

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1042

H.P. 798

House of Representatives, February 20, 2001

An Act to Amend the Election Laws.

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

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative TUTTLE of Sanford.
Cosponsored by Senator DOUGLASS of Androscoggin and
Representatives: CHIZMAR of Lisbon, COTE of Lewiston, HEIDRICH of Oxford, O'BRIEN
of Lewiston, PATRICK of Rumford, Senator: WOODCOCK of Franklin.

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

2
4 **Sec. 1. 21-A MRSA §1, sub-§20**, as amended by PL 1997, c. 436,
§3, is further amended to read:

6 **20. Immediate family.** "Immediate family" means a person's
spouse, parent, grandparent, child, grandchild, sister, brother,
8 stepparent, stepgrandparent, stepchild, stepgrandchild,
stepsister, stepbrother, mother-in-law, father-in-law,
10 brother-in-law, sister-in-law, son-in-law, daughter-in-law,
guardian or former guardian.

12 **Sec. 2. 21-A MRSA §1, sub-§§27-A and 30-A** are enacted to read:

14 **27-A. Official tally tape.** "Official tally tape" means the
16 first tape produced by an electronic tabulating machine that
tallies the final vote totals at the conclusion of voting and
18 that is attached to the zero tape produced by the machine prior
to the start of voting.

20 **30-A. Pollwatcher.** "Pollwatcher" means a party worker who
22 remains in the voting place outside the guardrail enclosure for
the purpose of viewing the voting process, keeping track of the
24 voters who have voted or challenging voters whose qualifications
appear to be in question.

26 **Sec. 3. 21-A MRSA §23, sub-§1**, as amended by PL 1997, c. 436,
28 §10, is further amended to read:

30 **1. Registration and enrollment applications.** The registrar
shall keep registration, and enrollment and changes of enrollment
32 applications and requests in the registrar's office permanently
and all documentation of changes in registration and enrollment
34 as part of each active or inactive voter's permanent registration
record, except that those records must be kept only 5 years for a
36 voter whose name has been removed from the voting lists of the
municipality under sections 161 and 162-A.

38 **Sec. 4. 21-A MRSA §122, sub-§5**, as enacted by PL 1985, c. 307,
40 §1, is repealed and the following enacted in its place:

42 **5. Alternative registration schedule for absentee voters.**
If the clerk receives a properly completed absentee ballot
44 application that is signed by a person who is not a registered
voter in the municipality, a presumption of the person's
46 qualification as a voter is established. The clerk shall send an
absentee ballot to the voter at the address indicated, along with
48 a voter registration application under section 152. The
completed registration application must be returned to the clerk

2 by the close of business on the 10th business day before election
4 day and may not be sealed with the voted absentee ballot. If the
6 application is received during the closed period, the registrar
8 shall follow the requirements of section 121, subsection 1-A to
10 place the person's name on the voting list and challenge the
12 absentee ballot.

14 **Sec. 5. 21-A MRSA §142, sub-§3** is enacted to read:

16 **3. Length of time in party.** Once a voter has enrolled in a
18 party, the voter must remain in that party for 3 months before
20 the voter can file an application for either a withdrawal or a
22 change in enrollment.

24 **Sec. 6. 21-A MRSA §143, first ¶,** as amended by PL 1997, c. 436,
26 §30, is further amended to read:

28 A voter who is not enrolled in a party may enroll at any
30 election by personally filing the application required by section
32 142 with the election clerk in charge of the ballots, after which
34 the applicant may vote. If the applicant votes by absentee
36 ballot, the applicant may file enroll by filing the enrollment
38 application with the absentee ballot, except that the enrollment
40 application may not be sealed in the absentee ballot envelope.

42 **Sec. 7. 21-A MRSA §144, first ¶,** as enacted by PL 1985, c. 161,
44 §6, is amended to read:

46 A voter may change his the voter's enrollment anytime after
48 3 months from the date on which the voter enrolled by filing an
50 application with the registrar personally, by mail or otherwise.

Sec. 8. 21-A MRSA §144, sub-§2, as amended by PL 1995, c. 459,
§16, is further amended to read:

2. Party designation removed from voting list. On receipt
of the application, the registrar shall remove the party
designation beside the name of the applicant on the voting list.
The registrar shall make a notation on the voting list that the
applicant is ineligible to vote at a caucus or primary election
for 15 days by designating the party enrollment field with the
letter "X." Fifteen days after receiving the application, the
registrar shall enroll the applicant in the party requested and
enter the new party designation in the party enrollment field.

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

Sec. 9. 21-A MRSA §145, sub-§2, as enacted by PL 1997, c. 436,
§33, is amended to read:

2 **2. Reenrollment after withdrawal.** A voter may not enroll
in a different party ~~for~~ but may enroll in the same party within
4 15 days after filing a written request for withdrawal from a
party.

6 **Sec. 10. 21-A MRSA §152, sub-§3,** as amended by PL 1997, c.
8 436, §35, is further amended to read:

10 **3. Failure to qualify.** The registrar of voters may
investigate any application under this section and ~~remove~~ refuse
12 to place the voter's name ~~from~~ on the list for failure to meet a
voting qualification under this Title, after written notice to
14 the voter, to the last known address provided by the voter.

16 **Sec. 11. 21-A MRSA §152, sub-§5,** as enacted by PL 1985, c.
18 161, §6, is amended to read:

20 **5. Design of application.** The Secretary of State shall
design the application so that it may be mailed as a postcard.
22 The Secretary of State may design an application that can be
completed electronically and that substantially meets the
requirements of this section.

24 **Sec. 12. 21-A MRSA §156, sub-§2,** as amended by PL 1985, c.
26 363, §1, is further amended to read:

28 **2. Voting.** ~~He~~ The township voter may vote in the town in
which he the voter is registered in any election for offices of
30 or questions concerning the unorganized territory in which he the
voter resides. ~~He~~ The voter may not vote at a municipal election
32 or on a liquor option question. If he the voter registers in a
town outside ~~his~~ the voter's representative district, state
34 senatorial district, county commissioner district or county, he
the voter may vote for the offices of Representative to the
36 Legislature, State Senator or any county office by using a ballot
provided under section 606-A. ~~If he is unable to be present at~~
38 ~~the voting place on election day, he may vote by absentee ballot.~~

40 **Sec. 13. 21-A MRSA §161, sub-§4,** as amended by PL 1995, c.
42 459, §18, is repealed and the following enacted in its place:

44 **4. Proof of qualification is requested.** If the registrar
is in doubt as to the qualifications of a person to vote, the
registrar shall fix a reasonable time and place for a hearing
46 and give written notice to the voter at the last known address
provided by the voter. The voter may respond in person or in
48 writing with proof of qualifications prior to the date of the
hearing. After the hearing, the registrar shall determine
50 whether the voter has met the voting qualifications and shall act

2 accordingly. If the voter offers satisfactory proof of
3 qualifications to the registrar, either prior to or at the
4 hearing, the registrar may not remove the voter's name from the
5 list. If the voter fails to offer satisfactory proof of
6 qualifications to the registrar, either prior to or at the
7 hearing, the registrar may remove the voter's name from the
8 list. If the voter fails to appear at the hearing and the
9 registrar has proof that the voter does not meet the
10 qualifications, the registrar may remove the voter's name from
11 the list. The registrar shall notify the voter, in writing, of
12 the action taken and advise the voter of the appropriate appeal
13 authority as specified in this Title.

14 **Sec. 14. 21-A MRSa §162-A, sub-§3,** as enacted by PL 1993, c.
15 695, §17, is repealed.

16 **Sec. 15. 21-A MRSa §162-A, sub-§3-A** is enacted to read:

17 **3-A. Determine; approve.** The Secretary of State shall
18 determine or approve the design and contents of the notices
19 required by this section.

20 **Sec. 16. 21-A MRSa §303, sub-§3,** as amended by PL 1999, c.
21 450, §7, is further amended to read:

22 **3. Petition.** After the filing of the declaration described
23 in subsection 1, the Secretary of State or the Secretary of
24 State's designee shall review the declaration and determine the
25 form of the petitions to be submitted to the voters. The voter
26 or voters proposing to form the party shall print the petitions
27 in the form approved by the Secretary of State and may then
28 circulate the petitions. These petitions must be signed,
29 verified and certified in the same manner as primary petitions
30 under section 335, subsections 3, 4 and 7, except that voters not
31 enrolled in any party may also sign the petitions. Each page of
32 the petition must have a caption, in conspicuous type, that
33 contains the designation of the proposed party followed by the
34 words "Petition to participate in the primary election." The
35 petitions must be filed in the office of the Secretary of State
36 before 5 p.m. on the 180th day preceding a primary election and
37 must contain the signatures and legal addresses of voters equal
38 in number to at least 5% of the total vote cast in the State for
39 Governor at either--~~of~~ the last 2 preceding gubernatorial
40 elections election. Petitions must be submitted to the
41 appropriate municipal registrar for certification by 5 p.m. on
42 the 10th day before the petition must be filed in the office of
43 the Secretary of State or, if the 10th day is a Saturday, Sunday
44 or legal holiday, by 5 p.m. on the next day that is not a
45 Saturday, Sunday or a legal holiday. The registrar must complete
46 the certification of the petitions and must return them to the
47
48
49
50

2 circulators or their agents within 5 days of the date on which
the petitions were submitted, Saturdays, Sundays and legal
holidays excepted.

4
6 **Sec. 17. 21-A MRSA §311, sub-§2**, as amended by PL 1997, c.
436, §45, is further amended to read:

8 **2. Time.** A municipal caucus of ~~the Democratic Party~~ any
party held biennially during the general election year for the
10 purpose of electing delegates to a state convention and for any
other business must be held ~~no later than the first Sunday in~~
12 ~~March. A municipal caucus of any other party held for the same~~
~~purpose must be held~~ before March 20th.

14
16 **Sec. 18. 21-A MRSA §312**, as repealed and replaced by PL 1999,
c. 450, §13, is amended to read:

18 **§312. Voting list**

20 The chair or secretary of the municipal committee or the
person or persons calling a biennial municipal caucus, including
22 any resident voter pursuant to section 311, subsection 5, may
request from the municipal registrar at no charge a certified
24 copy of the voting list for use by the municipal committee once
each biennial election cycle beginning January 1st in an election
26 year. Upon receipt of a request, the registrar has 5 business
days to prepare and provide the certified copy of the voting list
28 to the requester.

30 **Sec. 19. 21-A MRSA §362**, as amended by PL 1997, c. 436, §52,
is repealed.

32 **Sec. 20. 21-A MRSA §362-A** is enacted to read:

34 **§362-A. Secretary of State declares vacancy**

36 When required by this subchapter, the Secretary of State
38 shall declare a vacancy under section 361 and notify the
appropriate political committee of the deadline for filling the
40 vacancy.

42 **Sec. 21. 21-A MRSA §364**, as amended by PL 1997, c. 436, §54,
is further amended to read:

44 **§364. Candidacy by nomination petition**

46 The nomination of a candidate, other than by party, to fill
48 a vacancy must be made by nomination petition. The nomination
process is in the same manner as provided by subchapter II,
50 except that all petitions must be filed by 5 p.m. on the deadline

2 for filling the vacancy set by the ~~Governor~~ Secretary of State
pursuant to section 362 362-A.

4 **Sec. 22. 21-A MRSA §371**, as amended by PL 1999, c. 426, §§13
and 14, is further amended to read:

6 **§371. Candidates for nomination**

8
10 If a candidate for nomination dies, withdraws at least 60
days before the primary or becomes disqualified after having
12 filed the candidate's primary petition, so that a party has fewer
candidates than there are offices to be filled, the vacancy may
14 be filled by a political committee pursuant to section 363. The
Secretary of State shall ~~notify the Governor who shall issue a~~
preclamation of declare the vacancy pursuant to section 362 362-A.

16
18 **Sec. 23. 21-A MRSA §373**, as enacted by PL 1985, c. 161, §6,
is amended to read:

20 **§373. Nominees; less than 60 days before election**

22 If a person nominated for United States Senator,
Representative to Congress or Governor at a primary election or
24 by a political committee dies, withdraws or becomes disqualified
less than 60 days before the general election, the ~~Governor~~
26 Secretary of State shall ~~issue a preclamation~~ declare the vacancy
under section 362 362-A.

28
30 **Sec. 24. 21-A MRSA §374-A, sub-§1**, as amended by PL 1993, c.
447, §4, is further amended to read:

32 **1. Withdrawal and replacement of nominees.** The ~~Governor~~
Secretary of State shall ~~issue a preclamation~~ declare the vacancy
34 as provided in section 362 362-A and a political committee may
make a replacement nomination following a candidate's withdrawal
36 only if a person nominated for an office, other than United
States Senator, Representative to Congress or Governor, at a
38 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 election;

42
44 B. Withdraws because of a catastrophic illness that has
permanently and continuously incapacitated the candidate and
46 would prevent performance of the duties of the office
sought, provided the candidate or a member of the
candidate's immediate family files with the Secretary of
48 State a certificate accompanying the withdrawal request,
which describes the illness and is signed by at least 2
50 licensed physicians; or

2 C. Dies prior to the general election.

4 **Sec. 25. 21-A MRSA §393**, as amended by PL 1997, c. 436, §58,
is further amended to read:

6

§393. Presidential electors

8

10 Except as provided in section 804, when there is a vacancy
in the office of presidential elector, the ~~Governor~~ Secretary of
12 State shall issue--a--proclamation declare the vacancy under
section ~~362--ordering~~ 362-A and notify the appropriate state
14 committee ~~to--choose of the deadline for choosing~~ a qualified
person to fill the vacancy ~~in--accordance--with--the--deadline--in--the~~
16 ~~proclamation~~. The procedure outlined in section 363 must be
followed.

18 **Sec. 26. 21-A MRSA §413**, as enacted by PL 1993, c. 334, §3,
is amended to read:

20

§413. Ballot preparation

22

24 The Secretary of State shall prepare ballots for the
presidential preference primary election in accordance with
section ~~601-A~~ 601.

26

28 **Sec. 27. 21-A MRSA §501, sub-§3**, as amended by PL 1997, c.
436, §65, is further amended to read:

30

32 **3. Provisions applicable to both towns and cities.** A
warden, ward clerk or any deputy warden may not be an officer of
a municipal committee of a political party. Ward clerks or
34 deputy wardens shall perform the duties of the warden when
necessary and may not replace election clerks prescribed by this
Title. The warden, ward clerk and deputy wardens must be
36 registered voters of the municipality, except when a nonresident
clerk is acting as either warden, ward clerk or deputy warden.
38 Before assuming the duties of office, the warden is sworn by the
municipal clerk, and the ward clerk or deputy warden is sworn by
40 the municipal clerk or by the warden.

42

Sec. 28. 21-A MRSA §503, sub-§2, ¶C, as repealed and replaced
by PL 1995, c. 459, §33, is amended to read:

44

46 C. Notwithstanding subsection 1, the municipal officers may
also consider persons who are 17 years of age to serve as
student election clerks for a specific election. A student
48 election clerk may not assist a voter unless the voter
specifically requests assistance from the student election

clerk. A student election clerk may perform all the functions of an election clerk as prescribed by this Title.

Sec. 29. 21-A MRSA §601, as amended by PL 1999, c. 426, §17, is further amended to read:

§601. Ballot preparation

The Secretary of State shall prepare the primary election ballots according to the following provisions.

1. Arrangement. The ballots must be arranged in a manner that is as consistent and uniform as possible throughout the State.

2. Content. The ballot must contain the items listed in this section.

A. Instructions must be printed in bold type at the top of the ballot informing the voter how to designate the voter's choice on the ballot.

B. The ballot must contain the name, without any title, and place of residence of each candidate, arranged alphabetically with the last name first, under the proper office designation. The initial letters of the last names of the candidates must be printed directly beneath each other in a vertical line. The names of candidates for any one office may not be split into more than one column regardless of number. The name of each candidate may be printed on the ballot in only one space. For the general election ballot, the party or political designation of each candidate must be printed with each candidate's name. The party or political designation may be abbreviated.

C. When 2 United States Senators ~~or 2 county commissioners~~ are to be nominated, the term of office sought by each candidate must be specified on the ballot.

D. At the end of the list of candidates for ~~nomination to~~ each office, there must be left as many blank spaces as there are vacancies to be filled. These spaces may be used by a voter to write in or paste a sticker with the name and municipality of residence of any person for whom the voter desires to vote, as provided in section 691, subsection 2 for a primary election or section 692, subsection 2 for a general election. For the presidential preference primary election ballot only, at the end of the list of candidates for nomination there must be printed the word "uncommitted" in such a way that a voter may choose this preference rather

2 than a listed candidate. After the "uncommitted" option,
4 there may not be any blank spaces left where a voter could
write in the name of any person for whom a voter desires to
vote.

6 E. Words of explanation such as, "Vote for one" or "Vote
8 for not more than 2" must be printed on the ballot to assist
the voter in voting correctly.

10 F. There must be a place on the ballot for the voter to
12 designate the voter's choice.

14 G. There must be a heading on the ballot that contains the
16 title of the election, the name of the political party, the
18 name of the voting district or districts for which the
ballot was prepared, the date of the election and a
facsimile of the state seal. For each party's primary
ballot, the ballot heading must contain the name of the
political party participating in the primary.

20 H. The name of each nominee must appear on the ballot as
22 follows: last name first, in block capital letters,
24 followed by the first name and middle name or initial; or
last name first in block capital letters, followed by the
first name or the first initial and the middle name.

26 **3. Order of offices.** The order of offices on the ballot is
28 as follows: President, United States Senator, Governor,
30 Representative to Congress, State Senator and Representative to
the Legislature followed by the county offices.

32 **4. Distinctively colored.** ~~The ballots must be printed~~
~~separately for each~~ When possible, election ballots must be
34 printed on white paper. Each political party on paper of a
~~distinctive color: white for the party that cast the greatest~~
36 ~~number of votes for Governor at the last gubernatorial election~~
~~and yellow for the 2nd highest~~ participating in a primary
38 election must have a separate ballot. The paper for each party's
40 primary ballot must be printed or distinguished with a different
~~Secretary of State shall choose a distinctive color for ballots~~
42 ~~for any other political party.~~ For municipalities that include
44 more than one single member district of the State Senate or the
House of Representatives, or parts of more than one single member
46 district, the Secretary of State may prepare ~~primary election~~
ballots of with one or more distinctive colors color markings
48 within the municipality.

2 **5. Size.** The Secretary of State shall determine the size
3 of the ballots. With the permission of the Secretary of State,
4 the clerk may make a reasonable number of enlarged ballots in
5 order to assist voters who are visually impaired. The clerk may
6 also make a reasonable number of enlarged instruction posters and
7 enlarged sample ballots at the clerk's own discretion. A voter
8 who is visually impaired may request of the clerk an enlarged
9 ballot or an enlarged sample ballot to assist the voter. The
10 clerk shall record and report to the Secretary of State the
11 number of enlarged ballots made for visually impaired voters.

12 **6. Contents concealed.** The ballots may be folded uniformly
13 so that the interior contents are concealed, except in
14 municipalities using electronic tabulating systems.

16 **Sec. 30. 21-A MRSA §601-A,** as amended by PL 1999, c. 426,
17 §18, is repealed.

18 **Sec. 31. 21-A MRSA §602,** as amended by PL 1997, c. 436, §§72
19 to 76, is repealed.

22 **Sec. 32. 21-A MRSA §605, sub-§2,** as amended by PL 1993, c.
23 473, §17 and affected by §46, is further amended to read:

24 **2. For voters.** The Secretary of State shall prepare
25 instruction posters to guide voters in replacing spoiled ballots,
26 and correctly marking their ballots, including the procedure for
27 write-in votes, ~~and to inform them of the penalties for illegal~~
28 ~~voting.~~
29

30 A. A notice must be conspicuously posted at the entrances
31 to all polling places and voter registration places
32 informing voters and others of the penalties for voting law
33 violations and that knowingly violating the State's election
34 laws is a crime punishable by up to 10 years in state prison
35 and a fine not to exceed \$20,000.

38 **Sec. 33. 21-A MRSA §627, sub-§4,** as amended by PL 1995, c.
39 459, §49, is further amended to read:

40 **4. Minimum size of polling place; complaint to Secretary of**
41 **State.** Municipalities must provide a polling place large enough
42 to allow at least one worker from each political party to remain
43 outside the guardrail enclosure ~~for the purpose of checking~~
44 ~~voters, challenging voters or viewing as a pollwatcher.~~
45 as a pollwatcher. Additional party workers are allowed if there is sufficient space
46 at the polling place. If the space at the polling place is so
47 limited that the presence of the additional party workers would
48 interfere with the election process, the warden shall prohibit
49 their presence. If the chair of any party's state committee
50

2 submits a written complaint to the Secretary of State at least 30
3 60 days before an election, the Secretary of State shall
4 authorize an inspection of the polling place considered to be too
5 small to allow party workers access. If the Secretary of State
6 finds a polling place to be too small to allow party workers
7 access, the Secretary of State shall instruct the municipal
8 officers to change the location of the polling place to one of a
9 suitable size. The municipal officers must advertise the change
10 of the polling place at least 3 times in the daily or weekly
11 newspaper, or both, that covers the area.

12 **Sec. 34. 21-A MRSA §651, sub-§1**, as enacted by PL 1985, c.
13 161, §6, is amended to read:

14
15 **1. Election materials sent to voting place.** Before the
16 polls are opened, the clerk shall deliver or have delivered the
17 election materials marked for each voting place to the warden at
18 that voting place. The warden shall give the clerk a receipt ~~for~~
19 them noting the number of ballots received.

20
21 A. In a municipality which that has an island voting
22 district, the clerk may deliver the ballots and other
23 election materials to that district on the day before the
24 election and leave them in the protective custody of the
25 warden or ward clerk.

26
27 **Sec. 35. 21-A MRSA §671, sub-§5**, as amended by PL 1995, c.
28 459, §58, is further amended to read:

29
30 **5. Ballot deposited.** When the voter leaves the voting
31 booth, the voter shall proceed to the ballot box. The clerk
32 shall require the voter to deposit in the ballot box all ballots,
33 marked or unmarked, issued to the voter under subsection 3, and
34 the voter shall then leave the area enclosed by the guardrail.
35 The voter may not leave the guardrail enclosure until the voter
36 has deposited ~~the ballot~~ all ballots that were issued to the
37 voter. The voter may permit a family member or an assistant
38 under section 672 to deposit the ballots for the voter.

39
40 ~~A.--If, by vote of the municipal officials, a municipality~~
41 ~~has required the use of an outgoing voting list, the voter~~
42 ~~must announce the voter's name and, upon request, street~~
43 ~~address to the election clerk in charge of that list before~~
44 ~~depositing the ballots in the ballot box.~~

45
46 **Sec. 36. 21-A MRSA §681, sub-§2**, as enacted by PL 1985, c.
47 161, §6, is repealed and the following enacted in its place:

48
49 **2. Limited time within guardrail enclosure.** After entering
50 the guardrail enclosure, the voter shall proceed to vote as soon

2 as a voting booth is available and may not linger within the
3 voting booth or guardrail enclosure once the voter has completed
4 voting and deposited all ballots into the ballot box.

6 **Sec. 37. 21-A MRSA §682, sub-§2,** as amended by PL 1995, c.
7 459, §61, is further amended to read:

8 **2. Influence prohibited.** Within 250 feet of the entrance
9 to the voting place as well as within the voting place itself, a
10 person may not influence or attempt to influence another person's
11 decision regarding a candidate or ballot issue. This limitation
12 does not prohibit a candidate from attending the voting place and
13 orally communicating with voters, as long as the candidate does
14 not attempt to influence their vote. A candidate may not state
15 the name of the office sought or request a person's vote.

16 A. This subsection does not apply to pollwatchers who may
17 remain in the voting place outside the guardrail enclosure
18 as long as they do not attempt to influence voters or
19 interfere with their free passage.

22 B. This subsection does not prohibit media representatives
23 from conducting an exit poll, as long as they do not solicit
24 voters until after they have voted and do not orally
25 communicate with voters in a way that influences any
26 person's vote.

28 C. If any person attempts to influence voters or interfere
29 with their free passage, the warden shall have that person
30 removed from the voting place.

32 **Sec. 38. 21-A MRSA §694,** as amended by PL 1993, c. 447, §15,
33 is repealed.

34 **Sec. 39. 21-A MRSA §696, sub-§2,** as amended by PL 1997, c.
35 436, §101, is further amended to read:

38 **2. Invalid vote.** A vote for an office, candidate or
39 question held to be defective invalid by the warden or, ward
40 clerk or deputy warden may not be counted for that office,
41 candidate or question as follows.

42 A. If a voter marks more names for an office than there are
43 vacancies to be filled, the voter's vote for that office may
44 not be counted.

46 B. If a voter marks the voter's ballot in such a manner
47 that it is impossible to determine the voter's choice, the
48 voter's vote for the office or question concerned may not be
49 counted.

2 C. If a voter marks a write-in indicator for an office, but
4 does not write both a name and a municipality of residence
6 in the blank space provided to the right of the write-in
indicator, that vote for that office is not counted, unless
a determination of choice under subsection 4 is possible.

8 D. If a voter writes in a name and municipality of
10 residence, but does not mark the write-in indicator, that
vote for that office may not be counted.

12 E. If a voter writes in a write-in space a fictitious name,
14 the name of a deceased person or the name of a person from
outside the State who could not be a candidate for office,
16 the vote for that office may not be counted. A name written
in this manner is not a distinguishing mark.

18 F. The warden ~~or~~ ward clerk or deputy warden shall write
20 "Defective Invalid Vote" and the reason the vote is invalid
on the ballot, and the reason for the defect the vote is
22 invalid beside the office, candidate or question for which
it is ~~defective~~, invalid and shall replace the ballot with
24 the other ballots, to be counted for other offices or
questions.

26 **Sec. 40. 21-A MRSA §696, sub-§3,** as enacted by PL 1985, c.
161, §6, is amended to read:

28 **3. Defective ballots.** A ballot held to be void defective
30 by the warden ~~or~~ ward clerk shall or deputy warden may not be
counted.

32 A. A ballot ~~which~~ that is not prepared in accordance with
34 the requirements of this Title is void defective.

36 B. The warden ~~or~~ ward clerk or deputy warden shall mark
38 "~~void~~" write "Defective ballot" on the ~~outside of the void~~
ballot, and the reason for that the ballot to have been
40 voided is defective and shall keep it segregated from the
other ballots.

42 **Sec. 41. 21-A MRSA §696, sub-§4, ¶A,** as amended by PL 1997, c.
436, §102, is repealed.

44 **Sec. 42. 21-A MRSA §696, sub-§5** is enacted to read:

46 **5. Void ballots.** A ballot held to be void by the warden,
48 ward clerk or deputy warden may not be counted.

2 A. A ballot on which a voter has clearly manifested an
3 intention to make a distinguishing mark or to mark the
4 ballot in a manner inconsistent with an honest purpose or to
5 act in a fraudulent manner is void.

6 B. The warden, ward clerk or deputy warden shall write
7 "Void ballot" on the ballot and the reason that the ballot
8 is void and shall keep it segregated from the other ballots.

10 **Sec. 43. 21-A MRSA §697**, as amended by PL 1995, c. 459, §65,
11 is further amended to read:

12 **§697. Use of red pens by election officials**

13 An election official, ~~election clerk or person employed as a~~
14 ~~counter of ballots~~ must use pens or pencils containing only red
15 ink or red lead during the conduct of official election business
16 on election day.

17 **Sec. 44. 21-A MRSA §698, sub-§1**, as repealed and replaced by
18 PL 1997, c. 436, §103, is amended to read:

19 **1. Paper ballots wrapped.** The election clerks shall wrap
20 the tabulation of the count for each lot of ballots around that
21 lot and secure it. Referendum ballots must be wrapped separately
22 with their own tabulations unless the referendum ballot is
23 combined with the candidate ballot. The tabulations must be
24 signed by the warden and the ~~ward clerk or deputy warden or~~
25 ~~another election official~~ 2 election clerks who counted that
26 ballot lot.

27 **Sec. 45. 21-A MRSA §698, sub-§2-A**, as amended by PL 1995, c.
28 459, §66, is further amended to read:

29 **2-A. Used ballots placed in tamper-proof containers.** The
30 election clerks shall place the used ballots, envelopes
31 containing challenge certificates, spoiled ballots, defective
32 ballots, void ballots, used absentee ballots, used absentee
33 envelopes, ~~used absentee~~ with the applicable applications
34 attached and the official tally tapes tape from the electronic
35 tabulating systems system in one or more tamper-proof ballot
36 containers. The ballot containers must be furnished by the
37 Secretary of State.

38 If a tamper-proof container becomes defective, lost or destroyed,
39 the clerk must apply in writing to the Secretary of State for
40 another. The Secretary of State shall supply or approve a
41 replacement at the expense of the municipality.

2 A tamper-proof ballot container must be locked and sealed with a
3 numbered seal before leaving the precinct ~~with a numbered~~. The
4 lock and seal that numbers must correlate with a certificate
5 identifying the person sealing the container and the time of the
6 sealing. The locks, seals and identifying certificates must be
7 furnished by the Secretary of State.

8 A. Transfer and resealing of the ballots to other
9 containers for permanent storage must be done 60 or more
10 days following the election. The municipal clerk shall make
11 the transfer in the presence of one or more witnesses. The
12 containers must be securely sealed.

13 **Sec. 46. 21-A MRSA §698, sub-§2-B**, as amended by PL 1995, c.
14 459, §66, is further amended to read:

15 **2-B. Unused ballots placed in containers.** At the close of
16 the polls, all unused, unsealed absentee and regular ballots must
17 be invalidated canceled by a physical mark unless all ballots are
18 used in the course of the election. All sealed ballots must
19 remain sealed. All unused ballots, including both the unsealed
20 and the sealed ballots, must be placed in the containers in which
21 the regular ballots were delivered. The containers containing
22 the unused ballots must be clearly marked to indicate that the
23 containers contain unused ballots. These ballots must be stored
24 separately from the used ballots.
25

26 **Sec. 47. 21-A MRSA §698, sub-§3**, as enacted by PL 1985, c.
27 161, §6, is amended to read:

28 **3. Lists packed separately.** The warden and one election
29 clerk from each of the major parties shall sign the incoming
30 voting list certification as soon as the names of all persons who
31 have voted, including persons who have voted by absentee ballot,
32 have been checked off. The election clerks shall ~~seal the copies~~
33 of the place the incoming voting list in a separate package
34 outside the containers of used and unused ballots and seal the
35 package with the signed incoming voting list certification.
36

37 **Sec. 48. 21-A MRSA §711**, as amended by PL 1991, c. 466, §21,
38 is repealed and the following enacted in its place:

39 **§711. Preparation of returns**

40 As soon as the results of the election have been declared,
41 the election return must be prepared. The warden at each ward or
42 precinct shall fill out the election return form provided by the
43 Secretary of State, showing the number of votes cast for each
44 candidate or question. The warden and one other election

2 official shall sign the return and immediately deliver it to the
municipal clerk.

4 1. Single district municipality. In a municipality with a
6 single voting district, the municipal clerk shall make an
attested copy of the municipality return and immediately send it
8 to the Secretary of State.

10 2. Multidistrict municipality. In a municipality with
12 multiple voting districts, the municipal clerk shall total the
voting district returns and complete the total municipality
14 return form provided by the Secretary of State. The clerk shall
make an attested copy of each of the voting district returns and
the total municipality return and immediately send them to the
16 Secretary of State.

18 2-A. Clerk to correct obvious errors. In making the
20 attested copies of either the voting district returns or the
municipality return, the clerk shall correct any errors in either
22 the tabulating or recording of the count that are obvious based
on the tally sheets or copies of the tally tapes available to the
24 clerk. The clerk may not change the totals recorded on the
precinct return prepared by the warden but shall make the
correction to the attested copy with a notation of the basis for
26 the correction.

28 3. Clerk to record. The clerk shall record the attested
30 copies of the election return with the Secretary of State within
3 days after election day.

32 **Sec. 49. 21-A MRSA §723, sub-§1, ¶A,** as amended by PL 1991, c.
244, is further amended to read:

34 A. A person who has not qualified as a candidate for
36 nomination by primary election by filing a petition and
38 consent under sections 335 and 336, but who fulfills the
40 other qualifications under section 334, may be nominated at
42 the primary election if that person receives a number of
valid write-in votes equal to at least twice the minimum
number of signatures required under section 335, subsection
5, on a primary petition for a candidate for that office.

44 ~~(1)---The---Secretary---of---State---shall---send---notice---of~~
~~nomination---to---a---write---in---candidate---by---certified---mail,~~
46 ~~return---receipt---requested,---For---purposes---of---this~~
~~paragraph,---the---notice---is---deemed---given---on---the---date---the~~
48 ~~write---in---candidate---signs---the---receipt,---or---if---the---notice~~
~~is---undeliverable,---the---date---the---post---office---last~~
50 ~~attempts---to---deliver---it,---If---the---candidate---fails---to---file~~
~~a---written---acceptance---with---the---Secretary---of---State---within~~

15--days--after--receiving--the--notice,--the--candidate--is
2 disqualified--and--the--candidate's--name--may--not--be
4 printed--on--the--general--election--ballot.

6 **Sec. 50. 21-A MRSA §752, sub-§2**, as amended by PL 1991, c.
466, §27, is repealed and the following enacted in its place:

8 2. Content of application. The Secretary of State shall
design or approve the form of the application to be used to
10 request an absentee ballot.

12 **Sec. 51. 21-A MRSA §752, sub-§3**, as amended by PL 1995, c.
459, §71, is repealed and the following enacted in its place:

14 3. Form of envelope. The Secretary of State shall design
16 or approve the form of the absentee ballot envelope.

18 **Sec. 52. 21-A MRSA §753-B, sub-§3**, as enacted by PL 1999, c.
645, §6, is amended to read:

20 **3. Return of ballot by 3rd person.** A 3rd person shall,
22 unless good cause is shown, return an absentee ballot to the
clerk's office within 2 business days of the date that ballot was
24 provided to the 3rd person ~~or the date that 3rd person was~~
~~notified by the clerk that the ballot was available~~ or by the
26 close of the polls on election day, whichever is earlier. The
clerk shall inform the 3rd person of the deadline for the return
28 of the ballot.

30 **Sec. 53. 21-A MRSA §753-B, sub-§4, ¶B**, as enacted by PL 1999,
c. 645, §6, is amended to read:

32 B. An absentee ballot for the applicant that was furnished
34 to a designated 3rd person is not returned to the clerk's
office within the time ~~limits~~ limit provided in subsection
36 3. If a ballot for an applicant is not returned to the
clerk within ~~2 days of notification~~ that time limit, the
38 clerk shall mail or hand deliver a ballot to that applicant
on the 3rd day after ~~notification~~ a ballot was provided to
40 the 3rd person and may not issue another ballot to the
applicant except for good cause as provided in this
42 subsection. This paragraph does not affect the time for
delivery of absentee ballots under section 755.

44 **Sec. 54. 21-A MRSA §753-B, sub-§6**, as enacted by PL 1999, c.
46 645, §6, is repealed and the following enacted in its place:

48 6. Clerk to list. The clerk shall keep an alphabetical
list, by district, of the persons who requested or were furnished
50 absentee ballots, including the persons who voted in the presence

2 of the clerk under subsection 8 and the persons whose ballots
3 were issued to a 3rd person under subsection 1. The clerk shall
4 maintain a copy of the lists required under this subsection for a
5 period of 2 years as a public record.

6 A. The list of absentee voters must include each voter's
7 name, residence address, voting district and party
8 affiliation, the date and manner by which the ballot was
9 requested, the date and manner by which the ballot was
10 received, a notation of whether the application and the
11 ballot were accepted or rejected and a place for the
12 registrar to certify the voter registration status of the
13 absentee voters who voted, without application, in the
14 presence of the clerk.

15 B. The clerk shall submit this list of absentee voters to
16 the registrar for certification of the registration status
17 and, when applicable, the enrollment status of the voters
18 who voted in the presence of the clerk. The clerk shall
19 also submit all absentee ballot applications to the
20 registrar for certification of the registration status and,
21 when applicable, the enrollment status of the voter named on
22 each application. The registrar shall certify the list and
23 applications either before or as soon as possible after the
24 ballot is issued to the voter. The certifications must be
25 completed before the absentee ballots may be processed and
26 cast on election day.

27 C. The clerk shall also keep a list of the 3rd persons
28 designated in applications or written requests to whom
29 absentee ballots are sent or delivered under subsection 1
30 and of the number of absentee ballots sent or delivered to
31 them. This list of 3rd person ballot carriers must include
32 telephone numbers for contacting the 3rd persons.

33 **Sec. 55. 21-A MRSA §756, sub-§4,** as enacted by PL 1985, c.
34 357, §§14 and 19, is repealed.

35 **Sec. 56. 21-A MRSA §756, sub-§5,** as enacted by PL 1985, c.
36 161, §6, is amended to read:

37 **5. Envelopes and lists delivered.** On election day, the
38 clerk shall deliver or have delivered the return envelopes
39 prescribed by section 752, subsection 3, with the applications,
40 where when required, attached ~~and the list required by subsection~~
41 ~~4~~ to the warden of the voting district in which the voter is
42 registered, except in those municipalities where the municipal
43 officers have authorized the clerk to process absentee ballots.
44 If more than one return envelope is received from the same voter,
45 the clerk shall deliver or have delivered to the warden for
46
47
48
49
50

2 counting only the return envelope bearing the earliest date and
time.

4 This subsection does not apply to municipalities with 2 or more
6 voting precincts where absentee ballots are counted at a place
other than the voting district.

8 **Sec. 57. 21-A MRSA §760-A, sub-§1**, as enacted by PL 1995, c.
10 459, §2, is amended to read:

12 **1. Envelopes retained.** The clerk shall retain possession
of return absentee envelopes with the applications attached,
14 where required, ~~and the list required by section 756, subsection~~
4.

16 **Sec. 58. 21-A MRSA §808, sub-§1**, as enacted by PL 1991, c.
18 347, §5, is amended to read:

20 **1. Automatic tabulating equipment.** "Automatic tabulating
equipment" means any apparatus that automatically examines and
22 counts votes recorded on paper ballots ~~or on ballot cards~~ and
tabulates the results.

24 **Sec. 59. 21-A MRSA §808, sub-§3**, as enacted by PL 1991, c.
26 347, §5, is repealed.

28 **Sec. 60. 21-A MRSA §808, sub-§6**, as amended by PL 1995, c.
459, §84, is further amended to read:

30 **6. Electronic tabulating system.** "Electronic tabulating
system" means ~~either a punch-card voting system or~~ a mark-sense
32 voting system where the paper ballots or ballot cards are
subsequently counted and tabulated by an electronic tabulating
34 device at one or more counting centers. "Electronic tabulating
system" includes all the software and firmware required to
36 program and control the equipment in the respective system.

38 **Sec. 61. 21-A MRSA §808, sub-§7**, as enacted by PL 1991, c.
40 347, §5, is amended to read:

42 **7. Marking device.** "Marking device" means any special
marking implements, ~~styluses~~ or fluorescent or opaque inks that
44 are required for marking paper ballots ~~or punching holes in~~
ballot cards, depending on the type of system in use.

46 **Sec. 62. 21-A MRSA §808, sub-§9**, as enacted by PL 1991, c.
48 347, §5, is repealed.

50 **Sec. 63. 21-A MRSA §808, sub-§11**, as enacted by PL 1991, c.
347, §5, is amended to read:

2 **11. Voting machine.** "Voting machine" means an apparatus on
4 which voters cast their votes that records each vote by means of
6 mechanical or electronic counters and furnishes a total of the
number of votes cast for each candidate and for and against each
referendum measure.

8 **Sec. 64. 21-A MRSA §848**, as amended by PL 1995, c. 459, §§99
10 to 101, is repealed and the following enacted in its place:

12 **§848. Ballot format for electronic tabulating systems**

14 The Secretary of State shall furnish all ballot materials
16 for all elections conducted under this Title. Ballots furnished
18 for use with electronic tabulating systems must be arranged as
nearly as practicable in accordance with the requirements for
candidate ballots under section 601 and for referendum ballots
under section 906.

20 **Sec. 65. 21-A MRSA §852, sub-§5**, as amended by PL 1995, c.
22 459, §104, is further amended to read:

24 **5. Closing of polls.** As soon as the polls have closed and
26 the last qualified voter has voted, the warden shall proceed to
count the ballots under the observation of the public. The
28 warden shall run the official tally tapes--off--of tape from each
electronic tabulating device and shall record the total votes
30 from the tape on the tally sheet provided by the Secretary of
State. One-copy-of-the The official tally tape, must be signed
32 by the warden, and one election clerk from each of the major
parties and must be packed in a tamper-proof ballot box with the
34 other election materials pursuant to section 698, subsection
2-A. The warden shall run an additional copy of the tally tape
36 to provide to the clerk with the tally sheets and the return of
votes cast and may run additional copies of the tally tape to
38 post for public review. All unused ballots must be placed-in-a
container-and-sealed packaged and sealed pursuant to section 698,
40 subsection 2-B for return to the municipal clerk. The ballot box
for the electronic voting device must be opened at the polling
42 place, The regular counted ballots are placed in the
tamper-proof ballot boxes and all unread or red-lined ballots
44 requiring hand counting or ballots containing write-in votes or
red-lines--requiring-hand-counting that must be recorded on a
46 write-in tally sheet are counted by the election clerks. The
election clerks count in teams of 2, consisting of one election
48 clerk from each of the major parties. If it appears that any
ballot is damaged so that it can not be properly counted by the
50 electronic tabulating device, the ballot must be counted
manually. Once all of the hand counting has been completed, the
election clerks shall complete the tally sheets and other

2 election forms provided by the Secretary of State and return the
3 ballots and other materials to the clerk packed pursuant to
4 section 698, subsections 2-A and 2-B and the incoming voting list
packed pursuant to section 698, subsection 3.

6 **Sec. 66. 21-A MRSA §855-A**, as enacted by PL 1995, c. 459,
7 §108, is repealed.

8 **Sec. 67. 21-A MRSA §856**, as amended by PL 1995, c. 459, §109,
9 is repealed and the following enacted in its place:

12 **§856. Official returns**

14 Copies of the election results must be open to the public as
15 soon as the count is completed. The warden shall prepare the
16 official return pursuant to section 711. The official return of
17 each voting district is derived from the totals from the official
18 tally tape, the totals from the hand-tallies of all red-lined or
19 unread ballots and the tally sheets used to record all valid
20 write-in votes. Once the clerk has made the attested copies of
21 the precinct returns, if applicable, and the total municipality
22 return and filed these attested copies with the Secretary of
23 State, the return becomes the official return for that
24 municipality.

26 **Sec. 68. 21-A MRSA §906, sub-§1-A**, as enacted by PL 1997, c.
27 581, §7, is amended to read:

28 **1-A. Referendum questions on same ballot.** Referendum
29 questions may be printed on the same ballot ~~or ballot-card~~ used
30 for the election of state candidates or municipal elections, as
31 determined by the Secretary of State in accordance with section
32 604-A. There must be a place on the ballot for the voter to
33 designate the voter's choice. A referendum question must be
34 arranged so that the voter may vote for or against it

38 **SUMMARY**

40 This bill amends the definition of "immediate family" to
41 include grandparents, stepgrandparents, grandchildren and
42 stepgrandchildren and adds 2 new definitions. The bill clarifies
43 the time frames and requirements for party enrollment and the
44 documentation that the registrar of voters must keep for the
45 records of all voters who have not been removed from the voting
46 list. The bill details the hearing process and notification that
47 the registrar must follow before removing a voter from the voting
48 list for failure to meet the voting qualifications. This bill
49 also provides a consistent deadline by which all qualified
50 political parties must hold their biennial municipal caucuses.

2 The bill provides that the Secretary of State, rather than the
Governor, declares vacancies that require a meeting of a
4 particular political committee to fill the vacancy. This bill
combines into one section of law the basic requirements for the
6 format of a candidate ballot. This bill amends the terminology
and explanations for certain types of votes or entire ballots
8 that can not be counted because they are improperly marked or
prepared. The bill provides uniformity in designating which
election officials must sign certain election paperwork and
10 permits the municipal clerk to correct obvious errors in the
election returns before reporting them to the Secretary of
12 State. The bill clarifies that the Secretary of State designs
the form of the absentee ballot application and return envelope.
14 This bill also simplifies the deadline by which a 3rd person must
return an absentee ballot to the clerk. The bill also clarifies
16 the requirements for the list of absentee voters by combining
requirements that are currently found in 2 sections of law. The
18 bill removes references to obsolete punch card voting systems and
provides uniformity in the ballot formats for electronic
20 tabulating systems.