

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1959

S.P. 795

In Senate, May 18, 2023

An Act Regarding Open Primary Elections and Ranked-choice Voting

Reference to the Committee on Veterans and Legal Affairs suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator BALDACCI of Penobscot.

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

2 **Sec. 1. 21-A MRSA §1, sub-§27-C**, as repealed and replaced by PL 2021, c. 273,
3 §1, is repealed and the following enacted in its place:

4 **27-C. Elections determined by ranked-choice voting.** "Elections determined by
5 ranked-choice voting" means any of the following elections in which 3 or more candidates
6 have qualified to be listed on the ballot for a particular office or at least 2 such candidates
7 plus one or more declared write-in candidates have qualified for that particular office:

8 A. Open primary elections for the office of United States Senator, United States
9 Representative to Congress, Governor, State Senator or State Representative;

10 B. General elections for presidential electors, United States Senator and United States
11 Representative to Congress; and

12 D. Primary elections for the office of President of the United States.

13 **Sec. 2. 21-A MRSA §1, sub-§27-E** is enacted to read:

14 **27-E. Elections subject to an open primary.** "Elections subject to an open primary"
15 means the elections for the office of United States Senator, United States Representative to
16 Congress, Governor, State Senator or State Representative.

17 **Sec. 3. 21-A MRSA §1, sub-§27-F** is enacted to read:

18 **27-F. Open primary election.** "Open primary election" means, in elections subject
19 to an open primary, the regular election for the election of 2 candidates for the office of
20 Governor, State Senator or State Representative and 4 candidates for the office of United
21 States Senator or United States Representative to Congress, regardless of enrollment status,
22 who will appear on the ballot for the general election.

23 **Sec. 4. 21-A MRSA §1, sub-§32**, as amended by PL 1987, c. 423, §1, is further
24 amended to read:

25 **32. Primary election.** "Primary election" means the regular election for the election
26 of nominees of a party for the general election or, for an election subject to an open primary,
27 the open primary election.

28 **Sec. 5. 21-A MRSA §1, sub-§35-A**, as enacted by IB 2015, c. 3, §2, is amended
29 to read:

30 **35-A. Ranked-choice voting.** "Ranked-choice voting" means the method of casting
31 and tabulating votes in which voters rank candidates in order of preference, tabulation
32 proceeds in sequential rounds in which last-place candidates are defeated and the candidate
33 with the most votes in the final round is elected or, in an election for the office of President
34 of the United States, in which the 4 candidates with the most votes in the final round are
35 nominated to appear on the ballot for the general election.

36 **Sec. 6. 21-A MRSA §144, sub-§2**, as amended by PL 2005, c. 453, §27, is further
37 amended to read:

38 **2. Party designation removed.** On receipt of the application, the registrar shall
39 remove the party designation of the applicant from the central voter registration system.
40 The registrar shall indicate in the central voter registration system that the applicant is
41 ineligible to vote at a caucus or primary election, other than an open primary election, for

1 15 days by designating the party enrollment field with the letter "X." Fifteen days after
2 receiving the application, the registrar shall enroll the applicant in the party requested and
3 enter the new party designation in the party enrollment field.

4 This subsection does not apply in the case of a voter who changes enrollment under
5 subsection 4.

6 **Sec. 7. 21-A MRSA §144, sub-§3**, as repealed and replaced by PL 2013, c. 457,
7 §2, is amended to read:

8 **3. Restrictions during change of enrollment.** Except as provided in subsection 4, a
9 voter may not vote at a caucus, convention or primary election, other than an open primary
10 election for 15 days after filing an application to change enrollment. A voter may sign a
11 primary nomination petition during the 15-day period after filing an application to change
12 enrollment, and the voter's signature must be counted as valid, as long as the 15-day period
13 has elapsed by the time the petition is certified pursuant to section 335, subsection 7 and
14 the voter otherwise is qualified to sign a petition for that office. Notwithstanding
15 subsection 4, a voter must file an application to change enrollment prior to January 1st to
16 be eligible to file a petition as a candidate in that election year.

17 **Sec. 8. 21-A MRSA §321, sub-§1**, as amended by PL 2005, c. 387, §4, is further
18 amended to read:

19 **1. Time, place and representation.** The party's state committee shall determine the
20 time, place and basis of representation for the convention. Delegates must be ~~qualified to~~
21 ~~vote in the party's primary election~~ enrolled in the party unless otherwise permitted by party
22 rules.

23 **Sec. 9. 21-A MRSA §334**, as amended by PL 2009, c. 253, §16, is further amended
24 to read:

25 **§334. Qualification of candidate for primary nomination**

26 A Except as provided in section 451 for an open primary election, a candidate for
27 nomination by primary election must file a primary petition and consent under sections 335
28 and 336. The candidate must be enrolled, on or before March 15th, in the party named in
29 the petition and must be eligible to file a petition as a candidate for nomination by primary
30 election under section 144, subsection 3. The registrar in the candidate's municipality of
31 residence must certify to that fact on a form designed by the Secretary of State.

32 **Sec. 10. 21-A MRSA §336, sub-§1**, as amended by PL 2011, c. 239, §1, is further
33 amended to read:

34 **1. Consent.** The consent must contain a statement signed by the candidate that the
35 candidate will accept the nomination of the primary election except that the consent signed
36 by a candidate in an open primary election must contain a statement that the candidate
37 agrees to have the candidate's name placed on the general election ballot if the candidate is
38 declared the winner of the open primary election pursuant to section 723, subsection 1-A.
39 The Secretary of State shall provide a form on which the consent of the candidate is made
40 that must include a list of the statutory and constitutional requirements of the office sought
41 by the candidate. The statement may be printed as a part of the primary petition.

42 **Sec. 11. 21-A MRSA §338**, as corrected by RR 2019, c. 2, Pt. B, §44, is amended
43 to read:

1 **§338. Write-in candidates**

2 A Except as provided in section 452 for an open primary election, a person whose name
3 will not appear on the printed primary ballot because that person did not file a petition and
4 consent under sections 335 and 336, but who fulfills the other qualifications under section
5 334, may be nominated at the primary election as a write-in candidate in accordance with
6 section 723, subsection 1.

7 **Sec. 12. 21-A MRSA §339**, as enacted by PL 1985, c. 161, §6, is amended to read:

8 **§339. Time and nature of election**

9 The Except as otherwise provided in this section, the primary election ~~shall~~ must be
10 held on the 2nd Tuesday of June of each general election year and, unlike in an open
11 primary election, is considered to be a separate election for each party ~~which that~~ takes part
12 in it. This includes the duties of public officials in announcing the election, providing forms
13 and ballots, keeping records and any other matter necessary to effect the purpose of a
14 primary election. A primary election ~~shall~~ must be conducted in the same manner as the
15 general election, as nearly as practicable, ~~for each party~~. In a presidential election year, an
16 open primary must be conducted on the same date as the presidential primary election as
17 determined by section 441.

18 **Sec. 13. 21-A MRSA §340, sub-§1**, as enacted by PL 1987, c. 423, §3, is amended
19 to read:

20 **1. Notice to Secretary of State.** No later than February 1st of the election year, each
21 political party eligible to participate in a primary election, other than an open primary
22 election, shall notify the Secretary of State of the enrollment qualifications, subject to the
23 restrictions in section 144, for voters eligible to vote in that party's primary. If no notice is
24 received by that date, only voters enrolled in a political party may vote in that party's
25 primary.

26 **Sec. 14. 21-A MRSA §351, first ¶**, as enacted by PL 1985, c. 161, §6, is amended
27 to read:

28 The Except as provided in subchapter 9, nomination of a candidate, other than by a
29 party, for any federal, state or county office must be made by petition, as provided in this
30 subchapter.

31 **Sec. 15. 21-A MRSA §351, sub-§4** is enacted to read:

32 **4. Elections subject to an open primary.** A person who satisfies the requirements of
33 section 353 may file a nomination petition pursuant to this subchapter as a candidate for
34 the open primary election in an election subject to an open primary. A person may not file
35 a nomination petition pursuant to this subchapter as a candidate for the general election in
36 an election subject to an open primary.

37 **Sec. 16. 21-A MRSA §354, sub-§1**, as amended by PL 2019, c. 371, §11, is further
38 amended to read:

39 **1. Content.** A nomination petition must contain the name of only one candidate, the
40 candidate's place of residence, the office sought and electoral division. A nomination
41 petition may contain as many separate papers as necessary and may contain the candidate's
42 consent required by section 355. It may also contain the candidate's political designation.

1 This designation may not exceed 3 words in length, may not incorporate the candidate's
2 name or the designation or an abbreviation of the designation of a party that is qualified to
3 ~~nominate candidates by~~ participate in a primary election and may not consist of or comprise
4 language that is obscene, contemptuous, profane or prejudicial, promotes abusive or
5 unlawful activity or violates any other provision of the laws of this State with respect to
6 names. A candidate who intends to form a new party about that person's candidacy must
7 use the proposed party's designation.

8 A. When 2 United States Senators are to be nominated, the nomination petition must
9 contain the term of office sought by the candidate.

10 B. The names of presidential electors must be placed on the petition as a slate. The
11 names of the candidates for President and Vice President must be placed on a petition
12 for the nomination of presidential electors.

13 **Sec. 17. 21-A MRSA §354, sub-§7, ¶B**, as amended by PL 2013, c. 131, §12, is
14 further amended to read:

15 B. ~~Petitions~~ Except for petitions for nomination in an open primary election, petitions
16 must be delivered to the registrar, or clerk at the request or upon the absence of the
17 registrar, for certification by 5 p.m. on May 25th in the election year in which the
18 petitions are to be used, except that petitions for a slate of candidates for the office of
19 presidential elector must be delivered for certification by 5 p.m. on July 25th in the
20 election year in which the petitions are to be used.

21 **Sec. 18. 21-A MRSA §354, sub-§8-A**, as amended by PL 2013, c. 131, §13, is
22 further amended to read:

23 **8-A. Filed with the Secretary of State.** A nomination petition must be filed in the
24 office of the Secretary of State by 5 p.m. on June 1st in the election year in which it is to
25 be used, except that a nomination petition for a candidate for an open primary election must
26 be filed in the office of the Secretary of State by 5 p.m. on March 15th of the election year
27 in which it is to be used and petitions for a slate of candidates for the office of presidential
28 elector must be filed in the office of the Secretary of State by 5 p.m. on August 1st in the
29 election year in which the petitions are to be used.

30 **Sec. 19. 21-A MRSA §355, sub-§1**, as amended by PL 2011, c. 534, §12, is further
31 amended to read:

32 **1. Consent.** The consent must contain a statement signed by the candidate that the
33 candidate will accept the nomination of the general election ~~except that the consent signed~~
34 ~~by a candidate in an open primary election must contain a statement that the candidate~~
35 ~~agrees to have the candidate's name placed on the general election ballot if the candidate is~~
36 ~~declared the winner of the open primary election pursuant to section 723, subsection 1-A.~~
37 The Secretary of State shall provide a form on which the consent of the candidate is made
38 that must include a list of the statutory and constitutional requirements of the office sought
39 by the candidate. The statement may be printed as a part of the nomination petition.

40 **Sec. 20. 21-A MRSA §361, first ¶**, as corrected by RR 2019, c. 2, Pt. B, §48, is
41 amended to read:

42 A vacancy in any federal, state or county office, in the office of an election official or
43 in any political committee occurs when the incumbent dies, resigns, becomes disqualified

1 or changes the incumbent's residence to an electoral division other than that from which
2 the incumbent was elected or when the person elected fails to qualify. A vacancy in the
3 office of United States Senator, United States Representative to Congress, Governor, State
4 Senator or State Representative also occurs at the beginning of the term of office for a
5 candidate who was elected at a general election for that office but who died or became
6 disqualified on or before the date of that general election.

7 **Sec. 21. 21-A MRSA §367**, as amended by PL 2019, c. 636, §5, is further amended
8 to read:

9 **§367. Candidate withdrawal**

10 A Except as provided in section 374-A, subsection 4, a candidate who wishes to
11 withdraw from an elective race shall notify the Secretary of State in writing of the
12 candidate's intent to withdraw. This notice must be signed by the candidate.

13 **Sec. 22. 21-A MRSA §371**, as repealed and replaced by PL 2019, c. 636, §6, is
14 amended to read:

15 **§371. Primary election candidates; vacancy**

16 **3. Vacancy and replacement of candidates in uncontested ~~raees~~ party primaries.**
17 ~~If~~ For a primary election other than an open primary election, if a candidate for nomination
18 dies or becomes disqualified prior to the primary election or withdraws 70 days or more
19 before the primary election, the Secretary of State shall declare the vacancy pursuant to
20 section 362-A if no other candidate from the same political party will appear on the primary
21 election ballot for that office. A political committee may fill the vacancy pursuant to
22 section 363. The Secretary of State shall remove the former candidate's name from the
23 primary election ballot and shall produce new primary election ballots or amend or
24 supplement the primary election ballots already printed in accordance with section 376 or
25 604.

26 **4. Removal of candidate's name from ballot in contested ~~raees~~ party primaries.**
27 ~~The~~ For a primary election other than an open primary election, the Secretary of State shall
28 remove the name of a candidate for nomination from the primary election ballot but is not
29 required to declare a vacancy if, 70 days or more before the primary election, the candidate
30 dies, becomes disqualified or withdraws and another candidate from the same political
31 party will appear on the ballot for that office.

32 **5. Death or disqualification of candidates less than 70 days before primary**
33 **election in contested ~~raees~~ party primaries.** ~~The~~ For a primary election other than an
34 open primary election, the Secretary of State is not required to remove the name of a
35 candidate from the primary election ballot or declare a vacancy if a candidate dies or
36 becomes disqualified less than 70 days before the primary election and another candidate
37 from the same political party will appear on the ballot for that office. Upon receipt of
38 information that the candidate has died or become disqualified, the Secretary of State shall
39 immediately prepare and distribute to the local election officials in the candidate's electoral
40 district a notice informing voters that the candidate has died or become disqualified and
41 that a vote for that candidate will not be counted. The notice must be distributed with all
42 absentee ballots requested after the notice is received by the local election officials and, on
43 election day, must be posted outside the guardrail enclosure in accordance with section

1 651, subsection 2 and in each voting booth. Notice that the candidate has died or become
2 disqualified must also be posted on the Secretary of State's publicly accessible website.

3 **6. Withdrawal of candidates less than 70 days before primary election in**
4 **contested and uncontested races party primaries.** ~~When~~ For a primary election other
5 than an open primary election, when a candidate for nomination withdraws less than 70
6 days before the primary election, the candidate's name may not be removed from the
7 primary election ballot and a vacancy may not be declared. Upon receipt of the notice of
8 withdrawal, the Secretary of State shall immediately prepare and distribute to the local
9 election officials in the candidate's electoral district a notice informing voters that the
10 candidate has withdrawn and that a vote for that candidate will not be counted. The notice
11 must be distributed with all absentee ballots requested after the notice is received by the
12 local election officials and, on election day, must be posted outside the guardrail enclosure
13 in accordance with section 651, subsection 2 and in each voting booth. Notice of the late
14 withdrawal must also be posted on the Secretary of State's publicly accessible website.

15 **7. Removal of candidate's name from ballot in open primary elections.** The
16 Secretary of State shall remove the name of a candidate from the primary election ballot
17 but is not required to declare a vacancy if, 70 days or more before an open primary election,
18 the candidate dies, becomes disqualified or withdraws.

19 **8. Withdrawal, death or disqualification of candidates less than 70 days before**
20 **open primary election.** When a candidate for an open primary election dies, becomes
21 disqualified or withdraws less than 70 days before the open primary election, the
22 candidate's name may not be removed from the open primary election ballot and a vacancy
23 may not be declared. Upon receipt of information that the candidate has died or become
24 disqualified or upon receipt of the notice of withdrawal, the Secretary of State shall
25 immediately prepare and distribute to the local election officials in the candidate's electoral
26 district a notice informing voters that the candidate has died, become disqualified or
27 withdrawn and that a vote for that candidate will not be counted. The notice must be
28 distributed with all absentee ballots requested after the notice is received by the local
29 election officials and, on election day, must be posted outside the guardrail enclosure in
30 accordance with section 651, subsection 2 and in each voting booth. Notice of the late
31 withdrawal must also be posted on the Secretary of State's publicly accessible website.

32 **Sec. 23. 21-A MRSA §374-A,** as amended by PL 2019, c. 636, §9, is further
33 amended to read:

34 **§374-A. General election candidates; vacancy**

35 **1. Vacancy and replacement of nominees in elections not subject to open primary.**
36 ~~The~~ In an election other than an election subject to an open primary, the Secretary of State
37 shall declare the vacancy as provided in section 362-A and a political committee may make
38 a replacement nomination for the general election only if a person nominated for an office
39 at a primary election or by a political committee:

40 A. Withdraws on or before 5 p.m. of the 2nd Monday in July preceding the general
41 election in accordance with section 367;

42 B. Withdraws because of a catastrophic illness, condition or injury that has
43 permanently and continuously incapacitated the candidate and would prevent
44 performance of the duties of the office sought, as long as the candidate or a member of

1 the candidate's immediate family files with the Secretary of State a certificate
2 accompanying the withdrawal request that describes the illness, condition or injury and
3 is signed by a licensed physician; or

4 C. Dies prior to the general election.

5 **2. Deadline for replacement of nominee in elections not subject to open primary.**

6 **A** In an election other than an election subject to an open primary, a political committee
7 may make a replacement nomination for the general election:

8 A. No later than 5 p.m. of the 4th Monday in July preceding the general election for a
9 candidate who has withdrawn in accordance with subsection 1, paragraph A; or

10 B. As soon as practicable for a candidate who withdraws or is withdrawn in accordance
11 with subsection 1, paragraph B or C.

12 **2-A. Ballot procedure for replacement candidates in elections not subject to open**
13 **primary.** If In an election other than an election subject to an open primary, if a political
14 party makes a replacement nomination for the general election by the deadline established
15 in subsection 2, the Secretary of State shall produce new general election ballots or amend
16 or supplement general election ballots already printed in accordance with section 376 or
17 604.

18 **3. Deadline for removal of candidate's name from general election ballot in**
19 **elections not subject to open primary.** The name of a candidate for an office on the
20 general election ballot who withdraws for any reason 70 days or more before the general
21 election must be removed from the ballot. If a candidate for an office on the general
22 election ballot withdraws less than 70 days before the general election and meets the criteria
23 of subsection 1, paragraph B or C, the candidate's name must be removed from the general
24 election ballot in accordance with section 376 or the general election ballot must be
25 amended or supplemented in accordance with section 604. If a candidate for an office on
26 the general election ballot withdraws less than 70 days before the general election and does
27 not meet the criteria of subsection 1, paragraph B or C, the candidate's name will not be
28 removed from the ballot, but upon receipt of the notice of withdrawal required by section
29 367, the Secretary of State shall immediately prepare and distribute to the local election
30 officials in the candidate's electoral district a notice informing voters that the candidate has
31 withdrawn and that a vote for that candidate will not be counted. The notice must be
32 distributed with all absentee ballots requested after the notice is received by the local
33 election officials and, on election day, must be posted outside the guardrail enclosure in
34 accordance with section 651, subsection 2 and in each voting booth. Notice of a candidate's
35 withdrawal less than 70 days before the general election must also be posted on the
36 Secretary of State's publicly accessible website. This subsection does not apply to an
37 election subject to an open primary.

38 **4. Withdrawal of open primary winner prohibited.** A candidate who is declared
39 the winner of an open primary election pursuant to section 723, subsection 1-A may not
40 withdraw from the general election.

41 **5. Death or disqualification of nominees in elections subject to open primary.** If
42 a candidate who is declared the winner of an open primary election pursuant to section 723,
43 subsection 1-A dies or becomes disqualified at any time before the general election, the
44 candidate's name will not be removed from the ballot. Upon receipt of information that the

1 candidate has died or become disqualified, the Secretary of State shall immediately prepare
2 and distribute to local election officials in the candidate's electoral district and on the
3 Secretary of State's publicly accessible website a notice informing voters that, although the
4 candidate has died or become disqualified, a vote for that candidate will be counted and, if
5 the candidate is declared the winner of the election, a vacancy will be declared at the
6 beginning of the term for which the candidate was elected. The notice must be distributed
7 with all absentee ballots requested after the notice is received by the local election officials
8 and, on election day, must be posted outside the guardrail enclosure in accordance with
9 section 651, subsection 2 and in each voting booth.

10 **Sec. 24. 21-A MRSA §376, sub-§1-A**, as enacted by PL 2019, c. 636, §11, is
11 amended to read:

12 **1-A. Removal of candidate's name from ballots.** The Except as provided in section
13 374-A, subsection 4, the Secretary of State shall remove a candidate's name from the ballot
14 if the candidate withdraws for any reason 70 days or more before any primary or general
15 election.

16 **Sec. 25. 21-A MRSA §441, sub-§1**, as amended by PL 2021, c. 273, §7, is further
17 amended to read:

18 **1. Determination of primary.** No later than ~~October~~ November 1st of the year prior
19 to a presidential election year, the state committee of each party shall certify whether there
20 is a contest among candidates for nomination as the presidential candidate. Upon receiving
21 the certification from one or more parties, the Secretary of State shall announce the parties
22 that will have a presidential primary election, which must be held on the ~~first~~ 2nd Tuesday
23 after the ~~first Monday in March~~ of June of the presidential election year.

24 **Sec. 26. 21-A MRSA c. 5, sub-c. 9** is enacted to read:

25 SUBCHAPTER 9

26 OPEN PRIMARY ELECTIONS

27 **§451. Qualification of candidate for open primary election; same ballot**

28 Notwithstanding any provision of this Title to the contrary, the names of all qualified
29 candidates for an election subject to an open primary must appear on the same ballot for
30 the open primary election. A candidate is qualified to appear on the open primary ballot if
31 the candidate:

32 **1. Candidate enrolled in a party.** Is enrolled in a party qualified to participate in a
33 primary election under section 301, 302 or 303, enrolled in that party on or before March
34 15th of the election year and filed a primary petition and consent that meets the
35 requirements of sections 335 and 336, subject to challenge and appeal under section 337.
36 The party designation of a candidate who meets the requirements of this subsection must
37 be printed on the open primary election ballot; or

38 **2. Unenrolled candidates.** Is not enrolled in a party qualified to participate in a
39 primary election; filed a nomination petition and consent that meets the requirements of
40 sections 351, 354 and 355, subject to challenge and appeal under section 356; and was
41 certified by the Secretary of State pursuant to section 357. The party designation, if any,

1 of a candidate who meets the requirements of this subsection may not be printed on the
2 open primary election ballot.

3 **§452. Declared write-in candidates**

4 Notwithstanding any provision of this Title to the contrary, a person who does not
5 qualify to be listed on the open primary election ballot pursuant to section 451 but who
6 qualifies as a declared write-in candidate pursuant to section 722-A may be nominated as
7 a write-in candidate in an open primary election.

8 **§453. Voter at open primary election**

9 Notwithstanding any provision of this Title to the contrary, a voter qualified to vote in
10 the general election for the office of United States Senator, United States Representative to
11 Congress, Governor, State Senator or State Representative may vote in the open primary
12 election for that office regardless of the voter's enrollment status.

13 **Sec. 27. 21-A MRSA §601, sub-§2, ¶D**, as amended by PL 2009, c. 253, §24, is
14 further amended to read:

15 D. At the end of the list of candidates for each office, there must be left as many blank
16 spaces as there are vacancies to be filled, except that no blank spaces may be placed at
17 the end of the list of nominees for the office on the general election ballot for an election
18 subject to an open primary. These The blank spaces left on the ballot under this
19 paragraph may be used by a voter to write in the name of a person for whom the voter
20 desires to vote, as provided in section 691, subsection 2 for a primary election or section
21 692, subsection 2 for a general election.

22 **Sec. 28. 21-A MRSA §601, sub-§4**, as amended by PL 2001, c. 310, §29, is further
23 amended to read:

24 **4. ~~Distinctively colored~~ Distinct color**. When possible, election ballots must be
25 printed on white paper. Each political party participating in a primary election other than
26 an open primary election must have a separate ballot. The paper for each party's primary
27 ballot must be printed or distinguished with a different color marking as determined by the
28 Secretary of State. ~~For municipalities that include more than one single member district of~~
29 ~~the State Senate or the House of Representatives, or parts of more than one single member~~
30 ~~district, the Secretary of State may prepare ballots with one or more distinctive color~~
31 ~~markings for each single member district or part of a single member district within the~~
32 ~~municipality.~~

33 **Sec. 29. 21-A MRSA §651, sub-§2, ¶B**, as amended by PL 2019, c. 636, §13, is
34 further amended by amending subparagraph (3-A) to read:

35 (3-A) A supplemental notice correcting an error or providing information on a
36 replacement candidate prepared under section 604 ~~or~~; a notice informing voters
37 that a vote for a candidate will not be counted because the candidate has died or
38 has withdrawn prepared under section 371, subsection 5 or 6 or section 374-A,
39 subsection 3; or a notice informing voters that, although a candidate has died or
40 become disqualified, a vote for that candidate will be counted and, if that candidate
41 is declared the winner of the election, a vacancy will be declared at the beginning
42 of the term of the office for which the candidate was elected, prepared under
43 section 374-A, subsection 5, next to the sample ballots;

1 **Sec. 30. 21-A MRSA §673, sub-§1, ¶A**, as corrected by RR 2011, c. 2, §21, is
2 amended by amending subparagraph (2) to read:

3 (2) Is not enrolled in the proper party, if voting in a primary election other than an
4 open primary election;

5 **Sec. 31. 21-A MRSA §692, sub-§2**, as amended by PL 2009, c. 253, §30, is further
6 amended to read:

7 **2. Write-in vote.** If the voter wishes to vote for a write-in candidate, the voter must
8 write the name of the candidate in the blank space provided at the end of the list of nominees
9 for the office in question. The voter must then mark the ballot as instructed in the directions
10 on the ballot. A sticker may not be used to vote for a write-in candidate. A voter may not
11 vote for a write-in candidate in a general election for an election subject to an open primary.

12 **Sec. 32. 21-A MRSA §696, sub-§2, ¶E-1** is enacted to read:

13 E-1. If a voter marks the write-in indicator on a general election ballot for an election
14 subject to an open primary, the vote for that office may not be counted.

15 **Sec. 33. 21-A MRSA §722, sub-§1-A**, as amended by PL 2019, c. 371, §26, is
16 further amended to read:

17 **1-A. Form of tabulation.** The tabulation must include the total votes for each question
18 choice or candidate whose name appeared on the ballot. The tabulation also must include
19 the total votes for any declared write-in candidates pursuant to section 722-A as follows.

20 A. For a write-in candidate who receives 5% or more of the votes cast for that office,
21 the Secretary of State shall report the votes under the candidate's name.

22 B. For a write-in candidate who receives less than 5% of the votes cast for that office,
23 the Secretary of State shall report the votes under the designation "others."

24 **Sec. 34. 21-A MRSA §722-A**, as amended by PL 2015, c. 447, §26, is further
25 amended to read:

26 **§722-A. Determination of declared write-in candidate**

27 To be considered a declared write-in candidate, a person must file a declaration of
28 write-in candidacy with the Secretary of State, on a form approved by the Secretary of
29 State, on or before 5 p.m. on the 60th day prior to the election. The candidate must meet
30 all the other qualifications for that office. A person may not be a declared write-in
31 candidate for the general election in an election subject to an open primary.

32 **Sec. 35. 21-A MRSA §723, sub-§1**, as amended by PL 2019, c. 320, §8, is further
33 amended to read:

34 **1. Primary election.** In a primary election other than an open primary election, the
35 person who receives a plurality of the votes cast for nomination to any office, as long as
36 there is at least one vote cast for that office, is nominated for that office, except for write-
37 in candidates under paragraph A and elections determined by ranked-choice voting under
38 section 723-A.

39 A. A write-in candidate who complies with section 722-A and who fulfills the other
40 qualifications under section 334 may be nominated at the primary election if that person
41 receives a number of valid write-in votes equal to at least twice the minimum number

1 of signatures required under section 335, subsection 5 on a primary petition for a
2 candidate for that office.

3 B. The Secretary of State shall immediately certify by mail the nomination of each
4 person nominated by the primary election.

5 **Sec. 36. 21-A MRSA §723, sub-§1-A** is enacted to read:

6 **1-A. Open primary election.** In an open primary election for the office of Governor,
7 State Senator or State Representative, the 2 persons who receive the most votes cast as
8 determined by section 723-A must be declared the winners of the open primary election
9 and are nominated to be placed on the general election ballot for that office. In an open
10 primary for the office of United States Senator or United States Representative to Congress,
11 the 4 persons who receive the most votes cast as determined by section 723-A must be
12 declared the winners of the open primary election and placed on the general election ballot
13 for that office. The Secretary of State shall immediately certify by mail the nomination of
14 each person to be placed on the general election ballot pursuant to this subsection.

15 **Sec. 37. 21-A MRSA §723, sub-§1-B** is enacted to read:

16 **1-B. General election following open primary.** In a general election for the office
17 of Governor, State Senator or State Representative, the nominee who receives a plurality
18 of the votes cast for that office, as long as there is at least one vote cast for that office, is
19 elected to that office. A write-in candidate may not be elected in a general election for an
20 election subject to an open primary.

21 **Sec. 38. 21-A MRSA §723, sub-§2**, as amended by PL 2017, c. 316, §7, is further
22 amended to read:

23 **2. Other elections.** In any other election not governed by subsection 1, 1-A or 1-B,
24 except for those determined by ranked-choice voting, the person who receives a plurality
25 of the votes cast for election to any office, as long as there is at least one vote cast for that
26 office, is elected to that office, except that a write-in candidate must also comply with
27 section 722-A.

28 **Sec. 39. 21-A MRSA §723-A, sub-§1**, as amended by PL 2019, c. 320, §§9 to 11,
29 is further amended to read:

30 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
31 following terms have the following meanings.

32 A. "Batch elimination" means the simultaneous defeat of multiple candidates for
33 whom it is mathematically impossible to be elected.

34 B. "Continuing ballot" means a ballot that is not an exhausted ballot.

35 C. "Continuing candidate" means a candidate who has not been defeated.

36 D. "Exhausted ballot" means a ballot that does not rank any continuing candidate,
37 contains an overvote at the highest continuing ranking or contains 2 or more sequential
38 skipped rankings before its highest continuing ranking.

39 E. "Highest continuing ranking" means the highest ranking on a voter's ballot for a
40 continuing candidate.

1 F. "Last-place candidate" means the candidate with the fewest votes in a round of the
2 ranked-choice voting count.

3 G. "Mathematically impossible to be elected," with respect to a candidate, means
4 either:

5 (1) ~~The~~ In an election other than an open primary election, the candidate cannot
6 be elected because the candidate's vote total in a round of the ranked-choice voting
7 count plus all votes that could possibly be transferred to the candidate in future
8 rounds from candidates with fewer votes or an equal number of votes would not
9 be enough to surpass the candidate with the next-higher vote total in the round; or

10 (1-A) In an open primary election for Governor, State Senator or State
11 Representative, the candidate cannot be elected because the candidate's vote total
12 in a round of the ranked-choice voting count plus all votes that could possibly be
13 transferred to the candidate in future rounds from candidates with fewer votes or
14 an equal number of votes would not be enough to surpass the 2 candidates with
15 higher vote totals in the round;

16 (1-B) In an open primary election for United States Senator or United States
17 Representative to Congress, the candidate cannot be elected because the
18 candidate's vote total in a round of the ranked-choice voting count plus all votes
19 that could possibly be transferred to the candidate in future rounds from candidates
20 with fewer votes or an equal number of votes would not be enough to surpass the
21 4 candidates with higher vote totals in the round; or

22 (2) The candidate has a lower vote total than a candidate described in subparagraph
23 (1), (1-A) or (1-B).

24 H. "Overvote" means a circumstance in which a voter has ranked more than one
25 candidate at the same ranking.

26 H-1. "Ranked-choice voting count" means the ranked-choice counting process
27 described in this section and in rules adopted by the Secretary of State.

28 I. "Ranking" means the number assigned on a ballot by a voter to a candidate to express
29 the voter's preference for that candidate. Ranking number one is the highest ranking,
30 ranking number 2 is the next-highest ranking and so on.

31 J. "Round" means an instance of the sequence of vote counting steps established in
32 subsection 2 or 2-A and in rules adopted by the Secretary of State.

33 K. "Skipped ranking" means a circumstance in which a voter has left a ranking blank
34 and ranks a candidate at a subsequent ranking.

35 **Sec. 40. 21-A MRSA §723-A, sub-§2**, as amended by PL 2019, c. 320, §12, is
36 further amended to read:

37 **2. Procedures in election that is not open primary election.** Except as provided in
38 subsections 3 and 4, the following procedures are used to determine the winner of an
39 election determined by ranked-choice voting that is not an open primary election for the
40 office of Governor, State Senator or State Representative. The ranked-choice voting count
41 must proceed in rounds. In each round, the number of votes for each continuing candidate
42 must be counted. Each continuing ballot counts as one vote for its highest-ranked

1 continuing candidate for that round. Exhausted ballots are not counted for any continuing
2 candidate. The round then ends with one of the following 2 potential outcomes.

3 A. If there are 2 or fewer continuing candidates, the candidate with the most votes is
4 declared the winner of the election.

5 B. If there are more than 2 continuing candidates, the last-place candidate is defeated
6 and a new round begins.

7 **Sec. 41. 21-A MRSA §723-A, sub-§2-A** is enacted to read:

8 **2-A. Procedures in open primary election.** Except as provided in subsections 3-A
9 and 4, the following procedures are used to determine the top 2 candidates in an open
10 primary election for the office of Governor, State Senator or State Representative
11 determined by ranked-choice voting and the top 4 candidates in an open primary election
12 for the office of United States Senator or United States Representative to Congress. The
13 ranked-choice voting count must proceed in rounds. In each round, the number of votes
14 for each continuing candidate must be counted. Each continuing ballot counts as one vote
15 for its highest-ranked continuing candidate for that round. Exhausted ballots are not
16 counted for any continuing candidate.

17 A. For determining the candidates for the office of Governor, State Senator or State
18 Representative, the round then ends with one of the following 2 potential outcomes.

19 (1) If there are 3 or fewer continuing candidates, the 2 candidates with the most
20 votes are declared the winners of the open primary election.

21 (2) If there are more than 3 continuing candidates, the last-place candidate is
22 defeated and a new round begins.

23 B. For determining the candidates for the office of United States Senator or United
24 States Representative to Congress, the round ends with one of the following 2 potential
25 outcomes.

26 (1) If there are 5 or fewer continuing candidates, the 4 candidates with the most
27 votes are declared the winners of the open primary election.

28 (2) If there are more than 5 continuing candidates, the last place candidate is
29 defeated and a new round begins.

30 **Sec. 42. 21-A MRSA §723-A, sub-§3,** as amended by PL 2019, c. 320, §13, is
31 further amended to read:

32 **3. Ties in election that is not open primary election.** A tie ~~under this section~~ between
33 last-place candidates in an election determined by ranked-choice voting that is not an open
34 primary election for the office of Governor, State Senator or State Representative in any
35 round other than the final round must be decided by lot, and the candidate chosen by lot is
36 defeated. The result of the tie resolution must be recorded and reused in the event of a
37 recount. A tie between candidates for the most votes in the final round must be decided as
38 provided in section 732.

39 **Sec. 43. 21-A MRSA §723-A, sub-§3-A** is enacted to read:

40 **3-A. Ties in open primary election.** A tie between the 2nd-place and 3rd-place
41 candidates for the office of Governor, State Senator or State Representative in an open
42 primary election in any round must be decided by lot, and the candidate chosen by lot is

1 defeated. The result of the tie resolution must be recorded and reused in the event of a
2 recount. A tie between the top 2 candidates for the office of Governor, State Senator or
3 State Representative in the final round of an open primary election need not be resolved.
4 A tie between the 4th-place and 5th-place candidates for the office of United States Senator
5 or United States Representative to Congress in an open primary election in any round must
6 be decided by lot, and the candidate chosen by lot is defeated. The result of the tie
7 resolution must be recorded and reused in the event of a recount. A tie between the top 4
8 candidates for the office of United States Senator or United States Representative to
9 Congress in the final round of an open primary election need not be resolved.

10 **Sec. 44. 21-A MRSA §723-A, sub-§5-B**, as amended by PL 2021, c. 750, §11 and
11 affected by §14, is further amended to read:

12 **5-B. Presidential primary elections; selection of delegates.** Notwithstanding any
13 provision of this section to the contrary, for presidential primary elections, batch
14 elimination may not be used for any candidates with more than 100 votes, tabulation must
15 continue until only 2 continuing candidates remain or until all remaining candidates meet
16 or exceed a percentage threshold established by party rule, separate tabulations must be
17 conducted statewide and for each congressional district and selection and allocation of
18 delegates to a party's national presidential nominating convention must be in accordance
19 with any reasonable procedures established at the state party convention, except that
20 unenrolled voters who participate in the party's primary election must be considered
21 members of the party for purposes of allocating delegates.

22 **Sec. 45. 21-A MRSA §732, sub-§1**, as corrected by RR 2019, c. 2, Pt. B, §58, is
23 amended to read:

24 **1. Primary election.** In a primary election other than an open primary election for the
25 office of Governor, State Senator or State Representative, the Secretary of State shall notify
26 each person involved in the tie to be present at the Secretary of State's office at a certain
27 time. At that time, the Secretary of State shall select the nominee publicly by lot.

28 **Sec. 46. 21-A MRSA §759, sub-§4**, as amended by PL 2007, c. 455, §43, is further
29 amended to read:

30 **4. Warden to check absentee ballot for correct party or district.** At a primary
31 election other than an open primary election when the warden removes a ballot from its
32 envelope, the warden shall check its color to be sure it is the ballot of the party in which
33 the voter is enrolled. If it is not, the warden shall immediately replace it in its envelope,
34 reseal the envelope and write "Rejected" on it, the reason why and the warden's initials. At
35 a primary or general election, in a municipality that has more than one voting district, when
36 the warden removes a ballot from its envelope, the warden shall check its color to be sure
37 it is the ballot of the district in which the voter is registered. If it is not, the warden shall
38 challenge the ballot according to section 673.

39 **Sec. 47. 21-A MRSA §812, sub-§3**, as enacted by PL 1985, c. 161, §6, is amended
40 to read:

41 **3. Write-in vote.** ~~It~~ Except for a general election in an election subject to an open
42 primary, it must permit a voter to vote for a write-in candidate.

43 **Sec. 48. 21-A MRSA §812, sub-§5**, as enacted by PL 1985, c. 161, §6, is amended
44 to read:

