

MAINE STATE LEGISLATURE

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L.D. 1363

2 Date: 6/8/21

(Filing No. S-209)

MAJORITY

VETERANS AND LEGAL AFFAIRS

4 Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE

SENATE

130TH LEGISLATURE

FIRST SPECIAL SESSION

9 COMMITTEE AMENDMENT " A " to S.P. 450, L.D. 1363, "An Act To Amend the
10 Laws Governing Elections"

11 Amend the bill in section 3 in subsection 1 in the 5th line (page 1, line 36 in L.D.) by
12 inserting after the first occurrence of the following: "individual" the following: 'that
13 provides proof of voter eligibility'

14 Amend the bill by striking out all of section 4 and inserting the following:

15 '**Sec. 4. 21-A MRSA §232, sub-§5** is enacted to read:

16 **5. Implementation.** Notwithstanding any provision of law to the contrary, the bureau
17 may conduct the activities in subsections 1 to 3 beginning January 1, 2022 but is not
18 required to comply with the requirements of subsections 1 to 3 until June 1, 2022.'

19 Amend the bill by striking out all of section 6.

20 Amend the bill in section 8 in §441 in subsection 2 in the 3rd and 4th lines (page 3,
21 lines 25 and 26 in L.D.) by striking out the following: "~~of the enrollment qualifications,~~
22 ~~subject to the restrictions in section 144, for voters eligible~~" and inserting the following: 'of
23 the enrollment qualifications, subject to the restrictions in section 144, for voters eligible'

24 Amend the bill in section 8 in §441 in subsection 2 in the 4th line (page 3, line 26 in
25 L.D.) by striking out the following: "of whether unenrolled voters will be eligible"

26 Amend the bill in section 8 in §441 in subsection 2 in the last 2 lines (page 3, lines 28
27 and 29 in L.D.) by striking out the following: "A voter may vote in the primary election of
28 only one qualified party."

29 Amend the bill by striking out all of section 13 and inserting the following:

30 '**Sec. 13. 21-A MRSA §752-B** is enacted to read:

31 **§752-B. Secured drop boxes for the return of absentee ballots**

32 **1. Definitions.** For the purposes of this section, unless the context otherwise indicates,
33 the following terms have the following meanings.

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A. "Absentee voting period" means the time period beginning on the first date that absentee ballots are issued by the municipality and ending at 8 p.m. on election day.

B. "Secured drop box" means a device containing a slot or chute through which an absentee voter may deposit an absentee ballot into a secure, locked collection box in accordance with the requirements of this section.

2. Secured drop boxes authorized. A municipality may obtain and install a secured drop box that meets the requirements of this section. The secured drop box may be used by voters who are authorized to return absentee ballots in a secured drop box pursuant to section 754-A, subsection 1, paragraph D.

3. Location and number of secured drop boxes. The secured drop box must be located outside the municipal office building or the building where in-person absentee voting takes place before an election. If the secured drop box is positioned within or against an outside wall of the municipal office building, it must be bolted or otherwise securely fastened to the wall or to the deck or landing to prevent its removal by an unauthorized person. Otherwise, the secured drop box must be securely affixed to a post that is sunk into the ground, affixed to a post that is set into a concrete pad or bolted or otherwise securely affixed to a platform or other structure in a manner that prevents removal of the drop box by an unauthorized person.

A municipality may seek approval from the Secretary of State to obtain and install an additional secured drop box or boxes at other locations within the municipality by certifying to the Secretary of State at least 90 days before the election that the additional secured drop box or boxes meet all of the requirements of this section, other than the requirement that the secured drop box be located outside of the municipal office building or the building where in-person absentee voting takes place before an election.

4. Secured drop box design; accessibility. The slot or chute of a secured drop box must be designed to prevent an individual from reaching into the slot or chute and accessing the contents of the secure collection box and to protect the contents of the secure collection box from the elements. The secured drop box must include a mechanism to close and lock the slot or chute in a manner that prevents the deposit of additional absentee ballots at 8 p.m. on election day as provided in subsection 8. A secured drop box must comply with guidelines issued by the Secretary of State to ensure accessibility to individuals with disabilities.

5. Monitoring of secured drop box. During the absentee voting period, each secured drop box must be monitored periodically by law enforcement personnel, municipal staff or a surveillance camera.

6. Labeling of secured drop box. A secured drop box must be labeled, or a sign must be posted on or near the secured drop box, to indicate that it is an official secured drop box for the return of absentee ballots. Unless the secured drop box is affixed to the outside wall of the municipal office building, the label or sign must include the name of the municipality. A municipality may include on the label or sign instructions for voters regarding absentee voting requirements and warnings against use of the secured drop box by voters of other municipalities.

7. Use and access during absentee voting period. The secured drop box must be used only for the return of absentee ballots and not for the deposit of other municipal office

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1 filings during the absentee voting period. During the absentee voting period, only the
2 municipal clerk or designees under subsection 8 may possess the key to the secured drop
3 box or have access to the contents of the secured collection box. If items other than returned
4 absentee ballots are deposited in the secured drop box during the absentee voting period,
5 the municipal clerk or designees shall deliver those items to the appropriate municipal
6 official.

7 **8. Periodic retrieval of ballots.** During the absentee voting period, the municipal
8 clerk or a team of 2 people designated by the clerk shall periodically remove absentee
9 ballots from each secured drop box and deliver the absentee ballots to the clerk's office to
10 be stored in a secure manner. At a minimum, absentee ballots must be removed from each
11 secured drop box by the clerk or team of 2 designees:

12 A. At least once on each day that the clerk's office is open during the absentee voting
13 period;

14 B. At all additional times necessary to ensure that additional absentee ballots deposited
15 in the secured drop box fit within the secured collection box and are not accessible to
16 unauthorized persons; and

17 C. At 8 p.m. on election day.

18 The identity of the persons who remove the absentee ballots from each secured drop box
19 and the date and time that the absentee ballots are removed must be recorded on a form
20 designed by the Secretary of State and initialed or signed by the clerk or team of 2 designees
21 who removed the absentee ballots.

22 **9. Locking of secured drop boxes when polls close.** The municipal clerk or team of
23 2 designees under subsection 8 shall lock the secured drop box at 8 p.m. on election day to
24 prevent the deposit of additional absentee ballots in the secured drop box.'

25 Amend the bill by striking out all of section 14 and inserting the following:

26 '**Sec. 14. 21-A MRSA §753-A, sub-§3, ¶A,** as enacted by PL 2003, c. 447, §28,
27 is amended by amending subparagraph (1) to read:

28 (1) The voter's name and date of birth;'

29 Amend the bill by striking out all of section 15.

30 Amend the bill by striking out all of section 16 and inserting the following:

31 '**Sec. 16. 21-A MRSA §753-A, sub-§6,** as amended by PL 2009, c. 563, §1, is
32 further amended to read:

33 **6. Application by electronic means.** A municipal clerk shall accept absentee ballot
34 applications by the electronic means authorized by the Secretary of State. The Secretary
35 of State shall design or approve the form of the absentee ballot application to be submitted
36 by electronic means.

37 A voter may make an application for the voter's own ballot by electronic means using the
38 form designed or approved by the Secretary of State. The voter may not designate an
39 immediate family member or a 3rd person to deliver the ballot on the voter's behalf. An
40 electronic application must be accepted by the clerk if it contains the voter's name, the
41 voter's date of birth, the voter's residence address or other address sufficient to identify the
42 voter and, if applicable, a different address to which the applicant requests the ballot be

ROS

1 sent or delivered. The clerk shall verify that it is the voter who is requesting the ballot by
2 confirming the voter's residence address and birth date of birth with the information in the
3 voter's record. The clerk shall print the electronically submitted application and write
4 "electronic request" on the application.

5 **Sec. 17. 21-A MRSA §753-A, sub-§7** is enacted to read:

6 **7. Telephone and e-mail contact information.** In addition to any required
7 information, a voter applying for an absentee ballot under this section must be asked to
8 provide that voter's telephone number and e-mail address, if available. Notwithstanding
9 Title 1, chapter 13, subchapter 1, the voter's telephone number and e-mail address are
10 confidential and may be used only by municipal election officials to contact the voter.'

11 Amend the bill by inserting after section 20 the following:

12 **'Sec. 21. 21-A MRSA §753-B, sub-§6, ¶A,** as amended by PL 2013, c. 457, §3,
13 is further amended to read:

14 A. The list of absentee voters must include each voter's name, residence address,
15 voting district and party affiliation; the date and manner by which the ballot was
16 requested, issued and received; and a notation of whether the application and the ballot
17 were accepted or rejected. If the clerk determines that there is a defect on the return
18 envelope of an absentee ballot under section 756, subsection 2 and that defect is cured
19 pursuant to section 756-A, the clerk shall note whether the ballot was accepted or
20 accepted but challenged and shall list the date that the defect was cured as the date that
21 the ballot was received. The clerk must also indicate on the list when the absentee
22 voter is a uniformed service voter, overseas voter or township voter. By the time that
23 all absentee ballots have been processed on election day, the clerk must update the
24 central voter registration system or annotate the printed list of absentee voters to reflect
25 all ballots that were received by the close of the polls on election day, including a
26 notation of whether the ballots were accepted, accepted but challenged or rejected and
27 the reasons for such rejections. This list, reflecting all absentee ballots received by the
28 close of the polls, must be made available for public inspection. Any absentee voter
29 certified as a participant in the Address Confidentiality Program pursuant to Title 5,
30 section 90-B must be listed by the voter code assigned to that individual under the
31 program instead of by the voter's name and reflect the Address Confidentiality Program
32 address assigned to the voter. The list of absentee voters must be sorted so that the
33 program participants appear at the end of the list and must be printed on a separate page
34 of the list. The portion of the list of absentee voters relating to Address Confidentiality
35 Program participants must be kept under seal and excluded from public inspection.'

36 Amend the bill by striking out all of section 22 and inserting the following:

37 **'Sec. 22. 21-A MRSA §756, sub-§2,** as amended by PL 2009, c. 538, §9, is further
38 amended to read:

39 **2. Clerk to examine signatures and affidavit.** The clerk shall compare the signature
40 of the voter on the application, where when required, with that on the corresponding return
41 envelope. The clerk shall also examine the affidavit and witness certification, if any, on
42 the return envelope. If the signatures appear to have been made by the same person and if
43 the affidavit is properly completed, the clerk shall write "OK" and the clerk's initials on the
44 return envelope. Otherwise, the clerk shall note any discrepancy on the return envelope.

ROS

COMMITTEE AMENDMENT "A" to S.P. 450, L.D. 1363 (S-209)

1 A. If the signatures appear to have been made by the same person and if the affidavit
2 and witness certification are properly completed, when required, the clerk shall write
3 "OK" and the clerk's initials on the return envelope. If the affidavit and witness
4 certification are properly completed, when required, and the signatures do not appear
5 to have been made by the same person, but this discrepancy is apparently the result of
6 the voter's having properly obtained assistance under either section 753-A, subsection
7 5, or section 754-A, subsection 3, or both, then the clerk shall note the discrepancy on
8 the return envelope, but shall also write "OK" and the clerk's initials on the return
9 envelope.

10 B. If the voter provided a telephone number or e-mail address with the voter's absentee
11 ballot application and if the clerk determines that there is a discrepancy in the signature
12 on the return envelope that is not described in paragraph A, that the return envelope is
13 missing a signature or that the affidavit or witness certification on the return envelope
14 is not properly completed, the clerk shall notify the voter pursuant to section 756-A of
15 the process by which the voter may cure the defect with the return envelope.

16 (1) If the defect is corrected under the procedures in section 756-A prior to the
17 deadline for returning absentee ballots under section 755, the clerk shall initial the
18 return envelope, indicate whether the ballot is accepted or accepted but challenged
19 as provided in section 756-A and, if the ballot is challenged, indicate the basis for
20 the challenge.

21 (2) If the defect is not corrected under the procedures in section 756-A prior to the
22 deadline for returning absentee ballots under section 755, the clerk shall initial the
23 return envelope and indicate that the ballot is accepted but challenged or rejected
24 as provided in section 756-A and the basis for rejecting or challenging the ballot.

25 C. If the voter did not provide a telephone number or e-mail address with the voter's
26 absentee ballot application and if the clerk determines that there is a discrepancy in the
27 signature on the return envelope that is not described in paragraph A, the clerk shall
28 initial the return envelope and indicate that the ballot is accepted but challenged under
29 section 673, subsection 1 and indicate the basis for the challenge. The clerk is not
30 required to conduct a hearing described in section 673, subsection 7 when a clerk
31 accepts but challenges an absentee ballot under this paragraph. If the voter did not
32 provide a telephone number or e-mail address with the voter's absentee ballot
33 application and if the clerk determines that the return envelope is missing a signature
34 or that the affidavit or witness certification on the return envelope is not properly
35 completed, the clerk shall initial the return envelope and indicate that the ballot is
36 rejected and the basis for rejecting the ballot.'

37 Amend the bill by striking out all of section 23.

38 Amend the bill by striking out all of sections 24 to 27 and inserting the following:

39 'Sec. 24. 21-A MRSA §756-A is enacted to read:

40 **§756-A. Procedures for curing absentee ballot return envelope defects**

41 1. Notice to voters. If the clerk determines that there is a defect on the absentee ballot
42 return envelope described in section 756, subsection 2, paragraph B and the absentee voter
43 provided a telephone number or e-mail address with the voter's absentee ballot application,
44 the clerk shall notify the voter of the defect and explain that the ballot may be rejected or

ROS

COMMITTEE AMENDMENT "A" to S.P. 450, L.D. 1363 (S-209)

1 challenged unless the defect is cured as provided in this section. The clerk must notify the
2 voter within one business day of receiving the absentee ballot, unless the absentee ballot is
3 received on election day or less than 24 hours before election day, in which case the clerk
4 shall make a good faith effort to notify the voter as quickly as possible. Notification must
5 be made by telephone if the absentee voter provided a telephone number on the voter's
6 absentee ballot application. If the clerk attempts to notify the voter by telephone but does
7 not speak directly with the voter, the clerk shall leave a voice mail message if available and
8 shall notify the voter by e-mail, using the e-mail address provided on the absentee ballot
9 application, if any. If the voter did not provide a telephone number on the absentee ballot
10 application, the clerk shall notify the voter by e-mail, using the e-mail address provided on
11 the absentee ballot application, if any.

12 **2. Mismatched voter signatures.** If the voter's signature on the return envelope does
13 not appear to have been made by the same person who signed the absentee voter application
14 and this discrepancy does not appear to be the result of the voter's having properly obtained
15 assistance under either section 753-A, subsection 5 or section 754-A, subsection 3, or both,
16 the following procedures apply.

17 A. The voter may cure the defect in person or by telephone by self-identifying by
18 name, date of birth and residence address and confirming that the voter requested an
19 absentee ballot, the voter or the voter's aide under section 754-A, subsection 3 placed
20 the absentee ballot in the return envelope and the voter personally signed the return
21 envelope. If the voter confirms this information in person or by telephone before the
22 deadline for returning absentee ballots under section 755, the clerk shall accept the
23 ballot without challenge and make a notation on the return envelope that the voter
24 confirmed by telephone that the voter personally signed the return envelope.

25 B. If the voter does not cure the defect under the procedure in paragraph A before the
26 deadline for returning absentee ballots under section 755, the clerk shall accept the
27 ballot but challenge it pursuant to section 673, subsection 1.

28 **3. Missing voter signature.** If the voter's signature does not appear on the return
29 envelope, the following procedures apply.

30 A. The voter may cure the defect in person at the clerk's office by self-identifying by
31 name, date of birth and residence address and either signing the original return
32 envelope or removing the absentee ballot from the original return envelope, inspecting
33 the absentee ballot, sealing the absentee ballot in a new return envelope and signing
34 the new return envelope. If the voter cures the defect as provided in this paragraph
35 before the deadline for returning absentee ballots under section 755, the clerk shall
36 accept the absentee ballot without challenge.

37 B. The voter may cure the defect by telephone by self-identifying by name, date of
38 birth and residence address and confirming that the voter requested an absentee ballot
39 and the voter or the voter's aide under section 754-A, subsection 3 placed the absentee
40 ballot in the return envelope. If the voter confirms this information, by telephone,
41 before the deadline for returning absentee ballots under section 755, the clerk shall
42 accept the ballot but challenge it pursuant to section 673, subsection 1.

43 C. If the voter does not cure the defect under the procedures in paragraph A or B before
44 the deadline for returning absentee ballots under section 755, the clerk shall reject the
45 ballot in accordance with section 759, subsection 3.

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4. Aide or witness certification incomplete. If an aide-executed affidavit or aide or witness certification on a return envelope that is required under section 754-A, subsection 1, paragraph C, subsection 2, paragraph C or subsection 3, paragraph E is unsigned, incomplete or improperly completed, the following procedures apply.

A. The voter may contact the voter's aide or witness and request that the aide or witness cure the defect by appearing in person at the clerk's office and properly completing the affidavit or witness certification. If the aide or witness corrects the affidavit or witness certification as provided in this paragraph before the deadline for returning absentee ballots under section 755, the clerk shall accept the absentee ballot without challenge.

B. The voter may cure the defect by telephone by self-identifying by name, date of birth and residence address, confirming that the voter requested an absentee ballot and explaining whether a 3rd person other than the voter's immediate family member delivered or returned the absentee ballot or whether the voter received the assistance of an aide as described in section 754-A, subsection 3 in reading, marking or placing the ballot in the return envelope. If the voter provides the information required by this paragraph, by telephone, before the deadline for returning absentee ballots under section 755, the clerk shall accept the ballot but challenge it pursuant to section 673, subsection 1.

C. If the voter does not cure the defect under the procedures in paragraph A or B before the deadline for returning absentee ballots under section 755, the clerk shall reject the ballot in accordance with section 759, subsection 3.

5. Duplicate ballot. Notwithstanding section 753-B, subsection 4, a voter who receives notification of a defect on the voter's absentee ballot return envelope under subsection 1 may, instead of curing the defect pursuant to subsections 2 to 4, request that the clerk issue a 2nd absentee ballot to the voter. If a request for a 2nd absentee ballot is made under this subsection, the following procedures apply.

A. The clerk shall reject the first absentee ballot in accordance with section 759, subsection 3.

B. The clerk shall write "second ballot issued" on the 2nd absentee ballot return envelope and include with the 2nd absentee ballot written instructions for signing and completing the affidavit and witness certification on the return envelope and a written notice identifying the problem with the voter's first absentee ballot return envelope.

C. The voter may request that the clerk issue the 2nd absentee ballot to the voter in person at the clerk's office; by mail to the address listed on the original absentee ballot application or on a new written absentee ballot application submitted by the voter; or to an immediate family member or a 3rd person listed on the original absentee ballot application or on a new written absentee ballot application submitted by the voter. If the voter does not indicate a preferred method for issuing the 2nd absentee ballot, the clerk shall issue the 2nd absentee ballot by mail to the address listed on the original absentee ballot application.

6. Challenged ballots; hearing not required. The clerk is not required to conduct the hearing described in section 673, subsection 7 when a clerk accepts but challenges an absentee ballot under this section.

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Sec. 25. 21-A MRSA §759, sub-§2, as amended by PL 2007, c. 455, §42, is further amended to read:

2. Accepted if correct. If the warden finds that the affidavit is and the aide and witness certification, if required, are properly completed, that the clerk has verified that the signature on the envelope matches the signature on the application ~~where or that the voter confirmed that the voter personally signed the return envelope pursuant to section 756-A, subsection 2 when~~ applicable, that the ~~person~~ voter is registered and enrolled ~~where when~~ necessary, the warden shall then examine the incoming voting list to determine whether the voter voted in person at the election. The warden shall then announce the name of each absentee voter who has not voted at the election and remove each ballot from its envelope without destroying the envelope or unfolding the ballot. After having an election clerk from a political party different from that of the warden mark the letters "AV" beside the name of each absentee voter on the incoming voting lists and place a check mark or horizontal line in red ink on the list beside the voter's name, the warden shall accept the ballot.

Sec. 26. 21-A MRSA §759, sub-§3, ¶A, as amended by PL 1999, c. 645, §9, is repealed.

Sec. 27. 21-A MRSA §759, sub-§3, ¶A-1 is enacted to read:

A-1. The clerk's notes on the envelope indicate that the ballot was rejected;

Sec. 28. 21-A MRSA §759, sub-§3, ¶B, as enacted by PL 1985, c. 161, §6, is repealed.

Sec. 29. 21-A MRSA §765 is enacted to read:

§765. Absentee ballot tracking

The Secretary of State shall establish and maintain an online service that allows a voter who requests an absentee ballot to track the status of the absentee ballot process.

Sec. 30. 21-A MRSA §803, as amended by PL 1989, c. 166, §6, is further amended to read:

§803. Duties of Governor

As soon as possible after the presidential electors are chosen, the Governor shall send a certificate of the determination of the electors to the Archivist of the United States under the state seal. The certificate ~~shall~~ must state the names of the electors and the number of votes ~~which each received each candidate for President received statewide and for each congressional district in the final round of tabulation under section 723-A.~~ The Governor shall deliver 6 certificates under the state seal to the electors on or before the first Monday after the 2nd Wednesday of December, following their election.

Sec. 31. Effective date. That section of this Act that enacts the Maine Revised Statutes, Title 21-A, section 232, subsection 5 takes effect January 1, 2022.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

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SUMMARY

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This amendment, which is the majority report of the committee, makes the following changes to the bill.

1. It clarifies that the requirement that the Department of the Secretary of State, Bureau of Motor Vehicles scan documentation when creating a pending voter registration record for an individual who has not opted out of automatic voter registration applies only to documentation that provides proof of voter eligibility. It also delays from January 1, 2022 to June 1, 2022 the date upon which the bureau is required to conduct automatic voter registration.

2. It strikes the provision of the bill that changes the requirements for a political party to retain its qualification.

3. It reorganizes and streamlines the provisions of the bill that establish the requirements for secured drop boxes for absentee ballots and the process by which a voter may cure a defect on the return envelope for an absentee ballot. It also clarifies that, when a voter cures a defect on the return envelope, the municipal clerk must update the voter registration system to list the date that the defect was cured as the date that the absentee ballot was received.

4. It clarifies that a written request for an absentee ballot must include the voter's date of birth and an electronic application for an absentee ballot must include the voter's name, date of birth, residence address or other address sufficient to identify the voter and, if applicable, a different address to which the voter requests the ballot be sent or delivered.

5. It clarifies that, as in current law, an absentee ballot must be rejected if the voter is not registered to vote or, when necessary to vote in a primary election, when the voter is not enrolled in the relevant political party.

6. It requires the Secretary of State to establish and maintain an online service that allows an absentee voter to track the status of the absentee ballot process.

7. It provides that, when certifying the results of the general election for United States President in the State, the Governor must report the number of votes that each candidate for President received statewide and for each congressional district in the final round of ranked-choice voting tabulation.

FISCAL NOTE REQUIRED
(See attached)

Approved: 05/28/21 *MAC*



130th MAINE LEGISLATURE

LD 1363

LR 439(02)

An Act To Amend the Laws Governing Elections

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-209)

Committee: Veterans and Legal Affairs

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

Additional costs to the Department of Secretary of State associated with this legislation can be absorbed within existing budgeted resources.