

# MAINE STATE LEGISLATURE

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# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

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Legislative Document

No. 1121

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S.P. 384

In Senate, March 22, 2021

### An Act To Create an Open and Streamlined Primary System

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Received by the Secretary of the Senate on March 18, 2021. Referred to the Committee on Veterans and Legal Affairs pursuant to Joint Rule 308.2 and ordered printed.

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

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator BALDACCI of Penobscot.

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

2 **Sec. 1. 21-A MRSA §1, sub-§27-C**, as amended by PL 2019, c. 320, §1 and c. 539,  
3 §§1 and 2, is repealed and the following enacted in its place:

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

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

10 B. General elections for presidential electors; and

11 C. Primary elections for the office of President of the United States.

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

13 **27-D. Elections subject to an open primary.** "Elections subject to an open primary"  
14 means the elections for the offices of United States Senator, United States Representative  
15 to Congress, Governor, State Senator and State Representative.

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

17 **27-E. Open primary election.** "Open primary election" means, in elections subject  
18 to an open primary, the regular election for the election of 2 candidates, regardless of  
19 enrollment status, who will appear on the ballot for the general election.

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

22 **32. Primary election.** "Primary election" means the regular election for the election  
23 of nominees of a party for the general election or, for an election subject to an open primary,  
24 the open primary election.

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

27 **35-A. Ranked-choice voting.** "Ranked-choice voting" means the method of casting  
28 and tabulating votes in which voters rank candidates in order of preference, tabulation  
29 proceeds in sequential rounds in which last-place candidates are defeated and, in a primary  
30 election for the office of President of the United States and a general election for  
31 presidential electors, the candidate with the most votes in the final round is elected or, in  
32 an election subject to an open primary, in which the 2 candidates with the most votes in the  
33 final round are nominated to appear on the ballot for the general election.

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

36 **2. Party designation removed.** On receipt of the application, the registrar shall  
37 remove the party designation of the applicant from the central voter registration system.  
38 The registrar shall indicate in the central voter registration system that the applicant is  
39 ineligible to vote at a caucus or primary election, other than an open primary election, for  
40 15 days by designating the party enrollment field with the letter "X." Fifteen days after

1 receiving the application, the registrar shall enroll the applicant in the party requested and  
2 enter the new party designation in the party enrollment field.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37           **1. Content.** A nomination petition must contain the name of only one candidate, the  
38 candidate's place of residence, the office sought and electoral division. A nomination  
39 petition may contain as many separate papers as necessary and may contain the candidate's  
40 consent required by section 355. It may also contain the candidate's political designation.  
41 This designation may not exceed 3 words in length, may not incorporate the candidate's  
42 name or the designation or an abbreviation of the designation of a party that is qualified to

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

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

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

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

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

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

21 **8-A. Filed with the Secretary of State.** A nomination petition must be filed in the  
22 office of the Secretary of State by 5 p.m. on June 1st in the election year in which it is to  
23 be used, except that a nomination petition for a candidate for an open primary election must  
24 be filed in the office of the Secretary of State by 5 p.m. on March 15th of the election year  
25 in which it is to be used and petitions for a slate of candidates for the office of presidential  
26 elector must be filed in the office of the Secretary of State by 5 p.m. on August 1st in the  
27 election year in which the petitions are to be used.

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

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

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

40 A vacancy in any federal, state or county office, in the office of an election official or  
41 in any political committee occurs when the incumbent dies, resigns, becomes disqualified  
42 or changes the incumbent's residence to an electoral division other than that from which  
43 the incumbent was elected or when the person elected fails to qualify. A vacancy in the

1 offices of United States Senator, United States Representative to Congress, Governor, State  
2 Senator and State Representative also occurs at the beginning of the term of office for a  
3 candidate who was elected at a general election for that office but who died or became  
4 disqualified on or before the date of that general election.

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

7 **§367. Candidate withdrawal**

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

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

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

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

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

30 **5. Death or disqualification of candidates less than 70 days before primary**  
31 **election in contested ~~raes~~ party primaries.** ~~The~~ For a primary election other than an  
32 open primary election, the Secretary of State is not required to remove the name of a  
33 candidate from the primary election ballot or declare a vacancy if a candidate dies or  
34 becomes disqualified less than 70 days before the primary election and another candidate  
35 from the same political party will appear on the ballot for that office. Upon receipt of  
36 information that the candidate has died or become disqualified, the Secretary of State shall  
37 immediately prepare and distribute to the local election officials in the candidate's electoral  
38 district a notice informing voters that the candidate has died or become disqualified and  
39 that a vote for that candidate will not be counted. The notice must be distributed with all  
40 absentee ballots requested after the notice is received by the local election officials and, on  
41 election day, must be posted outside the guardrail enclosure in accordance with section  
42 651, subsection 2 and in each voting booth. Notice that the candidate has died or become  
43 disqualified must also be posted on the Secretary of State's publicly accessible website.

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

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

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

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

32 **§374-A. General election candidates; vacancy**

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

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

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



1 C. Dies prior to the general election.

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

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

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

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

9 **2-A. Ballot procedure for replacement candidates in elections not subject to open**  
10 **primary.** If In an election other than an election subject to an open primary, if a political  
11 party makes a replacement nomination for the general election by the deadline established  
12 in subsection 2, the Secretary of State shall produce new general election ballots or amend  
13 or supplement general election ballots already printed in accordance with section 376 or  
14 604.

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

35 **4. Withdrawal of nominees in elections subject to open primary prohibited.** A  
36 candidate who is declared the winner of an open primary election pursuant to section 723,  
37 subsection 1-A may not withdraw from the general election.

38 **5. Death or disqualification of nominees in elections subject to open primary.** If  
39 a candidate who is declared the winner of an open primary election pursuant to section 723,  
40 subsection 1-A dies or becomes disqualified at any time before the general election, the  
41 candidate's name will not be removed from the ballot. Upon receipt of information that the  
42 candidate has died or become disqualified, the Secretary of State shall immediately prepare  
43 and distribute to local election officials in the candidate's electoral district and on the  
44 Secretary of State's publicly accessible website a notice informing voters that, although the  
45 candidate has died or become disqualified, a vote for that candidate will be counted and, if

1 the candidate is declared the winner of the election, a vacancy will be declared at the  
2 beginning of the term for which the candidate was elected. The notice must be distributed  
3 with all absentee ballots requested after the notice is received by the local election officials  
4 and, on election day, must be posted outside the guardrail enclosure in accordance with  
5 section 651, subsection 2 and in each voting booth.

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

8 **1-A. Removal of candidate's name from ballots.** ~~The~~ Except as provided in section  
9 374-A, subsection 4, the Secretary of State shall remove a candidate's name from the ballot  
10 if the candidate withdraws for any reason 70 days or more before any primary or general  
11 election.

12 **Sec. 25. 21-A MRSA §441, sub-§1**, as enacted by PL 2019, c. 445, §4, is amended  
13 to read:

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

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

## 22 SUBCHAPTER 9

### 23 OPEN PRIMARY ELECTIONS

#### 24 §451. Qualification of candidate for open primary election; common ballot

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

29 **1. Candidate enrolled in a party.** Is enrolled in a party qualified to participate in a  
30 primary election under section 301, 302 or 303, enrolled in that party on or before March  
31 15th of the election year and filed a primary petition and consent that meets the  
32 requirements of sections 335 and 336, subject to challenge and appeal under section 337.  
33 The party designation of a candidate who meets the requirements of this subsection must  
34 be printed on the open primary election ballot; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 **1-A. Form of tabulation.** The tabulation must include the total votes for each question  
16 choice or candidate whose name appeared on the ballot. The tabulation also must include  
17 the total votes for any declared write-in candidates pursuant to section 722-A as follows.

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

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

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

24 **§722-A. Determination of declared write-in candidate**

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

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

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

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

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

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

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

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

10 **1-B. General election following open primary.** In a general election for an election  
11 subject to an open primary, the nominee who receives a plurality of the votes cast for the  
12 office, as long as there is at least one vote cast for that office, is elected to that office. A  
13 write-in candidate may not be elected in a general election for an election subject to an  
14 open primary.

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

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

22 **Sec. 39. 21-A MRSA §723-A,** as amended by PL 2019, c. 320, §§9 to 15 and c.  
23 539, §3 and affected by §6, is further amended to read:

24 **§723-A. Determination of winner in election for an office elected by ranked-choice**  
25 **voting**

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

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

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

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

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

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

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

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

1           (1) ~~The~~ In an election other than an open primary election, the candidate cannot  
2           be elected because the candidate's vote total in a round of the ranked-choice voting  
3           count plus all votes that could possibly be transferred to the candidate in future  
4           rounds from candidates with fewer votes or an equal number of votes would not  
5           be enough to surpass the candidate with the next-higher vote total in the round; ~~or~~  
6           (1-A) In an open primary election, the candidate cannot be elected because the  
7           candidate's vote total in a round of the ranked-choice voting count plus all votes  
8           that could possibly be transferred to the candidate in future rounds from candidates  
9           with fewer votes or an equal number of votes would not be enough to surpass the  
10          2 candidates with higher vote totals in the round; or  
11          (2) The candidate has a lower vote total than a candidate described in subparagraph  
12          (1) or (1-A).

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

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

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

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

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

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

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

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

36          **2-A. Procedures in open primary election.** Except as provided in subsections 3-A  
37          and 4, the following procedures are used to determine the winner of an open primary  
38          election determined by ranked-choice voting. The ranked-choice voting count must  
39          proceed in rounds. In each round, the number of votes for each continuing candidate must  
40          be counted. Each continuing ballot counts as one vote for its highest-ranked continuing  
41          candidate for that round. Exhausted ballots are not counted for any continuing candidate.  
42          The round then ends with one of the following 2 potential outcomes.

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

3           B. If there are more than 3 continuing candidates, the last-place candidate is defeated  
4           and a new round begins.

5           **3. Ties in election that is not open primary election.** A tie ~~under this section~~ between  
6 last-place candidates in an election determined by ranked-choice voting that is not an open  
7 primary election in any round other than the final round must be decided by lot, and the  
8 candidate chosen by lot is defeated. The result of the tie resolution must be recorded and  
9 reused in the event of a recount. A tie between candidates for the most votes in the final  
10 round must be decided as provided in section 732.

11           **3-A. Ties in open primary election.** A tie between the 2nd-place and 3rd-place  
12 candidates in an open primary election in any round must be decided by lot, and the  
13 candidate chosen by lot is defeated. The result of the tie resolution must be recorded and  
14 reused in the event of a recount. A tie between the top 2 candidates in the final round of  
15 an open primary election need not be resolved.

16           **4. Modification of ranked-choice voting ballot and ranked-choice voting count.**  
17 Modification of a ranked-choice voting ballot and ranked-choice voting count is permitted  
18 in accordance with the following.

19           A. The number of allowable rankings may be limited to no fewer than 5.

20           B. Two or more candidates may be defeated simultaneously by batch elimination in  
21 any round of counting.

22           **5. Effect on rights of political parties.** For all statutory and constitutional provisions  
23 in the State pertaining to the rights of political parties, the number of votes cast for a party's  
24 candidate for an office determined by ranked-choice voting is the number of votes credited  
25 to that candidate after the initial counting in the first round described in subsection 2.

26           **5-A. Rules.** The Secretary of State shall adopt rules for the proper and efficient  
27 administration of elections determined by ranked-choice voting. At a minimum, rules  
28 required under this subsection must include procedures, as determined appropriate by the  
29 Secretary of State, for requesting and conducting recounts of the results as determined in  
30 the rounds of counting described in subsection 2. Rules adopted pursuant to this subsection  
31 are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

32           **5-B. Presidential primary elections; selection of delegates.** Notwithstanding any  
33 provision of this section to the contrary, selection and allocation of delegates to a party's  
34 national presidential nominating convention must be in accordance with any reasonable  
35 procedures established at the state party convention.

36           **6. Application.** This section applies to elections held on or after January 1, 2018.

37           **Sec. 40. 21-A MRSA §732, sub-§1,** as corrected by RR 2019, c. 2, Pt. B, §58, is  
38 amended to read:

39           **1. Primary election.** In a primary election other than an open primary election, the  
40 Secretary of State shall notify each person involved in the tie to be present at the Secretary  
41 of State's office at a certain time. At that time, the Secretary of State shall select the  
42 nominee publicly by lot.





1 qualified voters, regardless of enrollment status, are eligible to vote in open primary  
2 elections.

3 The votes in an open primary election must be tabulated using ranked-choice voting,  
4 except that the 2 candidates who receive the most votes are declared the winners of the  
5 open primary and their names must appear on the ballot for the general election. If one of  
6 the 2 candidates who received the most votes at the open primary dies or becomes  
7 disqualified before the general election, that candidate's name must remain on the ballot  
8 and the voters must be notified that a vote for that candidate will be counted and, if that  
9 candidate is declared the winner of the election, a vacancy will be declared at the beginning  
10 of the term of the office for which the candidate was elected. Voters may not vote for a  
11 write-in candidate in a general election that was preceded by an open primary election. As  
12 a result, ranked-choice voting will no longer be used in general elections for United States  
13 Senator and United States Representative to Congress. Instead, the candidate who receives  
14 a plurality of votes at the general election will be elected to those offices.

15 The bill also changes the date of the State's presidential primary election from the  
16 Tuesday after the first Monday in March to the 2nd Tuesday of June of the presidential  
17 election year, the same day that the primary elections for United States Senator, United  
18 States Representative to Congress and state offices are held.