

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1993

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Legislative Document

No. 1477

S.P. 478

In Senate, May 10, 1993

**An Act to Implement the Recommendations of the Special Commission  
on Electoral Practices.**

(AFTER DEADLINE)

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.  
Reference to the Committee on Legal Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator CAREY of Kennebec.  
Cosponsored by Representative STEVENS of Sabattus.

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

2  
4       **Sec. 1. 21-A MRSA §1, sub-§38**, as enacted by PL 1985, c. 161, §6, is amended to read:

6       **38. Registrar.** "Registrar" means the registrar, or deputy registrar ~~of the board of registration of veterans~~ of a municipality.

10       **Sec. 2. 21-A MRSA §31**, as enacted by PL 1985, c. 161, §6, is repealed.

12       **Sec. 3. 21-A MRSA §§32 and 33** are enacted to read:

14       **§32. Violations and penalties**

16       **1. Class E crime.** A person commits a Class E crime if that person:

18       A. Knowingly violates a provision of this Title for which no penalty has been provided; or

20       B. Knowingly displays or distributes political advertisements in or on state-owned or state-leased property.

22       This paragraph does not apply to acts on state highways or to displays on motor vehicles not owned by the State while temporarily parked in parking areas on land maintained by the State. This paragraph does not apply to acts in or on a state-owned or state-leased building for a period beginning 48 hours before and ending 48 hours after that building is used by a political party to conduct a political activity within the building.

26       **2. Class D crime.** A person commits a Class D crime if that person:

28       A. Is a public official and knowingly fails or refuses to perform a duty required of that official under this Title.

30       **§33. Prosecution of violations**

32       The Attorney General shall designate a Deputy Attorney General or an Assistant Attorney General to investigate and prosecute alleged violations of the election laws. This section does not preclude a district attorney from investigating and prosecuting election law violations.

34       **Sec. 4. 21-A MRSA §101, first ¶**, as enacted by PL 1985, c. 161, §6, is repealed and the following enacted in its place:

2           Within 10 days after the regular election of municipal  
4           officials, the municipal officers shall appoint in writing a  
          qualified registrar of voters who has been nominated by the  
          municipal clerk.

6           **Sec. 5. 21-A MRSA §102, first ¶,** as enacted by PL 1985, c. 161,  
8           §6, is amended to read:

10           The registrar may appoint one or more deputies, who must be  
12           registered voters of the municipality. The deputies must be  
14           selected so that the number of deputies from a political party or  
          from the list of unenrolled voters does not exceed the number of  
16           deputies from another political party or from the list of  
          unenrolled voters by more than one. If the registrar is to be  
18           absent from the municipality for a period exceeding 15  
          consecutive days, he the registrar shall appoint a deputy  
20           registrar or deputy registrars who must be physically present in  
          the municipality. If the registrar and his the appointed deputy  
22           or deputies are absent from the municipality for more than 15  
          consecutive days, the clerk shall-serve serves as registrar pro  
          tem.

24           **Sec. 6. 21-A MRSA §103,** as amended by PL 1991, c. 862, §§1  
          and 2, is repealed.

26           **Sec. 7. 21-A MRSA §104,** as enacted by PL 1985, c. 161, §6, is  
28           repealed.

30           **Sec. 8. 21-A MRSA §112, sub-§1,** as enacted by PL 1985, c. 161,  
          §6, is amended to read:

32           **1. Residence.** The residence of a person is that place in  
34           which his the person's habitation is fixed, ~~and to which,~~  
          ~~whenever he is absent, he has the intention to return.~~

36           **Sec. 9. 21-A MRSA §121, sub-§1-A** is enacted to read:

38           **1-A. Identification and proof.** Persons registering to vote  
40           must show identification and proof of residency. If proof of  
          residency is unavailable at the time of registration, residency  
42           must be verified by mail.

44           Registrations taken by outside agencies or through the mail must  
          be received in the registrar's office by the close of business 15  
46           days before election day in order for the persons who registered  
          to appear on the voter list as registered for the election.

48           A person who registers during the 15 days before election day or  
50           on election day shall register in person and show proof of

2 identity and residency. If satisfactory proof can not be  
3 provided to the registrar or deputy, the person casts a  
4 challenged ballot.

6 **Sec. 10. 21-A MRSA §159, sub-§1,** as enacted by PL 1985, c.  
7 161, §6, is amended to read:

8 **1. False statement or false oath.** A person who makes a  
9 false statement or who takes a false oath before an official  
10 concerning the qualifications of any person for registration or  
11 enrollment and who does not believe the statement to be true is  
12 ~~guilty of~~ commits a Class -E- D crime.

14 **Sec. 11. 21-A MRSA §161, sub-§2,** as amended by PL 1991, c.  
15 466, §10, is further amended to read:

16 **2. List current.** The registrar shall keep a list current  
17 at all times by adding the names of new voters and by removing  
18 the names of those who have died, moved from the municipality  
19 with an apparent intention of abandoning their residence in the  
20 municipality or become disqualified to vote. When the registrar  
21 employs the facilities of the United States Postal Service to  
22 determine which voters have moved from the municipality and when  
23 the United States Postal Service reports to the registrar that a  
24 voter has moved from the address shown on the voting list without  
25 having notified the United States Postal Service of a forwarding  
26 address, the registrar shall remove the name of the voter from  
27 the voting list and is not required to send, or to attempt to  
28 send, a notice to the voter in accordance with section 162. The  
29 registrar may not remove the name of a registered voter from the  
30 voter list solely for not voting in previous elections.

31 The registrar may contact other municipalities within the  
32 representative district or senatorial district in which the  
33 registrar's municipality is apportioned to ascertain whether  
34 voters on that municipality's voting list are also registered in  
35 another municipality in the district.

36 **Sec. 12. 21-A MRSA §167,** as enacted by PL 1985, c. 161, §6,  
37 is amended to read:

38 **§167. Violation and penalty**

39 A person who places or removes the name of another on or  
40 from a voting list or general register, knowing he that person  
41 has no legal right to do so is ~~guilty of~~, commits a Class -E- C  
42 crime.

43 **Sec. 13. 21-A MRSA §503, sub-§1,** as amended by PL 1991, c.  
44 466, §18, is repealed and the following enacted in its place:

2           **1. Appointment.** The municipal clerk of each municipality  
4 shall appoint election clerks for each polling place no later  
6 than May 1st of each general election year. The election clerks  
8 must be registered voters of the municipality in which  
10 appointed. The clerk shall consider persons nominated by the  
12 local committees of the major political parties. The workers  
14 must be selected so that the number of workers from a political  
16 party or from the list of unenrolled voters does not exceed the  
18 number of workers from another political party or from the list  
20 of unenrolled voters by more than one.

22           **Sec. 14. 21-A MRSA §503, sub-§2,** as amended by PL 1985, c.  
24 314, is further amended to read:

26           **2. Number appointed.** The municipal officers shall appoint  
28 2 election clerks, who must be residents of the municipality, for  
30 each voting place in each municipality.

32           A. ~~They~~ The municipal officers may appoint additional  
34 election clerks, if necessary, who are nominated as provided  
36 in subsection 1.

38           B. ~~They~~ The municipal officers shall appoint alternate  
40 election clerks who are nominated as provided in subsection  
42 1 and who may be called into service by the warden, as  
44 needed, to fill a vacancy on election day.

46           C. The municipal clerk may appoint a sufficient number of  
48 election clerks, ~~an equal number from each political party,~~  
50 who are nominated as provided in subsection 1, to serve as  
52 counters when the polls close. ~~Counters shall be paid a~~ are  
54 entitled to receive reasonable compensation as determined by  
56 the municipal officers.

58           If the municipal ~~committee~~ clerk fails to nominate a sufficient  
60 number of election clerks, the municipal clerk or municipal  
62 officers shall appoint the necessary number to fill the vacancy  
64 on election day.

66           **Sec. 15. 21-A MRSA §503, sub-§8** is enacted to read:

68           **8. Training.** The Secretary of State shall encourage  
70 municipalities to provide training biennially to election  
72 officials.

74           **Sec. 16. 21-A MRSA §601, sub-§1,** as enacted by PL 1985, c.  
76 161, §6, is amended to read:

1. **Arrangement.** The ballot must be arranged in one-column  
the same format as the ballots used for scanning devices.

**Sec. 17. 21-A MRSA §601, sub-§2, ¶A,** as enacted by PL 1985, c.  
161, §6, is amended to read:

A. The following instructions must be printed in bold type  
at the top of the ballot: ~~"MAKE-A-CROSS (X) OR A CHECK-MARK  
(-)-IN-THE-SQUARE-AT-THE-LEFT-OF-THE-NAME-OF-THE-CANDIDATE  
FOR-WHOM-YOU-WISH-TO-VOTE,~~ "TO VOTE FOR A CANDIDATE OF YOUR  
CHOICE, COMPLETE THE ARROW POINTING TO THE CANDIDATE OF YOUR  
CHOICE, LIKE THIS (show completed arrow). YOU MAY VOTE FOR  
A PERSON WHOSE NAME DOES NOT APPEAR ON THE BALLOT BY WRITING  
IT THE PERSON'S NAME AND MUNICIPALITY OF RESIDENCE OR BY  
PASTING A STICKER WITH THE PERSON'S NAME AND MUNICIPALITY OF  
RESIDENCE ON IT IN THE PROPER BLANK SPACE AND MARKING  
COMPLETING THE SQUARE ARROW AT THE LEFT RIGHT. DO NOT ERASE  
NAMES."

**Sec. 18. 21-A MRSA §601, sub-§2, ¶F,** as enacted by PL 1985, c.  
161, §6, is repealed and the following enacted in its place:

F. An arrow must be printed at the right of each name or  
write-in space so that a voter may designate the voter's  
choice clearly by connecting the arrow.

**Sec. 19. 21-A MRSA §601-A, sub-§2, ¶A,** as enacted by PL 1987,  
c. 797, §3, is amended to read:

A. The following instructions must be printed in bold type  
at the top of the ballot.

~~"MAKE-A-CROSS (X) OR A CHECK-MARK (-)-IN-THE-SQUARE-AT-THE  
LEFT-OF-THE-NAME-OF-THE-CANDIDATE-FOR-WHOM-YOU-WISH-TO-VOTE.  
"TO VOTE FOR A CANDIDATE OF YOUR CHOICE, COMPLETE THE ARROW  
POINTING TO THE CANDIDATE OF YOUR CHOICE, LIKE THIS (show  
completed arrow).~~ YOU MAY VOTE FOR A PERSON WHOSE NAME DOES  
NOT APPEAR ON THE BALLOT BY WRITING IT THE PERSON'S NAME AND  
MUNICIPALITY OF RESIDENCE OR BY PASTING A STICKER WITH THAT  
THE PERSON'S NAME AND MUNICIPALITY OF RESIDENCE ON IT IN THE  
PROPER BLANK SPACE AND MARKING ~~A-CROSS (X) OR A CHECK-MARK (-)  
)-IN~~ COMPLETING THE PROPER-SQUARE ARROW AT THE LEFT RIGHT.  
DO NOT ERASE NAMES.

IF YOU WISH TO VOTE FOR UNCOMMITTED, ~~MAKE-A-CROSS (X) OR A  
CHECK-MARK (-)-IN~~ COMPLETE THE SQUARE ARROW AT THE LEFT  
RIGHT OF THE WORD 'UNCOMMITTED.' MARK COMPLETE ONLY ONE  
SQUARE ARROW."





2 A. Knowingly removes a ballot from a voting place on  
4 election day except as authorized by this Title;

6 B. Interferes with a voter attempting to cast a vote or  
8 interferes with or attempts to influence a voter in marking  
10 that voter's ballot;

12 C. Assists or offers to assist another person at the voting  
14 place in marking that other person's ballot, unless the  
16 person has been requested to do so by the warden or ward  
18 clerk; or

20 D. Shows that person's marked ballot to another with the  
22 intent to reveal how that person voted.

24 **2. Class D crime.** A person commits a Class D crime if that  
26 person:

28 A. Assists another person in voting, knowing that the other  
30 person is not eligible to vote; or

32 B. Solicits votes from another person, knowing that the  
34 other person is under guardianship because of mental illness.

36 **3. Class C crime.** A person commits a Class C crime if that  
38 person:

40 A. Knowingly causes a delay in the registration or  
42 enrollment of another or knowingly causes a delay in the  
44 delivery of an absentee ballot or absentee ballot  
46 application with the intent to prevent a person from voting  
48 or to render that person's vote ineffective;

50 B. Votes or attempts to vote knowing that the person is not  
eligible to do so or having once voted, whether within or  
outside this State, again votes or attempts to vote at the  
same election; or

C. Votes or attempts to vote by using the name of another.

**4. Class B crime.** A person commits a Class B crime if that  
person:

A. Tamper with ballots or voting lists or opens or breaks  
a seal of a sealed box or package of ballots or voting  
lists, except as permitted by this Title.

**Sec. 24. 21-A MRSA §682, sub-§2, as enacted by PL 1985, c.**  
**161, §6, is amended to read:**

2           **2. Influence prohibited.** Within 250 feet of the entrance  
3 to the voting place as well as within the voting place itself, no  
4 a person may not influence or attempt to influence another  
5 person's ~~choice-of-candidates~~ decision regarding a candidate or  
6 ballot issue. ~~This limitation does not prohibit a~~ A candidate is  
7 prohibited from attending the voting place and ~~orally~~  
8 ~~communicating with voters, as long as he does not attempt to~~  
9 ~~influence their vote~~ except for the purpose of voting.

10           **Sec. 25. 21-A MRSA §682, sub-§3,** as amended by PL 1991, c.  
11 466, §20, is further amended to read:

12           **3. Advertising prohibited.** No A person may not display any  
13 advertising material, operate any advertising medium, including a  
14 sound amplification device, or distribute campaign literature,  
15 posters, palm cards, buttons or stickers intended to influence  
16 the opinion of any voter, within 250 feet of the entrance to  
17 either the voting place or the registrar's office. The term  
18 "sound amplification device" includes, but is not limited to,  
19 sound trucks, loudspeakers and blowhorns.

20           Party workers and others who remain in the voting place outside  
21 the guardrail enclosure may not use within the polling place  
22 cellular phones, beepers, voice or signal pagers or similar  
23 devices that make noise or allow direct audible voice  
24 communication within the polling place.

25           A. This subsection does not apply to advertising material  
26 on automobiles traveling to and from the voting place. It  
27 does not prohibit a person from passing out stickers at the  
28 voting place to be pasted on the ballot at a primary  
29 election. It does not prohibit a person, other than an  
30 election official, from wearing a campaign button when the  
31 longest dimension of the button does not exceed 3 inches.

32           B. A person who knowingly engages in activities prohibited  
33 by this section ~~is guilty of~~ commits a Class E crime.

34           **Sec. 26. 21-A MRSA §692, sub-§3,** as enacted by PL 1985, c.  
35 161, §6, is amended to read:

36           **3. Referendum question.** In voting on a referendum  
37 question, he the voter shall place complete the mark--in--the  
38 square-of-his arrow of the voter's choice at-the-left-of next to  
39 the question.

40           **Sec. 27. 21-A MRSA §696, sub-§1,** as amended by PL 1985, c.  
41 357, §§4 and 19, is further amended to read:

1. **Challenged ballot.** A challenged ballot must be counted the same as a regular ballot. The validity of a challenged ballot need not be determined unless it affects the results of an election.

If the challenged ballot affects the result of an election, the envelope containing the challenge certificate shall must be submitted to the ~~Commission on Governmental Ethics and Election Practices~~ Supreme Judicial Court and its validity shall must be determined, ~~subject to the right of appeal for county officers under section 746,~~ except where when final determination of the election of a candidate is governed by the ~~Constitution of Maine or the~~ United States Constitution. The challenge certificate shall must be in such a form as the Secretary of State may establishes by rule establish.

**Sec. 28.** 21-A MRSA §698, sub-§2, as amended by PL 1987, c. 188, §6, is repealed.

**Sec. 29.** 21-A MRSA §698, sub-§§2-A and 2-B are enacted to read:

**2-A. Used ballots placed in containers.** The election clerks shall place the sealed packages of used ballots, envelopes containing challenge certificates, spoiled ballots, defective ballots, void ballots, used absentee ballots, used absentee envelopes and used absentee applications in tamper-proof ballot containers. These containers must be furnished by the Secretary of State.

All ballot boxes must be sealed before leaving the precinct with a numbered seal that must correlate with a certificate identifying the person sealing the box and the time of the sealing. These ballot boxes must have padlocks.

**A. Transfer and resealing of the ballots to other containers for permanent storage must be done 60 or more days following the election. The municipal clerk shall make the transfer in the presence of one representative from each of the major political parties. The containers must be securely sealed.**

**2-B. Unused ballots placed in containers.** At the close of the polls, all unused, unsealed absentee and regular ballots must be voided by a physical mark unless all voted ballots have been validated in the course of the election. All sealed ballots must be left sealed and wrapped with tamper-proof tape. All unused ballots, including both the unsealed and the sealed ballots, must be placed in the containers in which the regular ballots were delivered. The boxes containing the unused ballots must be

2 clearly marked to indicate that the boxes contain unused  
3 ballots. These ballots must be stored separately from the used  
4 ballots.

5 **Sec. 30. 21-A MRSA §698, sub-§5, ¶A,** as enacted by PL 1985, c.  
6 161, §6, is amended to read:

7 A. The portions of subsection 1, paragraph A, and  
8 ~~subsection 2~~ subsections 2-A and 2-B that deal with  
9 absentee ballots do not apply to municipalities with 2 or  
10 more voting districts where absentee ballots are counted  
11 separately.

12 **Sec. 31. 21-A MRSA §712,** as enacted by PL 1985, c. 161, §6,  
13 is amended to read:

14 **§712. Return not delivered**

15 If an election return is not delivered to the Secretary of  
16 State within 7 3 business days after an election, the Secretary  
17 of State ~~must~~ shall send a messenger to the municipality  
18 concerned, and the clerk shall give him that messenger a  
19 certified copy of the return.

20 **Sec. 32. 21-A MRSA §724, first ¶,** as enacted by PL 1985, c.  
21 161, §6, is amended to read:

22 Within a reasonable time after an election, the Governor  
23 shall issue an election certificate, in accordance with Title 5,  
24 section 84, or a notice of apparent election to each person  
25 elected to office, according to the tabulation under section  
26 722. ~~For cases involving elections finally determined by the~~  
27 ~~Governor, a certificate shall be issued under section 744,~~  
28 ~~subsection 3, paragraphs B and C. For cases involving elections~~  
29 ~~not finally determined by the~~ The Governor, ~~the~~ Governor shall  
30 may not issue a certificate while the election is contested  
31 before the ~~Commission on Governmental Ethics and Election~~  
32 ~~Practices under Article IV~~ court. If, ~~before the convening of~~  
33 ~~the finally determinative body in an election not determined by~~  
34 ~~the Governor, the commission~~ the court finds that a candidate has  
35 been apparently elected, the ~~commission~~ court shall immediately  
36 notify the Governor of that apparent election. The Governor  
37 shall issue a notice of apparent election to the person  
38 apparently elected, according to the findings of the ~~commission~~  
39 court.

40 **Sec. 33. 21-A MRSA §736,** as amended by PL 1987, c. 258, §§1  
41 and 2, is repealed.

42 **Sec. 34. 21-A MRSA §737,** as amended by PL 1991, c. 466, §23,  
43 is repealed.

2           Sec. 35. 21-A MRSA §737-A is enacted to read:

4           §737-A. Recount

6           If, after an initial tally of the ballots, the margin  
8           between the number of votes cast for the leading candidate and  
10           the number of votes cast for the 2nd-place candidate is less than  
12           1% of the total number of votes cast in that race, a recount is  
14           presumed necessary.

16           Once a recount is triggered by this presumption, or a  
18           recount is requested, the Secretary of State shall notify the  
20           State Police, who shall take physical control of all ballots and  
22           related materials involved in the recount as soon as possible.

24           The State Police shall store and maintain exclusive control  
26           over the ballots and other materials pending and during the  
28           recount except when the counting is being conducted by the  
30           Secretary of State.

32           A losing candidate in any election who desires a recount  
34           must file with the Secretary of State a written request for a  
36           recount within 7 business days after the election. The recount  
38           is held under the supervision of the Secretary of State, who  
40           shall allow the candidate or the candidate's counsel to recount  
42           the ballots.

44           If, after the official tabulation is submitted to the  
46           Governor, the apparent winner is determined the losing candidate,  
48           that candidate may request another recount within 3 business days  
50           after the date the Governor receives the tabulation.

52           1. Deposit for recount. All deposits required by this  
54           section must be made with the Secretary of State when a recount  
56           is requested. Once the recount has begun, the deposit made by  
58           the candidate requesting the recount is forfeited to the State if  
60           the resulting count fails to change the outcome of the election.  
62           If the recount reverses the election, the deposit must be  
64           returned to the candidate requesting the recount. The amount of  
66           the deposit is calculated as follows.

68           A. If the difference shown by the official tabulation  
70           between the leading candidate and the 2nd-place candidate is  
72           1% or less, a deposit is not required.

74           B. If the percentage difference is at least 1% and less  
76           than 2%, the deposit is \$500.

78           C. If the percentage difference is 2% or more, the deposit  
80           is \$1,000.

2           2. Recount request. If a ballot contains state and local  
4 candidates or questions, the Secretary of State shall determine  
6 which requests for recount must be honored first when more than  
one request is presented.

8           3. Notice of recount. The Secretary of State shall send  
10 written notice of a recount to the candidates for the office in  
12 question, stating the time and place of the recount.

14           4. Time of recount. The recount must be held as soon as  
16 reasonably possible at a time and place that affords the  
18 candidates a reasonable opportunity to be present.

20           5. Persons prohibited from working at recount. State  
22 employees, including legislative employees, may not participate  
24 in ballot recounts in any capacity, except that this subsection  
26 does not prohibit employees within the Department of the  
Secretary of State, election officials and staff of the  
Department of the Attorney General from performing their duties  
with respect to a recount.

28           6. List of recount personnel. The Secretary of State must  
30 maintain a list of recount personnel for 2 years after the  
32 recount.

34           7. Disputed ballots segregated. At the recount, the  
36 Secretary of State shall segregate disputed ballots. Disputed  
38 ballots that are not resolved must be photocopied by a  
40 representative of the Secretary of State. The photocopy of the  
ballot is not a public record and must be kept separate from the  
original ballots.

42           When a recount is requested by a write-in candidate who did not  
44 receive the minimum number of votes required, if the write-in  
46 candidate is the only candidate at the recount and if it appears  
48 from the recount that a sufficient number of votes for that  
50 candidate has been received at the election, then all ballots  
from that election are considered "disputed."

8. Mistake in ballot count. If it is found that a mistake  
was made in counting the ballots on election day, the Secretary  
of State shall submit a corrected tabulation to the Governor.

9. Package resealed and marked. After a recount, the  
Secretary of State shall reseal the packages of ballots and  
incoming voting lists, noting the fact and date of the recount on  
the packages. All challenged and disputed ballots must be  
packaged separately. The challenged and disputed ballots must be  
kept until released to the court in case of an appeal.

2           10. Appeal to court. If there are enough challenged or  
3 disputed ballots to affect the result of an election, the  
4 Secretary of State shall forward the ballots and related records  
5 for that election to the clerk of the Supreme Judicial Court.

6  
7 The Chief Justice of the Supreme Judicial Court shall determine  
8 the result of the election pursuant to procedures adopted by  
9 court rule. The decision of the Chief Justice is final and must  
10 be certified to the Governor by the Chief Justice.

11 11. Withdrawal from recount. A candidate who requests and  
12 receives a recount may withdraw from the recount at any time  
13 while the recount shows that candidate to be the loser. If,  
14 during the recount, the candidate requesting the recount  
15 overtakes and passes the candidate who initially appeared to win  
16 the election, the candidate requesting the recount may not  
17 withdraw the request and the recount must be completed.

18  
19           **Sec. 36. 21-A MRSA §738, as amended by PL 1987, c. 188, §10,**  
20 **is further amended to read:**

21           **§738. Statewide referendum ballots**

22  
23           On petition signed by 100 or more affected voters, an  
24           inspection and a recount may be held on any referendum question  
25           by applying to the Secretary of State within the deadlines  
26           provided in sections ~~736 and 737~~ section 737-A. A  
27           deposit ~~shall be~~ is required if the percentage difference between  
28           the yes and no votes falls within the requirements of section 737  
29           737-A, subsection 2 1. Appeal of challenged or disputed ballots  
30           ~~must be~~ is to the ~~Commission on Governmental Ethics and Election~~  
31           ~~Practices as provided under Article IV~~ Supreme Judicial Court.

32  
33           If a ballot contains state and local candidates or  
34           questions, the Secretary of State shall ~~set priorities on~~  
35           determine which requests for ~~inspection and~~ recount shall must be  
36           honored first ~~if~~ when more than one request is presented.

37  
38           **Sec. 37. 21-A MRSA §739, first ¶, as enacted by PL 1985, c.**  
39 **161, §6, is amended to read:**

40  
41           On request, a municipal clerk or the Secretary of State, or  
42           both, shall produce any ballots or incoming voting lists in his  
43           their custody before the Governor, ~~the Commission on Governmental~~  
44           ~~Ethics and Election Practices,~~ either branch of the Legislature,  
45           any legislative committee or any a court of competent  
46           jurisdiction.

47  
48           **Sec. 38. 21-A MRSA c. 9, sub-c. III, art. IV is repealed.**

2           **Sec. 39. 21-A MRSA §751, sub-§1-A** is enacted to read:

4           **1-A. Able-bodied person.** An able-bodied person who votes  
6           by absentee ballot must vote in the presence of the municipal  
          clerk prior to or on election day;

8           **Sec. 40. 21-A MRSA §751, sub-§7,** as amended by PL 1991, c.  
10           466, §24, is further amended to read:

12           **7. Resident of certain facilities.** Resident of a licensed  
14           nursing home, as defined in Title 22, chapter 405,; licensed  
16           boarding home, as defined in Title 22, chapter 1665,--~~or~~;  
          certified congregate housing unit, as defined in Title 22,  
          chapter 1457-A; or housing for the elderly or handicapped, when  
          the clerk is present;

18           **Sec. 41. 21-A MRSA §753, sub-§3,** as amended by PL 1991, c.  
20           466, §29, is further amended to read:

22           **3. Application or request received.** On receipt of a  
24           completed application or a request for an absentee ballot signed  
26           by the applicant, the clerk may immediately send or deliver an  
28           absentee ballot and return envelope to the applicant ~~or~~. Ballots  
30           may be issued to a 3rd person designated in the application or  
32           request only on the last 5 business days before the election as  
34           well as on election day. There must be satisfactory proof  
36           provided to the municipal clerk that the voter is hospitalized or  
38           physically unable to vote in person. The clerk may not deliver  
40           an absentee ballot to any 3rd person whose name appears on an  
42           absentee ballot. The clerk may not deliver to a 3rd person any  
44           absentee ballot requested under subsection 2-A. If a municipal  
46           election is to be held on the same date as a statewide election,  
48           absentee ballots for the municipal and statewide election may be  
50           issued in response to the same application. The clerk shall  
          issue to any 3rd person designated in an application or request  
          ~~only enough absentee ballots to insure that that person will not~~  
          ~~have more than 10~~ 2 absentee ballots for voters in a the  
          municipality at any time. A 3rd person must, unless good cause  
          is shown, return an absentee ballot to the clerk's office within  
          the time limits provided in section 755. The clerk shall include  
          a ballot application to be completed by the person who signed  
          only a written request, unless the written request is sufficient  
          under subsection 2. The clerk shall type or write in ink the  
          name and the legal address of the person for whom the absentee  
          ballot is intended in the upper left hand section of all return  
          envelopes.

A. If the clerk receives a duplicate application from a  
person from whom the clerk has received a return envelope



2           apparently containing an absentee ballot, the clerk may not  
3           furnish another absentee ballot for that person.

4           B. The clerk may issue a 2nd absentee ballot to an  
5           applicant, if the applicant requests one, in person or in  
6           writing and:

8           (1) The applicant states good cause, including, but  
9           not limited to, loss of, spoiling of or damage to the  
10           first absentee ballot; or

12           (2) An absentee ballot for the applicant which that  
13           was furnished to a designated 3rd person is not  
14           returned to the clerk's office within 5 2 business days  
15           of the date that ballot was sent or delivered to the  
16           3rd person or ~~on~~ the date that 3rd person was notified  
17           by the clerk that the ballot was available, or by 10  
18           a.m. on the day before election day, whichever is  
19           earlier. If a ballot for an applicant is not returned  
20           to the clerk within 5 2 days of notification, then the  
21           clerk shall mail a ballot to that applicant on the 6th  
22           3rd day after notification and shall may issue no other  
23           ballot to the applicant except for good cause as  
24           provided in this subsection. This subparagraph may  
25           does not be ~~construed to~~ affect the time for delivery  
26           of absentee ballots under section 755.

28           **Sec. 42. 21-A MRSA §753, sub-§3-A**, as amended by PL 1991, c.  
29           862, §6, is further amended to read:

30           **3-A. Alternate method of balloting by residents of licensed**  
31           **nursing homes, licensed boarding homes, certified congregate**  
32           **housing units or housing of the elderly or handicapped.** The  
33           municipal clerk shall designate one or more times during the  
34           30-day period prior to an election during which the municipal  
35           clerk must be present in any licensed nursing home, as defined in  
36           Title 22, chapter 405; licensed boarding home, as defined in  
37           Title 22, chapter 1665; ~~or~~ certified congregate housing unit, as  
38           defined in Title 22, chapter 1457-A; or housing for the elderly  
39           or handicapped, for the purpose of absentee balloting by the  
40           residents of these homes ~~or~~ units or housing. The clerk shall  
41           designate which areas in these facilities constitute the voting  
42           place, the voting booth and the guardrail enclosure. Sections  
43           681 and 682 apply to voting in these facilities within the areas  
44           designated by the clerk.

46           **Sec. 43. 21-A MRSA §753, sub-§5**, as amended by PL 1985, c.  
47           357, §§10 and 19, is further amended to read:

2 5. **Clerk to list.** The clerk shall keep a list of the  
persons ~~to whom he furnishes~~ furnished absentee ballots until  
4 after election day, or the clerk shall file the applications and  
requests in alphabetical order. The clerk shall keep a list of  
6 the persons who vote in the presence of the clerk under  
subsection 7. The clerk shall submit this list to the registrar  
8 for certification before the close of business on the day before  
election day.

10 The clerk shall keep a list of the 3rd persons, designated in  
applications or requests, to whom absentee ballots are sent or  
12 delivered under subsection 3 and of the number of absentee  
ballots sent or delivered to these persons. These 3rd persons may  
14 not have more than 40 2 absentee ballots for voters in a the  
municipality at any time.

16 **Sec. 44. 21-A MRSA §765** is enacted to read:

18 **§765. Early voting**

20 In addition to the regular election day, municipalities may  
22 authorize the Saturday before election as a day for early  
24 voting. The voting may be done in a centralized location. This  
location is deemed to be a polling place, and all laws relative  
26 to polling places apply. The ballots cast may not be counted  
until the polls close on election day. If electronic scanning  
28 machines are used, the results may not be totaled until the polls  
close on election day.

30 **Sec. 45. 21-A MRSA §791, sub-§2,** as amended by PL 1987, c.  
572, is repealed and the following enacted in its place:

32 **2. Class D crime.** A person commits a Class D crime if that  
34 person:

36 A. Delivers, receives, accepts, notarizes or witnesses an  
38 absentee ballot, other than that person's own absentee  
ballot, for compensation other than reasonable reimbursement  
40 for actual meals and mileage. This paragraph does not apply  
to a governmental employee handling ballots in the course of  
42 that employee's official duties or a person who handles  
absentee ballots before the unvoted ballots are delivered to  
44 the municipality or after the voted ballots are returned to  
the clerk.

46 **Sec. 46. 21-A MRSA §791, sub-§3** is enacted to read:

48 **3. Class C crime.** A person commits a Class C crime if that  
50 person:

2 A. Forges the name of another on an absentee ballot, the  
return envelope or the application for an absentee ballot; or

4 B. Is a candidate who, notwithstanding this subchapter,  
delivers, receives, accepts, notarizes or witnesses an  
6 absentee ballot, other than the candidate's own absentee  
8 ballot, furnished by the clerk of a municipality in this  
State. This paragraph does not apply to an elected  
10 municipal clerk in an election when no other name for the  
office of clerk appears on the ballot. In a contested  
12 election for the office of clerk, a clerk may not be  
exempted from the provisions of this paragraph but shall  
14 instead appoint a deputy or an assistant, to whom the  
municipality shall pay all associated costs for the duration  
16 of the deputy's or assistant's temporary employment in that  
capacity.

18 **Sec. 47. 21-A MRSA §809, sub-§1-A is enacted to read:**

20 1-A. Decertification of voting machines and devices. The  
22 Secretary of State shall decertify Shoup voting machines,  
automatic voting machines, Shouptronic voting devices and  
24 electronic voting devices that use punch cards. The  
decertification must take effect after the 1996 general election.

26 **Sec. 48. 21-A MRSA §829, as enacted by PL 1985, c. 161, §6,**  
28 **is amended to read:**

30 **§829. Violation and penalty**

32 Any person who alters, adjusts, operates, moves, unlocks or  
34 unseals a voting machine or any part of a voting machine, or who  
attempts such an act, with the intent of changing the outcome of  
any election ~~is guilty of~~ commits a Class D B crime.

36 **Sec. 49. 21-A MRSA §860, as enacted by PL 1985, c. 161, §6,**  
38 **is amended to read:**

40 **§860. Violation and penalty**

42 ~~The penal laws and election laws relating to misconduct at~~  
~~elections apply to elections conducted with voting devices and~~  
44 ~~automatic tabulating equipment.~~ Any person who, before, during  
or after an election, tampers with or willfully injures any  
46 voting device, ballot cards or other records or equipment used in  
the election, or interferes or attempts to interfere with the  
48 correct operation of such a device or equipment or the secrecy of  
voting, ~~is guilty of~~ commits a Class D C crime.

50 **Sec. 50. 21-A MRSA §906, sub-§1, as enacted by PL 1985, c.**  
**161, §6, is amended to read:**

