

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTIETH LEGISLATURE
FIRST REGULAR SESSION
December 6, 2000 to June 22, 2001

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 21, 2001

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
2001

llamas, poultry, rabbits and domesticated deer as defined in Title 7, section 1331.

See title page for effective date.

CHAPTER 309

S.P. 363 - L.D. 1201

An Act to Require the State to Provide Flags for Persons Who Are Listed on the Law Enforcement Memorial Located on State Street in Augusta

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

Sec. 1. 25 MRSA §2916 is enacted to read:

§2916. Flags for public servants

The commissioner shall provide a gravesite flag holder and flag for placement during the period of time designated by a national law enforcement organization for honoring law enforcement officers at the gravesite of each public servant listed on the law enforcement memorial located at the State Capitol complex memorial site in accordance with this section.

1. Fund established. The Flags for Public Servants Fund, referred to in this section as the "fund," is established as a nonlapsing fund. The commissioner may use this fund only to support the costs of providing flag holders and flags for public servants listed on the law enforcement memorial at the State Capitol complex memorial site. Revenue deposited in the fund pursuant to subsection 2 must be the sole source of funding for the costs of providing flags and flag holders.

2. Revenue sources. The commissioner may accept court-mandated and private contributions intended to be used for the purposes of the fund. Any revenues accepted under this subsection must be deposited in the fund and used only for the purposes described in this section.

3. Budget. The commissioner shall submit a budget for the fund for each biennium pursuant to Title 5, sections 1663 and 1666.

4. Gravesite flag holder and flag. The gravesite flag holder must include the State of Maine seal and the words "Law Enforcement Officer Killed in the Line of Duty" and a Maine flag. The state flag must be 12 inches by 8 inches in size.

5. Placement responsibility. The commissioner shall provide to each law enforcement agency

the appropriate number of gravesite flag holders and flags for that agency to place on the gravesites of the agency's officers listed on the law enforcement memorial located at the State Capitol complex memorial site if the gravesites can be reasonably found. If an agency can not carry out the responsibilities of this subsection, then the commissioner shall designate the Bureau of State Police to place the flag holder and flag at the gravesite.

6. Exceptions. A gravesite flag holder and flag may not be placed on the gravesite of an officer listed on the law enforcement memorial at the State Capitol complex memorial site if the family of the officer objects or the placement is prohibited by cemetery rules.

Sec. 2. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	2001-02	2002-03
PUBLIC SAFETY, DEPARTMENT OF Administration - Public Safety		
All Other	\$500	\$500
Provides initial allocations for the Flags for Public Servants Fund.		

See title page for effective date.

CHAPTER 310

H.P. 798 - L.D. 1042

An Act to Amend the Election Laws

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

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

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

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

27-A. Official tally tape. "Official tally tape" means the first tape produced by an electronic tabulating machine that tallies the final vote totals at

the conclusion of voting and that is attached to the zero tape produced by the machine prior to the start of voting.

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

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

1. Registration and enrollment applications.

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

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

5. Alternative registration schedule for absentee voters. If the clerk receives a properly completed absentee ballot application that is signed by a person who is not a registered voter in the municipality, a presumption of the person's qualification as a voter is established. The clerk shall send an absentee ballot to the voter at the address indicated, along with a voter registration application under section 152. The completed registration application must be returned to the clerk by the close of business on the 10th business day before election day and may not be sealed with the voted absentee ballot. If the application is received during the closed period and the registrar is not satisfied as to the person's qualification as a voter, the registrar shall follow the requirements of section 121, subsection 1-A to place the person's name on the voting list and challenge the absentee ballot.

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

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

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

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

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

A voter may change ~~his~~ the voter's enrollment anytime after 3 months from the date on which the voter enrolled by filing an 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. Reenrollment after withdrawal. A voter may not enroll in a different party ~~for~~ but may enroll in the same party within 15 days after filing a written request for withdrawal from a party.

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

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

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

5. Design of application. The Secretary of State shall design the application so that it may be

mailed as a postcard. The Secretary of State may design an application that can be completed electronically and that substantially meets the requirements of this section.

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

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

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

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 and give written notice to the voter at the last known address provided by the voter. The voter may respond in person or in writing with proof of qualifications prior to the date of the hearing. After the hearing, the registrar shall determine whether the voter has met the voting qualifications and shall act accordingly. If the voter offers satisfactory proof of qualifications to the registrar, either prior to or at the hearing, the registrar may not remove the voter's name from the list. If the voter fails to offer satisfactory proof of qualifications to the registrar, either prior to or at the hearing, the registrar may remove the voter's name from the list. If the voter fails to appear at the hearing and the registrar has proof that the voter does not meet the qualifications, the registrar may remove the voter's name from the list. The registrar shall notify the voter, in writing, of the action taken and advise the voter of the appropriate appeal authority as specified in this Title.

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

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

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

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

3. Petition. After the filing of the declaration described in subsection 1, the Secretary of State or the Secretary of State's designee shall review the declaration and determine the form of the petitions to be submitted to the voters. The voter or voters proposing to form the party shall print the petitions in the form approved by the Secretary of State and may then circulate the petitions. These petitions must be signed, verified and certified in the same manner as primary petitions under section 335, subsections 3, 4 and 7, except that voters not enrolled in any party may also sign the petitions. Each page of the petition must have a caption, in conspicuous type, that contains the designation of the proposed party followed by the words "Petition to participate in the primary election." The petitions must be filed in the office of the Secretary of State before 5 p.m. on the 180th day preceding a primary election and must contain the signatures and legal addresses of voters equal in number to at least 5% of the total vote cast in the State for Governor at ~~either of the last 2~~ preceding gubernatorial ~~elections~~ election. Petitions must be submitted to the appropriate municipal registrar for certification by 5 p.m. on the 10th day before the petition must be filed in the office of the Secretary of State or, if the 10th day is a Saturday, Sunday or legal holiday, by 5 p.m. on the next day that is not a Saturday, Sunday or a legal holiday. The registrar must complete the certification of the petitions and must return them to the circulators or their agents within 5 days of the date on which the petitions were submitted, Saturdays, Sundays and legal holidays excepted.

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

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

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

§312. Voting list

The chair or secretary of the municipal committee or the person or persons calling a biennial municipal caucus, including any resident voter pursuant to section 311, subsection 5, may request from the municipal registrar at no charge a certified

copy of the voting list for use by the municipal committee once each biennial election cycle beginning January 1st in an election year. Upon receipt of a request, the registrar has 5 business days to prepare and provide the certified copy of the voting list to the requester.

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

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

§362-A. Secretary of State declares vacancy

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

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

§364. Candidacy by nomination petition

The nomination of a candidate, other than by party, to fill a vacancy must be made by nomination petition. The nomination process is in the same manner as provided by subchapter II, except that all petitions must be filed by 5 p.m. on the deadline for filling the vacancy set by the ~~Governor~~ Secretary of State pursuant to section ~~362~~ 362-A.

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

§371. Candidates for nomination

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

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

§373. Nominees; less than 60 days before election

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

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

1. Withdrawal and replacement of nominees.

The ~~Governor~~ Secretary of State shall ~~issue a proclamation~~ declare the vacancy as provided in section ~~362~~ 362-A and a political committee may make a replacement nomination following a candidate's withdrawal only if a person nominated for an office, other than United States Senator, Representative to Congress or Governor, at a primary election or by a political committee:

A. Withdraws on or before 5 p.m. of the 2nd Monday in July preceding the general election;

B. Withdraws because of a catastrophic illness that has permanently and continuously incapacitated the candidate and 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 State a certificate accompanying the withdrawal request, which describes the illness and is signed by at least 2 licensed physicians; or

C. Dies prior to the general election.

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

§393. Presidential electors

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

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

§413. Ballot preparation

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

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

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 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 registered voters of the municipality, except when a nonresident clerk is acting as either warden, ward clerk or deputy warden. Before assuming the duties of office, the warden is sworn by the municipal clerk, and the ward clerk or deputy warden is sworn by the municipal clerk or by the warden.

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

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 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 ~~nomin~~~~ation~~ 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 than a listed candidate. After the "uncommitted" option, 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.

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

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

G. There must be a heading on the ballot that contains the title of the election, the name of the political party, the 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.

H. The name of each nominee must appear on the ballot as follows: last name first, in block capital letters, 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.

I. For ballots that are double sided, each side of the ballot must include a clearly printed message at the bottom of the ballot reminding the voter to mark both sides of the ballot.

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

4. Distinctively colored. ~~The ballots must be printed separately for each~~ When possible, election ballots must be printed on white paper. Each political party on paper of a distinctive color: white for the party that cast the greatest number of votes for Governor at the last gubernatorial election and yellow for the 2nd highest participating in a primary election must have a separate ballot. The paper for each party's

primary ballot must be printed or distinguished with a different color marking as determined by the Secretary of State. The Secretary of State shall choose a distinctive color for ballots for any other political party. For municipalities that include more than one single member district of the State Senate or the House of Representatives, or parts of more than one single member district, the Secretary of State may prepare primary election ballots of with one or more distinctive colors color markings for each single member district or part of a single member district within the municipality.

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

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

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

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

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

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

A. A notice must be conspicuously posted at the entrances to all polling places and voter registration places informing voters and others of the penalties for voting law violations and 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. 33. 21-A MRSA §627, sub-§4, as amended by PL 1995, c. 459, §49, is further amended to read:

4. Minimum size of polling place; complaint to Secretary of State. Municipalities must provide a

polling place large enough to allow at least one worker from each political party to remain outside the guardrail enclosure for the purpose of checking voters, challenging voters or viewing as a pollwatcher. Additional party workers are allowed if there is sufficient space at the polling place. If the space at the polling place is so limited that the presence of the additional party workers would interfere with the election process, the warden shall prohibit their presence. If the chair of any party's state committee submits a written complaint to the Secretary of State at least ~~30~~ 60 days before an election, the Secretary of State shall authorize an inspection of the polling place considered to be too small to allow party workers access. If the Secretary of State finds a polling place to be too small to allow party workers access, the Secretary of State shall instruct the municipal officers to change the location of the polling place to one of a suitable size. The municipal officers must advertise the change of the polling place at least 3 times in the daily or weekly newspaper, or both, that covers the area.

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

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

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

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

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

A. ~~If, by vote of the municipal officials, a municipality has required the use of an outgoing voting list, the voter must announce the voter's name and, upon request, street address to the~~

election clerk in charge of that list before depositing the ballots in the ballot box.

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

2. Limited time within guardrail enclosure. After entering the guardrail enclosure, the voter shall proceed to vote as soon as a voting booth is available and may not linger within the voting booth or guardrail enclosure once the voter has completed voting and deposited all ballots into the ballot box.

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

2. Influence prohibited. Within 250 feet of the entrance to the voting place as well as within the voting place itself, a person may not influence or attempt to influence another person's 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 the candidate does not attempt to influence their vote. A candidate may not state the name of the office sought or request a person's vote.

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

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

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

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

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

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

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

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

C. If a voter marks a write-in indicator for an office, but does not write both a name and a municipality of residence 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

§697. Use of red pens by election officials

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

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

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

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

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

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

A tamper-proof ballot container must be locked and sealed with a numbered seal before leaving the precinct ~~with a numbered~~. The lock and seal that numbers must correlate with a certificate identifying the person sealing the container and the time of the

sealing. The locks, 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 or more witnesses. The containers must be securely sealed.

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

2-B. Unused ballots placed in containers. At the close of the polls, all unused, unsealed absentee and regular ballots must be ~~invalidated~~ canceled by a physical mark unless all ballots are used in the course of the election. All sealed ballots must remain sealed. 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. 47. 21-A MRSA §698, sub-§3, as enacted by PL 1985, c. 161, §6, is amended to read:

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

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

§711. Preparation of returns

As soon as the results of the election have been declared, the election return must be prepared. The warden at each ward or precinct shall fill out the election return form provided by the Secretary of State, showing the number of votes cast for each candidate or question. The warden and one other election official shall sign the return and immediately deliver it to the municipal clerk.

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

2. Multidistrict municipality. In a municipality with multiple voting districts, the municipal clerk shall total the voting district returns and complete the total municipality 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 Secretary of State.

2-A. Clerk to correct obvious errors. In making the attested copies of either the voting district returns or the municipality return, the clerk shall correct any errors in either the tabulating or recording of the count that are obvious based on the tally sheets or copies of the tally tapes available to the 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 the correction.

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

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

A. A person who has not qualified as a candidate for nomination by primary election by filing a petition and consent under sections 335 and 336, but who fulfills the other qualifications under section 334, may be nominated at 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.

~~(1) The Secretary of State shall send notice of nomination to a write-in candidate by certified mail, return receipt requested. For purposes of this paragraph, the notice is deemed given on the date the write-in candidate signs the receipt, or if the notice is undeliverable, the date the post office last 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 disqualified and the candidate's name may not be printed on the general election ballot.~~

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:

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

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:

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

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

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

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

4. Duplicate application. If the clerk receives a duplicate application or request from a person from whom the clerk has received a return envelope apparently containing a statewide absentee ballot, the clerk may not furnish another statewide absentee ballot for that person. The clerk may issue a 2nd statewide absentee ballot to an applicant if the applicant requests one ~~in person or in writing by an acceptable method outlined in this subchapter~~ and:

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

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

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

6. Clerk to list. The clerk shall keep an alphabetical list, by district, of the persons who requested or were furnished absentee ballots, including the persons who voted in the presence of the clerk under subsection 8 and the persons whose ballots were issued to a 3rd person under subsection 1. The clerk shall

maintain a copy of the lists required under this subsection for a period of 2 years as a public record.

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

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

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

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

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

5. Envelopes and lists delivered. On election day, the clerk shall deliver or have delivered the return envelopes prescribed by section 752, subsection 3, with the applications, ~~where~~ when required, attached and the list required by ~~subsection 4~~ section 753-B, subsection 6, to the warden of the voting district in which the voter is registered, except in those municipalities where the municipal officers have authorized the clerk to process absentee ballots. If more than one return envelope is received from the same voter, the clerk shall deliver or have delivered to the warden for counting only the return envelope bearing the earliest date and time.

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

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

1. Envelopes retained. The clerk shall retain possession of return absentee envelopes with the applications attached, where required, and the list required by section ~~756~~ 753-B, subsection ~~4~~ 6.

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

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

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

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

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

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

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

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

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

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

Sec. 64. 21-A MRSA §848, as amended by PL 2001, c. 84, §1, is repealed and the following enacted in its place:

§848. Ballot format for electronic tabulating systems

The Secretary of State shall furnish all ballot materials for all elections conducted under this Title. Ballots furnished 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. For ballots that are double sided, each side of the ballot must include a clearly printed message at the bottom of the ballot reminding the voter to mark both sides of the ballot.

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

5. Closing of polls. As soon as the polls have closed and the last qualified voter has voted, the warden shall proceed to count the ballots under the observation of the public. The warden shall run the official tally tapes off of tape from each electronic tabulating device and shall record the total votes from the tape on the tally sheet provided by the Secretary of State. One copy of the The official tally tape; must be signed 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 other election materials pursuant to section 698, subsection 2-A. The warden shall run an additional copy of the tally tape 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 post for public review. All unused ballots must be placed in a container and sealed packaged and sealed pursuant to section 698, subsection 2-B for return to the municipal clerk. The ballot box for the electronic voting device must be opened at the polling place; The regular counted ballots are placed in the tamper-proof ballot boxes and all unread or red-lined ballots requiring hand counting or ballots containing write-in votes or red-lines requiring hand counting that must be recorded on a write-in tally sheet are counted by the election clerks. The election clerks count in teams of 2, consisting of one election 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 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 election forms provided by the Secretary of State and return the ballots and other materials to the clerk packed pursuant to section 698, subsections 2-A and 2-B and the incoming voting list packed pursuant to section 698, subsection 3.

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

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

§856. Official returns

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

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

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

See title page for effective date.

CHAPTER 311

S.P. 409 - L.D. 1353

An Act to Increase the Maine Turnpike Authority Bond Limit

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

Sec. 1. 23 MRSA §1968, sub-§1, as amended by PL 1997, c. 646, §1, is further amended to read:

1. Turnpike revenue bonds. In addition to bonds outstanding pursuant to any other provision of this chapter, the authority may provide by resolution from time to time for the issuance of turnpike revenue bonds, including notes or other evidences of indebtedness or obligations defined to be bonds under this chapter, but not exceeding ~~\$170,000,000~~ \$210,000,000 in the principal amount at any one time outstanding exclusive of refundings, for any purpose described in section 1969, subsection 1.

See title page for effective date.
