

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

FIRST REGULAR SESSION
December 6, 2006 to June 21, 2007

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 20, 2007

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

Penmor Lithographers
Lewiston, Maine
2007

1. Civil violation. A person who violates this section commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

2. Class E crime. A person who violates this section after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

Sec. 2. Transfer; Carrying Balances, General Fund account. Notwithstanding any other provisions of law, no later than September 15, 2007, the State Controller shall transfer \$41,216 from the Carrying Balances, General Fund account within the Department of Inland Fisheries and Wildlife to the unappropriated surplus of the General Fund, and no later than September 15, 2008 the State Controller shall transfer \$41,216 from the Carrying Balances, General Fund account within the Department of Inland Fisheries and Wildlife to the unappropriated surplus of the General Fund.

See title page for effective date.

CHAPTER 455

H.P. 1227 - L.D. 1761

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-§47-B is enacted to read:

47-B. Voting booth or voting station. "Voting booth" or "voting station" means the location within a voting place where voters may mark their ballots or record their votes screened from the observation of others. "Voting booth" or "voting station" includes the area, location, booth, table or enclosure where voting takes place and includes any voting machine, voting device or accessible voting system placed in the voting booth or voting station.

Sec. 2. 21-A MRSA §101, sub-§1, as amended by PL 1997, c. 436, §14, is further amended to read:

1. Qualifications. The registrar must be a citizen of the United States, a resident of the State and at least 18 years of age. The registrar may not hold or be a candidate for any state, local or county office, or be an officer of a municipal, county or state party committee. The registrar may not be an employee of a party or candidate.

Sec. 3. 21-A MRSA §101, sub-§10 is enacted to read:

10. Ineligible to serve. When a member of the registrar's immediate family becomes a candidate for state, local or county office in the electoral division in which the registrar is appointed, the registrar may not serve as registrar during the period beginning when the candidate files a petition to be a candidate or is nominated to be a replacement candidate until the time of election. The registrar shall instead appoint a deputy to whom the municipality shall pay all associated costs for the duration of the deputy's temporary employment in that capacity.

Sec. 4. 21-A MRSA §103, sub-§6, as amended by PL 1999, c. 426, §5, is further amended to read:

6. Appeal hearing. Upon receipt of a complaint by a person aggrieved by the decision of the registrar, the chair of the registration appeals board shall immediately fix a time and place for the board to meet for a prompt hearing. The voter must be given written notice of the hearing at least 20 days in advance and must have the opportunity to testify and to present witnesses and other evidence at the hearing. The hearing is de novo. After hearing, the board may affirm, modify or reverse the decision of the registrar of voters. The aggrieved person may appeal the decision of the board to the Superior Court in accordance with Rule 80B of the Rules of Civil Procedure.

Sec. 5. 21-A MRSA §112, sub-§6, as amended by PL 1993, c. 695, §3, is further amended to read:

6. Voting in another state. A person loses the person's voting residence in this State if the person registers to vote in another state or votes in another state's election, either in person or by absentee ballot. That person is not eligible to register or vote in this State until the person again qualifies under section 111.

Sec. 6. 21-A MRSA §122, sub-§1, as amended by PL 2005, c. 453, §13, is further amended to read:

1. Entry into central voter registration system. The registrar shall enter the name and other information from the voter registration application of the applicant into the central voter registration system as expeditiously as possible after receipt of a voter registration application. The registrar shall register a person by first name, middle name or initial and last name, or by first name or initial, middle and last name or by first name and last name.

Sec. 7. 21-A MRSA §152, sub-§1, ¶A, as enacted by PL 1985, c. 161, §6, is amended to read:

A. First name, middle name or initial and last name, or first name or initial, middle name and last name or first name and last name;

Sec. 8. 21-A MRSA §154, sub-§1, ¶A, as enacted by PL 1985, c. 161, §6, is amended to read:

A. First name, middle name or initial and last name, ~~or~~ first name or initial, middle name and last name or first name and last name;

Sec. 9. 21-A MRSA §161, sub-§4, as amended by PL 2005, c. 453, §32, is further amended to read:

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 of the hearing to the voter at the last known address provided by the voter at least 20 days in advance. The voter must have the opportunity to testify and to present witnesses and other evidence at the hearing. 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 cancel the voter's registration in the central voter registration system. If the voter fails to offer satisfactory proof of qualifications to the registrar, either prior to or at the hearing, the registrar may cancel the voter's registration in the central voter registration system. 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 cancel the voter's registration in the central voter registration system. 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. If the registrar decides to cancel the voter's registration in the central voter registration system after the hearing and a municipal or state election occurs before the cancelled voter has exhausted all appeals, then the voter remains in the central voter registration system for the election and may cast a challenged ballot.

Sec. 10. 21-A MRSA §163, as amended by PL 2005, c. 453, §34, is further amended to read:

§163. Appeal

In a municipality that does not have a registration appeals board, if a person is aggrieved by the decision of the registrar of voters to cancel that person's registration in the central voter registration system or to reject that person's registration application, the person may appeal in writing to the municipal officers by filing a complaint. The municipal officers shall immediately fix a time and place for a prompt hearing. The voter must be given written notice of the hearing at least 20 days in advance and must have the opportunity to testify and to present witnesses and other evidence at the hearing. The hearing is de novo. After

hearing, the municipal officers may affirm, modify or reverse the decision of the registrar of voters. The aggrieved person may appeal the decision of the municipal officers to the Superior Court in accordance with Rule 80B of the Rules of Civil Procedure.

Sec. 11. 21-A MRSA §196, sub-§2, as enacted by PL 2005, c. 404, §2, is amended to read:

2. Voter lists or reports identifying voters. A person may purchase a list or report of voter information containing some or all of the information from the central voter registration system by making a request to the Secretary of State or to a municipal registrar if the information requested concerns voters in that municipality. The Secretary of State or the municipal registrar shall make available the following information, subject to the fees set forth in subsection 4 and the restrictions on use and redistribution of data set forth in subsection 7: the voter's name, residence address, mailing address, date of birth, enrollment status, electoral district, voter status, voter participation in previous elections including whether the voter cast a challenged or absentee ballot and voter record number, ~~any voter identification numbers~~ and any special designations indicating uniformed service voters, overseas voters or township voters. In addition, municipal clerks or registrars shall make available upon request the list of persons who requested or were furnished absentee ballots created and maintained pursuant to section 753-B subject to the fees set forth in subsection 4.

Sec. 12. 21-A MRSA §196, sub-§3, as enacted by PL 2005, c. 404, §2, is amended to read:

3. Other reports. Any other reports generated from the central voter registration system, including reports that contain both the name of a voter and that voter's ~~voter identification number~~ or voter record number that indicate whether the voter has voted or changed enrollment status, may be obtained from the Secretary of State upon request, or from a municipal registrar if the information requested concerns voters in that municipality, subject to the fees set forth in subsection 4 of this section but not subject to the restrictions on use and redistribution of data in subsection 7.

Sec. 13. 21-A MRSA §307, sub-§5, as enacted by PL 2003, c. 447, §10, is amended to read:

5. Use obscene designation. Consist of or comprise language that is obscene, contemptuous, profane or prejudicial, promotes abusive or unlawful activity or violates any other provision of the laws of this State with respect to names.

Sec. 14. 21-A MRSA §354, sub-§1, as amended by PL 2003, c. 447, §12, is further amended to read:

1. Content. A nomination petition must contain the name of only one candidate, the candidate's place of residence, the office sought and electoral division. A nomination petition may contain as many separate papers as necessary and may contain the candidate's consent required by section 355. It may also contain the candidate's political designation. This designation may not exceed 3 words in length, may not incorporate the candidate's name or the designation or an abbreviation of the designation of a party that is qualified to nominate candidates by primary election and may not consist of or comprise language that is obscene, contemptuous, profane or prejudicial, promotes abusive or unlawful activity or violates any other provision of the laws of this State with respect to names. A candidate who intends to form a new party about that person's candidacy must use the proposed party's designation.

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

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

Sec. 15. 21-A MRSA §371, first ¶, as amended by PL 2001, c. 310, §22, is further amended to read:

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 declare the vacancy pursuant to section 362-A. A candidate for nomination may not withdraw less than 60 days before the primary election.

Sec. 16. 21-A MRSA §374-A, sub-§3 is enacted to read:

3. Deadline for withdrawal. A candidate for an office on the general election ballot may not withdraw less than 60 days before the general election.

Sec. 17. 21-A MRSA §383, sub-§1, as enacted by PL 1985, c. 161, §6, is repealed.

Sec. 18. 21-A MRSA §601, sub-§2, as amended by PL 2003, c. 584, §§5 and 6, is further amended to read:

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 legal 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.

B-1. The candidate's name listed on the ballot must be the one approved by the Probate Court, pursuant to Title 18-A, section 1-701, or, in the absence of an applicable court order, the name consistently used by the candidate during the past 2 years in filings with governmental agencies and in the transaction of public business, including without limitation transactions relating to voter registration; motor vehicle registrations; driver licenses; a passport; professional licenses; local, state or federal permits of any kind; public benefit programs; and veterans' benefits and social security. If requested by the Secretary of State when there is a question concerning which name should be listed on the ballot, it is the obligation of the candidate to provide documentation to demonstrate consistent use of a particular name.

C. When 2 United States Senators 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 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~~ a 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.

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 followed by the first name and middle name or initial; ~~or~~ last name first followed by the first name or the first initial and the middle name; or last name first followed by the first 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.

Sec. 19. 21-A MRSA §601, sub-§3, as amended by PL 2001, c. 310, §29, is further amended to read:

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, and~~ the county offices in the following order: judge of probate, register of probate, county treasurer, register of deeds, sheriff, district attorney and county commissioner.

Sec. 20. 21-A MRSA §603, sub-§1, ¶A, as amended by PL 1997, c. 436, §77, is further amended to read:

A. The words "SAMPLE BALLOT" in bold type, the title and date of the election, and the name of the voting district must be printed at the top of the ballot. The facsimile of the state seal may not be printed on it. It must be printed flat ~~with the back blank.~~ Otherwise, it must be printed substantially the same as a regular ballot.

Sec. 21. 21-A MRSA §603, sub-§2, as amended by PL 1997, c. 436, §77, is further amended to read:

2. When furnished. The Secretary of State shall send a reasonable number of sample ballots to the clerk for posting, as provided in section 625; ~~and an additional number with the regular ballots for voter information.~~

Sec. 22. 21-A MRSA §605, sub-§4 is enacted to read:

4. Secretary of State to determine format. The Secretary of State shall determine the format of all instructional materials and posters and may combine similar materials into one notice or poster.

Sec. 23. 21-A MRSA §606, as amended by PL 2005, c. 568, §13, is further amended to read:

§606. Materials furnished

Within a reasonable time before any election, the Secretary of State shall furnish each municipality with official ballots and sample ballots, including a sufficient number to be used for testing electronic tabulating systems or other voting devices, if applicable, in-

struction posters, election return forms, posters for constitutional resolutions and statewide referenda, including the Attorney General's explanatory statements prepared under Title 1, section 353, materials setting forth the full text of all constitutional resolutions and statewide referenda and other materials necessary for conducting and reporting the results of the election.

1. Number of ballots furnished. The Secretary of State shall review the number of votes cast at the last election of that type as well as current registration and enrollment statistics in each voting district when determining the number of ballots to be furnished to each municipality. If the clerk believes that extra ballots will be needed, the clerk must request them from the Secretary of State a reasonable time before the election. The Secretary of State may send the requested number to the clerk and may furnish as many additional ballots as the Secretary of State believes necessary.

2. How packaged. The ballots must be packed in sealed, marked packages in units as determined by the Secretary of State. The other election materials must be separately packed in a sealed package or packages or box or boxes and sent to the clerk of each municipality. Each package or box must be labeled on the outside with each kind of material enclosed and the name of the voting place for which it is intended.

3. Receipt issued; inspection of ballots in an election. Upon receipt of a package or box containing absentee ballots or blank absentee ballots for an election, the clerk shall open the sealed package or box of ballots and verify that the ballots do not contain any errors and that the correct number of ballots has been received. The clerk shall immediately notify the Secretary of State if a ballot is incorrect or if the correct number of ballots has not been received and shall also immediately send the Secretary of State a receipt for the absentee ballots received noting any discrepancies on the receipt. The clerk shall then proceed to issue absentee ballots or blank absentee ballots in response to pending requests. Upon receipt of a package or box containing regular ballots for an election, the clerk shall open, in the presence of one or more witnesses, the sealed package or box of ballots and verify that the ballots do not contain any errors and that the correct number of ballots has been received. The clerk shall immediately notify the Secretary of State if a ballot is incorrect or if the correct number of ballots has not been received. Ballots to be used for testing electronic tabulating systems or other voting devices may be removed at this time and immediately marked as provided by subsection 3-A. The clerk shall complete the clerk's portion of the warden's receipt of ballots and shall then reseal the package or box of regular ballots and secure the package or box of ballots until election day when it is delivered to the warden at the polling place.

3-A. Use of test ballots in an election. Ballots may be used to test electronic tabulating systems or other voting devices under ~~section 854~~ this Title. In the presence of one or more witnesses, the clerk shall clearly mark each ballot used for testing with the word "TEST" across the front side of the ballot in black or blue indelible ink. The clerk shall keep a record of the number of ballots used for testing purposes and seal the record with the test ballots in a container labeled "TEST BALLOTS" at the conclusion of the testing.

4. Records kept. The Secretary of State shall keep a record of the time when and the manner in which the ballots were furnished to each voting place.

5. Reproducing official ballots. It is unlawful for ~~any~~ a person to copy or reproduce an unmarked official ballot without the express authorization of the Secretary of State.

Sec. 24. 21-A MRSA §627, sub-§4, as amended by PL 2001, c. 310, §33, 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 guard-rail enclosure as a pollwatcher. If the municipality uses an incoming voting list for a polling place that is divided into separate segments by voting district or by the alphabetic listing of voters' names, then the municipality must allow at least one worker from each political party to remain outside the guardrail enclosure as a pollwatcher at each separate segment of the voting list. Additional party workers and others 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 and others 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 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~~ shall advertise the change of the polling place at least 3 times in the daily or weekly newspaper, or both, that covers the area.

Sec. 25. 21-A MRSA §629, sub-§1, ¶A-1, as enacted by PL 2003, c. 407, §18, is amended to read:

A-1. In every election, the municipal officers shall provide at least one voting booth in each voting place that is accessible for persons with disabilities. The accessible voting booth may be used to meet the minimum requirements under

paragraph A, except that it may not be the only voting booth used at the polling place.

Sec. 26. 21-A MRSA §629, sub-§4, as amended by PL 1997, c. 436, §90, is further amended to read:

4. Booth for the visually impaired. The clerk shall equip at least one of the voting booths at the voting place with an enlarged instruction poster, a magnifying device and an adjustable lamp for improved lighting. The clerk may also equip the voting booth with an enlarged sample ballot at the clerk's own discretion. The voting station provided by the State along with the accessible voting device may be used to meet the requirements of this subsection. The voting station may not be used at the polling place for purposes other than voting.

Sec. 27. 21-A MRSA §631, sub-§1, as amended by PL 1999, c. 426, §20, is further amended to read:

1. Procedure. The municipal officers may divide a town or ward into convenient voting districts after public notice and hearing held at least 90 days before ~~any~~ an election. After the hearing, the municipal officers ~~must~~ shall prepare a certificate defining the limits of each district. ~~They must~~ The municipal officers shall file the certificate with the clerk who shall record it. The clerk shall immediately file an attested copy of the certificate with the Secretary of State. The clerk shall post an attested copy of the certificate in a conspicuous, public place in the town or ward, and shall publish it in at least one newspaper having general circulation in the municipality at least 30 days before election day. Voting districts, once established, may be consolidated into a lesser number of districts by following the same procedure. Voting districts may be established or consolidated under this section for all or only certain classes of elections. ~~If the municipal officers determine that there is no building within a voting district that is suitable for a voting place, as described in section 627, the municipal officers may, subject to the approval of the Secretary of State, establish a voting place outside the voting district in a suitable building that is as close as possible to the voting district and as convenient as possible to the voters of the voting district.~~

Sec. 28. 21-A MRSA §631-A is enacted to read:

§631-A. Voting places

1. Establishing suitable voting places. If the municipal officers determine that there is no building within a voting district that is suitable for a voting place, as described in section 627, the municipal officers may, subject to the approval of the Secretary of State, establish a voting place outside the voting district in a suitable building that is as close as possible to

the voting district and as convenient as possible to the voters of the voting district.

2. Consolidating voting places. The municipal officers may, after public notice and hearing held at least 90 days before an election, and subject to the approval of the Secretary of State, consolidate voting places so that more than one voting district votes in the same voting place. When voting places are consolidated under this process, the voters from the different voting districts may vote in the same or separate guardrail enclosures in the building.

Sec. 29. 21-A MRSA §671, sub-§3, as enacted by PL 1985, c. 161, §6, is amended to read:

3. Ballot issued. The election clerk in charge of the ballots shall give the voter one ballot of each kind to which ~~he~~ the voter is entitled. The election clerk in charge of the ballots may not give a voter voting with the accessible voting system a ballot. Instead, an election official shall escort the voter to the voting station containing the accessible voting system, instruct the voter on its proper use and provide the voter with access to all ballots to which the voter is entitled. The voter shall cast the voter's ballot using the accessible voting system.

Sec. 30. 21-A MRSA §672, as amended by PL 1993, c. 255, §4, is further amended to read:

§672. Assistance

A voter who is unable to read or mark ~~his~~ the ballot because of physical disability, illiteracy or religious faith may request another person, other than the voter's employer or agent of that employer or officer or agent of the voter's union, to assist the voter in reading the ballot or marking the ballot according to the voter's wishes. When assisting a voter, the aide may not tell the voter how to make the voter's choices or otherwise influence the voter in violation of section 682.

1. Assistance by election officials. The voter may request one or more election officials to assist.

2. Assistance by persons not voters. The assistant need not be a voter or of voting age.

~~**3. Assistance in reading the ballot.** A voter who is illiterate or visually impaired or has another disability that makes it difficult to read a ballot may request that the ballot be read to that voter.~~

Sec. 31. 21-A MRSA §673, first ¶, as enacted by PL 1985, c. 161, §6, is amended to read:

A voter of ~~any~~ a municipality or an election official may challenge the right of another to vote at ~~any~~ an election in that municipality.

Sec. 32. 21-A MRSA §673, sub-§1, ¶A, as repealed and replaced by PL 2003, c. 688, Pt. B, §6, is amended to read:

A. A voter or an election official may challenge another voter only upon personal knowledge or a reasonably supported belief that the challenged voter is unqualified. Only the following reasons for challenges may be accepted by the warden. The challenged person:

- (1) Is not a registered voter;
- (2) Is not enrolled in the proper party, if voting in a primary election;
- (3) Is not qualified to be a registered voter because the challenged person:
 - (a) Does not meet the age requirements as specified in sections 111, subsection 2 and section 111-A;
 - (b) Is not a citizen of the United States; or
 - (c) Is not a resident of the municipality or appropriate electoral district within the municipality;
- (4) Registered to vote during the closed period or on election day and did not provide satisfactory proof of identity and residency to the registrar pursuant to section 121, subsection 1-A, except that only an election official may challenge for this reason;
- (5) Did not properly apply for an absentee ballot;
- (6) Did not properly complete the affidavit on the absentee return envelope;
- (7) Did not cast the ballot or complete the affidavit before the appropriate witness;
- (8) Communicated with someone as prohibited by section 754-A, subsection 1, paragraph B or subsection 3, paragraph B or D;
- (9) Did not have the ballot returned to the clerk by the time prescribed;
- (10) Voted using the name of another;
- (11) Committed any other specified violation of this Title; or
- (12) Voted using the wrong ballot for the appropriate electoral district or political party, if applicable.

Sec. 33. 21-A MRSA §673, sub-§7 is enacted to read:

7. Hearing held. After the election at which a voter has been challenged, the registrar shall hold a hearing to confirm the qualifications of the challenged voter pursuant to section 161, subsection 4. The qualifications of the voter must be resolved within a reasonable time after the election and the voter's name

either retained or cancelled from the central voter registration system.

Sec. 34. 21-A MRSA §681, sub-§3, ¶A, as enacted by PL 1985, c. 161, §6, is amended to read:

A. If the voter requests assistance under section 672, ~~a proper~~ an election official designated by the warden or an aide requested by the voter may enter the voting booth with the voter.

Sec. 35. 21-A MRSA §681, sub-§4, as enacted by PL 1985, c. 161, §6, is amended to read:

4. Outside the guardrail enclosure. ~~Party~~ If sufficient space exists, party workers and others, in addition to the pollwatchers allowed pursuant to section 627, 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. If ~~any~~ a person attempts to influence voters or interfere with their free passage, the warden shall have ~~him~~ the person removed from the voting place.

Sec. 36. 21-A MRSA §691, sub-§2, as amended by PL 1993, c. 473, §21 and as affected by §46, is further amended to read:

2. Write-in vote. If the voter wishes to vote for a person whose name is not on the ballot and who is not a declared write-in candidate in accordance with section 722-A, 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. If the voter wishes to vote for a declared write-in candidate, the voter must write the name of the candidate in the blank space provided at the end of the list of candidates for nomination to the office in question. The voter must then mark the ballot as instructed in the directions on the ballot to indicate a vote for the write-in candidate.

Sec. 37. 21-A MRSA §695, sub-§6 is enacted to read:

6. Stickers. The clerk shall report any problem regarding the use of stickers used on ballots to the Secretary of State.

Sec. 38. 21-A MRSA §696, sub-§2, ¶E, as amended by PL 2005, c. 404, §3, is further amended to read:

E. If a voter writes in a write-in space a fictitious name, the name of a deceased person, the name of a person who has not filed a declaration of write-in candidacy as provided by section 722-A or the name of a person from outside the State who ~~could not~~ is not qualified to be a candidate for that office, the vote for that office may not be counted.

Sec. 39. 21-A MRSA §711, sub-§3, as repealed and replaced by PL 2001, c. 310, §48, is amended to read:

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

Sec. 40. 21-A MRSA §722-A, as enacted by PL 1999, c. 426, §24, is amended to read:

§722-A. Determination of write-in candidate

To be considered a valid write-in candidate, a person must file a declaration of write-in candidacy with the Secretary of State, on a form approved by the Secretary of State, ~~either before the election or no later than 3 business days after the election~~ on or before 5 p.m. on the 3rd business day prior to the election. The candidate must meet all the other qualifications for that office.

Sec. 41. 21-A MRSA §753-B, sub-§1, as amended by PL 2003, c. 447, §30, is further amended to read:

1. Application or written request received. Upon receipt of an application, written request or telephone application for an absentee ballot that is accepted pursuant to section 753-A, the clerk shall immediately issue an absentee ballot and return envelope by mail or in person to the applicant or to the immediate family member or to a 3rd person designated in a written application or request made by the voter, except that the clerk does not have to issue a ballot by mail to an address outside the municipality for a voter whose request was received on the day before election day or to any voter whose request was received on election day. The clerk shall type or write in ink the name and the residence address of the voter in the designated section of the return envelope.

Sec. 42. 21-A MRSA §759, sub-§2, as amended by PL 1995, c. 459, §77, is further amended to read:

2. Accepted if correct. If the warden finds that the affidavit is properly completed, that the clerk has verified that the signature on the envelope matches the signature on the application where applicable, that the person is registered and enrolled where necessary, the warden shall then examine the incoming voting list to determine whether the voter voted in person at the election. The warden shall then announce the name of each absentee voter who has not voted at the election and remove each ballot from its envelope without destroying the envelope or unfolding the ballot. After having an election clerk from a political party different from that of the warden mark the letters "AV" beside the name of each absentee voter on the incoming voting lists and place a check mark or horizontal line in red ink on the list beside the voter's name, the warden shall accept the ballot.

Sec. 43. 21-A MRSA §759, sub-§4, as enacted by PL 1985, c. 161, §6, is amended to read:

4. Warden to check absentee ballot for correct party or district. At a primary election when the warden removes a ballot from its envelope, ~~he the~~ warden shall check its color to be sure it is the ballot of the party in which the voter is enrolled. If it is not, ~~he the warden~~ shall immediately replace it in its envelope, reseal the envelope and write "Rejected" on it, the reason why and ~~his~~ the warden's initials. At a primary or general election, in a municipality that has more than one voting district, when the warden removes a ballot from its envelope, the warden shall check its color to be sure it is the ballot of the district in which the voter is registered. If it is not, the warden shall challenge the ballot according to section 673.

Sec. 44. 21-A MRSA §760-A, sub-§4, as enacted by PL 1995, c. 459, §82, is amended to read:

4. Counting procedure. After the incoming voting list has been marked according to the procedures in subsection 3, the municipal clerk shall then proceed to process the absentee ballots using the procedures set forth in sections 759, ~~761~~ and 762 at the next time scheduled under section 759, subsection 7. The ballots must be processed publicly so that all those present may observe the proceedings.

Sec. 45. 21-A MRSA §760-B is enacted to read:

§760-B. Procedures when clerk processes absentee ballots prior to election day

Any municipality or jurisdiction that conducts its own elections may opt to process absentee ballots on the day immediately prior to election day. The clerk shall use the following procedure when processing the absentee ballots during this time.

1. Time for processing. In a municipality that has opted to process absentee ballots on the day immediately prior to election day, the municipal clerk or the clerk's designees may process absentee ballots at the times designated by the clerk, between the hours of 9:00 a.m. and 9:00 p.m.

2. Notice of early processing. The clerk must give notice of the municipality's intent to process absentee ballots prior to election day using the notice of election under section 621-A, stating each specific time that the clerk intends to begin processing absentee ballots and the inspection period provided in subsection 3. At least 7 days before election day, the clerk shall notify the Secretary of State and the chairs of each political party of the municipality, in writing, that this procedure is to occur. The notice to the political parties must be considered sufficient as long as it is mailed to the last address of each municipal chair that is known to the clerk. The notice to the Secretary of State may be delivered by mail or facsimile. A

copy of the notice of election is considered notice in writing under this subsection.

3. Inspection of absentee envelopes before processing. A member of the public may make a written request of the clerk to inspect absentee ballot applications and envelopes before they are processed if the request is made by 9:00 a.m. on the day immediately prior to election day. The clerk shall make the absentee ballot applications and envelopes received by that time available for public inspection for one hour before the first time specified in the notice of election for processing the absentee ballots. The clerk may immediately proceed to process the ballots after the one-hour inspection time has elapsed.

4. Processing and other procedures. The clerk shall use the procedure described in this section when processing the absentee ballots during the designated times. Procedures for handling full ballot boxes, poll-watching and challenging ballots are conducted in the same manner as election day or as nearly practicable.

5. Counting and results prohibited before the polls close. The absentee ballots may not be counted, voter intent may not be determined and election results may not be obtained or released until after the polls have closed on election day, and all election day ballots have been cast and all absentee ballots have been processed.

6. Security of processed ballots and tabulating equipment. At the conclusion of absentee ballot processing on the day immediately prior to election day, the clerk shall ensure that the early processed absentee ballots are locked and sealed in the ballot box, automatic tabulating equipment ballot box or tamper-proof containers provided by the Secretary of State and secured in a vault or other locked secure location, until the voting resumes on election day or until the ballots are counted after the polls close. The Secretary of State shall publish uniform guidelines for securing ballots and other materials under this section.

Sec. 46. 21-A MRSA §761, as enacted by PL 1985, c. 161, §6, is repealed.

Sec. 47. 21-A MRSA §762, sub-§1, as enacted by PL 1985, c. 161, §6, is amended to read:

1. Name and address. The voter's name and legal residence address typed or written in ink by the clerk in the upper left hand corner designated section of the return envelope;

Sec. 48. 21-A MRSA §808, sub-§1-A is enacted to read:

1-A. Accessible voting system. "Accessible voting system" means a voting system that is accessible for individuals with disabilities, including non-visual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for

access and participation, including privacy and independence, as for other voters.

Sec. 49. 21-A MRSA §808, sub-§12 is enacted to read:

12. Voting system. "Voting system" means the total combination of mechanical, electromechanical or electronic equipment, including the software, firmware and documentation required to program, control and support the equipment, that is used to define or produce ballots, to cast and count votes, to report or display election results and to maintain and produce any audit trail information.

Sec. 50. 21-A MRSA §809-A, sub-§1-A, as enacted by PL 2005, c. 683, Pt. L, §1, is amended to read:

1-A. Prohibition not applicable. For the purpose of providing a voting system equipped for individuals with disabilities as required by section 812-A, subsection 1 and the federal Help America Vote Act of 2002, Public Law 107-252, the prohibition in subsection 1 does not apply to the connection of individual voting devices to a central server using a wired, point-to-point telephone connection that is not Internet-enabled when the central server is operated or managed by the Secretary of State.

~~This subsection is repealed 90 days after the adjournment of the First Regular Session of the 123rd Legislature.~~

Sec. 51. 21-A MRSA §812, sub-§10, as amended by PL 2005, c. 445, §1, is further amended to read:

10. Paper audit trail. Except for an accessible voting equipment system that must be provided by 2006 in compliance with the federal Help America Vote Act of 2002 as provided in section 812-A, subsection 1, it must produce or employ permanent paper records of the votes cast that are able to be verified by individual voters before their votes are cast and that provide a manual audit capacity for the machine. In the case of direct recording electronic voting machines, those records must also identify the individual machines that produced them without revealing the identities of the voters who cast the ballots. In all cases, these records must be reviewed in the event of a recount and considered in conjunction with the machine-produced tally.

Sec. 52. 21-A MRSA §812-A, as amended by PL 2005, c. 445, §2, is further amended to read:

§812-A. Accessible voting system

1. Accessible voting system at each polling place. The Secretary of State, in compliance with the voting accessibility requirements of the federal Help America Vote Act of 2002, shall provide one direct recording electronic voting machine, or other accessi-

ble voting system equipped for individuals with disabilities, for use at each polling place used in the conduct of state elections. Such machines must produce permanent paper records that provide a manual audit capacity for the machines and must also provide voters with audio functions that enable the voters to verify their ballots aurally before the votes are cast, and all such machines must meet the requirements of section 812, subsection 10 unless the Secretary of State is unable to procure machines that the Secretary of State determines are adequate to meet the requirements of this section and section 812 in time to comply with the Help America Vote Act of 2002.

Additional accessible voting machines may be used in the conduct of state elections, but those machines must meet the requirements set forth in section 812.

Sec. 53. 21-A MRSA §904, as enacted by PL 1985, c. 161, §6, is repealed and the following enacted in its place:

§904. Violations and penalties

A person commits a Class E crime if that person:

1. False swearing; signature. Circulates an initiative or referendum petition and swears that a signature is that of a person whose name it purports to be when the circulator knows that the signature is not that of the person;

2. False acknowledgement of oath. Is authorized by law to administer oaths and willfully and falsely acknowledges the oath of a circulator of an initiative or referendum petition when that oath was not made in the presence of that person;

3. False signature. Knowingly signs an initiative or referendum petition with a name other than the person's own name;

4. Duplicate signature. Knowingly signs the person's name more than once on initiative or referendum petitions for the same measure; or

5. False swearing; signature made in circulator's presence. Circulates an initiative or referendum petition and willfully swears that a signature to the petition was made in the circulator's presence when it was not.

Sec. 54. Resolve 2005, c. 70 is amended to read:

Sec. 1. Secretary of State to design pilot program for early voting. Resolved: That the Secretary of State shall design a pilot program for early voting for the ~~general~~ election to be held in November ~~2008~~ 2007. The Secretary of State shall select one municipality that is willing and able to be the pilot municipality and may select an additional municipality or municipalities to participate in the pilot program at the discretion of the Secretary of State and with the consent of the municipalities. In designing the pilot

program, the Secretary of State may consult with other states that have early voting laws in order to use best practices of those states; and be it further

Sec. 2. Reporting date established. Resolved: That the Secretary of State shall submit a report by February 15, 2007 to the joint standing committee of the Legislature having jurisdiction over legal and veterans affairs detailing the plan for conducting a pilot program for early voting and outlining any issues of concern. The committee shall review the plan and by May 1, 2007 may submit legislation to the First Regular Session of the 123rd Legislature to authorize the Secretary of State to conduct the pilot program for the November ~~2008 general~~ 2007 election.

See title page for effective date.

CHAPTER 456

H.P. 746 - L.D. 986

An Act To Establish an Agriculture Education Registration Plate

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

Whereas, it is important to authorize the issuance of agriculture education plates as soon as possible in order to allow funds to be raised for agriculture education, which in turn will help support agriculture, a vital sector of the Maine economy; 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 §12004-G, sub-§4-C is enacted to read:

4-C.

<u>Agriculture</u>	<u>Maine</u>	<u>Paid from</u>	<u>7 MRSA</u>
<u>Education</u>	<u>Agriculture</u>	<u>council</u>	<u>§242</u>
	<u>in the</u>	<u>funds in</u>	
	<u>Classroom</u>	<u>accordance</u>	
	<u>Council</u>	<u>with</u>	
		<u>council</u>	
		<u>bylaws</u>	

Sec. 2. 7 MRSA §242 is enacted to read:

§242. Maine Agriculture in the Classroom Council

1. Establishment. The Maine Agriculture in the Classroom Council, established in Title 5, section 12004-G, subsection 4-C and referred to in this section as "the council," has all the powers necessary to achieve the public purpose stated in subsection 2 and to carry out the powers conferred under this section.

The exercise of powers conferred by this section is held to be the performance of essential government functions.

A. Employees of the council may not be construed to be state employees for any purpose, including the state civil service provisions of Title 5, Part 2 and Title 5, chapter 372.

B. The council may not be construed to be a state agency for any purpose, including the budget, accounts and control, auditing, purchasing or other provisions of Title 5, Part 4.

C. Notwithstanding paragraphs A and B:

(1) Employees of the council may be state employees for the purposes of the state retirement provisions of Title 5, Part 20 and the state employee health insurance program under Title 5, chapter 13, subchapter 2; and

(2) For the purposes of the Maine Tort Claims Act, the council is a governmental entity and its employees and members are employees as those terms are defined in Title 14, section 8102.

D. Employees of the council are entitled to use the services of the Central Fleet Management Division in accordance with provisions established for state agencies under Title 5, section 1830.

2. Purpose. The purpose of the council is to promote an understanding of the food and fiber system in the State and the nation through the infusion of agricultural concepts into primary, secondary and post-secondary curricula. For the purposes of this section, "agricultural concepts" includes, but is not limited to:

A. The importance of agriculture in the State and in the nation's history and development;

B. The connections between geography, climate and agriculture;

C. The relationship between technology and agricultural success and development;

D. The economics of agriculture;

E. The global aspects of agriculture; and

F. The relationship of the food and fiber system to public policy issues.

3. Membership. The council consists of 9 members, appointed as follows: