to participate in the pilot program. In a survey sent to each participating town in February of 2011, the municipal clerk reported the number of voters who participated in the pilot for each election. (Some municipalities reported an estimated number of participants as they did not maintain a separate tracking list, but rather only kept copies of the applications for each participant for each election.)

| Participation in Ongoing Absentee Voting Pilot by Election | | | |
|---|---|---|---|
| | **November 2009** | **June 2010** | **November 2010** |
| Biddeford | 68 | 147 | 152 |
| Brunswick | 20 | 23 | 23 |
| Cumberland | 3 | 3 | 3 |
| Portland | 600 | 600 | 600 |
| **Total** | **691** | **773** | **778** |

The municipalities varied in how they approached the pilot. In our survey of the four clerks, we asked for information on the ease and cost of administering the pilot, how the pilot was advertised, and whether the voters and the clerk supported the program. Following is a summary of the information supplied by the clerk of each municipality.

**City of Biddeford – Carmen Morris, City Clerk**

The Biddeford Clerk found the process easy to administer and indicated that the staff prepared as much as possible before even receiving the ballots (i.e. preparing absentee ballot envelopes – inside and outside, entries into CVR). Once the ballots arrived, they folded the ballots, inserted them into the prepared absentee envelopes and put them in the mail. The cost of administration only involved the cost of the postage at $.44 per ballot, and ranged from $29.92 for the November 2009 referendum election to $66.88 for the November 2010 general election.

The clerk reported that they did receive quite a bit of feedback and all of it was positive; voters were very pleased with the Ongoing absentee balloting and considered it another great service provided to them by the municipality. She also reported that prior to the pilot program, most of the participating voters voted absentee by mail. As far as advertising the pilot, Biddeford already had a list of voters who normally voted absentee ballot by mail, so these voters were sent a letter along with the Ongoing Absentee Ballot Application and were asked if they'd be interested in participating in the pilot program. Most of the applications that we mailed out were completed and returned to the clerk. There was also quite a bit of word of mouth and the Clerk's Staff asking voters who requested absentee ballots if they'd like to participate in the program. Many were pleased to be afforded the opportunity to be a part of the pilot program.

Ms. Morris provided the following feedback on the program:
"I feel that Ongoing Absentee Voting is a valuable tool that can and should be offered to all voters, especially since there is a relatively low cost to the municipalities and sustainable extra work to the Clerk's Offices. A large percentage of votes who participated in the pilot program are elderly and find it difficult to get to the polls on election day. They really appreciated not having to worry about how they were going to obtain their absentee ballot (either calling the office, having a family member pick up the ballot, online request, etc). There was a piece of mind knowing that their ballots would automatically be coming to them for each election. As City Clerk, I like the fact that a large amount of absentee ballots were being mailed out as soon as ballots are received in the Clerk's Office, which means many absentee ballots get returned in plenty of time before election day. By automatically sending out absentee ballots to those who normally vote absentee, there is a greater chance of getting those ballots back on time and MORE people are apt to vote if ballots are automatically being sent to them! Thank you for allowing Biddeford to participate in this pilot program, and it is our hope that this legislation does pass and the Ongoing Absentee Voting can continue on."

**Town of Cumberland – Tammy O'Donnell, Town Clerk**

The Cumberland Clerk reported that the process was very easy to administer and only took 5 minutes at each election. The cost was $.68 per ballot. She also reported that the three voters who participated gave positive feedback. The town did not do any outreach about the pilot program, other than what was in the newspaper. Ms. O'Donnell stated that the three citizens who used the program were very disappointed when they discovered it was only a pilot program.

**Town of Brunswick – Fran Smith, Town Clerk**

The Brunswick Clerk reported that the process was the same effort to administer as for other absentee ballots, although they did have the envelopes prepared prior to the ballots being received from the State. The cost of mailing the ballots was about $20 per election (the same postage as the others ballots that were mailed).

The Clerk did receive a few positive comments from the participants. However, other voters stated that they didn't want to participate since it was only for three elections and they didn't want to get out of the habit of asking for the ballots. The Clerk reported that the pilot program was offered to voters who were seeking an absentee ballot and had appeared to vote by absentee a few times before. One issue reported is that by the third election, about one third of the ballots came back as undeliverable.

Ms. Smith provided the following feedback on the program:
"I would say that with all the ways a person can request an absentee (phone, electronic etc) that the program is not necessary. Plus similar to overseas when we did them, that much staff time spent preparing absentees and mailing (in this case) to addresses when voter moved, which was unnecessary work and expense. (Not an issue with 20 ballots, but could be if there were 100s)"

**City of Portland – Katherine Jones, Acting City Clerk**

The Portland Clerk reported that the process was not difficult because they had the envelopes ready to go by the time they received the ballots. The cost of mailing each ballot was about $1.18 per voter for the last election (Portland also had a municipal ballot and a county ballot in addition to the state ballot).

The Clerk stated that they received some negative feedback from some older voters who didn't understand what they had signed up for and were angry that they received a ballot. The only feedback from the office staff was that there were several people whose ballots came back undeliverable or who had moved; and the Clerk's Office was not notified that the voter had moved prior to sending the absentee ballot. The Clerk also stated that another thing that was difficult was tracking the deceased voters who died outside of Portland, as this is not information that is readily available to the Clerk. The Clerk's Office ended up sending ballots to the voters, which was a waste of time and money.

Portland advertised the pilot program on their web site, as well as telling voters who came in to absentee vote in person.

Ms. Jones provided the following feedback on the program:
> "Overall it was a great program, it allowed us to get ready ahead of time the absentee ballots to be sent out, the only down fall is that most people do not take the time to let you know that they have moved. I feel if you keep this program organized it does help with getting the absentee ready ahead of time."

<center>**Feedback from the Voters**</center>

The Elections Division staff obtained contact information on three of the pilot program participants and was able to contact them for feedback on the program. Following is a summary of this feedback.

**Rory Sellers of Portland**

Mr. Sellers reported that he participated in two of the three elections and that his daughter also participated in all three elections. He had talked to Portland about the program before it was even authorized. He thought he had signed up when he talked to them, but since they didn't have the applications yet, he did not participate for the first election, but signed up right after that.

Mr. Sellers' indicated that his reasons for participation in the pilot were that he is a business owner whose business life pulls him in a million directions, and so he always votes absentee by mail. He is often called out of town unexpectedly and doesn't want to risk having to vote at the polls because he might not be available on that day. He found the program very convenient, and stated that not having to request his absentee ballot is one less thing he has to worry about.

Mr. Sellers also noted that he participated in a similar program when he lived in California. The State of California has a rule that if someone missed a vote (failed to return the ballot to the clerk) they were cancelled from the program. This puts the responsibility on the voter to make sure they are active voters and the municipality is not wasting money sending out a ballot that is not returned. He is in favor of adding this provision to Maine's law if this program becomes permanent. He also thinks that having this ongoing status would ultimately make the absentee voting process less expensive if the clerks developed an accurate list of people who always voted; there would be no wasted effort or money.

**Clairma Matherne of Biddeford**

Ms. Matherne reported that she participated in the pilot for all three elections. She liked the pilot because she didn't have to call to request a ballot before each election. She stated that she voted by absentee ballot in the presence of the clerk before the pilot program, but that she found the ongoing absentee pilot program very convenient. She did indicate that the voter needs to stay in touch with city hall if they move.

**Ronald Peaker of Biddeford**

Mr. Peaker reported that he participated in all three pilot elections. He stated that he has voted by absentee for 25 years, as he travels for work purposes. Prior to the pilot program, he would make a telephone request for an absentee ballot to be mailed to him. He found the pilot program to be very convenient, and liked that he didn't have to wait in line. He also commented that he believes absentee voting increases voter turnout.

## Summary

Although the voters in Biddeford and Portland seemed to embrace the ongoing absentee voting process, the utilization in Cumberland and Brunswick was much more limited. While voters found it convenient, absentee voting in Maine already is very convenient and there are several options for obtaining an absentee ballot, including a telephone request and completing an online form.

Our office does not recommend extending the pilot program. Because of the design of the CVR, it is not possible to automate the tracking functions for the ongoing absentee ballots in the CVR software. Therefore, the pilot towns must maintain lists of these voters outside of CVR, or keep a file of the applications, then enter the voters' information into CVR before each election. That makes it inefficient to continue or expand the process as a pilot program because it can't be further automated. Before consideration of adopting this as a permanent process, our office believes that there should be careful consideration of the costs versus the benefits of implementation.

It is not clear how many of the participants previously had absentee ballots sent to them. From the Clerk and voter surveys, there was an indication that some participants may have voted by absentee ballot in the Clerk's Office, which avoids the cost of mailing a ballot and the use of the outer mailing envelope.

There also were issues in Brunswick and Portland of voters moving or passing away and the ballots being returned as undeliverable.   This occurred even during the relatively short (one year) period of this pilot program.  Although adoption of ongoing absentee voting as a permanent program could address issues of termination of a voter's participation in the program under these and other circumstances, this process still relies upon the voter, or members of the voter's family (in the case of the voter's death) in notifying the municipality of the change in the voter's address or eligibility.

I look forward to working with you as you consider this report.  As always, you may contact me at 626-8400 if I can provide you with any additional materials, answer any questions, or assist you in any way.

Sincerely,


Charles E. Summers, Jr.
Secretary of State