

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

THIRD SPECIAL SESSION

October 1, 1992 to October 6, 1992

FOURTH SPECIAL SESSION

October 16, 1992

ONE HUNDRED AND SIXTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 2, 1992 to July 14, 1993

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
OCTOBER 13, 1993

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1993

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND SIXTEENTH LEGISLATURE

1993

§780-O. Spousal support

Awards for spousal support are subject to immediate income withholding under this chapter if the award is for a period during which child support is awarded.

§780-P. Payor immunity

A payor of income who honors an income withholding order under this chapter may not be held liable by the obligor for income withheld in compliance with the order.

§780-Q. Other remedies

An income withholding order issued under this chapter is an additional remedy to enforce a support order and does not limit the use of other legal remedies that may be available for collection of child and spousal support.

§780-R. Rulemaking

The Department of Human Services shall adopt rules to implement its responsibilities under this chapter.

Sec. 8. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1993-94	1994-95
HUMAN SERVICES, DEPARTMENT OF		
Administration - Income Maintenance		
Positions - Legislative Count	(2.0)	(2.0)
Personal Services	\$26,226	\$56,648
All Other	3,100	6,200
Capital Expenditures	6,000	
TOTAL	\$35,326	\$62,848
Provides funds to process immediate income withholding orders within the Division of Support Enforcement and Recovery, including funds for 2 Human Services Aide III positions and related expenses.		
Aid to Families with Dependent Children		
All Other	(\$112,000)	(\$225,000)
Provides for the deappropriation of funds due to increased child support collections from immediate income withholding orders.		
DEPARTMENT OF HUMAN SERVICES		
TOTAL	(\$76,674)	(\$162,152)

Sec. 9. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1993-94	1994-95
HUMAN SERVICES, DEPARTMENT OF		
Aid to Families with Dependent Children		
All Other	\$451,802	\$903,604
Provides for the allocation of funds due to increased child support collections from immediate income withholding orders.		
DEPARTMENT OF HUMAN SERVICES		
TOTAL	\$451,802	\$903,604

See title page for effective date.

CHAPTER 473

S.P. 478 - L.D. 1477

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

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

Sec. 1. 21-A MRSA §31, as enacted by PL 1985, c. 161, §6, is repealed.

Sec. 2. 21-A MRSA §§32 and 33 are enacted to read:

§32. Violations and penalties

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

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

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

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

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

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

§33. Prosecution of violations

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

Sec. 3. 21-A MRSA §112, sub-§1, as enacted by PL 1985, c. 161, §6, is amended to read:

1. Residence. ~~The residence of a person is that place in which his habitation is fixed, and to which, whenever he is absent, he has the intention where the person has established a fixed and principal home to which the person, whenever temporarily absent, intends to return.~~

A. The following factors, if applicable, are relevant to a determination of a person's intention to establish a residence under this section:

(1) A direct statement of intention by the person;

(2) The location of any dwelling currently occupied by the person;

(3) The duration of the person's habitation at the current dwelling and the place where residence is sought to be established, if different;

(4) The proportional amount of time the person is absent from the place where residence is sought to be established and the reasons for that absence;

(5) The location of any real or personal property owned by the person;

(6) The place where any motor vehicle owned by the person is registered;

(7) The primary location of the person's business, profession or employment, if any;

(8) The place where any resident income tax return is filed;

(9) The address at which the person's mail is received;

(10) The place of issuance of any current resident hunting or fishing licenses held by the person;

(11) The place of issuance of any current business or professional licenses held by the person;

(12) The place of issuance of any motor vehicle operator's license held by the person;

(13) The location of any bank accounts in the person's name;

(14) The receipt of any public benefit conditioned upon residency, defined substantially as provided in this subsection;

(15) The person's community activities, including, but not limited to membership in local social, charitable or business organizations and religious institutions; and

(16) Any other objective facts tending to indicate a person's intention regarding that person's place of residence.

No single factor described in this paragraph is determinative of a person's intention. All applicable factors must be considered together to determine a person's objectively manifested intention to establish a residence.

B. The existence of any of the following factors creates a presumption that the person lacks the intention to establish a residence under this section:

(1) The failure to file an income tax return in this State as a resident, if the person has earned taxable income;

(2) The registration of a motor vehicle in a jurisdiction other than that in which residence is sought to be established; or

(3) The possession of a motor vehicle operator's license from a jurisdiction other than this State.

This presumption may be overcome by other evidence, as described in paragraph A, that clearly indicates a contrary intention.

Sec. 4. 21-A MRSA §112, sub-§14, as enacted by PL 1987, c. 93, is amended to read:

14. Persons incarcerated in correctional facilities. The residence of a person incarcerated in a correctional

facility, as defined in Title 34-A, section 1001, does not include the municipality where a person is incarcerated unless the person had resided in that municipality prior to incarceration.

A person incarcerated in a correctional facility may apply to register to vote in any municipality where that person has previously ~~had a fixed habitation and to which he established a fixed and principal home to which the person~~ intends to return.

Sec. 5. 21-A MRSA §112, sub-§15 is enacted to read:

15. Nontraditional residence. A person may have a nontraditional residence, including, but not limited to a shelter, park or underpass. A person's residency is not subject to challenge on the sole basis that the person has a nontraditional residence.

Sec. 6. 21-A MRSA §121, sub-§1-A is enacted to read:

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

A person who registers during the 15 days before election day or on election day shall register in person and show proof of identity and residency. If satisfactory proof can not be provided to the registrar or deputy, the person casts a challenged ballot.

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

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

Sec. 8. 21-A MRSA §161, sub-§2, as amended by PL 1991, c. 466, §10, is further amended to read:

2. List current. The registrar shall keep a list current at all times by adding the names of new voters and by removing the names of those who have died, moved from the municipality with an apparent intention of abandoning their residence in the municipality or become disqualified to vote. When the registrar employs the facilities of the United States Postal Service to determine which voters have moved from the municipality and when the United States Postal Service reports to the registrar that a voter has moved from the address shown on the voting list without having notified the United States

Postal Service of a forwarding address, the registrar shall remove the name of the voter from the voting list and is not required to send, or to attempt to send, a notice to the voter in accordance with section 162. The registrar may not remove the name of a registered voter from the voter list solely for not voting in previous elections.

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

Sec. 9. 21-A MRSA §167, as enacted by PL 1985, c. 161, §6, is amended to read:

§167. Violation and penalty

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

Sec. 10. 21-A MRSA §503, sub-§8 is enacted to read:

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

Sec. 11. 21-A MRSA §601, sub-§1, as enacted by PL 1985, c. 161, §6, is amended to read:

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

Sec. 12. 21-A MRSA §601, sub-§2, ¶A, as enacted by PL 1985, c. 161, §6, is amended to read:

A. The following instructions Instructions must be printed in bold type at the top of the ballot: "MAKE A CROSS (X) OR A CHECK MARK () IN THE SQUARE AT THE LEFT OF THE NAME OF THE CANDIDATE FOR WHOM YOU WISH TO VOTE.. YOU MAY VOTE FOR A PERSON WHOSE NAME DOES NOT APPEAR ON THE BALLOT BY WRITING IT OR PASTING A STICKER WITH THE PERSON'S NAME AND MUNICIPALITY OF RESIDENCE ON IT IN THE PROPER BLANK SPACE AND MARKING THE SQUARE AT THE LEFT. DO NOT ERASE NAMES." informing the voter how to designate the voter's choice on the ballot.

Sec. 13. 21-A MRSA §601, sub-§2, ¶F, as enacted by PL 1985, c. 161, §6, is repealed and the following enacted in its place:

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

Sec. 14. 21-A MRSA §601-A, sub-§2, ¶A, as amended by PL 1993, c. 334, §4, is further amended to read:

A. ~~The following instructions~~ 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.

~~"MAKE A CROSS (X) OR A CHECK MARK (-) IN THE SQUARE AT THE LEFT OF THE NAME OF THE CANDIDATE FOR WHOM YOU WISH TO VOTE. YOU MAY VOTE FOR ONE PERSON ONLY. YOU MAY VOTE FOR A PERSON WHOSE NAME DOES NOT APPEAR ON THE BALLOT BY WRITING IT OR PASTING A STICKER WITH THAT PERSON'S NAME ON IT IN THE PROPER BLANK SPACE AND MARKING A CROSS (X) OR A CHECK MARK (-) IN THE PROPER SQUARE AT THE LEFT. DO NOT ERASE NAMES.~~

Sec. 15. 21-A MRSA §602, sub-§2, ¶¶A and C, as enacted by PL 1985, c. 161, §6, are amended to read:

A. ~~The names of all nominees for office must as far as possible be placed in one vertical column. When there are over 25 names to be printed on the ballot, another column or columns may be added for the names of the additional nominees. When 2 or more columns are used, the same number of names, so far as possible, must be printed in each column. The names of candidates for any one office may not be split into more than one column regardless of number. The initial letter letters of the last name names of the several candidates in each column must be printed directly beneath each other in a vertical line and the initial letter letters of the respective party designations of each nominee must be printed directly beneath each other in a vertical line.~~

C. ~~The following instructions~~ Instructions must be printed in bold type at the top of the ballot: "MAKE A CROSS (X) OR A CHECK MARK (-) IN THE SQUARE AT THE LEFT OF THE NOMINEE FOR WHOM YOU WISH TO VOTE. YOU MAY VOTE FOR A PERSON WHOSE NAME DOES NOT APPEAR ON THE BALLOT BY WRITING IT AND THE PERSON'S MUNICIPALITY OF RESIDENCE IN THE PROPER BLANK SPACE AND MARKING THE SQUARE AT THE LEFT. DO NOT ERASE NAMES;" informing the voter how to designate the voter's choice on the ballot.

Sec. 16. 21-A MRSA §602, sub-§2, ¶G, as enacted by PL 1985, c. 161, §6, is repealed and the following enacted in its place:

G. There must be a place on the ballot for the voter to mark the ballot to designate the voter's choice.

Sec. 17. 21-A MRSA §605, sub-§2, ¶A is enacted to read:

A. A notice must be conspicuously posted at the entrances to all polling places and voter registration places informing voters and others that knowingly violating the State's election laws is a crime punishable by up to 10 years in state prison and a fine not to exceed \$20,000.

Sec. 18. 21-A MRSA §674, as enacted by PL 1985, c. 161, §6, is repealed and the following enacted in its place:

§674. Violations and penalties

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

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

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

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

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

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

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

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

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

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

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

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

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

A. Tamper with ballots or voting lists or opens or breaks a seal of a sealed box or packages of ballots or voting lists with the intent of changing the outcome of any election, except as permitted by this Title.

Sec. 19. 21-A MRSA §682, sub-§2, as enacted by PL 1985, c. 161, §6, is amended to read:

2. Influence prohibited. Within 250 feet of the entrance to the voting place as well as within the voting place itself, ~~no~~ a person may not influence or attempt to influence another person's choice of candidates decision regarding a candidate or ballot issue. This limitation does not prohibit a candidate from attending the voting place and orally communicating with voters, as long as he the candidate does not attempt to influence their vote.

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

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

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

A. This subsection does not apply to advertising material on automobiles traveling to and from the voting place. It does not prohibit a person from passing out stickers at the voting place to be pasted on the ballot at a primary election. It does not prohibit a person, ~~other than an election official;~~ who is at the polls solely for the purpose of voting from wearing a campaign button when the longest dimension of the button does not exceed 3 inches.

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

Sec. 21. 21-A MRSA §691, as enacted by PL 1985, c. 161, §6, is amended to read:

§691. Marking ballots; primary election

A voter shall mark his the ballot at a primary election with a cross (X) or a check mark (✓) according to the following provisions as instructed in the directions on the ballot.

1. Individual candidate method. ~~He~~ The voter must ~~place the mark in the square at the left of and close to the ballot as instructed in the directions on the ballot to indicate the name of each candidate for nomination for whom he the voter wishes to vote.~~

2. Write-in vote. If ~~he the voter~~ wishes to vote for a person whose name is not on the ballot, ~~he the voter~~ must write the name and municipality of residence or paste a sticker containing the name and municipality of residence in the blank space provided at the end of the list of candidates for nomination to the office in question; ~~with the last name first or last. He~~ The voter must then ~~place the mark in the square at the left of the space the ballot as instructed in the directions on the ballot to indicate a vote for the write-in candidate.~~

Sec. 22. 21-A MRSA §692, as enacted by PL 1985, c. 161, §6, is amended to read:

§692. General election

A voter shall mark his the ballot at a general election with a cross (X) or a check mark (✓) according to the following provisions as instructed in the directions on the ballot.

1. Individual candidate method. ~~He~~ The voter must ~~place the mark in the square at the left of and close to the ballot as instructed in the directions on the ballot to indicate a vote for the name of each nominee for whom he the voter wishes to vote, regardless of political designation, but must follow directions as to the number of nominees to be elected to each office.~~

2. Write-in vote. If ~~he the voter~~ wishes to vote for a person whose name is not on the ballot, ~~he the voter~~ must write the name and municipality of residence in the blank space provided at the end of the list of nominees for the office in question; ~~with the last name first or last. He~~ The voter must then ~~place the mark in the square at the left of the space the ballot as instructed in the directions on the ballot. A sticker may not be used to vote for a write-in candidate.~~

3. Referendum question. In voting on a referendum question, ~~he the voter~~ shall ~~place the mark in the square of his choice at the left of the question the ballot as instructed in the directions on the ballot.~~

Sec. 23. 21-A MRSA §696, sub-§1, as amended by PL 1985, c. 357, §§4 and 19, is further amended to read:

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

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

Sec. 24. 21-A MRSA §698, sub-§2, as amended by PL 1987, c. 188, §6, is repealed.

Sec. 25. 21-A MRSA §698, sub-§§2-A and 2-B are enacted to read:

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

A tamper-proof ballot container must be sealed before leaving the precinct with a numbered seal that must correlate with a certificate identifying the person sealing the container and the time of the sealing. The seals and identifying certificates must be furnished by the Secretary of State.

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

2-B. Unused ballots placed in containers. At the close of the polls, all unused, unsealed absentee and regular ballots must be voided by a physical mark unless all voted ballots have been validated in the course of the election. All sealed ballots must remain sealed and be wrapped with tamper-proof tape. All unused ballots, including both the unsealed and the sealed ballots, must be placed in the containers in which the regular ballots were delivered. The containers containing the unused ballots must be clearly marked to indicate that the containers contain unused ballots. These ballots must be stored separately from the used ballots.

Sec. 26. 21-A MRSA §698, sub-§5, ¶A, as enacted by PL 1985, c. 161, §6, is amended to read:

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

Sec. 27. 21-A MRSA §712, as enacted by PL 1985, c. 161, §6, is amended to read:

§712. Return not delivered

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

Sec. 28. 21-A MRSA §724, first ¶, as enacted by PL 1985, c. 161, §6, is amended to read:

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

Sec. 29. 21-A MRSA §736, as amended by PL 1987, c. 258, §§1 and 2, is repealed.

Sec. 30. 21-A MRSA §737, as amended by PL 1991, c. 466, §23, is repealed.

Sec. 31. 21-A MRSA §737-A is enacted to read:

§737-A. Recount

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

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

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

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

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

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

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

B. If the percentage difference is more than 2% and less than 4%, the deposit is \$500.

C. If the percentage difference is 4% or more, the deposit is \$1,000.

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

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

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

5. Persons prohibited from working at recount. Confidential state employees, employees of the Legislature, candidates and elected state officials may not participate in ballot recounts in any capacity. This subsection does not prohibit employees within the Department of the Secretary of State, election officials and staff of the Department of the Attorney General and the Judicial Department from performing their duties with respect to a recount.

6. List of recount personnel. The Secretary of State shall maintain a list of recount personnel for 2 years after the recount.

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

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

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

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

10. Appeals. For all elections, except for the Senate and the House of Representatives, if there are enough challenged or disputed ballots to affect the result of an election, the Secretary of State shall forward the ballots and related records for that election to the clerk of the Supreme Judicial Court. The Supreme Judicial Court shall determine the result of the election pursuant to procedures adopted by court rule. The decision of the Supreme Judicial Court is final and must be certified to the Governor by the Chief Justice.

For all elections to the Senate and the House of Representatives, each House shall establish procedures for recount appeals.

11. Withdrawal from recount. A candidate who requests and receives a recount may withdraw from the recount at any time while the recount shows that candi-

date to be the loser. If, during the recount, the candidate requesting the recount overtakes and passes the candidate who initially appeared to win the election, the candidate requesting the recount may not withdraw the request and the recount must be completed.

Sec. 32. 21-A MRSA §738, as amended by PL 1987, c. 188, §10, is further amended to read:

§738. Statewide referendum ballots

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

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

Sec. 33. 21-A MRSA §739, first ¶, as enacted by PL 1985, c. 161, §6, is amended to read:

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

Sec. 34. 21-A MRSA c. 9, sub-c. III, art. IV, as enacted by PL 1985, c. 161, §6, is repealed.

Sec. 35. 21-A MRSA §753, sub-§3, ¶B, as amended by PL 1991, c. 466, §29, is further amended to read:

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

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

(2) An absentee ballot for the applicant ~~which that~~ was furnished to a designated 3rd person is not returned to the clerk's office within 5 2 business days of the date that ballot was sent or delivered to the 3rd person ~~or of~~ the date that 3rd person was notified

by the clerk that the ballot was available, or by 10 a.m. on the day before election day, whichever is earlier. If a ballot for an applicant is not returned to the clerk within 5 2 days of notification, ~~then~~ the clerk shall mail a ballot to that applicant on the 6th 3rd day after notification and ~~shall may~~ issue no other ballot to the applicant except for good cause as provided in this subsection. This subparagraph ~~may does not be construed to~~ affect the time for delivery of absentee ballots under section 755.

Sec. 36. 21-A MRSA §753, sub-§5, as amended by PL 1985, c. 357, §§10 and 19, is further amended to read:

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

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

Sec. 37. 21-A MRSA §791, sub-§2, as amended by PL 1987, c. 572, is repealed and the following enacted in its place:

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

A. Delivers, receives, accepts, notarizes or witnesses an absentee ballot for any compensation. This paragraph does not apply to a governmental employee handling ballots in the course of that employee's official duties or a person who handles absentee ballots before the unvoted ballots are delivered to the municipality or after the voted ballots are returned to the clerk.

Sec. 38. 21-A MRSA §791, sub-§3 is enacted to read:

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

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

B. Is a candidate who, notwithstanding this subchapter, delivers, receives, accepts, notarizes or

witnesses an absentee ballot, other than the candidate's own absentee ballot, furnished by the clerk of a municipality in this State. This paragraph does not apply to an elected municipal clerk in an election when no other name for the office of clerk appears on the ballot. In a contested election for the office of clerk, a clerk may not be exempted from the provisions of this paragraph but shall instead appoint a deputy or an assistant to whom the municipality shall pay all associated costs for the duration of the deputy's or assistant's temporary employment in that capacity.

Sec. 39. 21-A MRSA §829, as enacted by PL 1985, c. 161, §6, is amended to read:

§829. Violation and penalty

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

Sec. 40. 21-A MRSA §860, as enacted by PL 1985, c. 161, §6, is amended to read:

§860. Violation and penalty

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

Sec. 41. 21-A MRSA §906, sub-§1, as enacted by PL 1985, c. 161, §6, is amended to read:

1. Referendum questions on separate ballot. Referendum questions must be printed on a ballot separate from the general election ballots, except for municipalities using electronic scanning devices. ~~Two squares must be printed at the left of any referendum question submitted, with "Yes" above one and "No" above the other, so that a voter may designate his choice clearly by a cross or a check mark. There must be a place on the ballot for the voter to designate the voter's choice.~~

Sec. 42. 30-A MRSA §2533, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

§2533. Title to municipal office

Within 20 days after election day, a person who claims to have been elected to any municipal office may

proceed against another who claims title to the office by following the following procedure outlined in Title 21-A, section 746.

1. Procedure. The person must bring a complaint in the Superior Court alleging the facts upon which the person relies in maintaining the action. The action must be brought in the county in which the defendant resides. The court shall hear and decide the case as soon as reasonably possible.

2. Appeal procedure. The party against whom the judgment is rendered may appeal to the Supreme Judicial Court within 10 days after entry of the judgment. The appellant must file the required number of copies of the record with the clerk of courts within 20 days after filing the notice of appeal. Within 30 days after the notice of appeal is filed, the parties must file briefs with the clerk of courts. As soon as the records and briefs have been filed, the court shall immediately consider the case and shall issue its decision as soon as reasonably possible. Final judgment must be entered accordingly.

3. Court to issue order. As soon as final judgment has been rendered, the Superior Court, on request of the prevailing party, shall issue an order to the party unlawfully claiming or holding the office, commanding that party to immediately surrender it to the person who has been adjudged lawfully entitled to it, together with all the records and property connected with it. The prevailing party may assume the duties of the office as soon as the term begins.

4. Costs. The court shall allow costs to the prevailing party as the court determines reasonable and just.

Sec. 43. 34-A MRSA §3007, sub-§4, as amended by PL 1985, c. 161, §15, is further amended to read:

4. Violation. The posting of written political material under this section is not a violation of Title 21-A, section ~~31, subsection 3~~, 32 or Title 21-A, section 674, subsection 1, paragraph C.

Sec. 44. 34-B MRSA §1410, sub-§4, as amended by PL 1985, c. 506, Pt. A, §71, is further amended to read:

4. Violation. The posting of written political material under this section is not a violation of Title 21-A, section ~~31, subsection 3~~ 32 or Title 21-A, section 674, subsection 1, paragraph C.

Sec. 45. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1993-94

SECRETARY OF STATE,
DEPARTMENT OF THE

Elections and Commissions

All Other \$63,000

Provides funds for the purchase and distribution of approximately 3,000 metal boxes for used ballots to 676 municipalities.

Sec. 46. Effective date. This Act takes effect January 1, 1994.

Effective January 1, 1994.

CHAPTER 474**H.P. 1137 - L.D. 1537****An Act to Establish a Development Authority for Loring Air Force Base**

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the United States Department of Defense has announced its intention to close Loring Air Force Base in Aroostook County by September 1994; and

Whereas, Loring Air Force Base is presently the largest employer in Aroostook County, employing some 5,000 persons; and

Whereas, the Loring Readjustment Committee has been working to assess the potential reuse of the air force base facility and the impact of its closure on surrounding communities; and

Whereas, a legal entity needs to be created to accept the assets of the facility and manage a locally driven process for its readjustment and reuse; and

Whereas, it is critical to implement a reuse and readjustment strategy for the facility to preserve the local economies of the affected communities; and

Whereas, the United States Department of Defense is prepared to begin transferring the assets for their reuse; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 5 MRSA c. 383, sub-c. III, art. 1-B is enacted to read:

Article 1-B**LORING DEVELOPMENT AUTHORITY
OF MAINE****§13080. Loring Development Authority of Maine
established**

The Loring Development Authority of Maine is established to carry out the purposes of this article. The authority is entrusted with acquiring and managing the properties within the geographical boundaries of Loring Air Force Base.

§13080-A. Definitions

As used in this article, unless the context otherwise indicates, the following terms have the following meanings.

1. Authority. "Authority" means the Loring Development Authority of Maine.

2. Base area. "Base area" means the area within the geographic boundaries of Loring Air Force Base.

3. Bond. "Bond" means a bond or note or other evidence of indebtedness authorized under this article, whether issued under or pursuant to a bond resolution, trust indenture, loan or other security agreement.

4. Department. "Department" means the Department of Economic and Community Development or its successor.

5. Governing body. "Governing body" means, for a municipality, the municipal legislative body as defined by Title 30-A, section 2001 or, for a county, the board of county commissioners.

6. Loring Air Force Base. "Loring Air Force Base" or "base" means those properties and facilities within the geographic boundaries of the United States Department of Defense air force base at Limestone existing on the effective date of this section. "Base" also