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Report on the November 2009 Pilot Program for Early Voting

Prepared for the 124th Maine Legislature January 15, 2010



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

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I. EXECUTIVE SUMMARY

In the fall of 2009, the State of Maine conducted its second successful pilot of the Early Voting process in a Referendum election. The 2009 pilot, expanded to include nine municipalities, was a tremendous success (as documented in this report with survey results and analysis). Nearly 13,000 voters and the municipal election officials from the nine pilot municipalities enthusiastically embraced Early Voting. Early Voting was again shown to provide convenience and ease of access to voters, while at the same time alleviating some of the demands on municipal election officials as they contend with processing increasing numbers of absentee ballots.

Both the State and the participating municipal election officials are confident that this process can be successfully implemented for other elections. However, as noted in this report and earlier reports, there are Constitutional issues, regarding implementation of Early Voting in candidate elections, which should be resolved prior to adopting and an Early Voting process in statute.

If the Legislature wishes to proceed down a path of implementing Early Voting, then the next step would be to send to the voters an amendment of Article II, section 4 of the Maine Constitution. This amendment, if approved by the voters, would not adopt Early Voting as a method of voting in future elections, it would simply authorize the Legislature to do so by enacting an implementing statute. The Legislature would then be able to scrutinize the pilot program procedures more closely, and determine the best statutory framework for implementing Early Voting as an accepted voting method for any statewide elections.

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II. BACKGROUND

The issue of Early Voting was introduced to the First Regular Session of the 122nd Legislature as L.D. 1173, and was presented in response to concerns raised by clerks from several municipalities about the increased volume of in-person and other absentee voting that occurred during the 2004 Presidential Election. Absentee voting had nearly doubled from about 11% of total ballots cast in the 2000 Presidential Election, to almost 22% in 2004. Clerks reported feeling overwhelmed by the preparations for, and the processing of, absentee ballots during Election Day 2004. (Note: By the 2008 Presidential Election, absentee voting comprised over 32% of the total ballots cast.) The original proposal directed the Secretary of State to design a process that would allow municipalities to permit voting at a voting place up to 2 weeks prior to Election Day, and to submit a report to the Joint Standing Committee on Legal and Veterans Affairs by December 1, 2005.

The Secretary of State's office expressed concern about the original proposal, primarily due to the pending deadlines for implementation of the Central Voter Registration system (CVR) and Accessible Voting System (AVS) required by the federal Help America Vote Act of 2002 (HAVA). The office testified that a prerequisite to Early Voting would certainly be the full implementation of the CVR, a significant component of which would be an absentee ballot processing and tracking module. Prior to the implementation of CVR, most municipalities did not have an electronic system that facilitated tracking and reporting on absentee ballots issued and received. The Secretary of State's Office believed that the CVR would provide a way that all municipalities could track ballots cast through the Early Voting process in the same manner.

Additionally, the Secretary of State's office testified that before Early Voting or any other major voting process change was implemented, the office would need to design appropriate procedures to ensure that voters would have the opportunity to cast only one ballot; to ensure that the public would have an opportunity to observe the process and challenge early ballots, the same as they would absentee or Election Day ballots; and to ensure that cast ballots would be safeguarded until they were counted. Finally, the office recommended that there should be a pilot program conducted in at least one municipality to verify that all potential issues were addressed before the Legislature considered adopting the process statewide.

The Legislature acknowledged the concerns of the Secretary of State and amended the Resolve to require the Secretary of State to study Early Voting, design a pilot program to be conducted at the November 2008 General Election, and report back to the Joint Standing Committee on Legal and Veterans Affairs during the First Regular Session of the 123rd Legislature.

Summary of 2007 Study Report on Early Voting

In 2006, the Secretary of State established the Early Voting Study Group to analyze the process of Early Voting and identify the factors to be considered when conducting a pilot program in Maine. The Study Group submitted its report to the 123rd Legislature, entitled *Report and Pilot Program for Early Voting*, on April 1, 2007. This report is found at the following link on the Secretary of State's website:

www.maine.gov/sos/cec/elec/voter info/early-voting-report-2007.doc

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In the report, the Study Group defined "Early Voting" to be a time period before an election during which voters would have the opportunity to cast a ballot at a designated voting place within the voter's municipality, in the same manner as on Election Day. The Study Group recommended a plan for conducting a pilot and raised statutory and constitutional issues needing consideration prior to full implementation of Early Voting.

The Study Group also recommended, and the Legislature adopted, legislation to allow municipalities the option to process absentee ballots on the day prior to Election Day. This optional process has been used successfully by many municipalities since 2007.

Summary of 2008 Report on the November 2007 Pilot Program for Early Voting

The 123rd Legislature authorized an Early Voting Pilot to be conducted at the November 6, 2007, Referendum Election. The Secretary of State submitted a report of the pilot, entitled *Report on the November 2007 Pilot Program for Early Voting*, on February 25, 2008. The 2008 report is found at the following link on the Secretary of State's website:

www.maine.gov/sos/cec/elec/voter info/early-voting-2008.doc

The pilot, conducted in three municipalities - Bangor, Portland and Readfield – was a tremendous success. Over 1,800 voters and the municipal election officials from the three pilot municipalities enthusiastically embraced Early Voting, as demonstrated by the results of surveys completed by the participating voters and reports from election officials in the pilot municipalities. Early Voting was shown to provide convenience and ease of access to voters, while at the same time alleviating some of the demands on municipal election officials as they contend with processing increasing numbers of absentee ballots.

As a result of this success, the Secretary of State recommended taking the necessary steps for adoption of Early Voting. To resolve a potential issue with Article II, section 4, of Maine's Constitution, the Secretary of State recommended that a Constitutional Amendment question be placed on the November 4, 2008, General Election ballot.

Based on the Secretary of State's *Report on the November 2007 Pilot Program for Early Voting*, the 123rd Legislature proposed a Constitutional Resolution during the Second Regular Session, although Resolution did not receive the two-thirds vote necessary to send the measure to the voters in November 2008.

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III. INTRODUCTION

The 124th Legislature, in the First Regular Session, enacted Chapter 24 of the Resolves of 2009, entitled *Resolve, Directing the Secretary of State To Conduct a Pilot Program for Early Voting for the November 2009 Election.* This Resolve directed the Secretary of State to administer a pilot program that would allow selected municipalities to conduct early voting at voting places up to 10 days prior to Election Day, November 3, 2009.

The Secretary of State was authorized to select the municipalities to participate in the program, subject to the consent of the municipal clerks. The Resolve further provided that the Secretary of State, in administering the early voting program, would use the findings of its April 1, 2007, Report and Pilot Program for Early Voting and February 25, 2008, Report on the November 2007 Pilot Program for Early Voting, as well as best practices used by other states that have early voting laws.

Additionally, the Resolve directed the Secretary of State to submit a report by January 15, 2010 to the Joint Standing Committee on Legal and Veterans Affairs detailing the results of the pilot program. In compliance with the Resolves of 2009, Chapter 24, the Secretary of State submits this *Report on the November 2009 Pilot Program for Early Voting*.

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IV. DESCRIPTION OF THE 2009 EARLY VOTING PILOT

Designing the Pilot

The Secretary of State, in designing and conducting the early voting program for 2009, relied heavily on the information gathered for the April 1, 2007, *Report and Pilot Program for Early Voting*. This office also utilized the Early Voting Plans, Uniform Security Procedures and forms and processes developed for the 2007 Early Voting Pilot (as included in the February 25, 2008, *Report on the November 2007 Pilot Program for Early Voting*), with some enhancements suggested by the participating municipalities.

Participating Municipalities

Nine municipalities expressed an interest in participating in the pilot and were selected as the pilot municipalities. A list of these municipalities, along with the number of active status registered voters as of December 2009, is provided below. These municipalities all use optical scan tabulators to count their paper ballots.

Name of Pilot	Number of
Municipality	Active Voters
Augusta	14,026
Bangor	21,810
Cumberland	5,655
Falmouth	8,694
Gorham	11,884
Hallowell	2,117
Saco	13,504
Scarborough	14,796
Standish	7,221

Early Voting Plans

In the fall of 2009, the municipalities who wished to participate in the pilot had to complete and submit an *Early Voting Plan*, which detailed the location and hours of Early Voting for their municipality. A sample of the *Early Voting Plan for Optical Scan Municipalities* is found in *Appendix A* of this report. The *Early Voting Plan* included two main components, as follows:

1. The schedule for Early Voting. The early voting period extended from Monday, October 26th through Saturday, October 31st, plus Monday, November 2nd. The nine municipalities indicated in their *Early Voting Plan* which of these days and what hours they would offer Early Voting. This allowed the participating municipalities the flexibility to determine the schedule that would work best for them.

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2. The location for Early Voting. Each municipality had to choose a single location for Early Voting that was available for the entire Early Voting time, was of adequate size to handle estimated turnout, and was accessible to people with disabilities.

Uniform Security Procedures

Each pilot municipality also had to complete and submit the *Uniform Security Procedures* document, initialing each section to indicate compliance with each security requirement. A sample of the *Uniform Security Procedures – Machine Municipalities* document is found in *Appendix B* of this report. The security procedures detailed:

- 1. the minimum staffing requirements to assure that ballots and other voting materials were attended by at least two people at all times during Early Voting;
- **2. the audit and reconciliation requirements** to verify the number of ballots put into the tabulating machine equaled the number of names entered on the list of voters who cast ballots each day;
- **3. the security requirements** for storing the optical scan tabulating systems, and voted and unvoted ballots after each day of Early Voting; and
- **4. the tracking requirements** provided by entering early voters' information into the Central Voter Registration system (CVR).

General Pilot Program Procedures

The Secretary of State created a set of general procedures for pilot municipalities to use as guidance for conducting Early Voting. A sample of the *Early Voting Pilot Program Procedures (Machine Ballots)* is found in *Appendix C* of this report. This document, along with the training guides provided to all municipalities for conducting an election, assisted the pilot municipalities in carrying out their Early Voting duties in a uniform manner. The Secretary of State, in consultation with the pilot municipalities, reviewed and revised the forms used for the 2007 pilot program, so that each pilot municipality used the same forms for tracking and auditing the 2009 pilot.

The procedures used for Early Voting were essentially the same as on Election Day. The provisions for Election Day activities found in Title 21-A, Maine Law on Elections, governed the process. Some of these laws include: the provisions for political activities at the voting place, petitioners, poll watchers, candidates and challenges. Early voters who were not already registered were allowed to register and vote (either a regular ballot or, if the voter could not provide sufficient proof of identity or residency, a challenged ballot) just as they would on Election Day.

Voters were checked in before voting, using an Incoming Voting List produced from the Central Voter Registration System (CVR). Voters did not have to complete an application form; instead, they were asked to enter their name, address and signature on a printed log form. Municipal election officials were required to enter into the CVR the information on voters who cast an early ballot, much like they would do for in-person absentee voters. There were no programming changes made to the CVR to accommodate Early Voting. However, early voted ballots were coded using the designation "state blank absentee ballots", which is a code in CVR

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that is not used for Referendum elections. This allowed the municipalities to distinguish between in-person absentee ballots and early voted ballots and obtain a separate report of those voters who cast a ballot during the Early Voting process.

Each municipality also had an accessible voting device available in the Early Voting area, to ensure that voters with disabilities had an opportunity to cast an early voted ballot with privacy and independence, as required by the Help America Vote Act of 2002 (HAVA).

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V. ANALYSIS AND CONCLUSIONS

Election Official Perspective

The State and pilot municipality election officials are in agreement that the 2009 Early Voting Pilot was a successful venture. As with the 2007 pilot, Early Voting was shown to provide convenience and ease of access to voters, while at the same time alleviating some of the demands on municipal election officials as they contend with processing increasing numbers of absentee ballots. The total of early votes cast was 12,970, as compared with 1,844 early votes cast in the 2007 pilot. The chart below details the number of early votes cast each day by municipality.

Municipality	10/26/09	10/27/09	10/28/09	10/29/09	10/30/09	10/31/09	11/2/09	Total
Augusta	132	153	175	206	261	N/A	561	1488
Bangor	345	535	393	576	626	196	956	3627
Cumberland	74	96	156	222	N/A	195	366	1109
Falmouth	65	99	166	285	N/A	142	537	1294
Gorham	68	91	192	221	240	136	N/A	948
Hallowell	N/A	N/A	N/A	58	63	N/A	88	209
Saco	67	89	141	230	292	112	501	1432
Scarborough	128	192	335	285	416	N/A	632	1988
Standish	86	75	176	183	N/A	N/A	355	875
Total	965	1330	1734	2266	1898	781	3996	12970

This pilot provided a wealth of useful information on how best to administer early voting in a larger number of municipalities. However, both the State and municipal election officials agreed that changes to the general program procedures or specific security procedures used in this pilot should be considered only if the Legislature and the voters determine that they wish to adopt Early Voting as an authorized voting method.

Voter Perspective

Along with their ballots, voters opting to participate in Early Voting were provided with a survey designed to help policy makers and administrators evaluate the pilots. This survey was copied from the one used in 2007, except that one new question was added, which read: "Would you like to have this Early Voting option available in future elections?" A copy of the survey form is found in *Appendix D* of this report.

Across all nine municipalities 12,970 citizens – approximately 23% of those who voted in that election in those municipalities – participated in the pilots, casting their ballots early. Of those voters, 12,060, or 93%, returned their survey forms (fully or partially completed). Responses indicate that the pilots were successful and, generally, enthusiastically embraced by those participating. Responses also offer valuable insight on why voters participated, what they liked or disliked and how any future Early Voting efforts can enjoy the same or greater success.



Survey responses revealed several interesting trends. While citizens chose to early vote in significant numbers throughout all available days and times, the peak voting days were the Thursday, Friday and Monday preceding Election Day; and the peak voting hours were late morning (10-12) followed by late afternoon (2-4).

Voters were asked "How did you hear about Early Voting?" and were encouraged to select all options that applied. Nearly one-third (32%) of voters indicated they had heard of Early Voting by newspaper and nearly the same number had heard of Early Voting on television (32%). Other significant sources of public awareness included: friends and family (22%), municipal official (11%), radio (9%), municipal website (6%) and road signs, posters, and other signs (5%).

Perhaps most interesting, voters were asked to indicate "Why did you choose Early Voting?" and were encouraged to select all options that applied. More than two-thirds of voters cited "convenience to my schedule" as a reason for voting early. Nearly 1 out of 10 voters indicated they were going to be "away on Election Day". Additionally, nearly 4 out of every 10 voters indicated that a desire to "avoid the polls on Election Day" was one of the reasons they chose to vote early.

Although small in numbers, it is worth noting that of those selecting "Other": 42 cited mobility issues or other disabilities causing an aversion to lines or crowds and therefore a preference for Early Voting; 37 others also referenced a desire to avoid crowds and lines; 15 referenced a desire to avoid petitioners or candidates; 25 were either poll workers or campaign workers; 25 preferred the Early Voting location to their voting place; 73 were already at the Early Voting location for other business; 32 referenced a desire to be sure they did not miss the opportunity to votes and 22 referenced Early Voting to help a particular campaign.

Voters were asked to indicate "Would you like to have this Early Voting option available in future elections?" An overwhelming 98% of voters (virtually 100% of those responding to this question) answered "YES," they would like this option in future elections.

Nearly half of the survey respondents provided narrative answers to the question "What did you like about this Early Voting experience?", and repeated key themes of **convenience**, **the lack of or shortness of lines**, **the lack of waiting** and references to the process being **quick** or **fast**. Only 10% of survey respondents provided answer to the question "What would you like to see changed?". Of those responding to the question, two-thirds of the indicated that nothing needed to change, while one-quarter sought changes such as expanded Early Voting days and hours, increased publicity of Early Voting opportunities, refinements in the check-in process, and facility improvements.

The full summary of the survey responses is included in *Appendix E* of this report.

Constitutional Issues

As noted in the April 1, 2007 Study Group Report on the Pilot Program for Early Voting, there is a constitutional issue with regard to Early Voting that should be addressed if the Legislature wishes to adopt this as a practice for candidate elections statewide. The issue



concerns the following provision in Article II of Maine's Constitution on the timing of State candidate elections:

Section 4. Time of state election; absentee voting. The election of Senators and Representatives *shall be on the Tuesday* following the first Monday of November biennially forever and the election of Governor *shall be on the Tuesday* following the first Monday of November every 4 years. The Legislature under proper enactment shall authorize and provide for voting by citizens of this State and for voting by other citizens absent or physically incapacitated for reasons deemed sufficient. (Emphasis added).

By specifying that candidate elections for state offices "shall be held on the Tuesday following the first Monday in November," the Constitution does not appear to leave the Legislature the latitude to permit voting on any day but the Tuesday following the first Monday of November. Article II, section 4 clearly authorizes the Legislature to provide a system of absentee voting for those who are absent or physically incapacitated on Election Day, but Early Voting is a different concept.

Maryland's Early Voting statute was challenged on the grounds that it conflicted with a provision in that state's constitution similar to Maine's, and the Maryland Court of Appeals struck it down on those, as well as other, grounds. *Lamone v. Capozzi*, 912 A.2d 674 (Md. 2006). In essence, the court found that Maryland's Constitution recognized only two methods of voting – in person voting and absentee balloting – rejecting the argument that Early Voting was a form of absentee balloting since Early Voting was not limited to people who would be absent or otherwise unable to get to the polls on Election Day.

This appears to be the only court decision addressing this constitutional issue, and it is not binding precedent in Maine. Nonetheless, given the similarity of our state's constitutional provisions on the timing of candidate elections, Maine courts might well follow the reasoning of the Maryland Court of Appeals if an Early Voting statute were challenged here.

Next Steps

The State has now conducted two successful pilots of the Early Voting process in Referendum elections. Both the State and the participating municipal election officials are confident that this process can be implemented for other elections once the Constitutional issues are resolved, and an Early Voting process is adopted in statute. If the Legislature wishes to proceed down a path of implementation, then the next step would be to send to the voters an amendment of Article II, section 4 of the Maine Constitution. This amendment, if approved by the voters, would not adopt Early Voting as a method of voting in future elections, it would simply authorize the Legislature to do so by enacting an implementing statute. The Legislature would then be able to scrutinize the pilot program procedures more closely, and determine the best statutory framework for implementing Early Voting as an accepted voting method for any statewide elections.



Appendix A

Sample Early Voting Plan for Optical Scan Municipalities for the November 2009 Pilot Program



Ea	arly Voting Facility:		
•	Facility Name		
•	Physical Address of Facility		
Ce	ertifications of Clerk Regarding Early Vo	oting Facility:	
•	1. Size: The facility is of adequence 627, and will be set up like a voting place sufficient size to allow the presence of at an opportunity as permitted by law for observed.	ce on Election Day, as nearly least one pollwatcher from ea	as practicable. The space is also of ach of the qualified parties, to provide
•	2. Availability: The facility is av contained in this plan.	vailable for the entire early vot	ing period as outlined in the schedule
•	3. Physical Accessibility: The fac	cility meets the ADA accessib	pility requirements for a voting place.
•	4A. Accessible Voting: A ded facility to allow any voter to cast a ballot up and fully operational during the hours assisting a voter who requests to use the A	t using the Accessible Voting s of early voting and the staff	
<u>or</u> •	4B. Alternative Plan for Access guardrail enclosure at the facility. Instead consideration by the Secretary of State, w	ad, the clerk proposes an alte	
Sc!	Monday, October 26, 2009 Tuesday, October 27, 2009 Wednesday, October 28, 2009 Thursday, October 29, 2009 Friday, October 30, 2009 Saturday, October 31, 2009	Hours:	
Sta •	number (not less than 2) of Clerk early voting hours.	k staff/election officials will b	e working at all times during the
	ecurity/Early Voting Procedures: As detailed in the "Early Voting Pilot – U	Jniform Security Procedures (Optical Scan Municipalities)".
Μı	unicipal Clerk signature:		
De	eputy Secretary of State signature:		Date Plan approved:



Appendix B

Sample Uniform Security Procedures - Machine Municipalities for the November 2009 Pilot Program



EARLY VOTING PILOT

Uniform Security Procedures – *Machine Municipalities* for the November 3, 2009 Referendum Election

1. Early Voting Pilot Program (Overview). Initials of Clerk:

- **1.1.** Early Voting (EV) is a pilot program authorized by the Legislature for the November 3, 2009, Referendum Election only. (see Resolves of 2009, Chapter 24).
- **1.2.** The Secretary of State determines the municipalities that can participate in the EV pilot program from among the municipality applicants who wish to offer this optional program.
- 1.3. Interested municipalities must apply to the Secretary of State, Division of Elections, by 5 p.m. on Friday, October 2nd; by submitting an *Early Voting Plan* and this *Uniform Security Procedures* form.
- **1.4.** EV is conducted in a similar manner to Election Day voting, rather than in-person absentee voting. In fact, on the days and times that EV is offered by the approved participants, EV replaces in-person absentee voting at the clerk's office. The voter's marked ballot is cast (deposited into the tabulating machine/ballot box) and the vote tabulations accumulate in the memory of the tabulator. However, at the end of each day of EV, the tabulators must be secured as provided in this security document, and no vote totals may be obtained until after the polls have closed on Election Day and all absentee ballots have been processed.
- **1.5.** Once the Secretary of State selects the participating municipalities, additional procedures and audit forms will be provided to each municipality. Participating municipalities agree to follow all required procedures, including those delineated in these *Uniform Security Procedures*.

2. Staffing requirements. Initials of Clerk:

- **2.1.** A minimum of 2 staff must be in attendance at all times during EV, when accessing the secure storage area for ballots, or when transporting voted or unvoted ballots between the secure storage area and the voting place.
- **2.2.** The Clerk may designate municipal staff as election officials (Warden, Deputy Warden/Ward Clerk and election clerks) to conduct EV, or may use the election officials that were appointed for Election Day.
- **2.3.** However, just like on Election Day, the requirements of 21-A MRSA section 503 shall apply; i.e. there must be a minimum of 1 Democrat and 1 Republican election clerk at all times during EV, and if more than 1 pair of election clerks is used, there must be a balance of the major party representation or no more than 1 additional election clerk from either major party.

3. Location for Early Voting. Initials of Clerk:

- **3.1.** The Clerk must designate a single location for EV.
- **3.2.** The location must be of sufficient size to accommodate all necessary staff, ballot materials and the tabulating device(s) in one voting area, which must be surrounded by a guardrail enclosure similar to the one used on Election Day.
- **3.3.** The location must accommodate public access, outside the guardrail enclosure, at all times during EV. At a minimum, the public area outside the guardrail enclosure must be large enough to accommodate at least one pollwatcher from each of the qualified parties.
- **3.4.** The Clerk must ensure that the location for EV meets all the required certifications on the *Early Voting Plan*, and must designate which option will be used for providing the Accessible Voting System (AVS) during EV.



4. Use of official tabulator; audit requirements. Initials of Clerk:

- **4.1.** The Clerk must provide an official tabulating machine/ballot box for use in EV. (*Please see section 5 regarding the options for EV based on the number of tabulators and memory cards.*)
- **4.2.** After the Clerk has completed the pre-election testing, the Clerk must apply a numbered seal to the compartment where the memory device is inserted, and record the seal number on the "Audit Log for Early Voting (Optical Scan Ballots)" log form.
- **4.3.** Before beginning the first day of EV, the Clerk/Warden must produce a "Zero" tape and verify that the public counter on the machine reads zero.
- **4.4.** Before beginning each day of EV, the Clerk/Warden and 1 other staff must open each compartment of the tabulating machine/ballot box, to show publicly that it is empty; re-lock the compartments; and secure the key until EV is completed.
- **4.5.** At the end of each day of EV, the Clerk/Warden must record the public counter number on the "Audit Log for Early Voting (Optical Scan Ballots)" log form. (Note: if more than one ballot was issued to each voter, the counter number must be divided by the number of ballots issued to each voter to obtain the correct number of votes cast.) The Clerk/Warden must ensure that no tally tape of results is generated until after the polls close on Election Day and all voters have voted and all absentee ballots have been processed through the machines.
- **4.6.** The number of early voters, designated on the CVR List of Absentee Voters as having their ballots cast in person during early voting, must be recorded on the "Audit Log for Early Voting (Optical Scan Ballots)" log form. Any discrepancy between the number of ballots cast and the number of voters recorded in CVR also must be noted on the log. Further instructions will be provided to participating municipalities along with the applicable audit forms.

5. Options for processing based on the number of tabulators and memory cards. Initials of Clerk/ Option Selected:

- 5.1. Option 1. Use of 2 tabulators and 2 memory cards/devices. If the municipality has at least 2 tabulators, the Clerk must test each memory card/device and seal it into its own tabulator. One tabulator will be used for EV, while the second tabulator will be secured for use on Election Day. After EV is completed, the officials must verify that each compartment of the tabulating machine/ballot box used for EV is empty, and make it available for early processing of absentee ballots (if the municipality opts to do so) and/or for processing additional absentee ballots on Election Day. The optical scan tabulating machine must be unplugged and placed in a vault, or other locked and secure location, to which only the Clerk and the Clerk's designees have access. The memory card/device must remain sealed in the machine. The machine may be removed from the secure storage area and used on Election Day to process any absentee ballots that were received after the start of early processing and through 8 p.m. on Election Day. The Clerk will transport the second tabulator, with its own, sealed memory card/device, to the voting place and use it for Election Day voting according to the usual procedures. OR
- **5.2. Option 2.** Use of 1 tabulator with 2 memory cards/devices. If the municipality only has 1 tabulator, but has at least 2 memory cards/devices, the municipality still may conduct EV by following the procedures in this section. The Clerk must test both memory devices, and seal 1 of the memory devices in the tabulator for EV, and secure the other memory device until Election Day. After EV is completed, the officials must verify that each compartment of the tabulating machine/ballot box used for EV is empty, and remove the memory device from the tabulator and secure it until after the polls close on Election Day. The Clerk then must seal the 2nd memory device into the tabulator, and place the tabulator in a vault, or other locked and secure location, to which only the Clerk and the Clerk's designees have access. The Clerk will remove the tabulator from the secure storage area and will

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transport the tabulator to the voting place to be used for Election Day voting according to the usual procedures. The Clerk will transport the memory device used for EV to the voting place and keep it until after the polls have closed and the tally tapes have been printed from the Election Day memory device. Any absentee ballots that were received after the start of early processing and through 8 p.m. on Election Day, must either be processed at the voting place during Election Day using the Election Day memory device, or must be processed after 8 p.m. using the memory device used for EV. After all Election Day voters have voted, the Warden will remove the Election Day memory device from the tabulator, insert the memory device that was used for EV, and print the tally tapes reflecting the EV ballots. The Warden will complete the tally sheets and Return of Votes Cast, including tallies from both memory devices.

6. Election procedures (generally). Initials of Clerk:

- **6.1.** The procedures for EV are the same as provided in Title 21-A for Election Day (§671, §672).
- **6.2.** The requirements for challenging of ballots and pollwatching are the same as provided in Title 21-A for Election Day. (§673, § 681)
- **6.3.** The Clerk/Warden must complete the "Warden's Log of Opening the Ballot Box", using the same process that is followed on Election Day, before any processed ballots may be removed or compressed.

7. Securing voted ballots from the fully <u>counted bin</u> of the tabulator. Initials of Clerk:

- **7.1.** At the end of each day of EV, ballots must be removed from the tabulator bin, without reviewing any votes cast. The officials must immediately place the ballots in one or more tamper-proof containers, labeled "Fully Counted EV Ballots 11/3/09 Referendum Election". Each container must be locked and sealed in the same manner as required for voted materials on Election Day.
- **7.2.** A Certificate of Sealed Ballot Container must be completed, designating each container of early voted ballots.
- **7.3.** The locked and sealed tamper-proof containers must be placed in a vault, or other locked and secure location, to which only the Clerk and the Clerk's designees have access. As long as there is no malfunction in the tabulator that results in the ballots having to be reprocessed, these containers must be kept in the secure storage area and must not be taken to the polls, and must not be opened or have ballots removed either until a recount occurs or the time for retention of ballots in the tamper-proof containers has passed.

8. Securing voted ballots from the <u>auxiliary</u> and/or the <u>unread/not fully counted</u> bin of the tabulator. Initials of Clerk/ Option Selected:

- **8.1. Option 1. Seal in tamper-proof containers.** At the end of each day of EV, ballots must be removed from the tabulator bin, without reviewing any votes cast. The officials must place the ballots in one or more tamper-proof containers that are labeled "Unread/Not Fully Counted EV Ballots 11/3/09 Referendum Election". Each container must be locked and sealed and the information recorded on a Certificate of Sealed Ballot Container.
- The locked and sealed tamper-proof containers of <u>unread/not fully counted ballots</u> must be placed in a vault, or other locked and secure location, to which only the Clerk and the Clerk's designees have access. On Election Day, the Clerk, along with another staff, must transport the tamper-proof containers of unread/not fully counted ballots to the voting place. The containers must remain within the guardrail enclosure, in view of all persons present, during Election Day, until the polls close.
- After the polls have closed on Election Day, and after all voters have voted and all absentee ballots have been processed into the ballot box, the Clerk/Warden must verify that the seal/lock on each tamper-proof container (of unread/not fully counted ballots from EV) matches the ones recorded on the



Certificate of Sealed Ballot Container. The Clerk/Warden must then open these tamper-proof containers and remove the ballots to determine voter intent and hand-count and tally the unread ballots according to the Uniform Counting Procedures provided by the Secretary of State.

8.2. Option 2. Seal in labeled envelope in not fully counted bin. At the end of each day of EV, ballots must be removed from the tabulator bin, without reviewing any votes cast. The officials must place the ballots in a large envelope, seal and date the envelope and place the envelope back in the not fully counted bin of the tabulator. The clerk must then close and lock the bin and apply an approved tape seal over the locking mechanism. The optical scan tabulating machine must be unplugged and placed in a vault, or other locked and secure location, to which only the Clerk and the Clerk's designees have access.

9. Designating Early Voters on the Incoming Voting List. Initials of Clerk:
The Clerk or Registrar must enter each early voter's information into the absentee module of the CVR as voted
in person, select the "Ballot Request Type" as "State Blank Absentee Ballot". Each voter who has had an early
ballot designated as accepted in the system will have an "AV" printed on the Incoming Voting List beside the
voter's name. All entries must be made before the Incoming Voting List is printed. Additional instructions will
be provided to participating municipalities.

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Appendix C

Sample Early Voting Pilot Program Procedures (Machine Ballots) for the November 2009 Pilot Program



November 3, 2009 Referendum Election Early Voting Pilot Program Procedures (Machine Ballots)

1. Prior to the Start of Early Voting

- Set up the Early Voting (EV) location in a similar manner to Election Day, enclosed within a guardrail that is at least 6 feet from the voting booths, AVS station and tabulating machine/ballot box, including the following:
 - o a sufficient number of voting booths to handle the expected flow of voters;
 - o the AVS voting station;
 - o the tabulating machine(s) to be used for accepting EV ballots;
 - o an incoming check in table that is just inside the guardrail or forms part of the guardrail enclosure; and
 - meet any other requirements for voting place set up.
- Post all posters and instructional materials, as required by law, inside each voting booth and outside the guardrail.
- Set up a table outside the guardrail for the Registrar or Deputy Registrar to process new voter registrations and changes, including the following items:
 - o voter registration applications;
 - o Certificates of Voter Registration;
 - o a current copy of the Alpha Voter List for lookup purposes if CVR is unavailable; and
 - o a computer with access to CVR (for entering early voter information and looking up voters).
- Print a current copy of the *Incoming Voter List* for use at the check-in table for the entire period of Early Voting; the list may be separated in alpha segments by voters' last names, to facilitate check-in at more than one check-in line.

2. Start each Early Voting Day with

- Incoming Voter List verify that the *Incoming Voter List Certification* applied the previous day is intact before opening and using the list.
- Unvoted ballots verify that containers of ballots received from the printer either have not been opened
 or that the Certificate of Sealed Ballot Container for Unused State Ballots applied the previous day is
 intact and that all ballots inside are sealed in shrink wrap, and loose ballots are unvoted.
- Machine Ballot Box verify that all compartments are empty (except if you are placing unread ballots in envelopes and sealing them into the "Not Fully Counted" compartment of the ballot box then the compartment should contain sealed envelopes of unread ballots from prior days.
- Machine(s) verify machine (public) counter number and record on Machine Verification form; and verify that the seal number on the memory pack/card in the back of the machine, that was recorded on the Audit Log for Early Voting at the start of the Early Voting period, has not changed.
- Voter Registration materials (as indicated in #1 above).
- Fill out Early Voting Opening Checklist (Machine Ballots) form.

3. Voting Place Activities

• Regulations are identical to Election Day for candidates, poll watchers, petition signature gatherers, etc.; please be prepared to accommodate these activities.



4. Entry of Voter Information into CVR

- Enter information into the CVR immediately, in this order:
 - o choose the election:
 - o check the "Select if Voted in Person" checkbox; and
 - o go back to the "Ballot Request Type" field and select "State Blank Absentee Ballot"; then save at the bottom. (If you don't do the steps in this order, the system will not let you save a "State Blank Absentee Ballot" as "Voted in Person").
- Note: if CVR is down, check Alpha Voter List to verify voter information, then enter into CVR ASAP using the information entered at check-in into the *Log of Early Voters*.
- If the voter is not registered or requires an update of their information, process the new voter registration or update. Give new voters or voters who have changed voting districts a Certificate of Voter Registration to use at check-in.
- Allow voter to proceed to check-in and vote.

5. Check Voters off on Incoming Voter List; complete Log of Early Voters; obtain signature

- Check off each voter on *Incoming Voter List* (IVL) as s/he enters the voting area, write EV next to the voter's name (rather than a line or check mark) in red ink.
- The ballot clerk fills out the *Log of Early Voters* by neatly printing the voter's name and address.
- The ballot clerk asks voter sign the *Log of Early Voters* on the same line as their name & address.
- If voter is not on the list, collect the Certificate of Voter Registration; manually add the voter's name, address and district information to the IVL (either on the applicable page itself or on blank pages that you have provided at the end of each letter); and mark "EV" next to the hand-written name.
- Give the voter the appropriate ballot(s) and direct them to the voting booth.
- Give the voter the **2009** Early Voting Survey to complete. Have the voter place the completed survey in the drop box provided when they are done voting.

6. At closing

- <u>Secure</u> unvoted ballots in cardboard box(es) & seal using a signed *Certificate of Sealed Ballot Container for Unused State Ballots* form over the opening of the box flaps.
- Secure IVL in envelope & seal using a signed *Incoming Voter List Certification* form.
- <u>Secure</u> voted ballots in blue tamper-proof boxes (state ballots only), lock & seal and complete a
 Certification of Sealed Ballot Container (2-part form also used on Election Day), adding the date of Early Voting next to each line.
- Secure auxiliary and unread ballots remove from applicable ballot box compartment and place ballots in an envelope; have workers complete and sign the *Certificate of Sealed Envelope for Auxiliary and Unread Ballots*, indicating the number of auxiliary/unread ballots being secured in the envelope; seal the envelope using this certificate; and either:
 - o place the envelope in the "Not Fully Counted" bin of the ballot box; lock the box and place security tape over the lock, OR
 - o place the envelope in a tamper-proof container, lock and seal the container and complete a Certification of Sealed Ballot Container, adding the date of Early Voting next to each line.
- <u>Secure</u> machine note machine (public) counter total on the on *Machine Verification* form, & seal number for memory pack/card on *Audit Log for Early Voting (Machine Ballots)* form.
- Return completed voter registration cards to Registrar.
- Fill out *Early Voting Closing Checklist*.
- Fill out *Machine Verification* form.
- Ballots from multiple days may be secured in the same tamper-proof container, by:



- o having workers verify the seal is the same as the one affixed at the end of the prior day;
- o breaking the seal and opening the lock;
- o adding the ballots cast during that day of Early Voting;
- o affixing a new seal and re-locking the tamper-proof container; and
- o recording the new seal on a *Certification of Sealed Ballot Container* form.

7. General Security Procedures

- As per the Security Plan document, the requirements for workers must comply with Title 21-A section 503, requiring at least 1 Democrat and 1 Republican worker during the entire Early Voting process. You may use actual election clerks or designate municipal staff in those roles.
- D & R attest to machine count, and secure voted & unvoted ballots, & IVL.
- D & R ensure seals, locks, etc. at opening are as they were at closing on the previous day.
- The Municipal Clerk/Warden will provide for secure transport of Early Voting materials between the Early Voting area and the Clerk's secure storage area.
- All secured materials will be locked in the Clerk's secure storage area at the conclusion of Early Voting each day.
- Full containers of voted ballots, which will be locked & sealed in tamper-proof containers, will be placed in secure storage and will remain there until after the ballot retention period elapses (unless a machine malfunction requires the ballots to be re-fed into the machine).
- Auxiliary and unread ballots that have been sealed in envelopes and will remain in the "Not Fully Counted" bin of the ballot box or in the tamper-proof containers (depending on option chosen for storage of these ballots) until the end of Early Voting, when they will be sealed in tamper proof box(es) and put in the secure storage until Election Day. These will be transported to the central processing location or voting place (as applicable) for the final processing and tallying to take place at the close of the polls on Election Day.
- If applicable, machines from Early Voting will be delivered to the central absentee processing location on Election Day, for obtaining the tally tapes at the close of the polls.

8. Audit Log for Early Voting (Machine Ballots)

- After all early voters have been entered into the CVR, print the *List of Absentee Voters* report from CVR, selecting "State Blank Absentee Ballots" and the date of Early Voting as the date issued and received. This will provide an alphabetical list of all early votes entered in that day.
- Obtain the number of voters who cast early votes that day, and put that number in Column B on the *Audit Log for Early Voting (Machine Ballots)* form.
- In Column A of the form, take the ending machine count for today and subtract the beginning machine count for today, then add any auxiliary ballots to determine the total ballots cast for today. Note: if you have more than one ballot, divide the total by the number of ballots to determine the number of actual voters.
- Subtract the number in Column B from the number in Column A of the *Audit Log* and enter it into Column C, date and initial each day. If there is a discrepancy of 5% or more of the lower number in Column A or B, then the clerk must check the *List of Absentee Voters* for that day against the *Log of Early Voters* who have been designated as voting that day, to resolve the discrepancies.
- A copy of the *Audit Log for Early Voting (Machine Ballots)* must be faxed each day to the Secretary of State (Division of Elections) at 287-5428.



9. On Election Day

- Absentee ballots will be processed either at a central location or at the voting place on Election Day as designated in the Notice of Election.
- At the close of the polls on Election Day, the machines that have counted the Election Day votes and absentee ballots (if processed at the polls) will be totaled and the auxiliary and unread votes will be hand tallied, and a Return of Votes Cast will be produced.
- After all absentee ballots have been counted, sorted & sealed (if processed centrally) and all paperwork is completed, the totals from the absentee and Early Voting ballots will be processed at the voting place, by totaling out the machines that have been used for Early Voting and central processing of absentee ballots, & hand tallying auxiliary and unread ballots from the tamper-proof containers from Early voting, and a Return of Votes Cast for "Central Voting" will be produced.
- Alternatively, the totals from the centrally processed absentee ballots and/or early voted ballots may be added together with the results from the voting place, and combined into one Return of Votes Cast for the municipality.

Revised 10/09

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Appendix D

Sample 2009 Early Voting Survey - Augusta for the November 2009 Pilot Program



2009 EARLY VOTING SURVEY – AUGUSTA

Voting today is part of Maine's 2009 Early Voting Pilot Program. Please take a moment to answer the important questions on this **private and confidential** survey to help us learn how we may provide the best voting experience.

Early Voting is different from in-person Absentee Voting, in that the voter places the ballot directly into the ballot box or tabulating machine, instead of sealing it in a signed envelope for later processing on Election Day. Early Voting is designed to supplement the existing Absentee Balloting process, rather than be a replacement for it. Complete definitions of the terms Early Voting and Absentee Balloting are available on the back of this form.

We want to make early voting as user-friendly for voters as possible, so please help us by completing this survey!

All questions are optional.						
Date Voted & Time:	Date/Day:	Approximate Time:				
How did you hear about Early Voting? (Please check all that apply)	 Newspaper T.V. Public Access T.V. Radio Town/City Official 	 ☐ State Website ☐ Town/City Website ☐ From a Friend ☐ Didn't know until I arrived today ☐ Other:				
Why did you choose Early Voting? (Please check all that apply)	☐ Convenient to my schedule ☐ Will be away on Election Day	☐ Want to avoid the polls on Election Day ☐ Other (please explain):				
How have you voted in the past?	At the Polls on Election Day: Absentee (By Mail/hand delivered) Absentee (In Person/Town Office)	<u> </u>				
If you have previously voted by absentee ballot in person at the town office, how does today's experience compare?	Convenience / Ease of Voting: Confidentiality / Privacy: Other (please describe):	☐ More ☐ Same ☐ Less ☐ More ☐ Same ☐ Less				
Would you like to have this Early Voting option available in future elections?	☐ Yes	□ No				
What did you like about this Early Voting experience? What would you like to see changed?						

THANK YOU



Appendix E

Early Voting Survey Results for the November 2009 Pilot Program



EARLY VOTING PILOT VOTER SURVEY RESULTS

OVERVIEW

Nine municipalities (Augusta, Bangor, Cumberland, Falmouth, Gorham, Hallowell, Saco, Scarborough, and Standish) conducted Early Voting Pilots in the days preceding the November 2, 2009 Referendum Election. Along with their ballots, voters opting to participate in the Early Voting pilot were provided with a survey designed to help policy makers and administrators evaluate the pilots.

Across all nine municipalities 12,970 citizens – approximately 23% of those who voted in that election in those municipalities – participated in the pilots, casting their ballots early. Of those voters, 12,060, or 93%, returned their survey forms (fully or partially completed). Responses indicate that the pilots were successful and, generally, enthusiastically embraced by those participating. Responses also offer valuable insight on why voters participated, what they liked or disliked and how any future Early Voting efforts can enjoy the same or greater success.

The following is a summary of the survey results.

EARLY VOTING PREVALENCE AND SURVEYS

Municipality	Total Ballots Cast	Early Voters (EV)	EV % of Total Ballots Cast	Survey Responses	% of EV Responding
Augusta	7218	1488	21%	1391	93%
Bangor	11430	3627	32%	3015	83%
Cumberland	3958	1109	28%	1108	100%
Falmouth	5661	1294	23%	1240	96%
Gorham	6885	948	14%	942	99%
Hallowell	1446	209	14%	193	92%
Saco	7614	1432	19%	1354	95%
Scarborough	9114	1988	22%	1956	98%
Standish	4068	875	22%	861	98%
TOTAL	57394	12970	23%	12060	93%

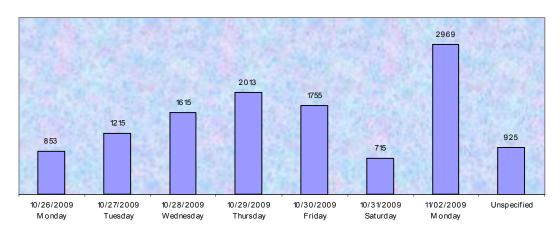


DATES AND TIMES OF EARLY VOTING

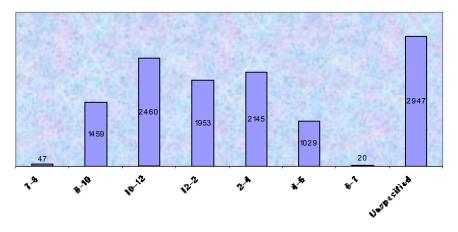
Day & Time Voted: All Pilot Municipalities

Date / Time Voted	7-8	8-10	10-12	12-2	2-4	4-6	6-7	Unspecified Time	Total Votes
10/26/2009 Monday	0	109	215	186	202	72	0	69	853
10/27/2009 Tuesday	0	151	232	205	225	115	0	287	1215
10/28/2009 Wednesday	6	169	321	280	321	214	3	301	1615
10/29/2009 Thursday	8	231	354	314	408	293	17	388	2013
10/30/2009 Friday	0	190	303	302	370	117	0	473	1755
10/31/2009 Saturday	0	166	370	60	0	0	0	119	715
11/02/2009 Monday	32	432	649	534	607	211	0	504	2969
No Date Noted	1	11	16	72	12	7	0	806	925
ALL DAYS	47	1459	2460	1953	2145	1029	20	2947	12060

Days Survey Respondents Voted



Time of Day Voters Voted

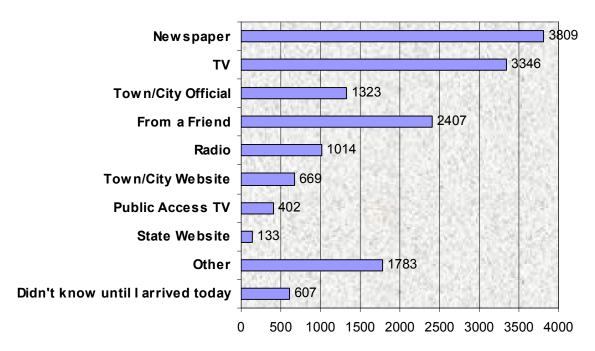




PUBLIC AWARENESS / OUTREACH

Voters were asked "How did you hear about Early Voting?" and were encouraged to select all options that applied. 11,786 answered this question, selecting one or more options.

How did you hear about Early Voting?

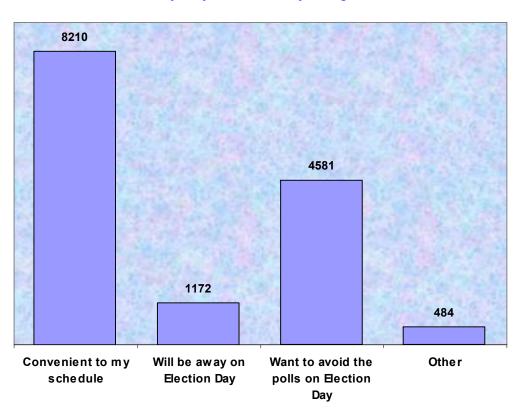


The 'Other' category included **607** responses from voters who indicated they had seen **road signs**, **posters**, **banners or other signage** advertising Early Voting. Also in the 'Other' category were **195** voters who indicated they had learned about early voting from various **family members** and **174** who indicated that they learned of early voting from **campaigns or advocacy groups**.



WHY VOTERS CHOSE TO EARLY VOTE

Voters were asked to indicate "Why did you choose Early Voting?" and were encouraged to select all options that applied. More than two thirds of voters cited "convenience to my schedule" as a reason for voting early. Nearly 1 out of 10 voters indicated they were going to be "away on Election Day". Additionally, nearly 4 out of every 10 voters indicated that a desire to "avoid the polls on Election Day" was one of the reasons they chose to vote early. 11,801 answered this question, selecting one or more options.



Why did you choose Early Voting?

Although small in numbers, it is worth noting that of those selecting "Other": 42 cited mobility issues or other disabilities causing an aversion to lines or crowds and therefore a preference for Early Voting; 37 others also referenced a desire to avoid crowds and lines; 15 referenced a desire to avoid petitioners or candidates; 25 were either poll workers or campaign workers; 25 preferred the Early Voting location to their voting place; 73 were already at the Early Voting location for other business; 32 referenced a desire to be sure they did not miss the opportunity to votes and 22 referenced Early Voting to help a particular campaign.



VOTERS PREVIOUS VOTING METHODS

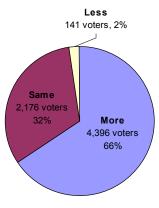
How have you voted in the Past?

	Always	Sometimes	Never
At the Polls on Election Day	6,447	4,023	220
Absentee (By Mail/hand delivered)	223	2,161	1,558
Absentee (In Person/Town Office)	655	3,372	1,111

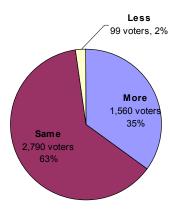
COMPARISON TO PRIOR VOTING

Voters were asked "If you have previously voted by absentee ballot in person at the town office, how does today's experience compare?" 11,854 voters answered the Convenience / Ease of Voting section of this question and 6,974 answered the Confidentiality / Privacy section of this question. [*These numbers do not correlate with the 4,016 voters indicating that they had previously voted Absentee (In Person/Town Office); and therefore reflects some confusion on the question.]

Convenience / Ease of Voting



Confidentiality / Privacy





DESIRE TO HAVE EARLY VOTING AS AN OPTION IN FUTURE ELECTIONS

Voters were asked to indicate "Would you like to have this Early Voting option available in future elections?" 11,870 voters answered this question.

An overwhelming 98% of voters (virtually 100% of those responding to this question) answered "YES," they would like this option in future elections.

Yes	11,798
No	82
No Response	180

LIKES

Voters were asked "What did you like about this Early Voting experience?" Responses were narrative. Of the 5,569 voters who responded to this question, responses include:

- 2.032 references to the **convenience**
- 1,124 references to the lack of lines, shortness of lines, or lack of waiting
- 896 references to the ease of Early Voting
- 562 references to the process as being quick or fast
- 436 references to the lack of **crowds**
- 536 descriptions such as great, good, wonderful, perfect or excellent

CHANGES

Voters were asked "What would you like to see changed?" Responses were narrative. Of the 1,251 voters who responded to this question:

- 799 actually indicated that nothing needed to change
- 296 recommended some type of change, as follows:
 - o 45 seeking increased publicity and advertising of the Early Voting opportunities
 - o 57 seeking expanded days, times, weekends (3 seeking option for all towns)
 - o 11 ok with days but cautioning against expanding "too early"
 - 85 suggesting check-in simplifications or additional staff to process lines quicker
 - o 44 seeking facilities enhancements (bigger room, more voting booths, privacy curtains on booths, quieter room)
 - o 11 seeking expanded or different locations
 - o 27 raising security concerns (24 calling for IDs to be required)
- 16 raising cost considerations
- 6 opposed Early Voting
- 152 offered unrelated comments (i.e. advocating or opposing online voting, airing concerns about election day voting place consolidation, recommending food be offered, seeking easier to comprehend ballot questions, or more information about local candidates)