

# MAINE STATE LEGISLATURE

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# 132nd MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2025

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**Legislative Document**

**No. 1422**

S.P. 578

In Senate, April 1, 2025

### **An Act Regarding Open Primary Elections and Ranked-choice Voting**

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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", is positioned above the printed name of the Secretary of the Senate.

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-§14-A** is enacted to read:

3               **14-A. Elections determined by ranked-choice voting.** "Elections determined by  
4 ranked-choice voting" means any of the following elections in which 3 or more candidates  
5 have qualified to be listed on the ballot for a particular office or at least 2 such candidates  
6 plus one or more declared write-in candidates have qualified for that particular office:

7               A. Open primary elections for the offices of United States Senator, United States  
8 Representative to Congress, Governor, State Senator and State Representative; and

9               B. General elections for presidential electors and for the offices of United States  
10 Senator and United States Representative to Congress.

11              **Sec. 2. 21-A MRSA §1, sub-§14-B** is enacted to read:

12              **14-B. Elections subject to open primary.** "Elections subject to an open primary"  
13 means the elections for the offices of United States Senator, United States Representative  
14 to Congress, Governor, State Senator and State Representative.

15              **Sec. 3. 21-A MRSA §1, sub-§27-C**, as repealed and replaced by PL 2021, c. 273,  
16 §1, is repealed.

17              **Sec. 4. 21-A MRSA §1, sub-§27-E** is enacted to read:

18              **27-E. 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 or 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. 5. 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 "primary election" means the open primary election.

28              **Sec. 6. 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 open primary election for the  
34 office of Governor, State Senator or State Representative, the 2 candidates with the most  
35 votes in the final round are nominated to appear on the ballot for the general election or, in  
36 an open primary election for the office of United States Senator or United States  
37 Representative to Congress, the 4 candidates with the most votes in the final round are  
38 nominated to appear on the ballot for the general election.

39              **Sec. 7. 21-A MRSA §144, sub-§2**, as amended by PL 2005, c. 453, §27, is further  
40 amended to read:

1       **2. Party designation removed.** On receipt of the application, the registrar shall  
2 remove the party designation of the applicant from the central voter registration system.  
3 The registrar shall indicate in the central voter registration system that the applicant is  
4 ineligible to vote at a caucus or primary election, other than an open primary election, for  
5 15 days by designating the party enrollment field with the letter "X." Fifteen days after  
6 receiving the application, the registrar shall enroll the applicant in the party requested and  
7 enter the new party designation in the party enrollment field.

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

10       **Sec. 8. 21-A MRSA §144, sub-§3**, as repealed and replaced by PL 2013, c. 457,  
11 §2, is amended to read:

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

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

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

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

30       **Sec. 10. 21-A MRSA §336, sub-§1**, as amended by PL 2011, c. 239, §1, 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 primary 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 primary petition.

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

42       **§338. Write-in candidates**

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

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

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

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

15       **Sec. 13. 21-A MRSA §351, first ¶**, as enacted by PL 1985, c. 161, §6, is amended  
16 to read:

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

20       **Sec. 14. 21-A MRSA §351, sub-§4** is enacted to read:

21       **4. Elections subject to an open primary.** A person who satisfies the requirements of  
22 section 353 may file a nomination petition pursuant to this subchapter as a candidate for  
23 the open primary election in an election subject to an open primary. A person may not file  
24 a nomination petition pursuant to this subchapter as a candidate for the general election in  
25 an election subject to an open primary.

26       **Sec. 15. 21-A MRSA §354, sub-§1**, as amended by PL 2023, c. 389, §3, is further  
27 amended to read:

28       **1. Content.** A nomination petition must contain the name of only one candidate, the  
29 candidate's municipality of residence, the office sought and electoral division. A  
30 nomination petition may contain as many separate papers as necessary and may contain the  
31 candidate's consent required by section 355. It may also contain the candidate's political  
32 designation. This designation may not exceed 3 words in length, may not incorporate the  
33 candidate's name or the designation or an abbreviation of the designation of a party that is  
34 qualified to ~~nominate candidates by~~ participate in a primary election and may not consist  
35 of or comprise language that is obscene, contemptuous, profane or prejudicial, promotes  
36 abusive or unlawful activity or violates any other provision of the laws of this State with  
37 respect to names. A candidate who intends to form a new party about that person's  
38 candidacy must use the proposed party's designation.

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

41       B. The names of presidential electors must be placed on the petition as a slate. The  
42 names of the candidates for President and Vice President must be placed on a petition  
43 for the nomination of presidential electors.

1       **Sec. 16. 21-A MRSA §354, sub-§7, ¶B**, as amended by PL 2013, c. 131, §12, is  
2 further amended to read:

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

9       **Sec. 17. 21-A MRSA §354, sub-§8-A**, as amended by PL 2013, c. 131, §13, is  
10 further amended to read:

11       **8-A. Filed with the Secretary of State.** A nomination petition must be filed in the  
12 office of the Secretary of State by 5 p.m. on June 1st in the election year in which it is to  
13 be used, except that ~~petitions~~ a nomination petition for a candidate for an open primary  
14 election must be filed in the office of the Secretary of State by 5 p.m. on March 15th of the  
15 election year in which it is to be used and a petition for a slate of candidates for the office  
16 of presidential elector must be filed in the office of the Secretary of State by 5 p.m. on  
17 August 1st in the election year in which the ~~petitions are~~ petition is to be used.

18       **Sec. 18. 21-A MRSA §355, sub-§1**, as amended by PL 2011, c. 534, §12, is further  
19 amended to read:

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

28       **Sec. 19. 21-A MRSA §361, first ¶**, as corrected by RR 2019, c. 2, Pt. B, §48, is  
29 amended to read:

30       A vacancy in any federal, state or county office, in the office of an election official or  
31 in any political committee occurs when the incumbent dies, resigns, becomes disqualified  
32 or changes the incumbent's residence to an electoral division other than that from which  
33 the incumbent was elected or when the person elected fails to qualify. A vacancy in the  
34 office of United States Senator, United States Representative to Congress, Governor, State  
35 Senator or State Representative also occurs at the beginning of the term of office for a  
36 candidate who was elected at a general election for that office but who died or became  
37 disqualified on or before the date of that general election.

38       **Sec. 20. 21-A MRSA §367**, as amended by PL 2023, c. 304, Pt. A, §8, is further  
39 amended to read:

40       **§367. Candidate withdrawal**

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

1 to the Secretary of State by the appropriate deadline provided in article 2. The notice may  
2 be submitted by facsimile or scanned image.

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

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

6 **3. Vacancy and replacement of candidates in uncontested ~~raees~~ party primaries.**  
7 ~~If For a primary election other than an open primary election, if~~ a candidate for nomination  
8 dies or becomes disqualified prior to the primary election or withdraws 70 days or more  
9 before the primary election, the Secretary of State shall declare the vacancy pursuant to  
10 section 362-A if no other candidate from the same political party will appear on the primary  
11 election ballot for that office. A political committee may fill the vacancy pursuant to  
12 section 363. The Secretary of State shall remove the former candidate's name from the  
13 primary election ballot and shall produce new primary election ballots or amend or  
14 supplement the primary election ballots already printed in accordance with section 376 or  
15 604.

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

22 **5. Death or disqualification of candidates less than 70 days before primary**  
23 **election in contested ~~raees~~ party primaries.** ~~The For a primary election other than an~~  
24 ~~open primary election, the~~ Secretary of State is not required to remove the name of a  
25 candidate from the primary election ballot or declare a vacancy if a candidate dies or  
26 becomes disqualified less than 70 days before the primary election and another candidate  
27 from the same political party will appear on the ballot for that office. Upon receipt of  
28 information that the candidate has died or become disqualified, the Secretary of State shall  
29 immediately prepare and distribute to the local election officials in the candidate's electoral  
30 district a notice informing voters that the candidate has died or become disqualified and  
31 that a vote for that candidate will not be counted. The notice must be distributed with all  
32 absentee ballots requested after the notice is received by the local election officials and, on  
33 election day, must be posted outside the guardrail enclosure in accordance with section  
34 651, subsection 2 and in each voting booth. Notice that the candidate has died or become  
35 disqualified must also be posted on the Secretary of State's publicly accessible website.

36 **6. Withdrawal of candidates less than 70 days before primary election in**  
37 **contested and uncontested ~~raees~~ party primaries.** ~~When For a primary election other~~  
38 ~~than an open primary election, when~~ a candidate for nomination withdraws less than 70  
39 days before the primary election, the candidate's name may not be removed from the  
40 primary election ballot and a vacancy may not be declared. Upon receipt of the notice of  
41 withdrawal, the Secretary of State shall immediately prepare and distribute to the local  
42 election officials in the candidate's electoral district a notice informing voters that the  
43 candidate has withdrawn and that a vote for that candidate will not be counted. The notice  
44 must be distributed with all absentee ballots requested after the notice is received by the  
45 local election officials and, on election day, must be posted outside the guardrail enclosure

1 in accordance with section 651, subsection 2 and in each voting booth. Notice of the late  
2 withdrawal must also be posted on the Secretary of State's publicly accessible website.

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

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

21 **Sec. 22. 21-A MRSA §374-A,** as amended by PL 2019, c. 636, §9, is further  
22 amended to read:

23 **§374-A. General election candidates; vacancy**

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

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

31 B. Withdraws because of a catastrophic illness, condition or injury that has  
32 permanently and continuously incapacitated the candidate and would prevent  
33 performance of the duties of the office sought, as long as the candidate or a member of  
34 the candidate's immediate family files with the Secretary of State a certificate  
35 accompanying the withdrawal request that describes the illness, condition or injury and  
36 is signed by a licensed physician; or

37 C. Dies prior to the general election.

38 **2. Deadline for replacement of nominee in elections not subject to open primary.**  
39 A In an election other than an election subject to an open primary, a political committee  
40 may make a replacement nomination for the general election:

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



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

3 **2-A. Ballot procedure for replacement candidates in elections not subject to open**  
4 **primary.** If In an election other than an election subject to an open primary, if a political  
5 party makes a replacement nomination for the general election by the deadline established  
6 in subsection 2, the Secretary of State shall produce new general election ballots or amend  
7 or supplement general election ballots already printed in accordance with section 376 or  
8 604.

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

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

32 **5. Death or disqualification of nominees in elections subject to open primary.** If  
33 a candidate who is declared the winner of an open primary election pursuant to section 723,  
34 subsection 1-A dies or becomes disqualified at any time before the general election, the  
35 candidate's name will not be removed from the ballot. Upon receipt of information that the  
36 candidate has died or become disqualified, the Secretary of State shall immediately prepare  
37 and distribute to local election officials in the candidate's electoral district and on the  
38 Secretary of State's publicly accessible website a notice informing voters that, although the  
39 candidate has died or become disqualified, a vote for that candidate will be counted and, if  
40 the candidate is declared the winner of the election, a vacancy will be declared at the  
41 beginning of the term for which the candidate was elected. The notice must be distributed  
42 with all absentee ballots requested after the notice is received by the local election officials  
43 and, on election day, must be posted outside the guardrail enclosure in accordance with  
44 section 651, subsection 2 and in each voting booth.

**Sec. 23. 21-A MRSA §376, sub-§1-A**, as enacted by PL 2019, c. 636, §11, is amended to read:

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

**Sec. 24. 21-A MRSA §441, sub-§1**, as amended by PL 2021, c. 273, §7, is further amended to read:

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

**Sec. 25. 21-A MRSA c. 5, sub-c. 9 is enacted to read:**

## SUBCHAPTER 9

## OPEN PRIMARY ELECTIONS

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

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

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

**2. Unenrolled candidates.** Is not enrolled in a party qualified to participate in a primary election; filed a nomination petition and consent that meets the requirements of sections 351, 354 and 355, subject to challenge and appeal under section 356; and was certified by the Secretary of State pursuant to section 357. The party designation, if any, of a candidate who meets the requirements of this subsection may not be printed on the open primary election ballot.

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

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

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

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

5       **Sec. 26. 21-A MRSA §601, sub-§2, ¶D**, as amended by PL 2009, c. 253, §24, is  
6       further amended to read:

7       D. At the end of the list of candidates for each office, there must be left as many blank  
8       spaces as there are vacancies to be filled, except that no blank spaces may be placed at  
9       the end of the list of nominees for the office on the general election ballot for an election  
10      subject to an open primary. These The blank spaces left on the ballot under this  
11      paragraph may be used by a voter to write in the name of a person for whom the voter  
12      desires to vote, as provided in section 691, subsection 2 for a primary election or section  
13      692, subsection 2 for a general election.

14      **Sec. 27. 21-A MRSA §601, sub-§4**, as amended by PL 2001, c. 310, §29, is further  
15      amended to read:

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

25      **Sec. 28. 21-A MRSA §651, sub-§2, ¶B**, as amended by PL 2019, c. 636, §13, is  
26      further amended by amending subparagraph (3-A) to read:

27      (3-A) A supplemental notice correcting an error or providing information on a  
28      replacement candidate prepared under section 604 ~~or~~; a notice informing voters  
29      that a vote for a candidate will not be counted because the candidate has died or  
30      has withdrawn prepared under section 371, subsection 5 or 6 or section 374-A,  
31      subsection 3; or a notice informing voters that, although a candidate has died or  
32      become disqualified, a vote for that candidate will be counted and, if that candidate  
33      is declared the winner of the election, a vacancy will be declared at the beginning  
34      of the term of the office for which the candidate was elected, prepared under  
35      section 374-A, subsection 5, next to the sample ballots;

36      **Sec. 29. 21-A MRSA §673, sub-§1, ¶A**, as corrected by RR 2011, c. 2, §21, is  
37      amended by amending subparagraph (2) to read:

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

40      **Sec. 30. 21-A MRSA §692, sub-§2**, as amended by PL 2023, c. 304, Pt. A, §11, is  
41      further amended to read:

42      **2. Write-in vote.** If the voter wishes to vote for a write-in candidate, the voter must  
43      write the name of the candidate in the blank space provided next to the write-in indicator.

1 The voter must then mark the write-in indicator as instructed on the ballot to indicate a vote  
2 for the write-in candidate. A sticker may not be used to vote for a write-in candidate. A  
3 voter may not vote for a write-in candidate in a general election in an election subject to an  
4 open primary.

5 **Sec. 31. 21-A MRSA §696, sub-§2, ¶E-1** is enacted to read:

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

8 **Sec. 32. 21-A MRSA §722, sub-§1-A**, as amended by PL 2019, c. 371, §26, is  
9 further amended to read:

10 **1-A. Form of tabulation.** The tabulation must include the total votes for each question  
11 choice or candidate whose name appeared on the ballot. The tabulation also must include  
12 the total votes for any declared write-in candidates pursuant to section 722-A as follows.

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

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

17 **Sec. 33. 21-A MRSA §722-A**, as amended by PL 2023, c. 304, Pt. A, §13, is further  
18 amended to read:

19 **§722-A. Determination of declared write-in candidate**

20 To be considered a declared write-in candidate, a person must file a declaration of  
21 write-in candidacy with the Secretary of State, on a form approved by the Secretary of  
22 State, on or before 5 p.m. on the 70th day prior to the election. The candidate must meet  
23 all the other qualifications for that office. A person may not be a declared write-in  
24 candidate for the general election in an election subject to an open primary.

25 **Sec. 34. 21-A MRSA §723, sub-§1**, as amended by PL 2019, c. 320, §8, is further  
26 amended to read:

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

32 A. A write-in candidate who complies with section 722-A and who fulfills the other  
33 qualifications under section 334 may be nominated at the primary election if that person  
34 receives a number of valid write-in votes equal to at least twice the minimum number  
35 of signatures required under section 335, subsection 5 on a primary petition for a  
36 candidate for that office.

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

39 **Sec. 35. 21-A MRSA §723, sub-§1-A** is enacted to read:

40 **1-A. Open primary election.** In an open primary election for the office of Governor,  
41 State Senator or State Representative, the 2 persons who receive the most votes cast as

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

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

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

**Sec. 37. 21-A MRSA §723, sub-§2**, as amended by PL 2017, c. 316, §7, is further amended to read:

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

**Sec. 38. 21-A MRSA §723-A, sub-§1, ¶J**, as amended by PL 2019, c. 320, §11, is further amended to read:

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

**Sec. 39. 21-A MRSA §723-A, sub-§2**, as amended by PL 2023, c. 628, §2, is further amended to read:

**2. Procedures in election that is not open primary election.** Except as provided in subsections 3, 4 and 7, the following procedures are used to determine the winner of an election determined by ranked-choice voting that is not an open primary election for the office of Governor, State Senator or State Representative. The ranked-choice voting count must proceed in rounds. In each round, the number of votes for each continuing candidate must be counted. Each continuing ballot counts as one vote for its highest-ranked continuing candidate for that round. Exhausted ballots are not counted for any continuing candidate. The round then ends with one of the following 2 potential outcomes.

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

B. If there are more than 2 continuing candidates, the last-place candidate is removed from consideration and a new round begins.

**Sec. 40. 21-A MRSA §723-A, sub-§2-A** is enacted to read:

**2-A. Procedures in open primary election.** Except as provided in subsections 3-A and 4, the following procedures are used to determine the top 2 candidates in an open

1 primary election for the office of Governor, State Senator or State Representative  
2 determined by ranked-choice voting and the top 4 candidates in an open primary election  
3 for the office of United States Senator or United States Representative to Congress. The  
4 ranked-choice voting count must proceed in rounds. In each round, the number of votes  
5 for each continuing candidate must be counted. Each continuing ballot counts as one vote  
6 for its highest-ranked continuing candidate for that round. Exhausted ballots are not  
7 counted for any continuing candidate.

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

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

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

14 B. For determining the candidates for the office of United States Senator or United  
15 States Representative to Congress, the round then ends with one of the following 2  
16 potential outcomes.

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

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

21 **Sec. 41. 21-A MRSA §723-A, sub-§3,** as amended by PL 2023, c. 628, §3, is  
22 further amended to read:

23 **3. Ties in election that is not open primary election.** A tie ~~under this section~~ between  
24 last-place candidates in an election determined by ranked-choice voting that is not an open  
25 primary election for the office of Governor, State Senator or State Representative in any  
26 round other than the final round must be decided by lot, and the candidate chosen by lot is  
27 removed from consideration. The result of the tie resolution must be recorded and reused  
28 in the event of a recount. A tie between candidates for the most votes in the final round  
29 must be decided as provided in section 732.

30 **Sec. 42. 21-A MRSA §723-A, sub-§3-A** is enacted to read:

31 **3-A. Ties in open primary election.** A tie between the 2nd-place and 3rd-place  
32 candidates for the office of Governor, State Senator or State Representative in an open  
33 primary election in any round must be decided by lot, and the candidate chosen by lot is  
34 defeated. The result of the tie resolution must be recorded and reused in the event of a  
35 recount. A tie between the top 2 candidates for the office of Governor, State Senator or  
36 State Representative in the final round of an open primary election need not be resolved.  
37 A tie between the 4th-place and 5th-place candidates for the office of United States Senator  
38 or United States Representative to Congress in an open primary election in any round must  
39 be decided by lot, and the candidate chosen by lot is defeated. The result of the tie  
40 resolution must be recorded and reused in the event of a recount. A tie between the top 4  
41 candidates for the office of United States Senator or United States Representative to  
42 Congress in the final round of an open primary election need not be resolved.

1       **Sec. 43. 21-A MRSA §723-A, sub-§5-B**, as amended by PL 2023, c. 304, Pt. A,  
2       §18 and affected by §39, is further amended to read:

3       **5-B. Presidential primary elections; selection of delegates.** Notwithstanding any  
4       provision of this section to the contrary, for presidential primary elections, tabulation must  
5       continue until only 2 continuing candidates remain or until all remaining candidates meet  
6       or exceed a percentage threshold established by party rule, separate tabulations must be  
7       conducted statewide and for each congressional district and selection and allocation of  
8       delegates to a party's national presidential nominating convention must be in accordance  
9       with any reasonable procedures established at the state party convention, except that  
10      unenrolled voters who participate in the party's primary election must be considered  
11      members of the party for purposes of allocating delegates.

12      **Sec. 44. 21-A MRSA §732, sub-§1**, as corrected by RR 2019, c. 2, Pt. B, §58, is  
13      amended to read:

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

18      **Sec. 45. 21-A MRSA §759, sub-§4**, as amended by PL 2007, c. 455, §43, is further  
19      amended to read:

20      **4. Warden to check absentee ballot for correct party or district.** At a primary  
21      election other than an open primary election when the warden removes a ballot from its  
22      envelope, the warden shall check its color to be sure it is the ballot of the party in which  
23      the voter is enrolled. If it is not, the warden shall immediately replace it in its envelope,  
24      reseal the envelope and write "Rejected" on it, the reason why and the warden's initials. At  
25      a primary or general election, in a municipality that has more than one voting district, when  
26      the warden removes a ballot from its envelope, the warden shall check its color to be sure  
27      it is the ballot of the district in which the voter is registered. If it is not, the warden shall  
28      challenge the ballot according to section 673.

29      **Sec. 46. 21-A MRSA §812, sub-§3**, as enacted by PL 1985, c. 161, §6, is amended  
30      to read:

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

33      **Sec. 47. 21-A MRSA §812, sub-§5**, as enacted by PL 1985, c. 161, §6, is amended  
34      to read:

35      **5. Voting restricted at primary.** It must prevent a voter from voting for the  
36      nomination of candidates of more than one party at a primary election other than an open  
37      primary election.

38      **Sec. 48. 21-A MRSA §825, sub-§1**, as corrected by RR 2019, c. 2, Pt. B, §67, is  
39      amended to read:

40      **1. Primary election.** In a primary election other than an open primary election, the  
41      warden or, in the warden's absence, a designated election clerk must activate each voting  
42      machine so that a voter can vote only for the candidates of the political party in which the  
43      voter is enrolled.

**Sec. 49. 21-A MRSA §843, sub-§3**, as enacted by PL 1985, c. 161, §6, is amended to read:

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

**Sec. 50. 21-A MRSA §843, sub-§4**, as enacted by PL 1985, c. 161, §6, is amended to read:

**4. Voting restricted at primary.** It must prevent a voter from voting for the nomination of candidates of more than one party at a primary election other than an open primary election.

## SUMMARY

This bill provides for open primary elections for the elections for United States Senator, United States Representative to Congress, Governor, State Senator and State Representative. All of the candidates for those offices, including candidates enrolled in a party and unenrolled candidates, must appear on the same open primary ballot. All qualified voters, regardless of enrollment status, are eligible to vote in open primary elections.

The votes in an open primary election must be tabulated using ranked-choice voting, except that, for the office of Governor, State Senator or State Representative, the 2 candidates who receive the most votes are declared the winners of the open primary and, for the office of United States Senator or United States Representative to Congress, the 4 candidates who receive the most votes are declared winners of the open primary. The names of the winners of an open primary must appear on the ballot for the general election. The winner of the general election for the office of United States Senator or United States Representative to Congress is determined by ranked-choice voting. If one of the candidates who received the most votes at the open primary dies or becomes disqualified before the general election, that candidate's name must remain on the ballot and the voters must be notified that a vote for that candidate will be counted and, if that candidate is declared the winner of the election, a vacancy will be declared at the beginning of the term of the office for which the candidate was elected. Voters may not vote for a write-in candidate in a general election that was preceded by an open primary election.

The bill removes primary elections for the office of President of the United States from the list of elections determined by ranked-choice voting.