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**STATE OF MAINE  
122nd LEGISLATURE  
SECOND REGULAR SESSION**

**Final Report  
of the  
STUDY COMMISSION TO STUDY  
ALTERNATIVE VOTING PROCEDURES,  
THE CITIZEN INITIATIVE PROCESS AND  
MINOR PARTY BALLOT ACCESS**

**January 2006**

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Ruth Lyons  
Frances Smith**

**Staff:**

**Danielle Fox, Legislative Analyst  
Curtis Bentley, Legislative Analyst  
Office of Policy & Legal Analysis  
Maine Legislature  
(207) 287-1670**

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## EXECUTIVE SUMMARY

The Commission to Study Alternative Voting Procedures, the Citizen Initiative Process and Minor Party Ballot Access (“Commission”) was created by Resolve 2005, chapter 127. During the First Session of the 122<sup>nd</sup> Legislature, the Joint Standing Committee on Legal and Veterans’ Affairs considered several bills regarding voting procedure, the citizen initiative process and minor party ballot access. In order to study the proposals made by these bills in more depth, the Committee incorporated them into study bill (LD 1608), that was created as Resolve 2005, chapter 127.

### Enabling Legislation

Chapter 127 created a commission of 11 members. Six were legislative members from the 122<sup>nd</sup> Legislature, 3 from the Senate appointed by the Senate President and 3 from the House of Representatives appointed by the Speaker. Appointments of legislative members were required to be representative of the two major political parties and preference was given to members of the Joint Standing Committee on Legal and Veterans’ Affairs. The Resolve also identified the following 5 members: the Secretary of State or a designee; a representative of the Maine Municipal Association appointed by the President of the Senate; a representative of the Town and City Clerks Association appointed by the Speaker of the House; an official of the Maine Democratic Party appointed by the chair of the party; and a member of the Maine Republican Party appointed by the chair of the party.

The Resolve authorized 3 meetings that were held on October 3, 14<sup>th</sup> and 28<sup>th</sup> in 2005. The Commission was charged with examining proposals introduced in the First Regular Session of the 122<sup>nd</sup> Legislature to improve ballot access and address issues regarding elections and the citizen initiative process. Some of these proposals included:

- the institution of alternative voting methods such as instant run-off (IRV), fusion voting and voting by mail;
- facilitating the formation of minor political parties; and
- informing the public about the fiscal implications of proposed citizen initiated legislation.

The Commission used these topics as a starting point and examined in depth those issues that incurred the greatest amount of interest and ideas for changes in policy.

After receiving presentations and information from staff and interested parties and after careful consideration of several proposals put forward by Commission members, the Commission makes the following recommendations:

- **The Commission supports a pilot program to consider implementing early voting.** Recognizing the surge in popularity of voting by absentee ballot at the municipal clerk’s office, the Commission decided that a program for early voting was worthy of a trial run. The Commission believes that making voting convenient and expedient is a worthy goal and could potentially increase voter participation. Early

voting would differ from the current absentee voting process in that the ballot would be actually cast at the time the voter filled out the ballot at the clerk's office.

Commission members did express concern about the security of cast ballots until election day and the facilitation of poll watchers, but believe a trial of such a program would provide insight on possible ways to address those issues. Thus, 10 of 11 members of the Commission supports the design of an early voting pilot that will be presented to the Legal and Veterans' Affairs committee by February 15<sup>th</sup>, 2007 for potential implementation at the November 2008 election pursuant to current law, Resolve 2005, chapter 70.

- **A formal policy regarding withdrawal of signatures from citizen initiative petitions should be considered.** In light of the increasing sophistication of political campaigns and the popularity of the citizen initiative process, the Commission determined that it would be prudent to develop a policy regarding the withdrawal of signatures from citizen initiative petitions. Thus, the Commission unanimously directs the Secretary of State to analyze the issue of the withdrawal of signatures from initiative petitions and present a policy proposal to the Legal and Veterans' Affairs committee by March 15<sup>th</sup> of 2006.
- **The public should have greater access to information regarding the financing of citizen initiative campaigns.** As with campaigns for statewide office, the Commission has determined that the public should be able to easily access information regarding the financing of initiative campaigns. Information about the initiative itself is maintained by the Office of the Secretary of State while campaign finance information is filed with the Commission on Governmental Ethics and Election Practices. The Commission agrees that access to both types of information should be readily available to the public. Specifically, the public should have access to information about who is circulating an initiative petition, political action committees and their leadership receiving and spending money to support or defeat a citizen initiative, and reports submitted regarding the financing of such efforts. A majority of the Commission, 8 of 11 members, supports requiring these two agencies to provide links on their respective websites directing the public to information on an initiative as maintained by the other agency. These members also recommend that the Secretary of State examine the feasibility of and legal issues surrounding requesting that petition applicants indicate affiliations with political action committees upon applying to circulate a citizen initiated petition.
- **The Commission on Governmental Ethics and Election Practices should report to the Joint Standing Committee on Legal and Veterans' Affairs regarding issues considered by the commission regarding campaign finance reports for citizen initiative campaigns and public access to that information.** To resolve issues raised about campaign finance reports for citizen initiative campaigns and public access to information about citizen initiative campaigns, 9 of 11 Commission members recommend that The Commission on Governmental Ethics and Election Practices examine the following issues and report back the Legal and Veterans' Affairs Committee by March 15<sup>th</sup> 2006:

- The feasibility of the proposals that entities required to file reports with the Commission on Governmental Ethics and Election Practices specify the citizen initiative campaigns or ballot measure campaigns they are receiving or spending money to support or oppose. Thus, if a PAC is spending on more than one initiative or ballot question the contribution or expenditure level will be able to be determined;
  - The feasibility of the proposals that petitions for citizen initiatives, voter information pamphlets and posters about a ballot measure and publications by PACs in support of or in opposition to a citizen initiative or ballot measure campaign be required to include a link to the website where the public can view the PACs reports filed with the Commission on Governmental Ethics and Election Practices;
  - The feasibility of the proposal to lower the expenditure amount that defines a group as a PAC and triggers reporting requirements to an amount closer to those that trigger reporting by candidates and the impact this may have on the practice of bundling. The proposal suggests reducing the \$1500 spending threshold that defines a group making expenditures for an election, petition campaign or ballot measure as a PAC and triggers the requirement finance reports be filed with the Commission on Governmental Ethics and Election Practices to \$500; and
  - The feasibility of the proposal to require campaign finance reports filed by PACs that have raised or spent in excess of \$40,000 be submitted more frequently immediately prior to an election in order to inform the public about high-level spending on ballot measure campaigns in a more timely manner.
- **Voter information regarding citizen initiatives to be on the ballot should be more informative, accessible, and easy to read.** A majority of the Commission favored mailing voter information packets directly to the homes of voters informing them about measures to be on the ballot, but the high cost and less-than-favorable funding ideas makes such a recommendation impractical at this time. However, the Commission believes that improvements can be made with regard to the information that is currently disseminated by the Office of the Secretary of State. The Commission determined that technology can be better utilized in providing voters with information efficiently and inexpensively but the state must be cognizant of the digital divide that exists here. Thus, the commission unanimously recommends that the Secretary of State examine voter awareness in other states that mail voter information packets directly to voters and explore ways to make the voter information that is currently distributed in Maine more accessible, readable and informative within existing budgetary resources.
  - **The issue of qualification of political parties should be considered further by the Legislature.** The Commission was unable to consider the issue of party qualification and minor party ballot access to the extent that is necessary to make any substantive recommendation on this issue. The Commission believes this is an important policy issue that should be afforded thorough discussion by the Legislature. The Commission unanimously recommends that LD 329 An Act Concerning Recognition

of Qualified Political Parties which was carried over on the Appropriations Table by Senate Paper 640, should be referred back to the Joint Standing Committee on Legal and Veterans' Affairs.

- **Legislation should be enacted to require that campaign finance reports by PACs organizing citizen initiative campaigns specify expenditures made as payment to petition circulators. This legislation should also clarify that contributions received and expenditures made by a PAC during the signature gathering phase of a citizen initiative campaign must be reported when current statutory thresholds are met.** The Commission unanimously supported clarifying the law so that there is no ambiguity that if a group spends \$1500 (current trigger to report with the Commission on Governmental Ethics and Election Practices as a PAC) to support or discourage the gathering of signatures for a citizen initiative it meets the definition of a PAC and is required to submit reports. The Commission unanimously agreed that payment made by PACs to people for circulating initiative petitions should be itemized on required campaign finance reports. Those Commission members agreed that this information should be available to the public and is consistent with reporting requirements of campaigns for state office.
- **In order to better facilitate the constitutionally provided right to the initiation of law by citizen petition, the Legislature should consider an amendment to the Constitution of the State of Maine that would ensure municipal officials are afforded adequate time to verify petition signatures before they are due to the Secretary of State.** The Commission determined that for various reasons, petitions for citizen initiatives are often turned into a municipal clerk's office for signature verification too close to when they need to be submitted to the Secretary of State for certification. As a result, municipal officials find it difficult to meet their obligation to verify signatures. The commission looked at various statutory proposals to address the issue but found that they may conflict with the Constitution of the State of Maine. Thus, the Commission determined that if the Legislature deemed the issue important enough to amend the Constitution it should have that option. The Commission stated that this recommendation in no way intended to infringe upon the rights of petitioners but is intended to create a time period where municipal officials could appropriately meet its Constitutional obligation to verify signatures. The Commission's recommendation would state that signatures are due to municipal officials 10 days before required to be at the Secretary of State's office. Signatures not submitted to municipal officials by this date would be invalid. This recommendation is to be put forward as a separate bill was supported unanimously by the commission.

## **I. INTRODUCTION**

The Commission to Study Alternative Voting Procedures, the Citizen Initiative Process and Minor Party Ballot Access (“Commission”) was created by Resolve 2005, chapter 127. During the First Session of the 122<sup>nd</sup> Legislature, the Joint Standing Committee on Legal and Veterans’ Affairs considered several bills regarding voting procedure, the citizen initiative process and minor party ballot access. In order to study the proposals made by these bills in more depth, the Committee incorporated them into study bill (LD 1608), that was enacted as Resolve 2005, chapter 127. A copy of Resolves 2005, chapter 127 may be found in Appendix A.

### **Enabling Legislation**

Chapter 127 created a commission of 11 members. Six were legislative members from the 122<sup>nd</sup> Legislature, 3 from the Senate appointed by the Senate President and 3 from the House of Representatives appointed by the Speaker. Appointments of legislative members were required to be representative of the two major political parties and preference was given to members of the Joint Standing Committee on Legal and Veterans’ Affairs. The Resolve also identified the following 5 members: the Secretary of State or a designee; a representative of the Maine Municipal Association appointed by the President of the Senate; a representative of the Town and City Clerks Association appointed by the Speaker of the House; an official of the Maine Democratic Party appointed by the chair of the party; and a member of the Maine Republican Party appointed by the chair of the party.

The Resolve authorized 3 meetings and charged the Commission with examining proposals introduced in the First Regular Session of the 122<sup>nd</sup> Legislature to improve ballot access and address issues regarding elections and the citizen initiative process. Some of these proposals included:

- the institution of alternative voting methods such as instant run-off (IRV), fusion voting and voting by mail;
- facilitating the formation of minor political parties; and
- informing the public about the fiscal implications of proposed citizen initiated legislation.

The Commission used these topics as a starting point and examined in depth those issues that incurred the greatest amount of interest and ideas for changes in policy.

### **Commission Meetings**

The Commission held meetings on October 3, 14<sup>th</sup> and 28<sup>th</sup> in 2005. During the first meeting, Commission members discussed several aspects of the citizen initiative process. Commission members received a brief overview of the citizen initiative process and a review of recently considered or enacted bills presented to the 122<sup>nd</sup> Legislature that dealt with the citizen initiative process. Members were also presented with a statement from the city clerk in Portland regarding the issue of municipal level signature verification for citizen initiated petitions. Her comments introduced an issue that committee felt was important and incorporated it into its



work. Additionally, members were briefed on what information other states require be provided to voters about initiated bills to be on the ballot.

At the Commission's second meeting, discussion included alternative voting methods, party qualification and minor party access to the ballot. Representatives of the Maine Citizen Leadership Fund made presentations to the Commission on the Instant Run-off Voting (IRV) method of conducting elections and fusion voting or cross endorsement. The Commission then reviewed recently considered bills regarding party qualification changes.

During the third and final meetings Commission members reviewed information from prior meetings and considered proposals for recommendations to be included in this report. To view copies of the agendas for the Commission's October 3<sup>rd</sup> and October 14<sup>th</sup> meetings, see Appendix C.

## **II. BACKGROUND AND FINDINGS**

### **The Citizen Initiative Process**

Pursuant to Resolve 2005, chapter 127, the Commission examined issues regarding the citizen initiative process. Primarily, the following topics were considered:

- Availability of information for voters about proposed initiatives;
- Enhanced reporting of contributions and expenditures relative to citizen initiative campaigns;
- The burden of verifying signatures on initiative petitions at the municipal level; and
- Proposed citizen initiatives that require general fund expenditures to be implemented.

**Voter Information:** During the first session of the 122<sup>nd</sup> Legislature, the Legal and Veterans' Affairs Committee considered several bills regarding the citizen initiative process. LD 870 An Act to Increase Access to Information Regarding Referendum Questions which was enacted as Public Law 2005, chapter 316 served as a starting point for discussion with regard to the information provided to voters regarding proposed citizen initiatives. Chapter 316 requires a fiscal note showing the impact on the general fund of an initiative that will appear on a ballot. The law requires that this fiscal note be included as part of the intent and content statement published by the Secretary of State in all of the statewide newspapers prior to the election. This law also allows statements for and against the ballot measure to be included in the intent and content statement for a fee of \$500. However, statements in support or opposition to the ballot measure submitted in accordance with this provision are not required to be published in the newspaper but are required to be included in the Citizen's Guide printed by the Secretary of State and posted on its website. Rules are being developed by the Secretary of State to administer this portion of the law. For a copy of Public Law 2005, chapter 316 see Appendix E.

Another bill considered by the Legal and Veterans' Affairs Committee during the First Session of the 122<sup>nd</sup> Legislature was LD 929 An Act to Create Freedom of Citizen Information Regarding Ballot Questions which was enacted as Public Law 2005 chapter 356. Chapter 356

makes changes to the petition that is circulated in order to get an initiative on the ballot with regard to providing additional information to those who may sign the petition. Chapter 356 requires a statement to be printed at the top of the petition informing the signer that they must be afforded the opportunity to read the summary and the cost of placing a citizen initiated law on the ballot. Below that statement, a summary of the proposed law is required. Under this law, a petition circulator is required to offer potential signers the opportunity to read the summary before they sign. For a copy of Public Law 2005, chapter 356 see Appendix E. For a general overview of the citizen initiative process see Appendix D.

At their first meeting, the Commission reviewed examples of voter information booklets and legal notices that are published in daily newspapers throughout the state prior to an election when a citizen initiative is on the ballot. The Secretary of State provides both of these publications. Some members were critical of what they deemed the obscurity of the legal notice and the lack of information on ballot measures provided directly to voters.

The Commission discussed several potential changes to the laws governing voter information, including placing the summary and fiscal note for a citizen initiative directly on the ballot, mailing information packets to voter households and the overall design of legal notices and the information packets available to voters. To facilitate the discussion, members were provided information showing examples of how other states provide information to voters about initiatives and referenda. This information listed the states that have the initiative process and that provide voter information pamphlets voluntarily or pursuant to law. Fourteen of these states with a citizen initiative require voter information pamphlets and all initiative states provide some sort of voter information. For a table of initiative states and the types of voter information provided by those states see Appendix D.

Pursuant to 1 MRSA § 353, the Secretary of State currently publishes a legal notice intended to inform the public about upcoming referenda on the ballot in each of the daily newspapers between 7 and 10 days prior to a statewide referendum election. This legal notice contains a neutral summary of the proposed measure to be on the ballot. The summary, prepared by the Office of the Attorney General and referred to as the intent and content statement, is also displayed at each polling place on election day in a poster-style format. It is also included in the voter guide that is published by the Secretary of State. Copies of the voter guide are distributed to municipalities and it is available on the Secretary of State's web page.

Members conceded that there is considerable debate about whether or not voters are truly informed about initiatives before they cast their votes. All agreed that increasing the amount of information to the voter will enhance voters' understanding of a particular ballot measure. However, common ground among Commission members was not as easy to find regarding how that information should be provided and how active a role voters should take to educate themselves about questions on the ballot. The Commission looked at other states that provide information packets to voters. While there was no dispute that mailing information packets to voters directly would provide some benefit, some argued the costs would outweigh that benefit. Predictably, the Commission recognized that the expense of delivering voter information packets directly to voter households would be the biggest hurdle to overcome if the state were to move in that direction.

A report published by the National Conference of State Legislators in July 2002, *Initiative and Referendum in the 21<sup>st</sup> Century – The Final Report and Recommendations of the I&R Task Force*, shows the costs some states incur for the distribution of voter pamphlets. The costs tend to vary from year to year depending on the number of initiatives that have made it to the ballot and the number of pages it takes to provide the summaries. The cost also varies from state to state based on what content is required to be included in the pamphlet. The following are examples from the report:

- Oregon mails a voter information packet to every residential household. In 2000, Oregon spent \$1.9 million on printing and \$870,000 on postage to mail 1.6 million pamphlets;
- Arizona mails voter information pamphlets to every registered voter household and county offices. In 2000, Arizona spent \$443,000 on printing and \$190,000 to mail 1.1 million pamphlets (1.3 million were printed); and
- Colorado mails a voter information pamphlet to every registered voter household and county offices. In 2000, Colorado spent \$283,000 on printing and \$192,000 on postage to mail 1.6 million pamphlets.

To view a copy of the NCSL report on the web use the following link:  
<http://www.ncsl.org/programs/legman/irtaskfc/irtaskforce.htm>

In light of the costs of mailing voter information pamphlets, Commission members brainstormed for ideas about how to cover the costs. The Commission considered charging a fee to proponents of an initiative who raised over a certain dollar amount to support an initiative campaign. However, this suggestion raised issues with regard to infringing on a person's constitutionally protected right to free speech as well as simply having a chilling effect on participation in the initiative process. In the end, this idea did not generate significant support from members of the Commission. Several members of the Commission suggested discontinuing the legal notice, considering it rather obscure and not very helpful, and using that savings to defray the cost incurred in creating a more readable and accessible publication. The Commission agreed to consider this idea further and requested a report from the Secretary of State examining options for a more accessible and readable publication.

Reporting Financing of Citizen Initiative Campaigns: The Commission determined that voter information about the financing of an initiative effort, the financing of opposing an initiative effort and the reporting of such financing is insufficient. It was clear to the Commission that once a proposed initiative is certified to become a ballot question, the campaigns for and against that measure are subject to the laws that require campaign finance reports. Not as clear to the Commission was whether or not campaign finance reports are required during the signature gathering phase of the process. At their first meeting, Commission members received remarks from Jonathan Wayne, the executive director of the Commission on Governmental Ethics and Election Practices. The Commission asked Mr. Wayne to comment on whether advocates of ballot questions must file campaign finance reports of contributions and expenditures for the gathering of petition signatures. He cited current law, 21-A MRSA, §1053, stating that when an organization meets the definition of a political action committee (PAC) by

receiving or spending more than \$1,500 in a calendar year to initiate, support, defeat or influence in any way a ballot measure, it must register as a PAC and file campaign finance reports. Mr. Wayne stated it is his opinion that “initiate” should be understood to include signature gathering but noted that the Commission on Governmental Ethics and Election Practices has not previously been presented an instance where it was necessary to provide guidance on the issue.

Mr. Wayne also pointed out a provision in current law, 21-A MRSA §1058, that states that any organization opposing a ballot question shall begin filing campaign finance reports within 10 days of the Secretary of State drafting the referendum question and prior to the distribution of petitions for voter signatures. Commission members questioned how this provision would be enforced unless a PAC was already registered in anticipation of a potential citizen initiative. They also found it in conflict with current law governing PACs. In addition, legal questions were raised regarding placing a stricter reporting requirement on an entity simply because of the type of speech they were expressing, meaning speech in opposition to a measure. Thus, the Commission determined that this provision should be clarified to be consistent with the law governing campaign finance reports by PACs. Furthermore, the Commission supported the idea that PAC campaign reports should be further itemized and be required to show signature gatherers as employees and report payments to those employers. A copy of Mr. Wayne’s testimony may be found in Appendix F.

Determining that information about campaigns for citizen initiatives should be accessible to the general public, the Commission agreed that the Secretary of State and the Commission on Governmental Ethics and Election Practices coordinate efforts in order to make information more readily available to the public about who is coordinating or supporting initiative campaigns.

Signature Verification at Municipal Level: At the beginning of the Commission’s first meeting, members received comments from the Town and City Clerk’s Association regarding municipal clerks’ responsibility to verify the signatures gathered in their municipality for citizen initiative petitions. The Commission was informed that there is usually very little time for them to fulfill their obligation to verify signatures considering the short time between when the petitions are submitted to them and when they are due at the Secretary of State’s office. The Constitution of Maine, Article IV, Part Third, Section 18, states that petitions must be submitted to local officials by 5:00pm on the 10<sup>th</sup> day before they are due to the Secretary of State (excluding weekends and holidays) in order that those signatures may be verified as those of registered voters of the municipality. The Commission was informed that it is often the case that petitions are turned in later than that, thus shortening an already brief time period to complete verification. In combination with the other duties of the municipal clerk, meeting this obligation is often difficult. Different reasons are presumed to be the cause of late filing, including the political strategy of holding the number of signatures gathered close to the vest until the last possible minute or simply because it requires that much time to gather enough signatures to be successful. Regardless of the reason, members of the Commission recognized the burden on municipal officials as well as their strong commitment to meet their obligation.

Ideas considered by the Commission to address the limited timeframe to verify signatures proved complex. Statutory changes were limited because the signature verification process is

required by Maine's Constitution. The Commission studied a number of statutory alternatives before considering a Resolution to amend Maine's Constitution. The Commission determined that a statutory change to nullify signatures if they were not turned in by a certain date infringed on the constitutional right for a citizen to initiate a petition. Maine's Constitution prescribes what is required for a citizen initiated petition to be placed on the ballot. Imposing a deadline statutorily would likely conflict with those constitutional requirements. The Commission was unable to identify any statutory changes that would be effective and be likely to withstand constitutional scrutiny.

Finding no workable statutory change to address the issue, the Commission inquired into whether or not the soon-to-be operational Central Voter Registration (CVR) database would ease the burden on municipal officials. The Commission determined that the CVR would help on certain occasions by eliminating the need to retrieve a voter registration card from a card file, since the information would be available electronically. However, this is only a small percentage of what is required of clerks when verifying petition signatures. Members discussed whether or not the CVR should allow for the centralization of signature verification and certification within the Secretary of State. While the Commission favored this idea, concern was raised about the constitutionality of such a system given the state Constitution specifically states that municipal officials be involved in the process.

In the end, the Commission determined that if there was enough support for a change, a Resolution to amend the Constitution should be considered and be subject to public input.

During the Commission's discussion of the verification of signatures, a tangential issue arose. That issue pertained to whether or not there is a policy regarding the withdrawal of a petition signature by a person who had changed his or her mind. Although there is no formal policy, a representative from the office of the Secretary of State indicated that the withdrawal of signatures has been permitted on occasion. Recognizing that political campaigning is becoming increasingly sophisticated, some Commission members were concerned that organized efforts to encourage people to withdraw their names from petitions may become a new strategy for defeating measures. Thus, the Commission advised the Secretary of State that they should be considering potential policies to address this issue.

Citizen Initiatives Requiring General Fund Expenditures: During the First Session of the 122<sup>nd</sup> Legislature, the Legal and Veterans' Affairs Committee considered LD 939 a Resolution, Proposing an Amendment to the Constitution of Maine to Preserve the Integrity of the Citizen Initiated Petition Process. This Resolution proposed to amend the state Constitution to require that citizen initiatives requiring state expenditures include either a new revenue source to fund the expenditure or identification of reductions in existing state programs sufficient to offset the new expenditure. Although Commission members recognized the financial burden put on the Legislature when an initiative is passed that requires non-surplus general fund expenditures, they were somewhat hesitant to place such a requirement on the initiative process. One suggestion the Commission discussed proposed requesting that funding be specified in an initiative and if not provided, that fact would be published in voter information pamphlets and on the ballot information poster displayed at the voting place. One member was concerned that this could be seen as a form of intimidation by the Legislature in an effort to quell initiative efforts. Other

members supported the idea that specifying the funding be optional. Ultimately, this proposal did not illicit much support from the Commission and no alternatives were offered in its place.

## **Alternative Voting Methods**

During its second meeting, the Commission considered alternative methods of voting including, instant run-off, fusion or cross endorsement, voting by mail and early voting. The Commission received presentations on instant run-off voting and fusion voting from supporters of bills considered during the First Session of the 122<sup>nd</sup> Legislature proposing a change to one of those systems. Of the alternative methods discussed, the Commission focused on early voting and fusion voting.

Early Voting: The Commission determined that with the increased accessibility of absentee ballots in the state, many voters are taking advantage of casting ballots absentee. It was demonstrated that people vote absentee for a variety of reasons, including but not limited to, difficulty getting to the voting place, wishing to avoid lines at the polls, or just simple convenience. Municipal clerks stated that they have seen a surge in voters opting to vote in person by requesting, filling out and submitting absentee ballots at the clerk's office during a single visit. Statements to the Commission from municipal clerks indicated that they believed that ballots turned in by a someone who voted in person at the clerk's office should be actually cast right then as opposed to the current procedure that requires an application to be completed, special storage of the ballot in a specific envelope until election day, maintenance of list of those voting absentee and separate processing when they are counted. A bill considered and passed by the Legal and Veterans' Affairs Committee, LD 1173 Resolve, Directing the Secretary of State to Design a Pilot Program for Early Voting was enacted as Resolve 2005, chapter 70. This Resolve requires the Secretary of State to design a process for early voting to be conducted by at least one municipality for the November 2008 election. The plan must be presented in advance to the Legal and Veterans' Affairs Committee by February 15<sup>th</sup> 2007. The Commission expressed its support of Resolve 2005, chapter 70. For a copy of Resolve 2005, chapter 70, see Appendix G.

Fusion Voting: Fusion voting is a voting system that utilizes cross-endorsement, which is the practice of multiple parties or political designations nominating the same candidate. As proposed during the First Session of the 122<sup>nd</sup> Legislature by LD 1033 An Act to Implement Fusion Voting in Maine, fusion voting would forego the current process of requiring enrollment in a political party in order to be a candidate for that party's nomination. The proposal would list a candidate's name on the ballot next to each political party that nominated that person as their candidate.

In a presentation to the Commission, supporters of fusion voting stated that it results in elections that better reflect what the voters want. Fusion advocates have noted, with regard to races with more than two candidates, that Maine's current process does not elect the candidate that receives a majority of the votes but rather a plurality. Supporters argued that the result is often a candidate placed in office that the majority does not support because majority's votes were split among two other candidates. They believe that fusion allows a party to establish its own platform and spread its message while at the same time nominating candidates that are competitive in political races.

Commission members considered a modified version of fusion voting that would allow only minor parties to cross endorse a major party candidate. This proposal would have required creating a definition of major and minor parties. However, most on the Commission opposed the proposal arguing that our current system is working well and such a change would prove confusing to voters. Additionally, some members of the commission, citing the increasing sophistication of political campaigns, stated that this could be used as a political strategy for fronting insincere candidates with the hope of influencing the platform of other candidates.

Instant Run-off Voting: The Commission examined instant run-off voting (IRV), a voting method that determines winners in an election by simulating the ballot counts that would occur if all voters participated in a series of run-off elections. This method allows a voter to rank candidates according to that voter's preferences. Each voter would have only one vote for each office. The candidate with the fewest number of votes would be eliminated after each round of counting. During the First Session of the 122<sup>nd</sup> Legislature, LD 265 An Act to Establish Instant Run-off Voting proposed this voting method for elections for President, Vice President, United States Senator, United States Representative to Congress, Governor, State Senator, and State Representative. The bill was not supported by the Legal and Veterans' Affairs committee.

Supporters of IRV argue that this alternative method would eliminate the spoiler effect in races with more than two candidates. Furthermore, supporters asserted that this method could lend to more positive campaigning since a candidate would not want to alienate the voters who may rank that candidate as their second choice by campaigning too negatively against their potential first choice candidate. Similar to arguments for fusion voting, IRV advocates stated that this method of determining the winner of elections would better reflect the true intent of the majority of voters.

The Commission raised concerns about how IRV would apply to federal candidates on the state ballot and whether or not it would raise equal protection issues as provided by the United States Constitution. Furthermore, the Secretary of State noted that the state Constitution provides that the Governor and state legislators be elected by a plurality, therefore enactment of IRV would necessitate an amendment to the state Constitution. Other issues raised in opposition to IRV were fiscal implications of implementation, voter confusion and vote counting errors for those towns without optical scan machines who count ballots by hand. Though some on the Commission were open to considering IRV as a proposal, many legal and logistical issues were raised that the Commission deemed were too numerous and complex to address in the brief time the Commission had to complete its work.



## Party Qualification – Minor Party Ballot Access

Pursuant to Public Law 2005, chapter 127 the Commission looked at ways to facilitate the formation of minor political parties. Current law, 21-A MRSA §§ 301-303, provides that a potential party qualifies to participate in a primary if it was listed on the ballot in either of the two preceding general elections and if:

- The party held a municipal caucus in at least one municipality in each county during the election year in which the designation was listed on the ballot;
- Held a state convention during the election year in which the designation was listed on the ballot; and
- Its candidate for Governor or for President polled at least 5% of the total vote cast in the State for Governor or President in either of the 2 preceding general elections.

A party can also qualify by submitting a petition with 5% of the total vote cast for governor at the last preceding gubernatorial election.

The Commission had little discussion about proposed changes to the law governing the qualification of a party to participate in a primary. However, upon review of LD 329 An Act Concerning Recognition of Qualified Political Parties which was passed by the Legal and Veterans' Affairs Committee during the First Session of the 122<sup>nd</sup> Legislature and then carried over to the Second Regular Session after being placed on the Appropriations Table, some Commission members wanted to use this bill as a vehicle to address issues with regard to party qualification. LD 329 as amended proposed to provide an alternative means to achieve qualification as a political party. Under this bill, the party could qualify if its candidate received at least 5% of the total gubernatorial vote in either of the past two elections, as is provided in current law OR if the party has maintained enrollment of at least 1% of registered voters using the Secretary of State's tabulation from either of the two preceding elections. Commission members determined that re-referring this bill back to the Legal and Veterans' Affairs Committee for further discussion and public input would be an effective way to address any issues surrounding party qualification that the Commission did not have time to consider during the course of its three meetings.

## III. RECOMMENDATIONS

After consideration of the information presented and discussion of proposals made during the course of their work, the Commission makes the following recommendations:

- **The Commission supports a pilot program to consider implementing early voting.** Recognizing the surge in popularity of voting by absentee ballot at the municipal clerk's office, the Commission decided that a program for early voting was worthy of a trial run. The Commission believes that making voting convenient and expedient is a worthy goal and could potentially increase voter participation. Early

voting would differ from the current absentee voting process in that the ballot would be actually cast at the time the voter filled out the ballot at the clerk's office. Commission members did express concern about the security of cast ballots until election day and the facilitation of poll watchers, but believe a trial of such a program would provide insight on possible ways to address those issues. Thus, 10 of 11 members of the Commission supports the design of an early voting pilot that will be presented to the Legal and Veterans' Affairs committee by February 15<sup>th</sup>, 2007 for potential implementation at the November 2008 election pursuant to current law, Resolve 2005, chapter 70.

- **A formal policy regarding withdrawal of signatures from citizen initiative petitions should be considered.** In light of the increasing sophistication of political campaigns and the popularity of the citizen initiative process, the Commission determined that it would be prudent to develop a policy regarding the withdrawal of signatures from citizen initiative petitions. Thus, the Commission unanimously directs the Secretary of State to analyze the issue of the withdrawal of signatures from initiative petitions and present a policy proposal to the Legal and Veterans' Affairs committee by March 15<sup>th</sup> of 2006.
- **The public should have greater access to information regarding the financing of citizen initiative campaigns.** As with campaigns for statewide office, the Commission has determined that the public should be able to easily access information regarding the financing of initiative campaigns. Information about the initiative itself is maintained by the Office of the Secretary of State while campaign finance information is filed with the Commission on Governmental Ethics and Election Practices. The Commission agrees that access to both types of information should be readily available to the public. Specifically, the public should have access to information about who is circulating an initiative petition, political action committees and their leadership receiving and spending money to support or defeat a citizen initiative, and reports submitted regarding the financing of such efforts. A majority of the Commission, 8 of 11 members, supports requiring these two agencies to provide links on their respective websites directing the public to information on an initiative as maintained by the other agency. These members also recommend that the Secretary of State examine the feasibility of and legal issues surrounding requesting that petition applicants indicate affiliations with political action committees upon applying to circulate a citizen initiated petition.
- **The Commission on Governmental Ethics and Election Practices should report to the Joint Standing Committee on Legal and Veterans' Affairs regarding issues considered by the commission regarding campaign finance reports for citizen initiative campaigns and public access to that information.** To resolve issues raised about campaign finance reports for citizen initiative campaigns and public access to information about citizen initiative campaigns, 9 of 11 Commission members recommend that The Commission on Governmental Ethics and Election Practices examine the following issues and report back the Legal and Veterans' Affairs Committee by March 15<sup>th</sup> 2006:

- The feasibility of the proposals that entities required to file reports with the Commission on Governmental Ethics and Election Practices specify the citizen initiative campaigns or ballot measure campaigns they are receiving or spending money to support or oppose. Thus, if a PAC is spending on more than one initiative or ballot question the contribution or expenditure level will be able to be determined;
  - The feasibility of the proposals that petitions for citizen initiatives, voter information pamphlets and posters about a ballot measure and publications by PACs in support of or in opposition to a citizen initiative or ballot measure campaign be required to include a link to the website where the public can view the PACs reports filed with the Commission on Governmental Ethics and Election Practices;
  - The feasibility of the proposal to lower the expenditure amount that defines a group as a PAC and triggers reporting requirements to an amount closer to those that trigger reporting by candidates and the impact this may have on the practice of bundling. The proposal suggests reducing the \$1500 spending threshold that defines a group making expenditures for an election, petition campaign or ballot measure as a PAC and triggers the requirement finance reports be filed with the Commission on Governmental Ethics and Election Practices to \$500; and
  - The feasibility of the proposal to require campaign finance reports filed by PACs that have raised or spent in excess of \$40,000 be submitted more frequently immediately prior to an election in order to inform the public about high-level spending on ballot measure campaigns in a more timely manner.
- **Voter information regarding citizen initiatives to be on the ballot should be more informative, accessible, and easy to read.** A majority of the Commission favored mailing voter information packets directly to the homes of voters informing them about measures to be on the ballot, but the high cost and less-than-favorable funding ideas makes such a recommendation impractical at this time. However, the Commission believes that improvements can be made with regard to the information that is currently disseminated by the Office of the Secretary of State. The Commission determined that technology can be better utilized in providing voters with information efficiently and inexpensively but the state must be cognizant of the digital divide that exists here. Thus, the commission unanimously recommends that the Secretary of State examine voter awareness in other states that mail voter information packets directly to voters and explore ways to make the voter information that is currently distributed in Maine more accessible, readable and informative within existing budgetary resources.
  - **The issue of qualification of political parties should be considered further by the Legislature.** The Commission was unable to consider the issue of party qualification and minor party ballot access to the extent that is necessary to make any substantive recommendation on this issue. The Commission believes this is an important policy issue that should be afforded thorough discussion by the Legislature. The Commission unanimously recommends that LD 329 An Act Concerning Recognition

of Qualified Political Parties which was carried over on the Appropriations Table by Senate Paper 640, should be referred back to the Joint Standing Committee on Legal and Veterans' Affairs.

- **Legislation should be enacted to require that campaign finance reports by PACs organizing citizen initiative campaigns specify expenditures made as payment to petition circulators. This legislation should also clarify that contributions received and expenditures made by a PAC during the signature gathering phase of a citizen initiative campaign must be reported when current statutory thresholds are met.** The Commission unanimously supported clarifying the law so that there is no ambiguity that if a group spends \$1500 (current trigger to report with the Commission on Governmental Ethics and Election Practices as a PAC) to support or discourage the gathering of signatures for a citizen initiative it meets the definition of a PAC and is required to submit reports. The Commission unanimously agreed that payment made by PACs to people for circulating initiative petitions should be itemized on required campaign finance reports. Those Commission members agreed that this information should be available to the public and is consistent with reporting requirements of campaigns for state office.
- **In order to better facilitate the constitutionally provided right to the initiation of law by citizen petition, the Legislature should consider an amendment to the Constitution of the State of Maine that would ensure municipal officials are afforded adequate time to verify petition signatures before they are due to the Secretary of State.** The Commission determined that for various reasons, petitions for citizen initiatives are often turned into a municipal clerk's office for signature verification too close to when they need to be submitted to the Secretary of State for certification. As a result, municipal officials find it difficult to meet their obligation to verify signatures. The commission looked at various statutory proposals to address the issue but found that they may conflict with the Constitution of the State of Maine. Thus, the Commission determined that if the Legislature deemed the issue important enough to amend the Constitution it should have that option. The Commission stated that this recommendation in no way intended to infringe upon the rights of petitioners but is intended to create a time period where municipal officials could appropriately meet its Constitutional obligation to verify signatures. The Commission's recommendation would state that signatures are due to municipal officials 10 days before required to be at the Secretary of State's office. Signatures not submitted to municipal officials by this date would be invalid. This recommendation is to be put forward as a separate bill was supported unanimously by the commission.

**An Act to Implement the Recommendations of the Commission to Study Alternative Voting Procedures, the Citizen Initiative Process and Minor Party Ballot Access**

Be it enacted by the People of Maine as follows:

**Sec. 1. 21-A MRSA § 1012, sub-§ 3, paragraph A**, is amended to read:

**3. Expenditure.** The term "expenditure:"

A. Includes:

(1) A purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made for the purpose of influencing the nomination or election of any person to political office, except that a loan of money to a candidate by a financial institution in this State made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;

(2) A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make any expenditure;

(3) The transfer of funds by a candidate or a political committee to another candidate or political committee; and

(4) A payment or promise of payment to a person contracted with for the purpose of supporting or opposing any candidate, campaign, political committee, political action committee, political party, referendum ~~or~~ initiated petition or circulating an initiated petition; and

**Sec. 2. 21-A MRSA §1052, sub-§3, paragraph C** is amended to read:

C. Any funds received by a political action committee which are to be transferred to any candidate, committee, campaign or organization for the purpose of promoting, defeating or initiating a candidate, referendum, political party or initiative, including the collection of signatures for a citizen initiative, in this State; or

**Sec. 3. 21-A MRSA §1052, sub-§4, paragraph A** is amended to read:

**4. Expenditure.** The term "expenditure:"

A. Includes:

(1) A purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value, made for the purpose of influencing the nomination or election of any person to political office; or for the initiation, support or defeat of a campaign,

referendum or initiative, including the collection of signatures for a citizen initiative, in this State;

(2) A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make any expenditure for the purposes set forth in this paragraph; and

(3) The transfer of funds by a political action committee to another candidate or political committee; and

**Sec. 4. 21-A M~SA §1052, sub-§5, paragraph A** is amended to read:

**5. Political action committee.** The term "political action committee:"

A. Includes:

(1) Any separate or segregated fund established by any corporation, membership organization, cooperative or labor organization whose purpose is to influence the outcome of an election, including a candidate or question;

(2) Any person who serves as a funding and transfer mechanism and spends money to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition in this State;

(3) Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that makes expenditures other than by contribution to a political action committee, for the purpose of the initiation, promotion or defeat of any question; and

(4) Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that solicits funds from members or nonmembers and spends more than \$1,500 in a calendar year to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition, including the collection of signatures for a citizen initiative, in this State; and

**Sec. 5 21-A MRSA §1053, first paragraph** is amended to read:

#### **21A § 1053. Registration**

Every political action committee that accepts contributions, incurs obligations or makes expenditures in the aggregate in excess of \$1,500 in any single calendar year to initiate, support, defeat or influence in any way a campaign, referendum, initiated petitions, including the collection of signatures for a citizen initiative, candidate, political committee or another political action committee must register with the commission, within 7 days of accepting those contributions, incurring those obligations or making those expenditures, on forms prescribed by the commission. These forms must include the following information and any additional

information reasonably required by the commission to monitor the activities of political action committees in this State under this subchapter:

**Sec. 6. 21-A MRSA § 1058**, is amended to read:

**21A § 1058. Reports; qualifications for filing**

A political action committee that is registered with the commission or that accepts contributions or incurs obligations in an aggregate amount in excess of \$50 on any one or more campaigns for the office of Governor, for state or county office or for the support or defeat of a referendum or initiated petition shall file a report on its activities in that campaign with the commission on forms as prescribed by the commission. A political action committee organized in this State required under this section to file a report shall file the report for each filing period under section 1059. A political action committee organized outside this State shall file with the Commission on Governmental Ethics and Election Practices of this State a copy of the report that the political action committee is required to file in the state in which the political action committee is organized. The political action committee shall file the copy only if it has expended funds or received contributions or made expenditures in this State. The copy of the report must be filed in accordance with the schedule of filing in the state where it is organized. If contributions or expenditures are made relating to a municipal office or referendum, the report must be filed with the clerk in the subject municipality. ~~Any person or organization organized to oppose a question to be voted on by the electorate at referendum shall report, within 10 days following the drafting of the question by the Secretary of State and prior to the distribution of any petitions for voter signatures pursuant to chapter 11, to the commission as required in this section and sections 1059 and 1060.~~

**Sec. 7. 21-A MRSA § 1060, sub-§4**, is amended to read:

**4. Itemized expenditures.** An itemization of each expenditure made to support or oppose any candidate, campaign, political committee, political action committee, political party, referendum or initiated petition, including the date, payee and purpose of the expenditure and the address of the payee. If expenditures were made to a person described in section 1012, subsection 3, paragraph A, subparagraph (4), the report must contain the name of the person; the amount spent by that person on behalf of the candidate, campaign, political committee, political action committee, political party, referendum or initiated petition, including but not limited to expenditures made during the signature gathering phase; the reason for the expenditure; and the date of the expenditure. The commission may specify the categories of expenditures that are to be reported to enable the commission to closely monitor the activities of political action committees;

**Sec. 8. Secretary of State to report on information provided to voters regarding statewide referendum questions on the ballot.** By March 15, 2006 the Secretary of State is directed to issue a report to the Joint Standing Committee of the Legislature having jurisdiction of election matters that examines voter awareness in other states that mail voter information pamphlets on statewide referendum questions directly to voters and make suggestions for improving the way

information is provided to voters regarding statewide referendum questions in this state, within existing budgeted resources.

**Sec. 9. Commission on Governmental Ethics and Election Practices to report regarding campaign finance reports for citizen initiative campaigns and public access to those reports.** By March 15, 2006, the Commission on Governmental Ethics and Election Practices is directed to issue a report to the Joint Standing Committee of the Legislature having jurisdiction over citizen initiative matters regarding campaign finance reports for citizen initiative campaigns. This report should look at the feasibility of requiring political action committees to identify citizen initiative campaigns they are receiving or expending money in support of or opposition to, whether voter information pamphlets or posters published by the state and publications by PACs in support of or opposition to a ballot measure should be required to include a link indicating where campaign finance reports about the measure may be accessed, reducing the spending threshold that defines a triggers reporting as a political action committee, and in the months prior to an election, increasing the frequency of reports by political action committees that have raised or spent in excess of \$40,000 on a ballot measure.

**Sec. 10. Secretary of State and Commission on Governmental Ethics and Election Practice to work collaboratively on providing information about citizen initiatives.** By March 15, 2006, the Secretary of State and the Commission on Governmental Ethics and Election Practices are directed to develop a plan to provide information on their respective websites directing the public to information currently published and available about citizen initiative petitions and campaign finance reports filed relative to those citizen initiative petitions and submit that plan to the Joint Standing Committee of the Legislature having jurisdiction over citizen initiative matters.

### **SUMMARY**

This bill includes changes to current law as proposed in the final report of the Commission to Study Alternative Voting Procedures, the Citizen Initiative Process, and Minor Party Ballot Access as created by Resolve 2005 chapter 127. This bill amends the law to require that payment to a person for circulating a petition for a citizen initiative should be itemized on required campaign finance reports. This bill clarifies that contributions and expenditures made for the purposes of supporting or opposing a citizen initiated referendum during the signature gathering phase are required to be reported like other contributions and expenditures. This bill also requires a report from the Commission on Governmental Ethics and Election Practices regarding the reporting of campaign finances relative to citizen initiative campaigns. It requires a report from the Secretary of State examining ways to improve the way we provide information to voters about referenda that will appear on the ballot. This bill also directs the Secretary of State to work with the Commission on Governmental Ethics and Election Practices towards making information currently available about citizen initiative efforts and campaigns for or against them more accessible to the public by providing links on their respective web sites directing people to information posted on the other agency's website.



**RESOLUTION, Proposing an Amendment to the Constitution of Maine to Enhance Deadlines for Submitting Direct Initiatives to Municipal Officials for Signature Verification**

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

**Constitution, Art. IV, Part Third, §§ 18 and 20 are amended to read:**

**Section 18. Direct initiative of legislation.**

**1. Petition procedure.** The electors may propose to the Legislature for its consideration any bill, resolve or resolution, including bills to amend or repeal emergency legislation but not an amendment of the State Constitution, by written petition addressed to the Legislature or to either branch thereof and filed in the office of the Secretary of State by the hour of 5:00 p.m., on or before the 50th day after the date of convening of the Legislature in first regular session or on or before the 25th day after the date of convening of the Legislature in second regular session. If the 50th or 25th day, whichever applies, is a Saturday, Sunday, or legal holiday, the period runs until the hour of 5:00 p.m., of the next day which is not a Saturday, Sunday, or legal holiday.

**2. Referral to electors unless enacted by the Legislature without change; number of signatures necessary on direct initiative petitions; dating signatures on petitions; competing measures.** For any measure thus proposed by electors, the number of signatures shall not be less than 10% of the total vote for Governor cast in the last gubernatorial election preceding the filing of such petition. The date each signature was made shall be written next to the signature on the petition and ~~no signature older than one year from the written date on the petition shall be valid.~~ The measure thus proposed, unless enacted without change by the Legislature at the session at which it is presented, shall be submitted to the electors together with any amended form, substitute, or recommendation of the Legislature, and in such manner that the people can choose between the competing measures or reject both. When there are competing bills and neither receives a majority of the votes given for or against both, the one receiving the most votes shall at the next statewide election to be held not less than 60 days after the first vote thereon be submitted by itself if it receives more than 1/3 of the votes given for and against both. If the measure initiated is enacted by the Legislature without change, it shall not go to a referendum vote unless in pursuance of a demand made in accordance with the preceding section. The Legislature may order a special election on any measure that is subject to a vote of the people

**Section 20. Meaning of words "electors," "people," "recess of Legislature," "statewide election," "measure," "circulator," and "written petition"; written petitions for people's veto; written petitions for direct initiative; issuance of petition forms; preparation of ballots.**

**1. Definitions.** As used in any of the 3 preceding sections or in this section: ~~the words~~

A. "Electors" and "people" mean the electors of the State qualified to vote for Governor;

B. "Recess of the Legislature" means the adjournment without day of a session of the Legislature;

C. "Statewide election" means any election held throughout the State on a particular day;

D. "Measure" means an Act, bill, resolve or resolution proposed by the people, or 2 or more such, or part or parts of such, as the case may be;

E. "Circulator" means a person who solicits signatures for written petitions, and who must be a resident of this State and whose name must appear on the voting list of the city, town or plantation of the circulator's residence as qualified to vote for Governor;

F. "Written petition" means one or more petitions written or printed, or partly written and partly printed, with the original signatures of the petitioners attached, verified as to the authenticity of the signatures by the oath of the circulator that all of the signatures to the petition were made in the presence of the circulator and that to the best of the circulator's knowledge and belief each signature is the signature of the person whose name it purports to be, and accompanied by the certificate of the official authorized by law to maintain the voting list of the city, town or plantation in which the petitioners reside that their names appear on the voting list of the city, town or plantation of the official as qualified to vote for Governor. The oath of the circulator must be sworn to in the presence of a person authorized by law to administer oaths.

**2. People's veto.** Written petitions for a people's veto pursuant to Article IV, Part Third, Section 17 must be submitted to the appropriate officials of cities, towns or plantations for determination of whether the petitioners are qualified voters by the hour of 5:00 p.m., on or before the hour of 5:00 p.m., on the 5th day before the petition must be filed in the office of the Secretary of State, or, if such 5th day is a Saturday, a Sunday or a legal holiday, by 5:00 p.m., on the next day which is not a Saturday, a Sunday or a legal holiday. Such officials must complete the certification of such petitions and must return them to the circulators or their agents within 2 days, Saturdays, Sundays and legal holidays excepted, of the date on which such petitions were submitted to them. The petition shall set forth the full text of the measure requested or proposed.

**3. Direct initiatives.** Written petitions for a direct initiative pursuant to Article IV, Part Third, Section 18 must be submitted to the appropriate officials of cities, towns or plantations for determination of whether the petitioners are qualified voters by the hour of 5:00 p.m., on the 10th day before the petition must be filed in the office of the Secretary of State, or, if such 10th day is a Saturday, a Sunday or a legal holiday, by 5:00 p.m., on the next day which is not a Saturday, a Sunday or a legal holiday. Signatures submitted after this deadline are invalid and do not need to

be verified by municipal officials. Written petitions submitted to municipal officials at other times of the year must be submitted to municipal officials 10 days before the statutory deadline or the signatures are invalid and do not need to be verified by the municipal officials. Such officials must complete the certification of such petitions and must return them to the circulators or their agents within ~~2 days for a petition for a people's vote and within 5 days for a petition for a direct initiative~~, Saturdays, Sundays and legal holidays excepted, of the date on which such petitions were submitted to them. The petition shall set forth the full text of the measure requested or proposed.

**4. Issuance of petition forms.** Petition forms shall be furnished or approved by the Secretary of State upon written application signed in the office of the Secretary of State by a resident of this State whose name must appear on the voting list of the city, town or plantation of that resident as qualified to vote for Governor.

**5. Preparation of ballots.** The full text of a measure submitted to a vote of the people under the provisions of the Constitution need not be printed on the official ballots, but, until otherwise provided by the Legislature, the Secretary of State shall prepare the ballots in such form as to present the question or questions concisely and intelligibly.

; and be it further

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

“Do you favor amending the Constitution of Maine to require petitions of direct initiative be submitted to the appropriate officials of cities, towns or plantations for signature certification within one year from the date the petition was issued by the Secretary of State and to provide a set period of time municipal officers have to certify signatures?”

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

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

### **SUMMARY**

This resolution proposes to amend the Constitution of Maine to provide that direct initiatives submitted to officials of cities, towns or plantations for signature certification must be submitted within ten days before municipal officials must send the verified petitions to the Secretary of State if the signatures are invalid and do not need to be verified by the municipal officials. The proposed amendment also provides that written petitions submitted to municipal officials at other times of the year must be submitted within 10 days of the statutory deadline or those signatures are invalid. The proposed amendment makes technical changes to improve the readability of certain sections.

## **APPENDIX A**

**Authorizing legislation: Resolve 2005, chapter 127**

## CHAPTER 127

S.P. 590 - L.D. 1608

**Resolve, To Establish a Study Commission To Study  
Alternative Voting Procedures, the Citizen Initiative  
Process and Minor Party Ballot Access**

**Sec. 1. Commission established. Resolved:** That the Commission To Study Alternative Voting Procedures, the Citizen Initiative Process and Minor Party Ballot Access, referred to in this resolve as "the commission," is established; and be it further

**Sec. 2. Commission membership. Resolved:** That the commission consists of 11 members appointed as follows:

1. Three members of the Senate, appointed by the President of the Senate. When making the appointments, the President of the Senate shall ensure representation from both political parties and give preference to members from the Joint Standing Committee on Legal and Veterans Affairs;

2. Three members of the House of Representatives, appointed by the Speaker of the House of Representatives. When making the appointments, the Speaker of the House of Representatives shall ensure representation from the major parties, include an unenrolled member or a member of a minor party and give preference to members from the Joint Standing Committee on Legal and Veterans Affairs;

3. The Secretary of State or a designee;

4. A representative of the Maine Municipal Association appointed by the President of the Senate from a list provided by the association;

5. A representative of the Maine Town and City Clerks' Association appointed by the Speaker of the House from a list provided by the association;

6. An official of the Maine Democratic Party, appointed by the chair of the party; and

7. An official of the Maine Republican Party, appointed by the chair of the party.

**Sec. 3. Chairs. Resolved:** That the first-named Senate member is the Senate chair of the commission and the first-named House of Representatives member is the House chair of the commission; and be it further

**Sec. 4. Appointments; convening of commission. Resolved:** That all appointments must be made no later than 30 days following the effective date of this resolve. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. Within 15 days after appointment of all members, the chairs shall call and convene the first meeting of the commission, which must be no later than August 1, 2005; and be it further

**Sec. 5. Duties. Resolved:** That the commission shall examine proposals to improve ballot access and address issues regarding elections and the citizen initiative process, including, but not limited to:

1. The institution of an "instant run-off" method of determining the winners of elections, which simulates the ballot counts that would occur if all voters participated in a series of run-off elections and allows a voter to rank candidates according to that voter's preferences;

2. The implementation of "fusion voting," which authorizes cross-endorsement or the practice of multiple parties or political designations nominating the same candidate;

3. Facilitating the formation of minor political parties;

4. The implementation of a vote-by-mail system; and

5. Informing the public about the fiscal implications of proposed citizen initiated legislation; and be it further

**Sec. 6. Meetings. Resolved:** That the commission is authorized to meet 3 times; and be it further

**Sec. 7. Staff assistance. Resolved:** That the Legislative Council shall provide necessary staffing services to the commission with the assistance of the Office of the Attorney General; and be it further

**Sec. 8. Compensation. Resolved:** That the legislative members of the commission are entitled to receive the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and reimbursement for travel and other necessary expenses related to their attendance at authorized meetings of the commission; and be it further

**Sec. 9. Report. Resolved:** That, no later than December 7, 2005, the commission shall submit a report that includes its findings and recommendations, including suggested legislation, for presentation to the Second Regular Session of the 122nd Legislature. The commission is authorized to introduce legislation related to its report to the Second Regular Session

of the 122nd Legislature at the time of submission of its report;  
and be it further

**Sec. 10. Extension. Resolved:** That, if the commission requires a limited extension of time to complete its study and make its report, it may apply to the Legislative Council, which may grant an extension; and be it further

**Sec. 11. Commission budget. Resolved:** That the chairs of the commission, with assistance from the commission staff, shall administer the commission's budget. Within 10 days after its first meeting, the commission shall present a work plan and proposed budget to the Legislative Council for its approval. The commission may not incur expenses that would result in the commission's exceeding its approved budget. Upon request from the commission, the Executive Director of the Legislative Council shall promptly provide the commission chairs and staff with a status report on the commission budget, expenditures incurred and paid and available funds.



**APPENDIX B**

**Membership list, Study Commission to Study Alternative Voting Procedures, the Citizen  
Initiative Process and Minor Party Ballot Access**

# Commission to Study Alternative Voting Procedures, the Citizen Initiative Process and Minor Party Ballot Access

Resolve 2005, Chapter 127

Friday, January 6, 2006

## Appointment(s) by the President

**Sen. Bill Diamond - Chair**  
261 Windham Center Rd.  
Windham, ME 04062

Senate Members (see law)

**Sen. Kenneth T. Gagnon**  
10 First Rangeway  
Waterville, ME 04901  
207 872-2338

Senate Member

**Sen. Debra D. Plowman**  
180 Patterson Road  
P.O. Box 468  
Hampden, ME 04444  
207 862-6011

Senate Member

**Julie Flynn**  
Deputy Secretary of State  
148 State House Station  
Augusta, ME 04333-0148  
207 626-8400

Senate Members (see law)

**Ruth Lyons**  
22 Jesse Road  
Topsham, ME 04086

Representing Maine Municipal Association

## Appointment(s) by the Speaker

**Rep. Sean Faircloth - Chair**  
P.O. Box 1574  
Bangor, ME 04401  
207 947-8422

House Members (see law)

**Rep. David N. Ott**  
50 Long Sands Road  
York, ME 03909  
207 363-2141

House Member

**Rep. Linda M. Valentino**  
P.O. Box 1049  
Saco, ME 04072  
207 282-5227

House Member

**Frances Smith Clerk**  
Town of Brunswick  
28 Federal Street, Suite 2  
Brunswick, ME 04011

Representing the Maine Town and City Clerks' Association

## Maine Democratic Party Chair

**Patrick Colwell Chairman**  
Maine Democratic Party  
PO Box 5258  
Augusta, ME 04330  
207 622-6233

Official of the Party

**Maine Republican Party Chair**

**Randall L. Bumps Chariman**  
Maine Republican Party  
9 Higgings Street  
Augusta, ME 04330  
207 622-6247

Official of the Party

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**Staff:**

Danielle Fox 287-1670  
OPLA

Curtis Bentley 287-1670  
OPLA

## **APPENDIX C**

### **Agendas**

Commission on Voting Procedure and Citizen Initiatives

First Meeting  
Monday October 3, 2005

A G E N D A

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- I. Welcome and Introductions
- II. Committee Procedure
- III. Review of Commission Duties
- IV. Planning (remaining 2 meetings of commission)
- V. Voter Information Regarding Proposed Citizen Initiatives
  - A. Current law – summary, fiscal impact, public statements
  - B. Steps in the initiative process where and how information is provided – options for providing additional information  
*(Secretary of State to provide examples of voter information materials).*
  - C. Other states: Availability of information regarding initiatives, types of information, distribution of information to voters
  - D. Initiative campaign financing – signature gathering phase/ballot question phase – *(Presentation: Jonathan Wayne, Executive Director Commission on Governmental Ethics and Elections Practices – 1:00pm)*
- VI. Confirm meeting schedule and adjourn

*Lunch break 12:00pm to 1:00pm*

Commission on Voting Procedure and Citizen Initiatives

Second Meeting  
October 14, 2005

A G E N D A

- I. Welcome  
Review of commission duties /schedule
- II. Alternative Voting Methods
  - A. Instant Run Off Voting Method  
Presentation: Doug Clopp – Maine Citizen Leadership Fund
  - B. Fusion Voting  
Presentation: Jon Bartholomew – Maine Citizen Leadership Fund
  - C. Voting by Mail  
Handout from OPLA comparing current law with 122<sup>nd</sup> proposals
- Note: Summary of LDs proposed and fiscal notes attached*
- III. Party Qualifications – Minor Party Ballot Access  
OPLA handout
- IV. Final meeting planning  
*Last requests for information*  
*Discussion of report formulation process*
- V. Adjourn

*Break 12:30*  
*Lunch to be provided*

## **APPENDIX D**

### **Citizen Initiative and People's Veto**

# **CITIZENS' INITIATIVE AND PEOPLE'S VETO**

## **Citizens' Initiative**

The Constitution of the State of Maine (Article IV, Part Third, Section 18) provides that electors of the state may, by petition, propose to the Legislature enactment of a bill, resolve or resolution including bills to amend or repeal emergency legislation.

### **Requirements for proposing an initiative to Legislature**

Those wishing to submit legislation via the citizen initiative process must submit an application to the Secretary of State on or before the 50<sup>th</sup> day after the convening of the first regular session or on or before the 25<sup>th</sup> day after the convening of the second regular session of the Legislature. The application must include a petition and the full text of the proposed law. A petition proposing legislation must have at least enough valid signatures to equal 10% of the votes cast for Governor in the last gubernatorial election. The current signature requirement is 50,519 based on the November 5, 2002 election. The Secretary of State reviews the text of the proposed law within 10 days of receiving the application and either accepts it, provides a revised draft or rejects it because it does not conform to the drafting conventions prescribed for the Maine Revised Statutes.

### **Role of the Legislature**

When a petition proposing legislation is successful, the Legislature has three options:

- Enact the measure without change;
- Reject the measure, consequently placing it on a ballot to be submitted to the voters of the state; or
- Place the initiated proposal on a ballot along with a competing measure proposed by the Legislature asking the voters to choose one or reject both measures.

### **Competing measures**

When neither option of a competing measure receives a majority of votes for or against, the option receiving the most votes and at least more than one third of the votes given for or against both measures will be submitted by itself on the next statewide ballot.

### **Effective date of successful ballot measures**

Within 10 days of certification of the vote on a citizen initiated ballot measure that was approved by the voters, the Governor proclaims the result of the vote. Thirty days after the proclamation, the law becomes effective unless the measure specifically provides for a later effective date. Any measure that requires an expenditure beyond any unexpended monies in the General Fund shall remain inoperative until 45 days after the convening of the next regular session of the Legislature.

## **People's Veto**

The Constitution of the State of Maine (Article IV, Part Third, Section 17) also provides for a process by which the electors may veto legislation enacted during the most recent legislative session.



### Requirements for a People's Veto

An application for a people's veto referendum must be submitted to the Secretary of State within 10 days after adjournment of the legislative session in which the act to be vetoed was enacted. The petition to place the veto on the ballot must have at least enough valid signatures to equal 10% of the votes cast for Governor in the last gubernatorial election and be submitted to the Secretary of State within 90 days after the adjournment of the session in which the law to be vetoed was enacted.

### Effect of Referendum

When a people's veto petition is filed, the law specified in the petition is suspended. Upon suspension of the legislation, the Governor gives notice by public proclamation when the matter shall be voted on by the people. If there is a statewide election within 6 months but no sooner than sixty days after the proclamation, the vote will be placed on the ballot at that election. If there is no statewide election, the Governor orders a special election within that timeframe. If the majority of the voters approve the veto, the legislation does not take effect. If a veto is not successful, the legislation takes effect 30 days after the Governor proclaims the result of the vote.

### Maine and other States

From 1910 to 2003, Maine electors cast votes on 45 questions placed on the ballot by either the citizen initiative or people's veto process. Twenty-two of those measures were approved by the voters.

Twenty-four states have constitutional provisions allowing citizen initiated legislation and referendum questions to veto legislation. All of these states require signatures equal to some percentage of the votes cast in a recent election ranging from 2 to 15 percent. Sixteen states, excluding Maine, place geographic distribution requirements on petition signatures. A process by which citizens may propose constitutional amendments to the voters is provided by 15 of the states that also provide for citizen initiated legislation and referendum questions to veto legislation.

## **CITIZEN INITIATIVE PROCESS**

*Provided to Commission on Voting Procedure and Citizen Initiatives by Office of Policy and Legal Analysis*

*October 3, 2005*

*To illustrate steps in the process and highlight where information is provided to voters about the proposed legislation and its fiscal implications.*

### **APPLICATION AND CIRCULATION**

#### **1. VOTER SUBMITS WRITTEN APPLICATION**

- Includes contact info on 5 voters in addition to applicant who can receive relevant notices
- Includes full text of proposed law

#### **2. SECRETARY OF STATE REVIEWS APPLICATION**

- Within 10 days application is rejected or accepted. Accepted application would include a revised draft of the initiative legislation.
- Every revision of legislation must be submitted to Sec. of State for review. Secretary of State has 10 days to review changes.
- Applicant provides written consent to final language
- 

#### **3. SECRETARY OF STATE PROVIDES BALLOT QUESTION TO APPLICANT WITHIN 10 DAYS**

#### **4. PETITION FORM PROVIDED BY SECRETARY OF STATE TO BE CIRCULATED BY PETITIONERS**

- Applicant has 1 year after being issued petitions forms to circulate for signatures.
- Petitions may be circulated by any Maine registered voter.
- *Per Public Law 2005 chapter 356, a petition must include statement at the top of petition stating that circulator must provide voter with opportunity to read the summary of initiative. Below that statement is printed the cost of placing the question on the ballot (not the cost of the measure itself) and the initiative summary.*

### **INITIATIVE FILING DEADLINES/ SIGNATURE REQUIREMENTS**

**First Regular Session** – By 5:00pm on the 50<sup>th</sup> day after convening of the Legislature (usually mid to late January)

**Second Regular Session** – By 5:00pm on the 25<sup>th</sup> day after convening of the Legislature

**Signatures must total at least 10% of the votes cast for Governor in last gubernatorial election.** Current requirement is 50,519.

**Secretary of State to determine validity of petitions within 30 days of filing.**

## REFERRAL TO LEGISLATURE/VOTERS

**Proposed initiative is presented to the Legislature and either enacted without change or referred to voters at the November election.**

**Attorney General prepares an intent and content statement distributed to all daily newspapers in the state for publication between 10 and 7 days prior to election.**

*Per Public Law 2005 chapter 316, this publication must also include a fiscal impact statement prepared by OFPR. This law also provides that after rules are drafted, the Secretary of State shall publish public comment on the initiative paid for by the person submitting the comment (\$500 fee).*

*This information is also available on the SOS website and printed copies are provided to municipalities.*

**Election day – Question appears on ballot.**

Municipalities are required to display the intent and content statement – poster size- at the voting place.

*(Law is unclear if it would also include pro/con statements and fiscal impact statement)*



The Initiative and Referendum States  
Updated October 10, 2002

| Statutes      |            |                                   |                           | Constitution |                           |
|---------------|------------|-----------------------------------|---------------------------|--------------|---------------------------|
| State         | Initiative | Citizen<br>Petition<br>Referendum | Legislative<br>Referendum | Initiative   | Legislative<br>Referendum |
| Alaska        | D*         | Yes                               | No                        | None         | Yes                       |
| Arizona       | D          | Yes                               | Yes                       | D            | Yes                       |
| Arkansas      | D          | Yes                               | Yes                       | D            | Yes                       |
| California    | D          | Yes                               | Yes                       | D            | Yes                       |
| Colorado      | D          | Yes                               | No                        | D            | Yes                       |
| Florida       | None       | No                                | No                        | D            | Yes                       |
| Idaho         | D          | Yes                               | Yes                       | None         | Yes                       |
| Illinois      | None       | No                                | Yes                       | D            | Yes                       |
| Kentucky      | None       | Yes                               | Yes                       | None         | Yes                       |
| Maine         | I          | Yes                               | Yes                       | None         | Yes                       |
| Maryland      | None       | Yes                               | Yes                       | None         | Yes                       |
| Massachusetts | I          | Yes                               | Yes                       | I            | Yes                       |
| Michigan      | I          | Yes                               | Yes                       | D            | Yes                       |
| Mississippi   | None       | No                                | No                        | I            | Yes                       |
| Missouri      | D          | Yes                               | Yes                       | D            | Yes                       |
| Montana       | D          | Yes                               | Yes                       | D            | Yes                       |
| Nebraska      | D          | Yes                               | Yes                       | D            | Yes                       |
| Nevada        | I          | Yes                               | Yes                       | D            | Yes                       |

|               |       |     |     |      |     |
|---------------|-------|-----|-----|------|-----|
| New Mexico    | None  | Yes | Yes | None | Yes |
| North Dakota  | D     | Yes | Yes | D    | Yes |
| Ohio          | I     | Yes | Yes | D    | Yes |
| Oklahoma      | D     | Yes | Yes | D    | Yes |
| Oregon        | D     | Yes | Yes | D    | Yes |
| South Dakota  | D     | Yes | Yes | D    | Yes |
| Utah          | D & I | Yes | Yes | None | Yes |
| Washington    | D & I | Yes | Yes | None | Yes |
| Wyoming       | D*    | Yes | No  | None | Yes |
| US Virgin Is. | I     | Yes | Yes | I    | Yes |

Initiative - a law and/or constitutional amendment introduced by the citizens either to the legislature or directly to the voters.

D - *Direct Initiative*; proposals that qualify go directly on the ballot

I - *Indirect Initiative*; proposals are submitted to the legislature, which has an opportunity to act on the proposed legislation. Depending on the state, the Initiative question may go on the ballot if the legislature rejects it, submits a different proposal or takes no action.

D\* -- Alaska and Wyoming's initiative processes exhibit characteristics of both the direct and indirect initiative. Instead of requiring that an Initiative be submitted to the legislature for action (as in the indirect process), they require only that an Initiative cannot be placed on the ballot until after a legislative session has convened and adjourned. The intent is to give the legislature an opportunity to address the issue in the proposed Initiative, should it choose to do so. The Initiative is not formally submitted to the legislature.

Referendum - a process by which voters may express their judgment on statutes and/or constitutional amendments enacted by the legislature.



**For more information on Initiatives and Referendums - contact Jennie Drage Bowser [elections-info@ncsl.org](mailto:elections-info@ncsl.org).**

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**Denver Office:** Tel: 303-364-7700 | Fax: 303-364-7800 | 7700 East First Place | Denver, CO 80230 | [Map](#)

**Washington Office:** Tel: 202-624-5400 | Fax: 202-737-1069 | 444 North Capitol Street, N.W., Suite 515 | Washington, D.C. 20001



Preparation of a Fiscal Analysis  
Updated February 3, 2003

### Overview

Fiscal impact statements are an important component of voter education on initiative proposals. Voters often do not have the budgetary perspective necessary to make an informed decision about an initiative. Often, they enact a measure and it is left to the legislature to determine where the money will come from, which can mean redirecting funds from other programs.

It is currently the law in 13 states that, if a proposed initiative will have a monetary effect on the state's budget, a fiscal impact statement must be drafted. A legislative fiscal agency generally writes it, and it appears on the petition, in the voter info pamphlet, and/or on the ballot.

### Fiscal Impact Statements

|             | Who Prepares It  | Where It Is Published   | Cite   |
|-------------|--|---|--|
| Arizona     | Joint Legislative Budget Cmte. (after measure qualifies for ballot)          | Voter information pamphlet  | A.R.S. §19-123                                       |
| California  | Dept. of Finance, Joint Legislative Budget Cmte., and Attorney General       | Petition, voter information pamphlet, and ballot (included in title prepared by Attorney General) | Election Code, §9005<br>Government Code, §12172      |
| Colorado    | Director of Research of the Legislative Council                              | Voter information pamphlet  | C.R.S. §1-40-124.5                                   |
| Florida     | Not yet determined by law.   | Not yet determined by law.  | Fl Const. Article XI, Section 5                      |
| Mississippi | Legislative Chief Budget Officer   | Petition, voter information pamphlet, and ballot (included in text)                               | Miss. Code Ann. §23-17-1 and 23-17-45<br>Const. §273 |
| Missouri    | State Auditor and Attorney General   | Petition, voter information pamphlet, and ballot (included in title)                              | RSMO. §116.170 and 116.175                           |
| Montana     | Budget Director  | Petition, ballot and voter pamphlet   | Mt. Code Ann. §13-27-312                             |
| Nevada      | Secretary of State, in consultation with the Fiscal Analysis Division of the | Ballot, voter information pamphlet  | N.R.S. §293.250                                      |

|            |  |   |   |
|------------|--|---|---|
|            | Legislative Counsel Bureau   |   |   |
| Ohio       | Tax Commissioner   | Voter Information pamphlet                              | Ohio Rev. Code Ann. §3519.04            |
| Oregon     | Secretary of State, Treasurer, Director of Dept. of Administrative Services, and Director of Dept. of Revenue                                  | Voter information pamphlet, ballot                      | O.R.S. §250.125 and 250.127             |
| Utah       | Office of Legislative Research   | Voter information pamphlet                              | Utah Code Ann. §20A-7-701 and 20A-7-703 |
| Washington | Office of Financial Management, In consultation with the Secretary of State, Attorney General, and any other appropriate state or local agency | Voter information pamphlet, Secretary of State Web site | R.C.W. §29.79.075                       |
| Wyoming    | Secretary of State and/or Initiative sponsors*   | A newspaper of general circulation in state and ballot  | Wyo. Stat. §22-24-105                   |

\*If the final estimated fiscal impact by the Secretary of State and the final estimated fiscal impact by the committee of sponsors differ by more than twenty-five thousand dollars (\$25,000.00), the Secretary of State's comments under this section and the ballot proposition (published in newspaper and ballot) shall contain an estimated range of fiscal impact reflecting both estimates.

**Source:** National Conference of State Legislatures, April 2002.

One may argue that, even if voters have fiscal information, it is meaningless unless the public knows how big the budget is. Simply attaching a dollar amount to a measure may not provide enough information. To make a fiscal statement meaningful, it must be considered in the context of the fiscal resources of the state. Suggestions include printing pie charts or graphs to illustrate the fiscal impact of the proposed measure in the context of state resources, and including a general statement in the Voters' Pamphlet that lists the estimated financial effects of each ballot measure upon the general fund and the combined effect if all were to be approved.

For more information on Initiative and Referendum - please contact Jennie Drage Bowser [elections-info@ncsl.org](mailto:elections-info@ncsl.org).

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## Voter Information Pamphlets

| State      | Who Prepares and Distributes   | Contents of Pamphlet  | Who Pays for Pro/Con Statements  |
|------------|--|---|--|
| Alaska     | Lt. Governor   | <ul style="list-style-type: none"> <li>• Full text</li> <li>• Ballot title and summary from petition</li> <li>• Neutral summary prepared by Legislative Affairs Agency</li> <li>• Statements for and against (limited to 500 words each)</li> <li>• Also published in full on the Lt. Governor's homepage</li> </ul>  | There is no fee charged for statements and recommendations advocating approval or rejection of a proposition submitted to the voters for approval  |
| Arizona    | Secretary of State prepares; county board of supervisors distributes | <ul style="list-style-type: none"> <li>• Title</li> <li>• Text</li> <li>• Arguments for and against</li> <li>• Analysis prepared by Legislative Council;</li> <li>• Summary of fiscal impact statement</li> <li>• Published on the Secretary of State's homepage</li> </ul>   | The secretary of state sets fee for offsetting the proportionate cost of the paper and printing of the argument; a person must pay this fee for each argument they submit  |
| Arkansas   | N/A  | Text of measures published online on the secretary of state's web page  | N/A  |
| California | Secretary of State   | <ul style="list-style-type: none"> <li>• Text</li> <li>• Copy of specific constitutional or statutory provision that would be repealed or revised</li> <li>• Arguments and rebuttals for and against</li> <li>• Analysis prepared by a Legislative Analyst</li> <li>• Fiscal impact estimate</li> <li>• Art work, graphics and other material that the Secretary of State determines will make the pamphlet easier to understand</li> <li>• Published in full on the Secretary of State's homepage</li> </ul> | <ul style="list-style-type: none"> <li>• Costs of preparing and printing the voter information publication is funded by the state through the General Fund; there is no fee charged for statements and recommendations advocating approval or rejection of a proposition submitted to the voters for approval</li> <li>• If arguments for or against the measure are not filed with the petition, then the Secretary of State requests that voters submit arguments within a specified time period; the Secretary of State selects one argument for and one argument against to print giving priority first to Legislators, proponents of the measure, associations of citizens and lastly individual voters; once an argument is selected, the Secretary asks each side to write a rebuttal argument</li> </ul> |



| State    | Who Prepares and Distributes                        | Contents of Pamphlet   | Who Pays for Pro/Con Statements  |
|----------|---|--|--|
| Colorado | Legislative Council                                 | <ul style="list-style-type: none"> <li>• Title</li> <li>• Text</li> <li>• Impartial analysis, including description of major provisions of proposal and comments on proposal's application and effect prepared by the Legislative Council;</li> <li>• Summary of major arguments for and against prepared by the Legislative Council</li> <li>• Fiscal impact statement</li> <li>• Published on the Legislative Council's web page and hyperlinked from the Secretary of State's page</li> </ul>   | N/A  |
| Florida  | Up to individual counties to prepare if they choose | <ul style="list-style-type: none"> <li>• Varies from county to county</li> <li>• Information available online</li> </ul>   | N/A  |
| Idaho    | Secretary of State                                  | <ul style="list-style-type: none"> <li>• Title</li> <li>• Text</li> <li>• Ballot number</li> <li>• Arguments and rebuttals for and against</li> <li>• Published in full on Secretary of State's homepage</li> </ul>  | <ul style="list-style-type: none"> <li>• Costs of preparing and printing the voter information publication is funded by the state through the General Fund; there is no fee charged for statements and recommendations advocating approval or rejection of a proposition submitted to the voters for approval</li> <li>• The Secretary of State requests that voters submit arguments within a specified time period; the Secretary of State selects one argument for and one argument against to print giving priority first to proponents of the measure, associations of citizens and lastly individual voters; once an argument is selected, the Secretary asks each side to write a rebuttal argument*</li> </ul> |
| Maine    | Secretary of State                                  | <ul style="list-style-type: none"> <li>• Title</li> <li>• Text</li> <li>• Summary of intent and content and what a "yes" vote favors and what a "no" vote opposes</li> <li>• Fiscal impact estimate prepared by the Office of Fiscal and Program Review summarizing the aggregate impact on the General Fund, the Highway Fund, Other Special Revenue Funds and amounts distributed by the state to local units of government(beginning in November of 2006)</li> <li>• Public comment on the proposed amendments and referenda</li> <li>• Published in full on the Secretary of State's homepage</li> </ul> | A person filing a public comment for publication must pay a \$500 fee to the Secretary of State; fees are deposited into the Public Comment Publication Fund (unencumbered balance of the fund in excess of \$5,000 as of December 1 <sup>st</sup> of each year must be transferred to the General Fund)   |

| State         | Who Prepares and Distributes                              | Contents of Pamphlet   | Who Pays for Pro/Con Statements   |
|---------------|---|--|---|
| Massachusetts | Secretary of Commonwealth                                 | <ul style="list-style-type: none"> <li>Title</li> <li>Text</li> <li>Summary prepared by the Attorney general</li> <li>Fair and neutral one-sentence statement of the effects of the “yes” or “no” vote</li> <li>Text of measures published in full on Secretary of Commonwealth’s homepage</li> </ul>  | <ul style="list-style-type: none"> <li>Costs of preparing and printing the voter information publication is funded by the state through the General Fund; there is no fee charged for statements and recommendations advocating approval or rejection of a proposition submitted to the voters for approval</li> <li>Secretary of State seeks arguments from the principal proponents and opponents of each initiative within 10 days of filing the petition; if no argument is received by the principal proponents or opponents, then the Secretary prepares the arguments</li> </ul> |
| Michigan      | N/A   | Text of each proposal is published online  | N/A   |
| Mississippi   | Secretary of State  | <ul style="list-style-type: none"> <li>Text</li> <li>Ballot Title (Attorney General drafts)</li> <li>Ballot summary (Attorney General drafts)</li> <li>300-word argument for and 300-word argument against</li> <li>Fiscal analysis drafted by the legislatures’ chief budget officer</li> <li>Text of proposals are published online</li> </ul> | Costs are funded by the Secretary of State from funds appropriated by the Legislature   |
| Missouri      | Secretary of State  | <ul style="list-style-type: none"> <li>Text</li> <li>“Plain language” explanation</li> <li>Fiscal impact statement (State Auditor drafts)</li> <li>Published in one newspaper in each county and published online</li> </ul>   | N/A   |
| Montana       | Secretary of State prepares; county officials distribute  | <ul style="list-style-type: none"> <li>Title</li> <li>Text</li> <li>Impartial summary prepared by the Secretary of State</li> <li>Fiscal impact estimate</li> <li>Proponent and opponent arguments and rebuttals prepared by appointed committees</li> <li>Published online</li> </ul>   | The appointed committee expenses are paid by the Secretary of State with appropriated funds   |
| Nebraska      | Secretary of State prepares; county officials distribute  | <ul style="list-style-type: none"> <li>Title</li> <li>Text</li> <li>Arguments for and against (Secretary of State drafts)</li> <li>Published on Secretary of State’s website</li> </ul>  | N/A   |
| Nevada        | Secretary of State publishes; county officials distribute | <ul style="list-style-type: none"> <li>Title</li> <li>Text</li> <li>Arguments for and against (Secretary of State drafts)</li> <li>Fiscal impact statement</li> <li>Published on Secretary of State’s website</li> </ul>   | Arguments for and against are prepared by the Secretary of State  |
| North Dakota  | N/A   | Text of proposals are published online by the Secretary of State   | N/A   |

| State        | Who Prepares and Distributes               | Contents of Pamphlet   | Who Pays for Pro/Con Statements   |
|--------------|--|--|---|
| Ohio         | Secretary of State                         | <ul style="list-style-type: none"> <li>• Ballot title</li> <li>• Impartial statement prepared by the Secretary of State</li> <li>• Explanation prepared by the Ohio Ballot Board</li> <li>• Arguments for and against</li> <li>• Information available online</li> </ul>   | A committee named by the General Assembly or the Governor is responsible for preparing the for or against arguments   |
| Oklahoma     | House Research, Legal and Fiscal Divisions | <ul style="list-style-type: none"> <li>• Ballot title</li> <li>• Background</li> <li>• Text</li> </ul>   | N/A   |
| Oregon       | Secretary of State                         | <ul style="list-style-type: none"> <li>• Title</li> <li>• Text</li> <li>• Fiscal impact estimate</li> <li>• Explanatory statement (written by committee of five citizens-two members from opponents selected by Secretary of State, two members appointed by proponent's committee, fifth member selected by other four)</li> <li>• Arguments for and against</li> <li>• Published in full on Secretary of State's homepage</li> </ul> | A person filing an argument must pay a fee of \$500 to the Secretary of State when the argument is filed or submit a petition containing the signatures of 1,000 electors eligible to vote on the measure that states that each person agrees with the argument   |
| South Dakota | Secretary of State                         | <ul style="list-style-type: none"> <li>• Ballot title</li> <li>• Text</li> <li>• Explanation and effect (prepared by Attorney General)</li> <li>• Arguments pro and con</li> <li>• Published in full on Secretary of State's homepage</li> </ul>   | The director of the legislative research council prepares the written comments and arguments  |
| Utah         | Lt. Governor                               | <ul style="list-style-type: none"> <li>• Ballot number</li> <li>• Ballot title</li> <li>• Final vote cast by Legislature if it is a measure submitted by the Legislature</li> <li>• Fiscal impact estimate</li> <li>• Impartial analysis (prepared by Office of Legislative Research and General Counsel)</li> <li>• Arguments and rebuttals in favor of and against</li> <li>• Text</li> <li>• Published online</li> </ul>            | <ul style="list-style-type: none"> <li>• Costs of preparing and printing the voter information publication is funded by the state through the General Fund; there is no fee charged for statements and recommendations advocating approval or rejection of a proposition submitted to the voters for approval</li> <li>• Sponsors of a petition have a time period in which they can submit an argument; if more than one argument for the same side is received, the lieutenant governor designates a sponsor to write the argument; if sponsors of a petition do not file an argument within the allowable timeframe, any voter may request permission from the lieutenant governor to prepare an argument for the side for which no argument has been prepared; if more than one voter requests permission, the lieutenant governor designates one voter to write the argument; once each argument is received, the Secretary gives each side the opportunity to write a rebuttal to the other sides argument</li> </ul> |

| State      | Who Prepares and Distributes | Contents of Pamphlet   | Who Pays for Pro/Con Statements   |
|------------|------------------------------|--|---|
| Washington | Secretary of State           | <ul style="list-style-type: none"> <li>• Ballot number</li> <li>• Official title</li> <li>• Brief statement of law as it presently exists</li> <li>• Brief statement explaining effect of proposed law (Attorney General prepares)</li> <li>• Total votes for and against by house &amp; senate if measure has been passed by Legislature</li> <li>• Arguments for and against</li> <li>• Names and addresses of those writing arguments</li> <li>• Full text of each measure</li> <li>• Published in full on Secretary of State's homepage</li> </ul> | All arguments and rebuttals are prepared by committees appointed by the Secretary of State and the presiding officers of the House and Senate |
| Wyoming    | N/A                          | <ul style="list-style-type: none"> <li>• Text of proposals published in full online</li> </ul>   | N/A   |

## **APPENDIX E**

**Public Law 2005, chapter 316 and Public Law 2005, chapter 356**

## CHAPTER 356

H.P. 648 - L.D. 929

### An Act To Create Freedom of Citizen Information Regarding Ballot Questions

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

Sec. 1. 21-A MRSA §901-A is enacted to read:

#### §901-A. Petition requirements for direct initiatives of legislation

The following provisions apply to direct initiatives of  
legislation under the Constitution of Maine, Article IV, Part  
Third, Section 18.

1. Opportunity to read direct initiative summary. A person  
circulating a petition must provide the voter the opportunity to  
read the proposed direct initiative summary required by section  
901 prior to that voter signing the petition. The summary  
presented to the voter must be as it appears on a publicly  
accessible website established by the Secretary of State.

2. Required statements; placement of information. The  
Secretary of State shall include the following statements at the  
top of the petition to be submitted to voters in a type size of  
no less than 16 points:

"Freedom of Citizen Information: Before a registered voter  
signs any initiative petition, signature gatherers must  
offer the voter the opportunity to read the proposed  
initiative summary prepared by the Secretary of State."

"Ballot questions during the 20.. election [most recent  
election cycle] cost taxpayers approximately \$.....  
[Secretary of State shall use fiscal information provided by  
the Office of Fiscal and Program Review] each to be placed  
on the ballot. As a citizen of Maine, you have a right to  
this information."

The summary of the proposed direct initiative must be printed on  
the petition immediately following the statements required by  
this subsection.

## CHAPTER 316

H.P. 621 - L.D. 870

### An Act To Increase Access to Information Regarding Referendum Questions

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

Sec. 1. 1 MRSA §353, as amended by PL 1991, c. 837, Pt. A, §1, is further amended to read:

#### §353. Explanation of proposed amendments and statewide referenda

With the assistance of the Secretary of State, the Attorney General shall prepare a brief explanatory statement ~~which that~~ that must fairly describe the intent and content of and what a "yes" vote favors and a "no" vote opposes for each constitutional resolution or statewide referendum that may be presented to the people and which that must include any information prepared by the Treasurer of State under Title 5, section 152. The explanatory statement may not include comments of proponents or opponents as provided by section 354. In addition to the explanatory statement, ~~the Secretary of State and the Attorney General shall prepare an explanation of what a yes vote favors and a no vote opposes~~ beginning with the November 2006 election the Office of Fiscal and Program Review shall prepare an estimate of the fiscal impact of each constitutional resolution or statewide referendum on state revenues, appropriations and allocations within 30 days after the adjournment of the legislative session immediately prior to the statewide election when the constitutional resolution or referendum will appear on the ballot. The fiscal impact estimate must summarize the aggregate impact that the constitutional resolution or referendum will have on the General Fund, the Highway Fund, Other Special Revenue Funds and the amounts distributed by the states to local units of government. The Secretary of State shall publish this the explanatory statement and the fiscal estimate in each daily newspaper of the State, not more than 10 and not less than 7 days prior to the voting. ~~The explanatory statement~~ This information may be published in the English language in a foreign language newspaper.

Sec. 2. 1 MRSA §354 is enacted to read:

§354. Public comment on proposed amendments and statewide referenda; rules; fees

The Secretary of State shall adopt rules regarding the publication of public comment by proponents and opponents of constitutional resolutions or statewide referenda. These rules must include, but are not limited to, a word limit, the labeling of public comment as supporting or opposing a measure and the identification of the person or persons responsible for the comment. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. Beginning with the November 2006 election and every election thereafter, the Secretary of State shall publish the public comment, along with the explanatory statement and fiscal estimate required under section 353, on a publicly accessible site on the Internet and in pamphlets distributed to the municipalities of the State. A person filing a public comment for publication shall pay a fee of \$500 to the Secretary of State. Fees collected pursuant to this section must be deposited in the Public Comment Publication Fund established under Title 5, section 90-D.

Sec. 3. 5 MRSA §90-D is enacted to read:

§90-D. Public Comment Publication Fund

The Public Comment Publication Fund, referred to in this section as "the fund," is established as a nonlapsing fund within the Department of the Secretary of State. The fund consists of fees for public comment on constitutional resolutions and statewide referenda received by the Secretary of State pursuant to Title 1, section 354. The money in the fund must be used for the purpose of publishing the informational pamphlet that includes the public comment, explanatory statement and fiscal estimate pursuant to Title 1, section 354. The unobligated and unencumbered balance of the fund in excess of \$5,000 as of December 1st of each year must be transferred to the General Fund.

Sec. 4. Appropriations and allocations. The following appropriations and allocations are made.



SECRETARY OF STATE, DEPARTMENT OF THE

Bureau of Administrative Services  
and Corporations 0692

Initiative: Provides initial allocations for the Public  
Comment Publication Fund.

|                                   |             |             |
|-----------------------------------|-------------|-------------|
| OTHER SPECIAL REVENUE FUNDS       | 2005-06     | 2006-07     |
| All Other                         | \$500       | \$500       |
| OTHER SPECIAL REVENUE FUNDS TOTAL | <hr/> \$500 | <hr/> \$500 |

## **APPENDIX F**

**Testimony of Jonathan Wayne, Executive Director  
Commission on Governmental Ethics and Elections Practices**



STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS  
AND ELECTION PRACTICES  
135 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0135

**Testimony of Jonathan Wayne, Executive Director of the  
Commission on Governmental Ethics and Election Practices  
Before the Commission to Study Alternative Voting Procedures,  
the Citizen Initiate Process and Minor Party Ballot Access  
October 3, 2005**

Senator Diamond, Representative Faircloth, members of the Commission: my name is Jonathan Wayne and I am the Executive Director of the Ethics Commission. Your staff suggested I submit testimony regarding whether advocates of ballot questions must file campaign finance reports of contributions and expenditures for gathering petition signatures. I have attached the relevant statutory provisions.

Every organization that meets the definition of "political action committee" (PAC) and that receives or spends more than \$1,500 in a calendar year to "initiate, support, defeat or influence in any way" a ballot question must register as a PAC and file campaign finance reports. In my opinion, "initiate" should be understood to include gathering signatures, but the Commission has not decided on the issue or offered guidance.

Also, the Election Law states that any organization opposing a ballot question shall begin filing campaign finance reports prior to the distribution of petitions for voter signatures. If opponents of a ballot question are required to file campaign finance reports with the Commission during signature-gathering phase, it makes sense that the Legislature may have intended that proponents would also be required to file reports.

Thank you for your consideration of this testimony.

cumulative amount of these expenses does not exceed \$100 with respect to any election; and

(6) Any communication by any political action committee member that is not made for the purpose of influencing the nomination for election, or election, of any person to state or county office.

**5. Political action committee.** The term "political action committee:"

A. Includes:

(1) Any separate or segregated fund established by any corporation, membership organization, cooperative or labor organization whose purpose is to influence the outcome of an election, including a candidate or question;

(2) Any person who serves as a funding and transfer mechanism and spends money to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition in this State;

(3) Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that makes expenditures other than by contribution to a political action committee, for the purpose of the initiation, promotion or defeat of any question; and

(4) Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that solicits funds from members or nonmembers and spends more than \$1,500 in a calendar year to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition in this State; and

B. Does not include:

(1) A candidate or a candidate's treasurer under section 1013-A, subsection 1;

(2) A candidate's authorized political committee under section 1013-A, subsection 2; or

(3) A party committee under section 1013-A, subsection 3.

**21A § 1053. Registration**

Every political action committee that accepts contributions, incurs obligations or makes expenditures in the aggregate in excess of \$1,500 in any single calendar year to initiate, support, defeat or influence in any way a campaign, referendum, initiated petition, candidate, political committee or another political action committee must register with the commission, within 7 days of accepting those contributions, incurring those obligations or making those expenditures, on forms prescribed by the commission. These forms must include the following information and any additional information reasonably required by the commission to monitor the activities of political action committees in this State under this subchapter:

#### **21A § 1058. Reports; qualifications for filing**

A political action committee that is registered with the commission or that accepts contributions or incurs obligations in an aggregate amount in excess of \$50 on any one or more campaigns for the office of Governor, for state or county office or for the support or defeat of a referendum or initiated petition shall file a report on its activities in that campaign with the commission on forms as prescribed by the commission. A political action committee organized in this State required under this section to file a report shall file the report for each filing period under section 1059. A political action committee organized outside this State shall file with the Commission on Governmental Ethics and Election Practices of this State a copy of the report that the political action committee is required to file in the state in which the political action committee is organized. The political action committee shall file the copy only if it has expended funds or received contributions or made expenditures in this State. The copy of the report must be filed in accordance with the schedule of filing in the state where it is organized. If contributions or expenditures are made relating to a municipal office or referendum, the report must be filed with the clerk in the subject municipality. Any person or organization organized to oppose a question to be voted on by the electorate at referendum shall report, within 10 days following the drafting of the question by the Secretary of State and prior to the distribution of any petitions for voter signatures pursuant to chapter 11, to the commission as required in this section and sections 1059 and 1060.

\*

#### **21A § 1059. Report; filing requirements**

Committees required to register under section 1053 shall file reports in compliance with this section. All reports must be filed no later than 5 p.m. on the filing deadline.

**1. Contents; quarterly reports and election year reports.** The reports required under subsection 2, paragraphs A, B and C, must contain the following:

- A. Itemized expenditures required by the commission to closely monitor the activities of political action committees;
- B. Aggregate expenditures, listed by candidate or political committee, for the reporting period for which the report is filed;
- B-1. Cumulative expenditures, listed by candidate or political committee, aggregating the expenditures made during preceding reporting periods in the same calendar year and during the reporting period for which the report is filed;
- C. The total cumulative balance from all preceding reporting periods; and
- D. In the report required to be filed under subsection 2, paragraph B, subparagraph 2, a summary of all expenditures made during the calendar year in which the election was held.

## **APPENDIX G**

**Resolve 2005, chapter 70**

**CHAPTER 70**  
**S.P. 401 - L.D. 1173**

**Resolve, Directing the Secretary of State To Design a Pilot Program for Early Voting**

**Sec. 1. Secretary of State to design pilot program for early voting. Resolved:** That the Secretary of State shall design a pilot program for early voting for the general election to be held in November 2008. The Secretary of State shall select one municipality that is willing and able to be the pilot municipality and may select an additional municipality or municipalities to participate in the pilot program at the discretion of the Secretary of State and with the consent of the municipalities. In designing the pilot program, the Secretary of State may consult with other states that have early voting laws in order to use best practices of those states; and be it further

**Sec. 2. Reporting date established. Resolved:** That the Secretary of State shall submit a report by February 15, 2007 to the joint standing committee of the Legislature having jurisdiction over legal and veterans affairs detailing the plan for conducting a pilot program for early voting and outlining any issues of concern. The committee shall review the plan and by May 1, 2007 may submit legislation to the First Regular Session of the 123rd Legislature to authorize the Secretary of State to conduct the pilot program for the November 2008 general election.

Effective September 17, 2005.