

Date Printed: 02/05/2009

JTS Box Number: IFES_51
Tab Number: 16
Document Title: MAINE LAW ON ELECTIONS TITLE 21-A
Document Date: 1994
Document Country: USA
Document Language: ENG
IFES ID: EL00659



* 1 C 5 E 8 C 1 5 - E 3 0 8 - 4 F 9 D - B 6 A B - D 1 4 3 7 5 E F 9 B B F *

Maine Law on Elections

Title 21-A



**Division of Corporations and Elections
Bureau of Corporations, Elections, and Commissions**

1994

**Bill Diamond
Secretary of State**

Appropriation 010-29A-3210-012

MAINE LAW ON ELECTIONS:

Title 21-A

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Office of the Secretary of State

INTRODUCTION

I am pleased to publish this new edition of the Maine Law on Elections: Title 21-A, which is current through January 1, 1994. In this edition, we have added a Table of Contents and have updated the topical index to assist you in locating information.

This year our office will be overseeing several reforms in Elections. We will be implementing the comprehensive legislation developed by the Special Commission to Review the Electoral Process, which I appointed to recommend changes to Maine law that would "ensure a secure and honest electoral process". The Commission's recommendations were passed by the Maine Legislature last year and became effective January 1, 1994.

Our office will also be responsible for obtaining and distributing tamper-proof ballot containers for use in all County, State and Federal Elections. These containers will be used first in the June 14, 1994 Primary Election.

In addition, we will be acting as the coordinator of State activities under the National Voter Registration Act (NVRA), a federal law which promotes full participation in government by allowing citizens the opportunity to register to vote in a variety of State agencies. The NVRA will take effect on January 1, 1995.

As always, my staff is available to assist you with any questions regarding the conduct of elections. Please feel welcome to contact us at (207) 287-4186 if we can be of assistance.

Sincerely,

A handwritten signature in cursive script that reads "Bill Diamond".

Bill Diamond
Secretary of State



STATE OF MAINE

**DIVISION OF CORPORATIONS AND ELECTIONS
PUBLICATION UPDATES**

Please send notification when updates to the Election Law become available:

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**(New Section 7/14/94)

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Title 21-A Elections

CHAPTER 1 GENERAL PROVISIONS

SUBCHAPTER I DEFINITIONS, CONSTRUCTION AND APPLICATION

§ 1. Definitions

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

1. **Absentee voter.** "Absentee voter" means a person who qualifies under section 751 to cast an absentee ballot.

2. **Any election.** "Any election" means primary and general elections and referenda, whether regular or special.

2-A. **Armed Forces members; members of the Armed Forces.** "Armed Forces members" or "members of the Armed Forces" means:

A. Personnel serving in the Army, Navy, Air Force, Marine Corps or Coast Guard and their spouses and dependents;

B. Members of the Merchant Marine of the United States, except those employed in the inland waterways and their spouses and dependents;

C. Civilian employees of the United States serving outside the territorial limits of the several states and the District of Columbia, whether or not paid from appropriated federal funds and their spouses and dependents when accompanying

them; and

D. Members of religious groups and welfare agencies serving with or accompanying the Armed Forces and their spouses and dependents.

3. Ballot label. "Ballot label" means that portion of the cardboard, paper or other material to be placed within the ballot frames of a voting machine containing the items required of a paper ballot.

4. Business day. "Business day" means any day of the calendar year other than a Saturday, Sunday or legal holiday.

5. Candidate. "Candidate" means any person who has filed a petition under either sections 335 and 336 or sections 354 and 355 and has qualified as a candidate by either procedure, or any person who has received contributions or made expenditures or has given his consent for any other person to receive contributions or make expenditures with the intent of qualifying as a candidate.

6. Caucus. "Caucus" means a meeting of a political party or committee.

7. Challenged ballot. "Challenged ballot" means a ballot cast by one whose eligibility to vote has been questioned.

8. Circulate. "Circulate" means the presenting of a petition to a voter with an accompanying request that the voter sign it.

9. Clerk; municipal clerk. "Clerk" or "municipal clerk" means the clerk, deputy clerk or assistant clerk, where directed by the clerk to carry out duties under this Title, of a municipality.

10. Closed period. "Closed period" means that time period when the registrar may accept only those voter registration applications presented in person.

11. County office. "County office" means the office of judge of probate, register of probate, county treasurer, register of deeds, sheriff, district attorney or county commissioner.

12. Disputed ballot. "Disputed ballot" means a ballot whose validity has been questioned during the recount process.

13. Distinguishing mark. "Distinguishing mark" means a mark on a ballot of a type or in a place not specifically permitted by this Title, which indicates the apparent intent of the voter to make his ballot distinguishable.

14. Election official. "Election official" means a warden, ward clerk or election clerk.

15. Election year. "Election year" means the calendar year within which a particular election is held.

16. Electoral division. "Electoral division" means an area set off for election purposes. It may include the entire State.

17. Enroll. "Enroll" means to enlist as a member of a political party.

18. Federal office. "Federal office" means the office of the United States Senator or Representative to Congress.

19. General election. "General election" means the regular election of state and county officials occurring biennially in November.

20. Immediate family. "Immediate family" means a person's spouse, parent, child, sister, brother, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, guardian or former guardian.

21. Incoming voting list. "Incoming voting list" means the list of all of the voters in a municipality which is used by election officials at a voting place to record which voters have been

issued a ballot at an election.

22. Major party. "Major party" means a political party polling the greatest or the next greatest number of votes cast for Governor at the last gubernatorial election.

23. Repealed. Laws 1985, c. 614, § 3.

24. Minor party. "Minor party" means a political party other than a major party.

25. Municipal committee. "Municipal committee" means a city, town or ward committee of a political party.

26. Municipal officers. "Municipal officers" means the mayor and aldermen or councillors of a city, the selectmen or councillors of a town and the assessors of a plantation.

27. Municipality. "Municipality" means a city, town or plantation.

28. Party. "Party" means a political organization which has qualified to participate in a primary or general election under chapter 5.

29. Peace officer. "Peace officer" means state police officer, local police officer, sheriff, deputy sheriff or constable.

30. Political committee. "Political committee" means 2 or more persons associated for the purpose of promoting or defeating a candidate, party or principle.

31. Population. "Population" means the population determined by the last Decennial Census of the United States.

32. Primary election. "Primary election" means the regular election for the election of nominees of a party for the general election.

33. Protective counter. "Protective counter" means a separate counter built into a voting machine which records the total number of movements of the operating lever and which cannot be reset.

34. Public official. "Public official" means a person elected or appointed to serve the people.

35. Question. "Question" means any proposition submitted to the voters.

36. Referendum. "Referendum" means an election for the determination of a question.

37. Register. "Register" means to enlist as a voter.

38. Registrar. "Registrar" means the registrar, deputy registrar or the board of registration of voters of a municipality.

39. Regular election. "Regular election" means an election or a referendum held at a regular time prescribed by statute.

40. Residence. "Residence" means that place in which a person's habitation is fixed and to which that person, whenever absent, has the intention to return.

41. Special election. "Special election" means an election other than a regular election.

42. State office. "State office" means the office of Governor, State Senator, Representative to the State Legislature or presidential elector.

43. Street address. "Street address" means the street and number or other designation indicating the location of a person's dwelling place.

44. Township. "Township" means unorganized territory.

45. Treasurer. "Treasurer" means a person appointed by a candidate or a political committee to accept or disburse money to promote or defeat a candidate, party or principle. A person who collects money to be transferred to the treasurer of a candidate or committee is not a treasurer.

46. Uncontested office. "Uncontested office" means an office where, as of the final date for filing primary nomination petitions, either:

A. Only members of one party have filed as candidates for nomination for that office; or

B. Only one unenrolled nominee has filed as a candidate for that office.

47. Voter. "Voter" means a person registered to vote.

48. Voting district. "Voting district" means an area set off from another in the same municipality for voting purposes. It includes wards and precincts. In a municipality which has only one voting place, it means the entire municipality.

49. Voting place. "Voting place" means the building in which ballots are cast at an election.

50. Warden. "Warden" means the presiding officer at a voting place.

51. Write-in candidate. "Write-in candidate" means a person whose name does not appear on the ballot under the office designation to which a voter may wish to elect him.

§ 2. Delegation of authority

When this Title requires the performance of a duty by an official, he may delegate the duty to another under his supervision, if it is ministerial.

§ 3. Signatures and names

When this Title requires a name or signature on a document, immaterial irregularities shall not invalidate the name or signature if the identity of the person named is clear to the public official charged with reviewing that document.

1. **Immaterial irregularities.** Immaterial irregularities include, but are not limited to, misspelling, inclusion or omission of initials and substitution of initials for given names.

2. **Application.** This policy shall apply to circumstances including, but not limited to, the following:

- A. Absentee ballot applications;
- B. Absentee ballot affidavits;
- C. Signatures on petitions; and
- D. Names appearing for write-in candidates on ballots.

§ 4. Town clerk to perform ward clerk's duties

In a town, the municipal clerk shall perform the duties prescribed for the ward clerk of a city as far as applicable to an election in the town.

§ 5. Application to plantations

The provisions of this Title pertaining to towns apply equally to plantations.

§ 6. Date falling on holiday

When the date on which an act must be performed or an event must take place falls on a Saturday, Sunday or legal holiday, the act shall be performed or the event shall take place on the next following business day.

§ 7. Use of words

When used in this Title, the words "shall" and "must" are used in a mandatory sense to impose an obligation to act or refrain from acting in the manner specified by the context. The word "may," when used in this Title, is used in a permissive sense to grant authority or permission, but not to create duty, to act in the manner specified by the context. When used in this Title, the term "may not" indicates a lack of authority or permission to act or refrain from acting in the manner specified by the context, whereas the term "shall not" indicates a duty to refrain from action or omission in the manner specified by the context.

SUBCHAPTER II RECORDS AND DOCUMENTS

§ 21. Form and content of documents

The Secretary of State may establish the form and content of all forms, lists, documents and records required by or necessary to the efficient operation of this Title.

§ 22. Records and documents are public

All lists, books, documents and records required to be prepared by or filed with a public official are public records. Public records are open to public inspection during regular business hours under proper protective regulations made by the official charged with their custody. Ballots are not public records and may be inspected only in accordance with this Title.

§ 23. Preservation and destruction of records

The preservation and destruction of records and other materials required by this Title are governed by the following provisions.

1. **Registration and enrollment applications.** The registrar shall keep registration, enrollment and changes of enrollment applications and requests in his office permanently,

except that those records must be kept only 10 years for a voter whose name has been removed from the voting lists of the municipality under sections 161 and 162.

2. **Convention certificates.** The Secretary of State shall keep the certificates required by section 322 in his office for 2 years.

3. **Primary and nomination petitions.** The Secretary of State shall keep primary petitions, nomination petitions and consents in his office for 2 years.

4. **Receipts for ballots.** The Secretary of State and each clerk shall keep a record of receipts for ballots issued and received under sections 606 and 651 in his office for one year.

5. **Receipt of voting list.** The registrar shall keep the receipt for certified copies of the voting list required by section 624, subsection 2, in his office for one year.

6. **Election tabulations.** The Secretary of State shall keep election tabulations in his office for 10 years.

7. **Ballots and other election materials.** The clerk shall keep the ballots and other election materials listed in section 698 in his office for 22 months and incoming voting lists for 2 years, unless sooner released to the Secretary of State or required by the Secretary of State to be kept longer. Once released to the Secretary of State, they shall be kept by him until any appeal period bearing on the validity of the election has expired. Notwithstanding this subsection, ballots used for municipal elections conducted under this Title, referenda elections or special legislative elections shall be kept for 2 months.

8. **Certificate of presidential electors.** The Secretary of State shall keep the certificate of the votes of the presidential electors, delivered to him under section 805, in his office for one year.

9. Registration of treasurer. The Commission on Governmental Ethics and Election Practices shall keep the registration of a treasurer under section 1013 in its office for 2 years.

10. Records and campaign finances. Each treasurer and each candidate shall keep the records required by section 1016 for 2 years following the election to which they pertain.

11. Campaign reports. The Commission on Governmental Ethics and Election Practices shall keep the campaign reports in its office for 2 years or until the expiration of the term of office to which the candidate aspired or was elected, whichever is longer.

12. Certificate of appointment. The Secretary of State shall keep a certificate of appointment to fill a vacancy under section 363 in his office for 2 years.

13. Miscellaneous. The official charged with the custody of any record not specifically provided for in this section shall keep it in his office for 2 years.

14. Destruction of records. After the records and other materials have been kept for the required period, they may be destroyed. Posted notices, specimen ballots and instruction posters may be destroyed as soon as the election to which they pertain is past.

§ 24. Newspaper publication to be reasonably noticeable

When publication in a newspaper is required by this Title, the item published must be set in such a size and location as to be reasonably noticeable.

§ 25. Ditto marks

Ditto marks may be used, wherever practicable, in the preparation of lists required under this Title.

SUBCHAPTER III GENERAL PENALTIES

§ 31. Repealed. Laws 1993, c. 473, § 1, eff. January 1, 1994.

§ 32. Violations and penalties

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

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

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

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

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

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

§ 33. Prosecution of violations

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

CHAPTER 3 VOTER REGISTRATION

SUBCHAPTER I REGISTRAR OF VOTERS; BOARD OF REGISTRATION

§ 101. Registrar

The municipal officers of each municipality shall appoint in writing a qualified registrar of voters within 10 days after the regular election of municipal officials.

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 or county office, or hold membership on any party committee.

2. Term of office. He shall serve for one year and until his successor is appointed and sworn.

3. Oath required. Before assuming the duties of office, he must be sworn and the fact of his oath recorded as provided in Title 30-A, section 2526, subsection 9.

4. Secretary of State notified. The municipal officers shall notify the Secretary of State of the name of the registrar within 10 days after he is appointed and sworn.

5. Compensation. The municipal officers shall determine the compensation of the registrar.

6. Office hours. The municipal officers shall establish reasonable office hours for the registrar consistent with the requirements of the municipality.

7. Office space, expenses and clerical help. Each municipality shall provide a suitable place in which the registrar

may perform his duties, and shall pay reasonable expenses for necessary office supplies purchased and clerical help engaged by the registrar.

8. **Vacancy.** When there is a vacancy in the office of registrar, the municipal officers shall appoint a qualified person to fill the vacancy for the remainder of the term of office.

§ 102. Deputy registrar

The registrar may appoint one or more deputies. If the registrar is to be absent from the municipality for a period exceeding 15 consecutive days, he shall appoint a deputy registrar who must be physically present in the municipality. If the registrar and his appointed deputy are absent from the municipality for more than 15 consecutive days, the clerk shall serve as registrar pro tem.

1. **Qualifications and compensation.** Section 101, subsections 1, 3 and 5, apply to a deputy registrar.

2. **Term of office.** He shall serve at the will of the registrar.

3. **Duties.** He may perform any of the duties of office prescribed by the registrar.

§ 103. Board of registration in certain cities

1. **Population of 5,000 or over.** In a city or town that has a population of 5,000 or over, a board of registration consisting of 3 members must be appointed as follows: The municipal committee of each of the major political parties shall nominate one member, who must be enrolled in the party of the municipal committee that nominates the member, and the municipal officers shall appoint the persons nominated by the municipal committees and the 3rd member must be nominated by the clerk of the municipality and appointed by the municipal officers. The clerk of the municipality may give the municipal committees of the political parties a list of qualifications necessary for a person to fulfill the

duties of the board of registration, and the municipal committees shall take those qualifications into consideration when nominating members to the board. The 2 members of the board nominated by the municipal committees of the major political parties may be members of the political committee nominating them and of the county or state committees of the political party that nominates them and may be members of a state or county delegation to a political convention. When a municipal committee nominates a member to the board of registration, it shall also nominate an alternate board member, who shall serve if the member nominated by the municipal committee is or becomes unable to serve.

2. Population of 4,000 to 5,000. A city or town which has a population of 4,000 to 5,000 may, by vote of its legislative body, have a board of registration instead of a registrar.

3. Term of office. Each member nominated by the municipal committees of the major political parties and appointed to the board shall serve for 3 years and until his successor is appointed and sworn. The member nominated by the clerk of the municipality and appointed to the board shall serve for 4 years and until his successor is appointed and sworn.

4. Chairman of the board. The member nominated by the clerk of the municipality is chairman of the board.

5. Vacancy. When there is a vacancy on the board, the alternate board member nominated by the municipal committee of the political party of the former incumbent shall serve. If an alternate is not available, the municipal officers shall appoint a qualified person nominated by the municipal committee of the party of the former incumbent to fill the vacancy. If the vacancy is in the office of the chair of the board, the municipal officers shall appoint a qualified person nominated by the clerk of the municipality to fill the vacancy. Vacancies must be filled for the remainder of the term of office.

6. Hours. In addition to the schedules under section 122, each board shall be open to act upon applications for registration

and enrollment on at least one business day in each of the months of January, February and March in each even-numbered year.

7. Provisions apply to board of registration. Except as otherwise provided in this section, the provisions of law pertaining to the registrar apply equally to a board of registration. A board of registration may only act by unanimous or majority action, except that the chairman of the board may designate himself or another member of the board to accept the application of a disabled person for registration under section 153.

8. Removal from office. A member of the board may be removed from office at any time during the member's term by the appointing authority if the appropriate nominating authority nominates a replacement. The replacement nominee shall serve out the remainder of the replaced member's term.

§ 104. Deputies for boards of registration

By unanimous action, the board of registration may appoint one or more deputies to serve the board.

1. Qualifications and compensation. Qualifications and compensation of deputies serving on boards are governed by the following provisions.

A. Section 101, subsections 1, 3 and 5, apply to deputies of boards of registration.

B. Deputies must be appointed so that the number of board members plus deputies enrolled in one of the 2 major parties does not exceed the number of board members plus deputies enrolled in the other major party by more than one.

2. Duties. Deputies shall perform duties assigned by majority vote of the board, including the acceptance of registrations and enrollments, as if the board had acted. A deputy or deputies assigned to be present at a caucus must be enrolled in the party holding that caucus. Nothing in this section may be construed as

limiting the authority of the board to override the actions of its deputies.

SUBCHAPTER II VOTER ELIGIBILITY

§ 111. General qualifications

A person who meets the following requirements may vote in any election in a municipality.

1. **Citizenship.** He must be a citizen of the United States.

2. **Age.** He must be at least 18 years of age.

3. **Residence.** He must have established and maintain a voting residence in that municipality.

4. **Registration.** He must be registered to vote in that municipality.

5. **Enrollment.** He must be enrolled in a party in that municipality to vote at a caucus, convention or primary election, unless otherwise permitted by a political party pursuant to section 340.

§ 112. Residence for voting purposes

Voting residence is governed by the following provisions.

1. **Residence.** The residence of a person is that place where the person has established a fixed and principal home to which the person, whenever temporarily absent, intends to return.*

A. The following factors may be offered by an applicant and considered by a registrar in determining a person's residence under this section:*

- (1) A direct statement of intention by the person pursuant to section 121, subsection 1;*
- (2) The location of any dwelling currently occupied by the person;
- (3) **Repealed. Laws 1993, c. 695, § 2.***
- (4) **Repealed. Laws 1993, c. 695, § 2.***
- (5) **Repealed. Laws 1993, c. 695, § 2.***
- (6) The place where any motor vehicle owned by the person is registered;
- (7) **Repealed. Laws 1993, c. 695, § 2.***
- (8) The residence address, not a post office box, shown on a current income tax return;*
- (9) The residence address, not a post office box, at which the person's mail is received;*
- (10) The residence address, not a post office box, shown on any current resident hunting or fishing licenses held by the person;*
- (11) **Repealed. Laws 1993, c. 695, § 2.***
- (12) The residence address, not a post office box, shown on any motor vehicle operator's license held by the person;*
- (13) **Repealed. Laws 1993, c. 695, § 2.***
- (14) The receipt of any public benefit conditioned upon residency, defined substantially as provided in this subsection; or*

(15) Repealed. Laws 1993, c. 695, § 2.*

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

B. Repealed. Laws 1993, c. 695, § 2.*

2. Change. A change of residence is made only by the act of removal, joined with the intent to remain in another place.

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A person can have only one residence at any given time.

3. Residence retained. A person does not lose the person's residence if the person temporarily leaves home and goes to another country, state or place in this State with the intent of returning.*

4. Separate residence. The place where a person's family resides is presumed to be the person's place of residence, but a person may acquire a separate residence if the person takes another abode with the intention of remaining there. This subsection does not apply to armed forces personnel, students and others covered by subsection 7.*

5. Spouse may have separate residence. A married person may be considered to have a residence separate from that of the person's spouse for the purposes of voting or holding office. For those purposes, residence is determined as if the person were single.*

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

7. Armed forces personnel, students, institutional patients, Indians. A person does not gain or lose a residence solely because of the person's presence or absence while employed in the Armed Forces of the United States or of this State, while a student in any institution of learning, while kept in any institution at public expense or while residing upon any Indian or military reservations. This subsection may not be construed to prevent a student at any institution of learning from qualifying as a voter in the municipality where the student resides while attending that institution.*

8. Voting residence retained. A person who has gained a voting residence in a municipality retains it, if the person so desires, when the person becomes a patient at a federal institution

or an employee of a federal agency where the person is required to reside on land ceded to the Federal Government by the State. This subsection applies to a member of the Armed Forces or the National Guard who is required to be in a place other than that in which the person has gained a voting residence.*

9. Federal property. A person residing on federal property, except as stated in subsection 5, is eligible to register and vote in the voting district in which the federal property is located.

10. Becoming 18 on federal property. A person who becomes 18 years of age while residing on federal property as a patient at a federal institution or an employee of a federal agency, or while in the Armed Forces, is considered to have gained a voting residence in the municipality in which the person resided at the time the person became such a patient, employee or member of the Armed Forces.*

11. Spouse of member of Armed Forces. A spouse of a member of the Armed Forces on active duty may have the same voting residence as that person's spouse. A member of the Armed Forces on active duty, whose spouse has a place of residence in this State, may establish a residence in the place of residence of the spouse by filing an affidavit with the registrar declaring an intention to reside in that place upon severance from the Armed Forces.*

12. Repealed. Laws 1985, c. 614, § 5.

13. Repealed. Laws 1985, c. 614, § 5.

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

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

to return.

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

§ 113. Right survives change of residence

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A registered voter who moves to another state within 30 days before a presidential election must not be removed from the voting list. He may vote at that presidential election in person or by absentee ballot.

§ 114. Division of municipality, effect

When any territory is set off from one municipality and annexed to another, the act establishing the new boundaries must indicate where and for which offices the voters in the territory may vote. If this provision is omitted from the act, the voters may vote for all offices in the municipality to which the territory is annexed.

§ 115. Restrictions

1. **Certain persons may not register or vote.** A person under guardianship because of mental illness may not register or vote in any election, as provided in the Constitution of Maine, Article II, Section 1.

2. **Voting restricted to district.** In a municipality which has voting districts, a voter may, except as provided in section 630, vote only in the district in which he resides on election day.

3. **Correct name and address on voting list.** A person whose name, or street address in a municipality which has voting districts, does not appear correctly on the voting list on election day may not vote at any election until it is corrected as provided in section 661.

**SUBCHAPTER III
REGISTRATION AND ENROLLMENT**

**Article I
Registration**

§ 121. Exclusive power of registrar

The registrar has the exclusive power, subject to section 163,

to determine whether a person who applies for registration as a voter meets the qualifications prescribed by this Title.

1. Oath may be required. In making this determination, the registrar may require any person who testifies before him concerning his qualifications or those of another to swear to the truth of his statements.

1-A. Identification and proof. Registration applications taken by outside agencies must be transferred to the Secretary of State within 5 days of receipt. An applicant who attempts to register within 20 days of an election must be advised that the registrar might not receive the application before that election, but that the applicant may register in person on election day.*

Registration applications received by the Secretary of State from outside agencies 21 days or more before an election must be transferred to the appropriate registrar's office within 10 days of receipt. Registration applications received by the Secretary of State from outside agencies 20 days or less before an election must be transferred to the appropriate registrar's office within 5 days of receipt. Registration applications by mail must be received in the registrar's office by the close of business 15 days before election day in order for persons to appear on the list of registered voters for that election.*

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

2. Political party not a qualification. The registrar shall be impartial as to the political party of the applicant in determining the applicant's voting qualifications.

§ 122. Registration procedure

A person may register as a voter by appearing before the

registrar, proving that he is qualified under section 111, subsections 1 to 3, and filing an application provided by the registrar containing the information required by section 171. Township residents may register as provided in section 156.

1. Placement on voting list. The registrar shall place the name of the applicant on the voting list as soon as he has qualified. 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.

2. Notice of disposition. The registrar shall notify the applicant whether the application for registration is accepted, rejected or incomplete.*

3. Notice of new registration. When an applicant states in his application that he last voted in another municipality in this State or any other state, the registrar shall immediately send a notice of the applicant's new registration to the registrar of that municipality. The notice shall contain the following:

- A. The voter's name;
- B. The name under which registered, if changed;
- C. Date of birth; and
- D. Former street and mailing address.

The registrar who receives the notice shall remove the name from the voting list if he is satisfied as to the identity of the person and he need not send the notice required by section 162.

4. Election day registration. The registrar shall accept registrations of applicants who appear in person on election day. The registrar shall issue to each of these applicants a certificate entitling the applicant to be placed on the voting list at the voting place. Only one certificate may be issued to any person. An applicant whose address has changed since the applicant last voted

must be allowed to vote at the applicant's new polling place on election day.*

5. Alternative registration schedule for absentee voters. The registrar shall accept registrations under section 152 at any time, including election day, provided that the applicant otherwise qualifies as an absentee voter. The receipt of a completed absentee ballot application by the clerk establishes a presumption of qualification under this subsection.

6. Names to be placed on voting list. Except as provided in paragraph A, the registrar shall accept registrations on any business day or other day that the clerk's office is open. The names of any person registering shall be placed on the voting list.

A. The registrar shall accept only the registrations of applicants who appear in person as follows:

(1) In a municipality with a population of 2,500 or less, on the last business day before election day;

(2) In a municipality with a population of more than 2,500 on the last 5 business days before election day, from 1 p.m. to 5 p.m. and 7 p.m. to 9 p.m. on at least 3 of these days; and

(3) The names of voters registering during these periods shall be recorded as provided under subsection 7.

7. Record of names. The names of voters who register by appearing in person before the registrar during the business days before election day under subsection 6 shall be recorded as provided in either paragraph A or B, as the municipal officers direct:

A. The registrar shall, after finding an applicant qualified, issue a certificate entitling the voter to be placed on the voting list at the voting place on election day. Only one certificate may be issued to any person; or

B. The registrar shall, after finding the applicant qualified, place the names of those voters on a supplemental voting list. Before the polls are opened, the registrar shall deliver the supplemental list or lists to the clerk or ward clerk at each voting place. The inclusion of a person's name on that list will entitle the applicant to vote on election day. All references in this Title to the use of the voting list before, during and after election day are considered to include the supplemental voting list as provided in this paragraph.

8. Change of schedule. The hourly schedule established by this section may be changed by the municipal officers according to the needs of the municipality.

9. Regulation of registration monitors. Anyone who

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wishes to monitor the names and addresses of persons who are registering at the registrar's office of the clerk's office shall inform the registrar or clerk of their intent. The registrar or clerk may designate a place where a person monitoring registrations may stand. The registrar or clerk shall then announce the name and address of individuals registering to vote in a loud and clear voice. A person monitoring registrations shall direct any questions the person has to the registrar or clerk. These questions must be limited to information pertinent to the qualifications of an individual to register. A person monitoring registrations may not ask questions of individuals waiting to register concerning their eligibility to vote. A registrar or clerk may require a person monitoring registrations who violates the provisions of this subsection to leave the building.

§ 123. Repealed. Laws 1985, c. 307, § 2.

§ 124. Repealed. Laws 1985, c. 307, § 2.

§ 125. Notice of schedule

The registrar shall publish the time and hourly schedules established under section 122, or as changed by the municipal officers, in a newspaper having general circulation in the municipality at least 7 days before the schedule becomes effective, except that, in municipalities with a population of 2,500 or less, the publication of the time schedule by the registrar is discretionary rather than compulsory.

§ 126. Repealed. Laws 1985, c. 614, § 8.

§ 127. Persons present at time for closing registrations

The registrar shall allow all persons to register who are present at the registrar's office at closing time.

§128. Registrar to check records

Before the close of the period for accepting the registrations of voters to be placed on the voting list prior to any election, the

registrar shall update the voting list as follows:

1. **Registrar shall review records.** The registrar shall review the records of marriage, death, change of name and change of address in the office of the clerk or the assessors, and shall correct the voting list accordingly; or

2. **Clerk provides list.** The clerk shall, if requested, provide the registrar with a list, certified by the clerk to be true, of the marriages, deaths and changes that took place during the 2 years preceding the close of the period for accepting the registrations of voters to be placed on the voting list. The registrar shall use this list to update the voting list accordingly; or*

3. **Marriage; notice of inquiry.** If the registrar determines that a voter has married, the registrar shall not for that reason alone remove the voter's name from the voting list. The registrar may send a notice inquiring whether, as a result of marriage, that voter's name or address has been changed. Nothing in this subsection relieves a voter of the duty to give the registrar written notice of a change of name or address in accordance with section 129.

§ 129. Change of name or address

When a voter's name is changed by marriage or other process of law, or when he moves within a municipality, the following provisions apply.

1. **Notice.** The voter must give written notice to the registrar of his new and former names or addresses before the close of registrations prior to election day.

2. **Correction of name or address.** The registrar shall correct the voter's name or address on the voting list, and he may then vote under his new name or in his new district on election day.

A. In a municipality which has more than one voting district, if a voter has changed his address and votes absentee

after the close of registration, he must send a written notice of his new address along with his absentee application notifying the board of registration of his new address. A certificate containing his name and new address shall be directed to the warden of his new voting place to be attached to the incoming voting list on election day.

3. Failure to notify. If a voter fails to notify the registrar of a change of name or address before the close of registrations, the voter must appear before the registrar on election day and follow the procedure outlined in section 661 if the voter wishes to vote, unless the registrar has already made the correction in following the procedure prescribed by section 128. If the voter wishes to exercise the right to vote, the voter must be allowed to vote at the new polling place, if applicable, on election day.*

4. Publication of substance. The registrar shall publish the substance of this section along with the notice required by section 125.

§ 130. Applications for voter registration

A person who completes an application for registration to vote, as provided in section 152, may mail the application or have the application delivered to the registrar before the closed period for the acceptance of registrations in the person's municipality, to be placed on the voting list prior to the next election; except that applications completed under section 122, subsection 5, may be delivered during the closed period for immediate placement on the voting list.

Article II Enrollment

§ 141. Enrollment

When a person registers, the registrar shall ask whether or not the person wishes to enroll in a political party. If the answer is in the affirmative, the registrar shall ask in which party the person wishes to enroll. If the answer is in the negative, the registrar shall

note on the enrollment portion of the application that the person chose not to enroll in a political party. Nothing in this section may be construed to require a person to enroll in a political party.

1. **Influence prohibited.** The registrar shall not attempt to influence an applicant in any aspect of the enrollment procedure and shall not allow anyone else present to do so.

§ 142. Enrollment procedure

A voter who had initially chosen not to enroll in a particular party may later enroll in a party by filing an application with the registrar personally, by mail or otherwise, at any time, except that on election day a voter must enroll in person.

1. **Content of application.** The application must contain the following information: Name of applicant, street address, voting district, name of party in which enrollment is requested, signature of the applicant and the date of application.

2. **Party designation on voting list.** On receipt of the application, the registrar shall place the party designation of the applicant beside his name on the voting list and file the application.

§ 143. Permitted at any election

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 he may vote. If the applicant votes by absentee ballot because of physical incapacity, he may file the application with his absentee ballot.

1. **Application delivered to warden.** The election clerk who receives the completed application shall initial it and deliver it to the warden, who shall have it delivered to the registrar after the polls are closed.

2. **Party designation on voting list.** On receipt of the application, the registrar shall place the party designation of the

applicant beside his name on the voting list and file the application.

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3. Applications furnished by registrar. The registrar shall furnish a reasonable number of enrollment applications to the warden at each voting place. If there are not enough applications at the voting place, the applicant may write the information required by section 142 on a blank piece of paper.

§ 144. Change of enrollment

A voter may change his enrollment by filing an application with the registrar personally, by mail or otherwise.

1. Content of application. The application must contain the following information: Name of applicant, street address, voting district, name of party in which enrolled, name of party in which enrollment is requested, signature of the applicant and the date of application.

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 and that the applicant is ineligible to file a petition as a candidate for nomination by primary election for 3 months. Fifteen days after receiving the application, the registrar shall enroll the applicant in the party requested.

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

3. Restrictions during change of enrollment. Except as provided in subsection 4, a voter may not vote at a caucus, convention or primary election for 15 days after filing an application to change enrollment. A voter may not file a petition as a candidate for nomination by primary election within 3 months after filing an application to change enrollment, except as provided in subsection 4.

4. Change of residence. When a voter changes his

residence from one municipality to another and establishes a new voting residence there, he may enroll in any party and vote at a caucus, convention or primary election, or file a petition as a candidate for nomination by primary election, regardless of his previous enrollment.

§ 145. Withdrawal of enrollment

A voter may withdraw his enrollment anytime after 3 months from the date on which he enrolled by filing a written request with the registrar.

1. Candidates for nomination by nomination petition.
If enrolled, candidates for nomination by nomination petition must withdraw their enrollment at least 3 months before the required date for filing of the nomination petition.

Article III

Provisions Common to Registration and Enrollment Procedures

§ 151. Same form

An individual shall register to vote and indicate enrollment status at the same time and on the same form. If an individual chooses to enroll in a political party, the registrar shall indicate the party chosen on the registration form. The registrar shall indicate on the registration form if an individual chooses not to enroll in a political party.

§ 152. Registration and enrollment procedure

1. Application. In addition to the procedure provided by section 122, a person may register to vote or enroll in a political party, or both, by completing an application that is designed by the Secretary of State and contains the following information:

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

B. Residence address, including street, street number, apartment number, town and zip code;

C. Mailing address;

D. Date of birth;

E. Repealed. Laws 1993, c. 695, § 10.*

F. Most recent prior residence where registered to vote, including the name under which registered, if changed, legal address and mailing address;

G. Repealed. Laws 1993, c. 695, § 11.*

H. Notification that failure to complete the entire application may prevent registration;

I. Sworn statement that the applicant is a United States citizen and that all information is correct;*

J. Date of registration;

K. Signature of applicant; and

L. Choice of political party if the applicant desires to enroll in a political party or an indication that the applicant chose not to enroll in a party.

2. Placement on voting list. Upon receipt of the application by the registrar of voters or the board of registration when in open session, the applicant's name shall be entered on the voting lists of the municipality.

3. Failure to qualify. The registrar of voters or the board of registration may investigate any application and remove the voter's name from the list for failure to meet a voting requirement under this Title.

4. Persons born United States citizens in foreign countries. Any person born a United States citizen in a foreign country may register under this section in the same manner as a person who was born a United States citizen within the territory of the United States.

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

§ 153. Registration and enrollment of disabled person

A person who is physically unable to appear before the registrar and who lives within 20 miles of the office of the registrar may be registered as a voter and enrolled in a party as follows.

1. Request and statement. The applicant must make a written request to the registrar certifying the applicant's physical inability to appear.

2. Procedure. On receipt of the request and statement, the registrar shall visit the applicant and shall register and, if desired, enroll the applicant in accordance with this chapter. This section is subject to the restrictions found in section 122.

The municipality shall pay the registrar travel expenses at the same rate as paid other municipal employees.

§ 154. Registration and enrollment for citizens outside the United States

1. Application. A person qualified to register under section 111, subsections 1 and 2 and section 751, subsection 8, who is outside the United States may register and enroll by filing a federal postcard application or an application designed by the Secretary of State and provided by the registrar containing the following information:

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

- B.** Residence address, including street, street number, apartment number, town and zip code;
- C.** Mailing address;
- D.** Date of birth;
- E.** Last domicile immediately before departure from the United States;
- F.** Voting district of the last domicile within the United States;
- G.** Repealed. Laws 1993, c. 695, § 13.*
- H.** Notification that failure to complete the entire application may prevent registration;
- I.** Passport or identity card registration number;
- J.** Signature;
- K.** Sworn statement that the applicant is a United States citizen and that all information is correct;*
- L.** Date of application;
- M.** Date of registration; and
- N.** Choice of political party if the registrant wishes to enroll in a political party or an indication that the applicant chose not to enroll in a party.

§ 155. Advance registration and enrollment

The registrar shall conditionally accept the registration and enrollment of any person who is between 17 years and 18 years of age, and who is otherwise qualified to be a voter. The registrar shall maintain a separate list of these persons, with a notation of

their birthdates, and shall place their names on the voting list as soon as they have attained 18 years of age.

A person who has registered under this section and who has not attained 18 years of age may vote by absentee ballot at any election if that person attains 18 years of age on or before the date of the election and is otherwise eligible to vote by absentee ballot.

§ 156. Special provisions for township residents

In addition to section 632, registration, enrollment and voting by the resident of a township are governed by the following provisions.

1. **Registration and enrollment.** A township resident may register and enroll in any town within his representative district or, if he lives in a portion of a township not easily accessible to a town within his representative district, he may register and enroll in a more convenient town within or outside the county. He may register and enroll on election day. The registrar shall place the letter "T" beside the voter's name on the voting list and on the general register.

2. **Voting.** He may vote in the town in which he is registered in any election for offices of or questions concerning the unorganized territory in which he resides. He may not vote at a municipal election or on a liquor option question. If he registers in a town outside his representative district, state senatorial district, county commissioner district or county, he 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.

§ 157. Acceptance of applications by clerk

The clerk shall accept applications for registration and enrollment when the registrar of voters is unavailable or the board is not in session.

1. Applicant must qualify before clerk. The clerk shall require an applicant for registration to qualify under section 122. If the applicant qualifies, the clerk shall write "OK" and initial the application and file it with the board. If the applicant fails to qualify or if his qualifications are in doubt, the clerk shall refuse to accept his application and direct him to appear before the board.

2. Final action by board. Final action for acceptance of a registration or enrollment must be taken by the board. If the board rejects an application accepted by the clerk, it shall immediately notify the applicant by first class mail of the rejection and the reason for it.

§ 158. Municipal caucus

The registrar or board of registration shall meet in session on the day of official party caucuses for at least one hour preceding the commencement of the party caucus at the location where the party caucus is being held to accept registrations and enrollments and all persons so registered and enrolled may participate in their party caucus.

§ 159. Violations and penalties

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

2. Dual registration. A person who, having registered in one voting district or municipality within this State, or in another state, knowingly registers in another voting district or municipality within this State without revealing his prior registration to the registrar is guilty of a Class D crime.

SUBCHAPTER IV VOTING LIST

§ 161. Powers and duties of registrar

The registrar has the exclusive power to prepare and revise the voting list.

1. List prepared. The registrar shall prepare a printed or typewritten list of all the voters of the municipality, arranged alphabetically by last name. He shall add the street address of each voter beside the voter's name, mailing address and zip code number. In a municipality covered by only one zip code, he may print or type the zip code at the top of each page of the voting list. In a municipality which has voting districts, he shall make a separate list for each district.

A. Except as provided in subparagraph (1), the registrar shall note the enrollment status of each voter using none other than the following: "D" for Democrat, "R" for Republican and "U" for unenrolled.

(1) The Secretary of State may authorize the use of other symbols to indicate enrollment in other parties formed or forming under chapter 5, subchapter I.

2. List current. A registrar shall keep the voting list current at all times by adding the names of new voters and by removing the names of those registrants who request to be removed and registrants who have died, moved from the municipality or become disqualified to vote. The Secretary of State shall by rule determine the program for voter list maintenance required by the National Voter Registration Act of 1993. A registrar may not remove the name of a registered voter from the voter list solely because the registered voter did not vote in previous elections.*

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

3. **List of deceased residents.** The clerk shall, upon request of the registrar, furnish the registrar with a list of the deceased in the municipality.

4. **Proof of qualification shall be requested.** If the registrar is in doubt as to the qualifications of any person to vote, he shall request that person's appearance at a reasonable time and place to offer proof. If the person fails to appear, the registrar shall remove his name from the voting list and send him a notice in accordance with section 162.

5. **Record of names added and removed.** The registrar shall keep a record of the names added to or removed from the voting list and the date when the action was taken.

§ 162. Repealed. Laws 1993, c. 695, § 16.*

§ 162-A. Change of address confirmation notice and removal from list**

The following provisions govern the change of address confirmation notice and removal procedures for voting lists.

1. **Change of address confirmation notice.** Except as provided in section 122, subsection 3, a registrar shall send by forwardable mail a change of address confirmation notice, with a postage prepaid and preaddressed return notice, to the last known place of residence of each person the registrar has identified as having a change of address. If a registrant has moved within the municipality's jurisdiction, a registrar shall change the voter's record to reflect the new address before sending the change of address confirmation notice. If a registrant has moved outside the municipality's jurisdiction, a registrar shall also include information on voter registration procedures in the new jurisdiction.

2. **Removal from voting list.** A registrant's name may be removed from the voting list if the registrant confirms that the registrant has moved from the municipality's jurisdiction. If a

**** (New Section 7/14/94)**

*** (Revised 7/14/94)**

registrant fails to respond to the change of address confirmation notice, the registrant may be designated on the voting list as inactive. A registrant who has been designated as inactive and fails to vote for the next 2 general elections may be removed from the voting list. If a registrant who is designated as inactive votes at any election prior to removal from the voting list, the inactive designation of the registrant on the voting list must be removed. Address verification may be requested at the polls before allowing a registrant designated as inactive to vote.

3. Rule making. The Secretary of State shall by rule determine the design and contents of the notices required by this section.

§ 163. Appeal

If any person is aggrieved by the decision of the registrar of

[Remainder of this page left intentionally blank.]

voters to remove a name from the voting list or to refuse to place it on the voting list, he may appeal in writing to the municipal officers of a municipality by filing a complaint. The municipal officers shall immediately fix a time and place for a prompt hearing. 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 District Court in accordance with the Rules of Civil Procedure.

§ 164. Enrollment records

The registrar shall record enrollments by adding the party designation of the voter beside the voter's name on the voting list, using the symbols prescribed by section 161, subsection 1, paragraph A.

1. **Records current.** He shall keep the records current at all times by adding new enrollments and by changing or withdrawing the enrollments of those who have requested it.

2. **Record of names added and removed.** He shall keep a record of the enrollments added, changed or withdrawn and the date when the action was taken.

§ 165. Copies of list available

The registrar may require a deposit but shall furnish a certified copy of the voting list to any person within 10 business days after a request and the payment of a reasonable price determined by the municipal officers. The fee charged accrues to the registrar unless the legislative body of the municipality votes otherwise. This copy of the voting list may be in a computer readable form, such as tapes or discs, if requested and technically feasible to produce. The registrar shall furnish a certified copy of the voting list to the clerk at no charge within 10 days after it is completed.

§ 166. Updated voting lists furnished to candidates

Any candidate in a primary or general election for a state or

federal office who has purchased a municipal voting list from a municipality, which retains that voting list on an electronic computer and which regularly and periodically updates that list at least every 3 months, is entitled to a list of all additions, deletions and changes to the purchased list for the following periods of time.

1. Candidate in primary election. If the candidate is a candidate in a primary election, he is entitled to the additions, deletions and changes from the time he is a declared candidate in that primary election until the day of the primary election. But if he is nominated in that primary election to be a candidate in the general election, he is entitled to those additions, deletions and changes until the day of the general election.

2. Candidate in general election. If the candidate is a candidate in a general election, he is entitled to the additions, deletions and changes from the time he is a declared candidate in that general election until the day of the general election.

A municipal registrar shall furnish lists of the additions, deletions and changes in a purchased voting list to a candidate entitled to them under this section. These corrections shall be provided periodically as updates to the municipal voting list become available and shall be at no additional cost to the candidates.

§ 167. Violation and penalty

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

SUBCHAPTER V REGISTER OF VOTERS

§ 171. Preparation and contents

The registrar shall prepare and keep a general register of voters.

1. Content of general register. The general register must contain the following information concerning each person on the voting list on index cards filed alphabetically by last name:

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

B. Residence address, including street, street number, apartment number, town and zip code;

C. Mailing address;

D. Date of birth;

E. Repealed. Laws 1993, c. 695, § 18.*

F. Most recent prior residence where registered to vote, including the name under which registered, if changed, legal address and mailing address;

G. Sworn statement that the applicant is a United States citizen and that all information is correct;*

H. Remarks concerning registration;

I. Date of registration;

J. Signature of registrant; and

K. Political party designation or indication that the voter wishes unenrolled status.

2. Reference file. When the name of a voter is removed from the voting list, the registrar shall remove his card from the general register and retain it in a reference file for 10 years.

SUBCHAPTER VI**

NATIONAL VOTER REGISTRATION ACT

** (New Subchapter 7/14/94)

* (Revised 7/14/94)

§ 180. State coordinator

The Secretary of State is the coordinator of state responsibilities under the National Voter Registration Act of 1993, referred to in this subchapter as "NVRA."

§ 181. Designated agencies

1. Designated voter registration agencies. The designated voter registration agencies pursuant to NVRA include, but are not limited to:

A. Inside agencies that include the Department of the Secretary of State, Bureau of Corporations, Elections and Commissions and Bureau of Motor Vehicles; and

B. Outside agencies that include the following:

(1) The Department of Human Services, Bureau of Income Maintenance, Bureau of Health and Bureau of Rehabilitation;

(2) The armed forces recruitment offices;

(3) The public high schools; and

(4) The offices of municipal clerks and registrars.

2. Voter registration. The agencies designated in subsection 1 shall provide voter registration by January 1, 1995.

§ 182. Forms and notices

The design and contents of all application forms used for voter registration must be approved by the Secretary of State.

**CHAPTER 5
NOMINATIONS**

SUBCHAPTER I BY POLITICAL PARTIES

Article I Party Qualification

§ 301. Qualified parties

1. Primary election. A party qualifies to participate in a primary election if its designation was listed on the general election ballot in the last preceding gubernatorial or presidential election and if:

A. The party held municipal caucuses as prescribed by Article II in at least one municipality in each county in the State during that election year and fulfills this same requirement during the year of the primary election;

B. The party held a state convention as prescribed by Article III during that election year;

C. Its candidate for Governor or for President polled at least 5% of the total vote cast in the State for Governor or President in the last preceding gubernatorial or presidential election; and

D. Each state party committee must file a statement with the Secretary of State on or before April 4th certifying that the party has held the municipal caucuses required by paragraph A. The statement must be signed by the party chairman or his designated agent.

2. General election. A party which qualifies under subsection 1 to participate in a primary election must, in that same year, hold a state convention as prescribed by Article III in order to have the party designation of its candidates printed on the ballot in the general election of that year.

§ 302. Formation of new party; organization about a

candidate

A party whose designation was not listed on the general election ballot in the last preceding gubernatorial or presidential election qualifies to participate in a primary election, if it meets the requirements of subsections 1, 2 and 3.

1. Declaration of intent. A voter or a group of voters who are not enrolled in a party qualified under section 301 must file a declaration of intent to form a party with the Secretary of State before 5 p.m. on the 180th day preceding a primary election. The declaration of intent must be on a form designed by the Secretary of State and must include:

A. The designation of the proposed party;

B. The name of a candidate for Governor or for President in the last preceding gubernatorial or presidential election who was nominated by petition under subchapter II and who received 5% or more of the total vote cast in the State for Governor or for President in that election;

C. The signed consent of that candidate; and

D. The name and address of the voter or one of the group of voters who file the declaration of intent.

2. Enrollment of voters. After filing the declaration described in subsection 1, the voter or voters proposing to form the party may then enroll voters in the proposed party under sections 141 to 145.

3. Municipal caucuses. The proposed party must conduct municipal caucuses in at least one municipality in each of the 16 counties during that election year as prescribed in Article II. The chairman of the municipal committee or a resident voter in the municipality must file a copy of the notice required by section 311, subsection 3, with the Secretary of State before 5 p.m. on April 15th.

4. Convention. A party which has qualified under subsections 1, 2 and 3 to participate in a primary election must, in that same year, hold a state convention, as prescribed by Article III, in order to have the party designation of its candidates printed on the ballot in the general election of that year. The voter or group of voters who file the declaration of intent may perform the duties of the state committee under section 321, subsection 1, for the party's initial convention.

§ 303. Formation of new party; organization by petition

In addition to the procedure under section 302, a party whose designation was not listed on the general election ballot in the last preceding gubernatorial or presidential election qualifies to participate in a primary election, if it meets the requirements of subsections 1, 2, 3 and 4.

1. Declaration of intent. Ten or more voters who are not enrolled in a party qualified under section 301 must file a declaration of intent to form a party with the Secretary of State. The declaration of intent must be on a form designed by the Secretary of State and must include:

A. The designation of the proposed party; and

B. The names, addresses and telephone numbers of the voters who file the declaration of intent.

2. Enrollment of voters. After filing the declaration of intent required in subsection 1, the voter or voters proposing to form the party may then enroll voters in the proposed party under sections 141 to 145.

3. Petition. After filing the declaration described in subsection 1, the voter or a group of voters may then circulate petitions. These petitions must be signed in the same manner as primary petitions under section 335, subsections 3 and 4. The circulator of the petition must certify the belief that the signatures on it are genuine and that the signers are registered voters. 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 Secretary of State shall prepare forms for these petitions. 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 the last preceding gubernatorial election.

4. Municipal caucuses. The proposed party must conduct municipal caucuses in at least one municipality in each of the 16 counties during that election year as prescribed in Article II. The chairman of the municipal committee or a resident voter in the municipality must file a copy of the notice required by section 311, subsection 3 with the Secretary of State, before 5 p.m. on April 15th.

5. Convention. A party which has qualified under subsections 1, 2, 3 and 4 to participate in a primary election must, in that same year, hold a state convention as prescribed by Article III, in order to have the party designation of its candidates printed on the ballot in the general election of that year. The voter or group of voters who file the declaration of intent may perform the duties of the state committee under section 321, subsection 1, for the party's initial convention.

§ 304. Disqualification of parties

A party which qualified under section 302 or 303 to participate in the last preceding primary and general elections is not qualified to participate in a subsequent primary election unless it meets the requirements of section 301.

§ 305. Secretary of State

The Secretary of State shall determine whether or not a party has met the requirements of sections 301, 302 and 303.

§ 306. Enrolled voters

A voter who is enrolled in a party which failed to meet the requirements of section 302 or 303, or which is disqualified under section 304, is considered an unenrolled voter for all purposes.

§ 307. Party designation

A voter or group of voters seeking to participate as a party in a primary election under section 302 or 303 must choose a party designation that does not:

1. **Length.** Exceed 3 words in length;
2. **Use state name.** Incorporate the name or an abbreviation of the name of the State; and
3. **Use established party's designation.** Incorporate the designation or an abbreviation of the designation of a party which is qualified to participate in a primary or general election under section 301.

**Article II
Biennial Municipal Caucus**

§ 311. Rules governing

A biennial municipal caucus is governed by the following provisions.

1. **Call.** The caucus may be called by the chairman or a majority of the members of the municipal committee of a political party. At the request of that committee municipal officers shall provide available space in a public building for a caucus.
2. **Time.** A municipal caucus of the Democratic 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 April 1st.

3. Notice. The secretary of the committee must have a notice of the caucus published in a newspaper having general circulation in the municipality at least 3 and not more than 7 days before it is to be held, or must post a notice in a conspicuous, public place in each voting district in the municipality at least 7 days before the caucus. The notice must contain the name of the party, the time and place of the caucus and the name of the person calling it.

A. If the notice is not published as required by this subsection, the caucus is void.

B. The secretary of the committee must file a copy of the notice with the clerk who shall record it.

4. Procedure. The chairman of the municipal committee shall open the caucus. In his absence, the secretary or any resident voter enrolled in the party may open the caucus. The caucus shall elect a secretary and a chairman in that order. The chairman of the caucus shall then preside over the caucus and the secretary shall record the proceeding of the caucus. The caucus shall determine its own parliamentary procedure.

5. If no municipal committee. If there is no municipal committee, any resident voter enrolled in the party may call a caucus for the purpose of electing the committee. He must follow the notice procedure of subsection 3.

§ 312. Voting list

If the person or persons calling the biennial municipal caucus request a voting list at least 5 business days before the caucus, the registrar shall prepare, at the municipality's expense, a certified copy of the voting list for use at the caucus. The secretary of the municipal committee shall obtain the copy from the registrar and that copy shall be retained by the municipal committee.

§ 313. Voting procedure

The following provisions apply to voting at a municipal caucus.

1. **Vote by list.** The caucus may order voting to be done by checking each voter's name on the voting list.

2. **Secret ballot.** The caucus may order voting to be done by secret ballot which may be printed, or written on plain paper.

§ 314. Challenges

An enrolled voter of a municipality may challenge the right of another to vote at a municipal caucus. The person challenged may vote at the caucus after he has taken the following oath administered by the chairman of the caucus.

1. **Oath.** "I, (name of challenged person), swear that I am a registered and enrolled voter in this voting district, that I am a member of the party holding this caucus, and that I have not been enrolled in any other party in this municipality within the last 15 days."*

2. **Oath recorded and copy sent to registrar.** The secretary of the caucus shall record the administration of the oath and shall send a copy of the record to the registrar.

3. **Registrar to compare records.** On receipt of the copy of the record, the registrar shall compare it with the voting and enrollment records. If the oath is false, the person who swore to it is guilty of a Class E crime.

§ 315. Party members to govern political committees

The members of a party within a municipality shall determine the method of election, the terms of office and the duties of their political committees.

Article III Conventions

§ 321. Time and place; procedure

Each party shall hold a state convention between March 1st and August 1st biennially during general election year.

1. **Time, place and representation.** The party's state committee shall determine the time, place and basis of representation for the convention.

2. **Proceedings at convention.** The convention shall do the following:

- A. Elect a secretary and a chairman of the convention in that order;
- B. Adopt a platform for the next general election;
- C. Nominate the number of presidential electors to which the State is entitled;
- D. Determine the size of the state, district and county committees and the method of their election.
- E. Elect a district committee for each congressional district; and
- F. Elect a county committee for each county from persons nominated at municipal caucuses held in the county. If a municipality entitled to nominate a person for election to the county committee fails to do so, the convention may elect any resident of that municipality to the county committee.

§ 322. Committee functions

Committees elected at the convention are governed by the following provisions.

1. Committees to organize and report. The committees elected at the convention shall organize within 30 days after the convention. The secretary of each committee shall notify the state committee of the name and residence of its chairman and secretary within 10 days after their election.

2. State committee to report organization. The chairman and the secretary of the state committee shall certify to the Secretary of State the platform adopted and the names of the presidential electors within 60 days after the convention. The chairman and the secretary of the state committee shall certify to the Secretary of State the name and residence of the chairman and secretary of each committee and of each committee member within 20 days after their election.

3. Term of office and duties of committees. The committees and their officers shall hold office as prescribed in their bylaws and shall perform the duties imposed upon them by the convention and their bylaws.

4. Certain officers of state committee. The chairman, vice-chairman, treasurer and finance chairman of the state committee may be chosen from outside the membership of the state committee.

Article IV

Nomination by Primary Election

§ 331. Primary required

1. Nomination by primary election. A party's nomination of a candidate for any federal, state or county office shall be made by primary election, as provided in this Article.

2. Exceptions. This Article does not apply to:

A. Nominations for presidential electors;

B. Nominations to fill vacancies under subchapter III; and

C. Nominations by petition under subchapter II.

3. Limitations to candidacy. The following limitations apply to all candidates for nominations.

A. A person may not file, whether by primary election or nomination petition, as a candidate for more than one federal, state or county office at any election, except for a candidate for membership in a county charter commission under section 351, subsection 3.

B. A person may file as a candidate for any federal, state or county office either by primary election or nomination petition but not by both, except for a candidate for membership in a county charter commission under section 351, subsection 3.

§ 332. When nomination vacated

When a person already nominated for any federal, state or county office accepts nomination to fill a vacancy, the first nomination is vacated by that acceptance.

§ 333. Qualification for county office

A candidate for any county office must be a resident of and a voter in the electoral division he seeks to represent on the date established for filing primary petitions in the year he seeks election. He must maintain a voting residence in that electoral division during his term of office.

§ 334. Qualification of candidate for primary nomination

A candidate for nomination by primary election must file a primary petition and consent under sections 335 and 336. He must be enrolled, on or before April 1st, in the party named in the petition and must be eligible to file a petition as a candidate for nomination by primary election under section 144, subsection 3. The registrar in the candidate's municipality of residence must

certify to that fact upon the petition.

§ 335. Petition requirements

A primary petition shall be on a form provided by the Secretary of State and is governed by the following provisions.

1. Content. A primary petition must contain the name of only one candidate, his place of residence, his party, the office sought and electoral division. A primary petition may contain as many separate papers as necessary and may contain the candidate's consent required by section 336.

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

2. By whom signed. A primary petition may be signed only by voters of the electoral division which is to make the nomination and who are enrolled in the party named in the petition. Other signatures are void.

3. How signed. The voter must personally sign his name in such a manner as to satisfy the registrar of his municipality that he is a registered voter and enrolled in the party named on the petition. Either the voter or the circulator of the petition must print the voter's name.

4. Residence. The voter or the circulator of the petition must write or print the voter's street address and municipality of registration. Ditto marks are permitted for municipality of registration only.

5. Number of signatures required. Petitions must be signed by the following numbers of voters:

A. For candidate for Governor, at least 2,000 and not more than 3,000 voters;

B. For a candidate for United States Senator, at least 2,000 and not more than 3,000 voters;

B-1. For a candidate for the office of President of the United States, at least 1,000 and not more than 1,500 voters;

C. For a candidate for Representative to Congress, at least 1,000 and not more than 1,500 voters;

D. For a candidate for county office other than county commissioner, at least 150 and not more than 200 voters;

E. For a candidate for county commissioner, at least 50 and not more than 75 voters;

F. For a candidate for State Senator, at least 100 and not more than 150 voters; and

G. For a candidate for State Representative, at least 25 and not more than 40 voters.

6. When signed. A petition may not be signed before January 1st of the election year in which it is to be used.

7. Certification of petition. A primary petition shall be verified and certified as follows.

A. The circulator of a primary petition shall verify by oath or affirmation before a notary public or other person authorized by law to administer oaths or affirmations that all of the signatures to the petition were made in his presence and that to the best of his knowledge and belief each signature is the signature of the person whose name it purports to be and each person is enrolled in the party named in the petition and is a resident of the electoral division named in the petition.

B. The registrar of each municipality concerned shall certify which names on a petition appear on the voting list of that municipality as registered and enrolled voters and shall

strike out any names which do not satisfy subsection 3.

8. When filed. A primary petition must be filed in the office of the Secretary of State before 5 p.m. on April 1st of the election year in which it is to be used.

9. Petition or names void. A primary petition which does not meet the requirements of this section is void. If a voter or a circulator fails to comply with this section in signing or printing the voter's name and address, that voter's name may not be counted, but the petition is otherwise valid.

§ 336. Consent of candidate to be filed

The written consent of each candidate must be filed with his primary petition.

1. Consent. The consent must contain a statement signed by the candidate that he will accept the nomination of the primary election. The statement may be printed as a part of the primary petition.

2. Single filing sufficient. A candidate need file only one consent. This consent is valid even though it may be part of a primary petition which is void.

3. Residence and party declared. The consent must contain a declaration of the candidate's place of residence and party designation which the candidate must verify by oath or affirmation before a notary public or other person authorized by law to administer oaths or affirmations that the declaration is true. If any part of the declaration is found to be false by the Secretary of State prior to the date of the general election, the consent and the primary petition are void, pursuant to challenge procedures in section 337.

§ 337. Review and challenge of petitions

1. Review. When presented with a primary petition, the Secretary of State shall review it and, if the petition contains the

required number of certified names and is properly completed, shall accept and file it.

2. Challenges. The procedure for challenging the validity of a primary petition or of names upon a petition is as follows.

A. Only a registered voter residing in the electoral division of the candidate concerned may file a challenge. The challenge must be in writing and must set forth the reasons for the challenge. The challenge must be filed in the office of the Secretary of State before 5 p.m. on the 5th business day after the final date for filing petitions under section 335, subsection 8.

B. Within 7 days after the final date for filing challenges and after due notice of the hearing to the candidate and to the challenger, the Secretary of State shall hold a public hearing on any challenge properly filed. The challenger has the burden of providing sufficient evidence to invalidate the petitions or any names upon the petitions.

C. The Secretary of State shall rule on the validity of any challenge within 5 days after the completion of the hearing described in paragraph B.

D. A challenger or a candidate may appeal the decision of the Secretary of State by commencing an action in the Superior Court. This action shall be conducted in accordance with the Maine Rules of Civil Procedure, Rule 80B, except as modified by this section. This action must be commenced within 5 days of the date of the decision of the Secretary of State and shall be tried, without a jury, within 10 days of the date of that decision. Upon timely application, anyone may intervene in this action when the applicant claims an interest relating to the subject matter of the petitions, unless the applicant's interest is adequately represented by existing parties. The court shall issue a written decision containing its findings of fact and conclusions of law and setting forth the

reasons for its decision within 20 days of the date of the decision of the Secretary of State.

E. Any aggrieved party may appeal the decision of the Superior Court, on questions of law, by filing a notice of appeal within 3 days of that decision. The record on appeal must be transmitted to the Law Court within 3 days after notice of appeal is filed. After filing notice of appeal, the parties have 4 days to file briefs and appendices with the clerk of courts. As soon as the record and briefs have been filed, the court shall immediately consider the case. The court shall issue its decision within 14 days of the date of the decision of the Superior Court.

§ 338. Write-in candidates

A person whose name will not appear on the printed primary ballot because he did not file 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 as a write-in candidate in accordance with section 723, subsection 1.

§ 339. Time and nature of election

The primary election shall be held on the 2nd Tuesday of June of each general election year and is considered to be a separate election for each party which takes part in it. This includes the duties of public officials in announcing the election, providing forms and ballots, keeping records and any other matter necessary to effect the purpose of a primary election. A primary election shall be conducted the same as the general election, as nearly as practicable, for each party.

§ 340. Notice of parties of qualified primary voters

1. Notice to Secretary of State. No later than February 1st of the election year, each political party eligible to participate in a primary election shall notify the Secretary of State of the enrollment qualifications, subject to the restrictions in section 144,

for voters eligible to vote in that party's primary. If no notice is received by that date, only voters enrolled in a political party may vote in that party's primary.

2. **Notice to municipal clerks.** The Secretary of State shall inform all municipal clerks of the qualifications necessary for voters to participate in each party's primary. The clerks shall establish procedures to ensure that all qualified primary voters are offered ballots for each party in which primary election the voters are qualified to vote.

SUBCHAPTER II BY-PETITION

§ 351. Nomination authorized

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

1. **Limited to one office.** A person may not file, whether by primary election or nomination petition, as a candidate for more than one federal, state or county office at any election, except as provided in subsection 3.

2. **Limited to one method.** A person may file as a candidate for any federal, state or county office either by primary election or nomination petition, except as provided in subsection 3, but not by both methods.

3. **Exception for candidates for county charter commission.** A candidate for membership in a county charter commission must be nominated by petition, and may file as a candidate for one additional federal, state or county office at that same election.

§ 352. Qualification for presidential elector and county office

A candidate for the office of presidential elector or any county office must be a resident of and a voter in the electoral division he seeks to represent on the date established for filing nomination petitions in the year he seeks election. He must maintain a voting residence in that electoral division during his term of office.

§ 353. Qualification of candidate for nomination by petition

A person who seeks nomination by petition qualifies by filing a nomination petition and consent as provided in sections 354 and 355. If enrolled, the person must also withdraw his enrollment in a party, as provided in section 145, at least 3 months before the filing date for the nomination petition.

§ 354. Petition requirements

A nomination petition shall be on a form provided by the Secretary of State and is governed by the following provisions.

1. Content. A nomination petition must contain the name of only one candidate, his 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, which may not exceed 3 words in length, and may not incorporate the candidate's name, or the designation or an abbreviation of the designation of a party which is qualified to nominate candidates by primary election.

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.

2. By whom signed. A nomination petition may be signed only by voters of the electoral division which is to make the nomination, except that nomination petitions for presidential electors may be signed by any Maine voter. Other signatures are void.

3. How signed. The voter must personally sign his name in such a manner as to satisfy the registrar of his municipality that he is a registered voter. Either the voter or the circulator of the petition must print the voter's name.

4. Residence. The voter or the circulator of the petition must write or print the voter's street address and municipality of registration. Ditto marks are permitted for municipality or registration only.

5. Number of signatures required. Nomination petitions must be signed by the following numbers of voters:

A. For a slate of candidates for the office of presidential elector, at least 4,000 and not more than 6,000 voters;

B. For a candidate for Governor, at least 4,000 and not more than 6,000 voters;

C. For a candidate for United States Senator, at least 4,000 and not more than 6,000 voters;

D. For a candidate for United States Representative, at least 2,000 and not more than 3,000 voters;

E. For a candidate for county office other than county commissioner or county charter commission member, at least 300 and not more than 400 voters;

E-1. For a candidate for county commissioner, at least 100 and not more than 150 voters;

F. For a candidate for State Senator, at least 200 and not more than 300 voters;

G. For a candidate for State Representative, at least 50 and not more than 80 voters; and

H. For a candidate for county charter commission member, at least 50 and not more than 80 voters.

6. When signed. A nomination petition may not be signed before January 1st of the election year in which it is to be used.

7. Certification of petitions. A nomination petition shall be verified and certified as follows.

A. The circulator of a nomination petition shall verify by oath or affirmation before a notary public or other person authorized by law to administer oaths that all of the signatures to the petition were made in his presence and that to the best of his knowledge and belief each signature is the signature of the person whose name it purports to be and each person is a resident of the electoral division named in the petition.

B. Petitions must be delivered to the registrar for certification at least 5 business days before the date of the primary election.

C. The registrar of each municipality concerned shall certify which names on a petition appear on the voting list of the municipality as registered voters and shall strike out any names which do not satisfy subsection 3.

8. Repealed. Laws 1985, c. 383, § 7.

8-A. Filed with the Secretary of State. A nomination petition must be filed in the office of the Secretary of State by 5 p.m. on the date of the primary election in the election year in which it is to be used.

9. Petition void. A nomination petition which does not meet the requirements of this section is void. If a voter or

circulator fails to comply with this section in signing or printing the voter's name and address, that voter's name may not be counted, but the petition is otherwise valid.

§ 355. Consent of candidate to be filed

The written consent of each candidate must be filed with his nomination petition.

1. **Consent.** The consent must contain a statement signed by the candidate that he will accept the nomination. The statement may be printed as a part of the nomination petition.

2. **Single filing sufficient.** A candidate need file only one consent. The consent is valid even though it may be part of a nomination petition which is void.

3. **Residence declared.** The consent must contain a declaration of the candidate's place of residence and the fact that the candidate has not been enrolled in a party for 3 months prior to the filing date for the nomination petition. The candidate must verify by oath or affirmation before a notary public or other person authorized by law to administer oaths or affirmations that the declaration is true. If any part of the declaration is found to be false by the Secretary of State before the general election, the consent and the nomination petition are void, pursuant to challenge procedures in section 356.

A. Candidates for the office of county charter commission need not verify by oath or affirmation that they are not enrolled in a party.

§ 356. Review and challenge of petitions

1. **Review.** When presented with a nomination petition, the Secretary of State shall review it and, if the petition contains the required number of certified names and is properly completed, shall accept and file it.

2. Challenges. The procedure for challenging the validity of a nomination petition or of names upon a petition is as follows.

A. Only a registered voter residing in the electoral division of the candidate concerned may file a challenge. The challenge must be in writing and must set forth the reasons for the challenge. The challenge must be filed in the office of the Secretary of State by 5 p.m. on the 5th business day after the final date for filing petitions under section 354, subsection 8-A.

B. Within 7 days after the final date for filing challenges and after due notice of the hearing to the candidate and to the challenger, the Secretary of State shall hold a public hearing on any challenge properly filed. The challenger has the burden of providing evidence to invalidate the petitions or any names upon the petitions.

C. The Secretary of State shall rule on a challenge within 5 days after the completion of the hearing described in paragraph B.

D. A challenger or a candidate may appeal the decision of the Secretary of State by commencing an action in the Superior Court. This action shall be conducted in accordance with the Maine Rules of Civil Procedure, Rule 80B, except as modified by this section. This action must be commenced within 5 days of the date of the decision of the Secretary of State and shall be tried, without a jury, within 10 days of the date of that decision. Upon timely application, anyone may intervene in this action when the applicant claims an interest relating to the subject matter of the petition, unless the applicant's interest is adequately represented by existing parties. The court shall issue its written decision containing its findings of fact and conclusions of law and setting forth the reasons for its decision within 20 days of the date of the decision of the Secretary of State.

E. Any aggrieved party may appeal the decision of the Superior Court, on questions of law, by filing a notice of appeal within 3 days of that decision. The record on appeal must be transmitted to the Law Court within 3 days after notice of appeal is filed. After filing notice of appeal, the parties have 4 days to file briefs and appendices with the clerk of courts. As soon as the record and briefs have been filed, the court shall immediately consider the case. The court shall issue its decision within 14 days of the date of the decision of the Superior Court.

F. Only a voter of the county establishing a charter commission may challenge the nomination petition for county charter commission member. The challenge must be in writing and must set forth the reasons for the challenge. The challenge must be filed in the office of the Secretary of State before 5 p.m. on the 55th day following the order of the county officers under Title 30-A, section 1321, subsection 1, or the receipt of a certificate of sufficiency under Title 30-A, section 1321, subsection 4.

§ 357. Candidates certified by the Secretary of State

The Secretary of State shall immediately certify by mail the nomination of each person nominated by petition.

**SUBCHAPTER III
VACANCIES**

**Article I
General Provisions**

§ 361. Vacancy defined

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

1. Filled for unexpired term. A vacancy in any office shall be filled for an unexpired term, except where it is specifically provided to the contrary.

§ 362. Governor's proclamation for political committee meetings

When required by this subchapter, the Governor shall issue a proclamation declaring the vacancy, ordering the appropriate political committee to fill it and setting a time and place for the committee to meet.

§ 363. Political committee; choosing candidates and nominees

The meeting of a political committee as required by sections 371, 373, 374-A, 381, 382 and 393 is governed by the following provisions.

1. Time and place of meeting. The committee shall meet at the time and place prescribed in the Governor's proclamation.

2. Duties of committee. The committee shall choose a qualified person to fill the vacancy. The secretary of the committee shall immediately deliver a certificate to the Secretary of State containing the name of the person chosen, his residence, his political party, title of the office sought, and the method by which he was chosen. The certificate must be signed by the chairman of the committee and attested to by the secretary.

A. In an electoral division consisting of more than one municipality, the municipal committee of each municipality shall meet jointly, elect a secretary and a chairman for the meeting and then fill the vacancy.

3. Acceptance filed. A person chosen under this section must file his written acceptance with the Secretary of State.

4. Changes in ballot. The Secretary of State shall make the necessary changes in the ballot.

§ 364. Candidacy by nomination petition

The nomination of a candidate or nominee, other than by party, to fill a vacancy must be made by nomination petition. The nomination process shall be in the same manner as provided by subchapter II, except that all petitions must be filed by 5 p.m. on the latest date established in the Governor's proclamation for the meeting of the appropriate political committees to fill the vacancy or, where a special election is to be held, by 5 p.m. of the date specified in the proclamation for filing by party candidates for the special election.

§ 365. Jurisdiction

The political committee which has jurisdiction over the choice of a candidate for nomination or a nominee to fill a vacancy under sections 371, 373, 374, 381 and 382 is as follows.

1. Municipal committee. Choices for Representative to the Legislature must be made by a municipal committee when a representative district consists of one municipality, by a joint meeting of municipal committees when a representative district consists of 2 or more municipalities or by members of a municipal committee or committees residing within a representative district when the representative district includes a part of a municipality or parts of different municipalities.

2. County committee. A county committee makes choices for all county offices and committee members residing within senatorial districts make choices for State Senator.

3. District committee. A district committee makes choices for Representative to Congress.

4. State committee. A state committee makes choices for Governor, United States Senator and presidential elector.

§ 366. Special elections

The proclamation of a special election must specify the time and place it must be held as well as any necessary filing, posting, publishing and reporting dates. A special election must be publicized and conducted like its regular counterpart, as nearly as practicable.

§ 367. Candidate withdrawal

A candidate who wishes to withdraw from an elective race shall notify the Secretary of State in writing of the candidate's intent to withdraw and the reason for withdrawal. This notice must be signed by the candidate.

**Article II
Candidates and Nominees**

§ 371. Candidates for nomination

If a candidate for nomination dies, withdraws or becomes disqualified after having filed his primary petition, so that a party has fewer candidates than there are offices to be filled, the vacancy may be filled as follows.

1. Primary petition if time. If there is sufficient time to circulate a primary petition before the primary election, as determined by the Secretary of State, the new candidate must be chosen in that manner. The Secretary of State shall set a time for filing the new petition and the consent described in section 336.

2. Chosen by committee if not time. If there is not sufficient time to circulate a primary petition, the Secretary of State shall notify the Governor who shall issue a proclamation under section 362.

§ 372. Nominees; 60 days or more before election

If a person nominated for United States Senator,

Representative to Congress or Governor at a primary election dies, withdraws or becomes disqualified at least 60 days before the general election, the Governor shall issue a proclamation declaring the vacancy and ordering a special primary election under section 366.

§ 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 shall issue a proclamation under section 362.

§ 374. Repealed. Laws 1989, c. 341, § 1.

§ 374-A. Withdrawal of candidates for certain state offices

1. Withdrawal and replacement of nominees; Governor's proclamation. The Governor shall issue a proclamation as provided in section 362 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.

2. Deadline for replacement of nominee. A political committee may make a replacement nomination:

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

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

§ 375. Presidential and vice-presidential candidates chosen by petition

1. Candidate for President; death; withdrawal; disqualification. If a candidate for President who has been nominated by petition under section 354, subsection 1, paragraph B, dies, withdraws or becomes disqualified, the nomination of the presidential, vice-presidential and presidential electoral candidates is terminated.

2. Candidate for Vice President; death; withdrawal; disqualification. If a candidate for Vice President who has been nominated by petition under section 354, subsection 1, paragraph B, dies, withdraws or becomes disqualified, the vacancy may be filled by a new vice-presidential candidate, if the following conditions are met:

A. Written resignation is filed with the Secretary of State by the previous vice-presidential candidate, if the mental and physical condition of the candidate allows;

B. Written consent is filed with the Secretary of State by the new vice-presidential candidate;

C. Written acceptance of the new vice-presidential candidate is filed with the Secretary of State by the presidential candidate; and

D. Written acceptance of the new vice-presidential candidate is filed with the Secretary of State by each of the presidential electors.

3. Candidate for presidential elector; death; withdrawal; disqualification. If a presidential elector, who has been nominated by petition under section 354, subsection 1, paragraph B, dies, withdraws or becomes disqualified, the vacancy may be filled by a new presidential elector, if the following conditions are met:

A. Written resignation is filed with the Secretary of State by the previous presidential elector, if the mental and physical condition of the elector allows;

B. Written consent is filed with the Secretary of State by the new presidential elector; and

C. Written acceptance of the new presidential elector is filed with the Secretary of State by the presidential candidate.

This subsection does not apply to a vacancy as described in section 804.

§ 376. Production of new ballots

1. Federal or gubernatorial office. If a candidate or nominee for a federal or gubernatorial office withdraws less than 45 days before any election, the Secretary of State is not required to produce new ballots.

2. Certain state offices. The Secretary of State is required to produce new ballots only if a candidate for an office, other than United States Senator, Representative to Congress or Governor, withdraws in accordance with section 374-A, subsection 1, paragraph A, B or C, a replacement candidate is nominated and a notification is filed with the Secretary of State by the appropriate committee of the political party making the nomination no later than 45 days before the election.

3. List of candidates. Immediately after the last day for withdrawal, the Secretary of State shall list all names to be placed on the ballot for the general election.

4. Repealed. Laws 1989, c. 341, § 3.

Article III Local and State Officials

§ 381. State Senators

When there is a vacancy in the office of State Senator, the Governor shall issue a proclamation declaring the vacancy and ordering a special election under section 366.

1. Nominees chosen. He shall order the appropriate political committee members to choose nominees and shall set a time and place for them to meet. The committee members shall follow the procedure outlined in section 363.

§ 382. Representative to Legislature

When there is a vacancy in the office of Representative to the Legislature, the municipal officers of any municipality affected by the vacancy may inform the Governor if there is a need to fill the vacancy before the next general election, and the Governor shall issue a proclamation declaring the vacancy and ordering a special election under section 366.

1. Nominees chosen. He shall order the appropriate political committees to chose nominees and shall set a time and place for them to meet. The committees shall follow the procedure outlined in section 363.

§ 383. Political committees

A political committee shall fill a vacancy in its membership.

1. Secretary of State notified. The secretary of a state,

district or county committee shall inform the Secretary of State of the name and residence of each person chosen to fill a vacancy.

§ 384. Election officials

The municipal officers may appoint a qualified person to fill a vacancy in the office of any election official.

1. **Limitation.** An election clerk appointed to fill a vacancy must be enrolled in the same party as the former incumbent and must be nominated as provided in section 503.

Article IV Federal Officials

§ 391. United States Senators

A vacancy in the office of United States Senator is governed by the following provisions.

1. **Interim appointment.** Within a reasonable time after the vacancy occurs, the Governor shall appoint a qualified person to fill the vacancy until his successor is elected and qualified.

2. **Vacancy 60 days before primary.** If the vacancy occurs 60 days or more before a regular primary election, nominees must be chosen at the primary and a successor elected for the remainder of the term at the general election.

3. **Vacancy less than 60 days before primary.** If the vacancy occurs less than 60 days before a regular primary election, nominees must be chosen at the next regular primary following the one in question, and a successor elected for the remainder of the term at the general election.

§ 392. Representatives to Congress

When there is a vacancy in the office of Representative to Congress, the Governor shall issue a proclamation declaring the

vacancy and ordering a special primary election followed by a special election to fill the vacancy as provided in section 366.

1. Congress in session. If Congress is in session, the elections must be held as soon as reasonably possible. If Congress is not in session, the elections must be held before the next regular or called session.

§ 393. Presidential electors

Except as provided in section 804, when there is a vacancy in the office of presidential elector, the Governor shall issue a proclamation under section 362 ordering the appropriate state committee to choose a qualified person to fill the vacancy. The procedure outlined in section 363 shall be followed.

**SUBCHAPTER IV
PRESIDENTIAL PRIMARY ELECTIONS**

§ 401. Determination and date of primary

1. Determination of primary. Whenever the state committee of a political party certifies that there is a contest among candidates for nomination as the presidential candidate of the party and that the committee has voted to conduct a presidential primary election, the State shall hold a presidential primary election. The election shall not be held earlier than January 1st of the year that the presidential election is held.

2. Date of primary. The date of the presidential primary shall be chosen in the following manner.

A. If a determination is made pursuant to subsection 1 for one party and that party chooses a date, the State shall hold the presidential primary election on that date. The party shall deliver to the Secretary of State notification of the chosen date by December 1st of the year prior to the election.

B. If a determination is made pursuant to subsection 1 for

more than one party and those parties agree to one date by November 1st of the year prior to the election, the State shall hold the presidential primary election on that date.

C. If a party does not choose a date pursuant to paragraph A or there is no agreement on a date pursuant to paragraph B, then the State shall hold the presidential primary election on the first Tuesday in March, or on the same date as the presidential primary election for the state of New Hampshire, whichever is earlier, provided that the election is held in the presidential election year.

§ 402. Party certification

The state committee shall file the certification with the Secretary of State by December 1st of the year prior to the election. This certification shall contain the following:

1. **Statement of contest.** A statement that there is a contest among candidates for nomination as the presidential candidate of the party;

2. **Identification of contestants.** Identification of at least 2 candidates that have declared as contestants for nomination as the presidential candidate of the party; and

3. **Statement of committee vote.** A statement that the state committee has voted to conduct a presidential primary election.

§ 403. Petitions

On or before July 1st of the year preceding each presidential election year, the Secretary of State shall prepare and make available petitions for circulation by persons desiring to be contestants in the Maine presidential primary of any party. These petitions must be completed and filed 45 days before the primary election in the manner provided in sections 335 and 336.

§ 404. Ballot preparation

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

§ 405. Candidate eligibility

1. Petitions. The ballots shall include the name of any person who files with the Secretary of State a petition obtained under section 403 and completed in accordance with sections 335 and 336. The Secretary of State shall determine if a petition meets the requirements of those sections, subject to challenge and appeal under section 337.

2. Secretary of State determination. The following provisions govern the Secretary of State's selection of presidential candidates to appear on the ballot.

A. The ballots shall include the name of any person who is a member of a political party which has qualified under subchapter I and who has been determined by the Secretary of State, in the Secretary of State's sole discretion, to be generally advocated or recognized as a presidential candidate of nationwide stature in the national news media throughout the United States. This subsection shall not be construed to include so-called "favorite son" candidates whose candidacy may be limited to one state.

B. The Secretary of State shall determine the persons who will be placed on the ballot under this subsection at least 30 days before the ballots are prepared. The Secretary of State shall promptly notify those persons that their names will appear on the ballot and shall also advise those persons of the steps which they must take if they do not wish their names to appear on the ballot.

C. Any persons who the Secretary of State determines should be placed on the ballot under this subsection may have their names withdrawn from the ballot by filing affidavits with the Secretary of State in which the persons designated swear under oath that they request that their names be omitted from

the ballot.

In order to remove a person's name from the ballot, the affidavit must be received by the Secretary of State at least 45 days before the date designated for the presidential primary election.

§ 406. Selection of delegates

If a party chooses to participate in a presidential primary election under this chapter, delegates to national presidential nominating conventions must be nominated or selected in accordance with party rules by the state parties meeting in convention under subchapter I, article III.

The methods and procedures for selection of delegates shall be according to reasonable procedures established at the state party convention. In the absence of any procedures established by state or national party rules, the allocation shall be as follows.

1. Proportional allocation. Delegates to the national convention must be allocated proportionately among the candidate votes and the uncommitted votes cast in the presidential primary of the party.

A. All candidates receiving 10% or more of the total votes for candidates or uncommitted must be allocated a share of delegates which approaches, as closely as possible, their respective shares of the total vote.

B. The percentages of votes attributable to candidates receiving less than 10% of the total vote shall be added to the total percentage of uncommitted votes for the purpose of allocating delegates.

2. Uncommitted delegates. A delegate elected as an uncommitted delegate may support any presidential candidate at any time and may change support for this candidate in the delegate's sole discretion.

3. Committed delegates. A delegate elected for a particular presidential candidate according to the proportional allocation specified by this section shall vote for that candidate on the first ballot at the national nominating convention, unless the state committee of the party affirmatively votes to follow another procedure or if, prior to the filing of the certification under sections 401 and 402, the candidate for whom a particular delegate is elected specifically withdraws, as verified by the chairman of the national party, from consideration for the presidential nomination at any time before the first ballot at the national nominating convention.

§ 407. Cost

Whenever a municipality complies with the provisions of this subchapter, the State shall bear the cost incurred.

§ 408. Repeal

This subchapter is repealed July 1, 1995.

**SUBCHAPTER V
PRESIDENTIAL PREFERENCE PRIMARY ELECTIONS**

§ 411. Determination and date of primary

1. Determination of primary. When the state committee of a political party certifies that there is a contest among candidates for nomination as the presidential candidate of the party and that the state committee votes to conduct a presidential primary election at the state committee's convention the year before the primary, the State shall hold a presidential primary election.

2. Date of primary. The presidential preference primary must be held on the same day as the presidential primary for the State of New Hampshire or, if that state holds no presidential primary, on the first Tuesday in March of the presidential election year.

§ 412. Petitions or filing fees

A candidate for the office of president must either file a petition or pay a filing fee to the Secretary of State for that candidate's name to be placed on the ballot.

1. Petitions. A candidate for the office of president who does not pay a filing fee to the Secretary of State pursuant to subsection 2 must file with the Secretary of State a petition with at least 4,000 and not more than 6,000 voters' signatures. By July 1st of the year preceding each presidential election year, the Secretary of State shall prepare and make available petitions for circulation by persons desiring to be contestants in the state presidential preference primary of any party. The petitions must meet the requirements of sections 335 and 336, excluding section 335, subsections 6 and 8 and must be filed at least 45 days before the presidential preference primary election.

2. Filing fees. A candidate for the office of president who does not file a petition with the Secretary of State pursuant to subsection 1 must pay a \$2,500 filing fee to the Secretary of State. A candidate must pay the filing fee at the time that candidate files a declaration of candidacy.

§ 413. Ballot preparation

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

§ 414. Candidate eligibility

The following provisions govern the Secretary of State's selection of presidential candidates to appear on the ballot.

1. Inclusion on ballot. The ballot must include the name of any person who is a member of a political party that has qualified to participate in a primary election under subchapter I and who meets at least one of the following conditions as determined by the Secretary of State.

A. The person has qualified for a presidential primary in

any other state at least 3 weeks before this State's primary.

B. The person has filed a petition with or paid the filing fee to the Secretary of State pursuant to the requirements of section 412. The Secretary of State shall determine whether a petition meets the requirements of section 412, subject to challenge and appeal under section 337.*

2. Notification of candidates. The Secretary of State shall determine the names of the persons to be placed on the ballot under subsection 1. The Secretary of State shall promptly notify those persons that their names will appear on the ballot and shall advise those persons of the steps that they must take if they do not wish their names to appear on the ballot.

3. Withdrawal of candidates. A person who has received notice of inclusion on the ballot may withdraw from the election by filing an affidavit with the Secretary of State requesting under oath that the candidate be withdrawn from the election. The Secretary of State is not required to reprint ballots to remove the name of a candidate if the Secretary of State receives notice of the candidate's withdrawal after the ballots are printed. If the Secretary of State receives notice of a candidate's withdrawal at least 2 weeks before the election, the Secretary of State shall provide municipal election officials with signs to post at the polls notifying voters of the candidate's withdrawal.

§ 415. Selection of delegates

Selection of delegates to a national presidential nominating convention is determined under this section.

1. Identification of delegates. The state committee of any political party, in its sole discretion, may call presidential caucuses for the purpose of allowing persons enrolled in that party to select the individual delegates and alternates to be pledged to each potential presidential candidate. If the state committee of the political party in whose primary a candidate is participating has not called delegate selection caucuses, the candidate shall file with the

Secretary of State, at least 2 weeks before the presidential preference primary election, a list of names of delegates ordered by priority of selection equal in number to the number of delegates and alternates available, as determined by the party, for that party's convention.

2. Selection of delegates. The Secretary of State shall determine the delegates elected and notify each candidate and the credentials committee of each party's national convention of the elected delegates on the following basis.

A. Delegates and alternates to each party's national nominating convention must be divided among the candidates of that party in proportion to the number of votes cast for those candidates in that party's primary election.

B. Delegates and alternates elected for each candidate must be determined in the order of the list submitted by the candidate or determined by party caucuses under subsection 1.

3. Challenge to seating of delegates. If a successful challenge is made at any national convention to the seating of delegates selected under this subchapter, and the challenge is based on a claim that this subchapter violates the party's constitutionally protected right to determine the composition of a state's delegation to its national convention, the Secretary of State shall report to the Legislature by December 1st of the year in which the challenge is made. The report must include recommendations for curing any defect in the law identified at the time of the challenge.

§ 416. Effective date

This subchapter takes effect July 1, 1995.

CHAPTER 7 ELECTION OFFICIALS

§ 501. Wardens and ward clerks

1. **In a city.** In a city, the selection, term of office, compensation and partial duties of wardens and ward clerks are determined by the city charter. Additional duties are prescribed by this Title.

2. **In a town.** In a town, unless otherwise determined by charter, the clerk of the municipality shall be the supervisor of all elections. With the approval of the municipal officers, he shall appoint a warden and may appoint one or more deputy wardens to assist in the duties on election day. The clerk may designate himself as warden or deputy warden. The municipal clerk, warden and deputy warden shall be paid a reasonable compensation as determined by the municipal officers.

3. **Provisions applicable to both towns and cities.** Neither the warden nor any deputy warden may be an officer of a municipal committee of a political party. Deputy wardens shall perform the duties of the warden when necessary and may not replace election clerks prescribed by this Title. The warden and deputy wardens must be registered voters of the municipality.

§ 502. Duties and vacancies -- warden and ward clerk

In the event of a vacancy in the office of warden or in the absence or incapacity of the warden, the ward clerk may perform the duties of the warden. A vacancy in the office of ward clerk must be filled by an election clerk appointed by the warden. Except when an election to the position of ward clerk is nonpartisan and no party affiliation is required, an election clerk appointed by the warden must be enrolled in the same political party as the ward clerk and shall serve as ward clerk pro tem.

§ 503. Election clerks

Elections clerks are governed by the following provisions.

1. **Appointment.** The municipal officers of each municipality must appoint election clerks no later than May 1st of each general election year. They shall appoint persons nominated

by the municipal committees of the major parties to serve as election clerks for each voting place and post a public listing of those nominated and appointed. They must designate an equal number of election clerks from each major party. At the request of the municipal committee of any minor party represented on the last general election ballot, the municipal officers shall appoint one election clerk nominated by that committee for each voting place.

1-A. Student election clerks. In addition to the election clerks appointed under subsection 1, the municipal officers may appoint persons who are 17 years of age to serve as student election clerks for a specific election. The student election clerks must be appointed in the same manner as election clerks under subsection 1. A student election clerk may not assist a voter unless the voter specifically requests assistance from the student election clerk.

2. Number appointed. The municipal officers shall appoint 2 election clerks, who must be residents of the municipality, for each voting place in each municipality.

A. They may appoint additional election clerks, if necessary, who are nominated as provided in subsection 1.

B. They shall appoint alternate election clerks who are nominated as provided in subsection 1 and who may be called into service by the warden, as needed, to fill a vacancy on election day.

C. The municipal clerk may appoint a sufficient number of election clerks, an equal number from each political party, who are nominated as provided in subsection 1, to serve as counters when the polls close. Counters shall be paid a reasonable compensation as determined by the municipal officers.

If the municipal committee fails to nominate a sufficient number of election clerks, the municipal clerk or municipal officers shall appoint the necessary number to fill the vacancy on election day.

3. Sworn to office. Before assuming the duties of office, an election clerk must be sworn by the warden or clerk, and the fact of his having been sworn shall be recorded by the clerk.

4. Term of office. An election clerk holds office for 2 years from the date of his appointment, and until his successor is appointed and qualified, except that an election clerk who is appointed to represent a minor party holds office only 2 years from the date of his appointment.

5. Duties. Election clerks shall attend the voting places for which they are appointed, at each election. They shall assist the warden as requested by him. They shall be in attendance during voting hours on election day.

6. Compensation. Election clerks shall be paid a reasonable compensation as determined by the municipal officers.

7. Application of city charter. A city charter which provides for the election of 2 persons to assist the warden in receiving, sorting and counting ballots is not affected by this section. The persons elected under authority of the charter are considered to be election clerks and each must represent a different major party.

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

§ 504. Persons ineligible to serve

The following may not serve as election officials:

1. Certain employees. An employee of a party or candidate;

2. Direct pecuniary interest. A person having a direct pecuniary interest in the result of a referendum question; or

3. Candidate and certain relatives. A candidate or

member of his immediate family, in the electoral division from which the candidate seeks election.

A. This subsection does not apply to a candidate for warden or ward clerk or the immediate family of the candidate for warden or ward clerk.

B. This subsection does not apply to municipalities with a population of less than 500.

CHAPTER 8 LIMITATION OF TERMS

§ 551. Short title

This chapter may be known and cited as the “Term Limitation Act of 1993.”

§ 552. Definitions

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

1. Responsible electoral official. “Responsible electoral official” means a public official who is responsible for accepting a nomination or nomination petition for an elected office and also means a public official who is responsible for placing the name of a person nominated for public office on a ballot, ballot label, calendar or other similar instrument.

2. Term. “Term” means a full term or any portion of a term served by an elected official in an office subject to the provisions of this chapter.

§ 553. Limitation on terms

Notwithstanding any other provision of law, consecutive terms in office are limited as follows.

1. State Senate. A person may not serve more than 4 consecutive terms as a state Senator.

2. State Representative. A person may not serve more than 4 consecutive terms as a member of the state House of Representatives.

3. Secretary of State. A person may not serve more than 4 consecutive terms as Secretary of State.

4. Treasurer of State. A person may not serve more than 4 consecutive terms as Treasurer of State.

5. Attorney General. A person may not serve more than 4 consecutive terms as Attorney General.

6. State Auditor. A person may not serve more than 2 consecutive terms as State Auditor.

This section applies to terms of office that begin on or after December 3, 1996.

§ 554. Exclusion from nomination, election and service

Notwithstanding any other provision of law, a person who is prohibited from service in an office as set forth in section 553 may not be nominated for or elected to that office. A responsible electoral official may not accept or certify such a person's nomination or nomination petition for an office subject to this chapter. A responsible electoral official may not print or cause to be printed such a person's name on a ballot, ballot label, calendar or other similar instrument for election to an office subject to this chapter. This section applies to nominations occurring and ballots printed after January 1, 1996.

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**CHAPTER 9
CONDUCT OF ELECTIONS**

**SUBCHAPTER I
PREELECTION PROCEDURE**

**Article I
Secretary of State's Responsibilities**

§ 601. Primary ballot

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 things listed in this section. It may contain no others.

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

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designation. The name of each candidate may be printed on the ballot in only one space.

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

D. At the end of the list of candidates for nomination to each office, there must be left as many blank spaces as there are vacancies to be filled. These spaces may be used by a voter to write or paste in the name and municipality of residence of any person for whom he desires to vote, as provided in section 691, subsection 2.

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. On the front and back of the folded ballot must be printed "Official (name of political party) Primary Ballot for (name of voting place for which ballot was prepared)", the date of the election, and a facsimile of the state seal.

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.

3. Order of offices. The order of offices on the ballot is as follows: 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 political party on paper of a distinctive color:

White for the party which cast the greatest number of votes for Governor at the last gubernatorial election; yellow for the 2nd highest; blue for the 3rd highest; and green for the 4th highest. For municipalities which include more than one single member district of the House of Representatives, or parts of more than one single member district, the Secretary of State may prepare primary election ballots of one or more distinctive colors for each single member district or part thereof within the municipality.

§ 601-A. Presidential preference primary ballot

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

1. Arrangement. The ballot must be arranged in one column.

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, of each candidate arranged alphabetically with the last name first in block capital letters, followed by the first name and middle name or initial, or followed by the first name or first initial and the middle name. The name of each candidate may be printed on the ballot in only one space.

C. Repealed. Laws 1993, c. 334, § 4, eff. Oct. 13, 1993.

D. A square must be printed at the left side of and close to the name of each candidate, so that a voter may designate any choice clearly by a cross (X) or a check mark (✓).

E. On the front and back of the folded ballot must be

printed "Official (name of political party) Presidential Preference Primary Ballot" and the date of the election.

3. Distinctively colored. The ballots must be printed separately for 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; yellow for the 2nd highest; blue for the 3rd highest; and green for the 4th highest. The Secretary of State shall choose a distinctive color for ballots for any other political party.

§ 602. General election ballot

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

1. Arrangement. The ballot must contain the name, without any title, and municipality of residence of each nominee, arranged alphabetically with the last name first, under the proper office designation, except that the names of Presidential Electors shall not appear on the ballot.

2. Content. The ballot must contain the things listed in this section. It may contain no others.

A. The names of candidates for any one office may not be split into more than one column regardless of number. The initial letters of the last names of the candidates must be printed directly beneath each other in a vertical line and the initial letters of the respective party designations of each nominee must be printed directly beneath each other in a vertical line.

B. The designation of the party which the nominee represents must be printed to the right of each nominee's name, properly separated from but still in line with the name of the nominee. The party designation may be abbreviated.

C. 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.

D. When 2 United States Senators or 2 county commissioners are to be elected, the term of office sought by each nominee must be specified on the ballot.

E. At the end of the list of nominees 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 the name and municipality of residence of any person for whom he desires to vote, as provided in section 692, subsection 2.

F. 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.

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

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 first initial and the middle name.

3. Printed on outside. On the front and back of the folded ballot must be printed "Official Ballot for (name of voting district)," the date of the election, and a facsimile of the state seal.

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

5. Distinctively colored. Election ballots must be printed on white paper. For municipalities which include more than one single member district of the House of Representatives, or parts of more than one single member district, the Secretary of State may

prepare general election ballots of one or more distinctive colors for each single member district or part thereof within the municipality.

6. 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 specimen ballots at the clerk's own discretion. A voter who is visually impaired may request of the clerk an enlarged ballot or an enlarged specimen ballot to assist the voter.*

6-A. Record. The clerk shall record and report to the Secretary of State the number of enlarged ballots made for visually impaired voters.*

7. Contents concealed. The ballots must be folded uniformly so that the interior contents are concealed.

§ 603. Specimens

Specimen ballots are governed by the following provisions.

1. Secretary of State to prepare. The Secretary of State shall prepare the specimen ballots.

A. The words "SPECIMEN 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 signature of the Secretary of State must 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.

B. The ballot must be printed on paper of a distinctive color.

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

ballots.

3. Secretary of State to publish. A reasonable time

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before the election the Secretary of State shall make specimen ballots available for publication in all newspapers having general circulation in the area to which the ballots pertain. A single specimen ballot so published may carry the name of each candidate for State Senator and Representative to the Legislature in the area covered by the circulation of the newspaper. The name of the voting district need not be printed on the published specimen ballot.

4. Candidate or nominee to fill vacancy. When a candidate for nomination or a nominee is chosen to fill a vacancy, the Secretary of State and the clerk of each interested municipality shall perform the duties required by this section as promptly as possible.

5. Specimen ballot instructions printed in the French language. The Secretary of State shall prepare ballot instructions in the French language, to be printed on a separate sheet of paper which may conveniently be attached to specimen ballots. The Secretary of State shall furnish these ballot instruction sheets upon request by the clerk of a municipality. The number of specimen ballot instruction sheets to be furnished to a municipality, when added to the number of specimen ballots and instruction posters in the English language to be furnished to that municipality, may not be greater than the total number of specimen ballots and instruction posters to be furnished that municipality, if specimen ballot sheets printed in the French language had not been requested.

6. Repealed. Laws 1985, c. 383, § 9.

§ 604. Emergency ballot procedure

In an emergency as described in subsection 2, the Secretary of State may prepare new ballots, amend those already printed or procure ballots from another municipality or voting district. He may authorize any clerk to do the same.

1. Ballots amended. Ballots already printed may be amended by having corrective stickers added, as directed by the Secretary of State.

2. Emergency described. An emergency may exist as follows:

- A.** If there is a shortage of ballots;
- B.** If the ballots are not delivered in time for the election;
- C.** If the ballots are missing, defaced or destroyed; or
- D.** If replacement of a vacancy or the correction of an error in the ballot requires its amendment.

§ 604-A. Flexibility for combining election ballots

Notwithstanding any other provision of this Title, the Secretary of State may make suitable arrangement for the printing of candidate, referendum and municipal election ballots on a single paper ballot or ballot card used in conjunction with electronic voting systems. The Secretary of State may only allow such a combination if he finds that it is in the interest of the election process and that it will not contribute to voter confusion or unreasonable administrative difficulties.

§ 605. Instructions

1. For election officials. The Secretary of State shall provide the clerk, registrar and election officials of each municipality with printed instructions and information to assist them in performing the requirements of this Title.

2. For voters. The Secretary of State shall prepare instruction posters to guide voters in replacing spoiled ballots, 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 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.

§ 606. Materials furnished

Within a reasonable time before any election, the Secretary of State shall furnish each municipality with ballots, specimen ballots, test ballots for electronic voting systems if applicable, instruction posters, election return forms, posters of specimen ballots for constitutional resolutions and statewide referenda, including the Attorney General's explanatory statements prepared under Title 1, section 353, and the summary of the proposal prepared under section 901, subsection 5, 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 furnish each voting place with at least 75 ballots for every 50 votes cast at that voting place at the last election of that type. 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 the number of each kind of material enclosed and the name of the voting place for which it is intended.

2-A. Repealed. Laws 1993, c. 447, § 10, eff. Oct. 13, 1993.

2-B. Repealed. Laws 1993, c. 447, § 11, eff. Oct. 13, 1993.

3. Receipt issued; inspection of ballots in an election.

The clerk shall immediately send the Secretary of State a receipt for the ballots the clerk receives. Upon receipt of a package or box containing ballots for an election, the clerk shall open, in the presence of one or more witnesses, the sealed package or box containing the ballots in order to ensure that the ballots do not differ materially from the appropriate specimen ballot described in section 603. The clerk shall immediately notify the Secretary of State if a ballot differs materially from the appropriate specimen ballot described in section 603.*

3-A. Use of test ballots in an election. Ballots may be used to test automatic tabulating equipment under section 854. 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 throughout the preelection and postelection testing of the tabulating equipment.*

A. Repealed. Laws 1993, c. 447, §13, eff. Oct. 13, 1993.

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.

§ 606-A. Special provisions for out-of-district voters

A voter who registers and votes under section 156 in a municipality outside his representative district, state senatorial district, county commissioner district or county, may vote for the offices of Representative to the Legislature, State Senator or any county office by using a ballot obtained under this section.

1. Clerk to notify. The clerk of a municipality in which

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voters have registered or enrolled under section 156 shall notify the Secretary of State of those registrations and enrollments at least 60 days before any election.

2. Secretary of State to furnish ballots. The Secretary of State shall provide to the clerk at least 75 ballots for every 50 votes cast at that voting place by persons registered or enrolled under section 156 in the last election of that type. These ballots shall contain the names of the nominees or candidates for offices in the electoral divisions in which the voters registered under section 156 reside.

3. Voter to use proper ballot. The election clerk in charge of the ballots at each voting place shall insure that each voter, registered in that municipality under section 156, who resides in a different electoral division obtains and uses the proper ballot provided under this section.

4. How furnished. Ballots provided under this section shall be furnished to voting places in accordance with section 606.

5. County commissioner districts; county referendum. If a township resident registers under section 156 in a municipality outside his county commissioner district, or outside his county in the case of a county referendum, the commissioners of his county shall perform the duties of the Secretary of State under this section and section 752, subsection 1, paragraph B. The clerk of a municipality in which these voters have registered or enrolled under section 156 shall notify the county commissioners of those registrations and enrollments at least 120 days before any election for county commissioner or for the determination of a county referendum question.

§ 607. Official ballot box

An official ballot box is governed by the following provisions.

1. Furnished by Secretary of State. The Secretary of State shall furnish an official ballot box for each voting district.

2. Described. The boxes must be of uniform design. Each box must be equipped with a suitable lock and key. In the top of the box there must be an opening large enough to allow a single, folded ballot to be inserted, and no larger, with a slide device by which the opening may be covered or uncovered. The box must be large enough to receive the ballots deposited in it at any election.

3. Municipality may provide. A municipality may provide ballot boxes at its own expense. Each box may contain a mechanical device for counting and endorsing the ballots deposited in it but it may not be equipped to record any distinguishing mark or number on a ballot. Each box must meet the requirements of this section. Once approved by the Secretary of State, each box becomes an official ballot box.

4. Official ballot box required. Only an official ballot box may be used to receive official ballots cast at any election.

5. Separate ballot box for constitutional amendments and referenda. A municipality having 5,000 or more inhabitants, except where the municipality uses voting machines or electronic voting systems, shall, and a municipality with fewer inhabitants may, by vote of its municipal officers, use separate ballot boxes at elections for the deposit of votes on constitutional amendments and referenda. The municipal officers must notify the Secretary of State of this action at least 60 days before the date of the election at which the separate ballot boxes are to be used. These ballot boxes are subject to all the provisions relating to official ballot boxes under this section. They may be furnished by the Secretary of State at the expense of the municipality.

§ 608. Field examiner

The Secretary of State may appoint a field examiner who shall instruct and assist municipal election officials in their administration of this Title.

Article II Local Officials' Responsibilities

§ 621. Announcing an election

The Secretary of State shall send the warrants to the municipal clerk, who shall present them to the municipal officers. The municipal officers of each municipality shall announce an election as follows.

1. Warrant issued. They shall issue a warrant signed by a majority of the municipal officers and directed personally to a constable or any resident ordering him to announce the election.

2. Warrant posted and return made. The person to whom the warrant is directed shall post an attested copy of it in a conspicuous, public place in each voting district in the municipality at least 7 days immediately before election day. He shall make a return on the warrant stating the manner of announcement and the time it was given and return the warrant to the municipal officers.

3. Warrant recorded. The municipal officers shall then deliver the warrant to the clerk who shall record it.

§ 622. Warrant

The warrant for announcing an election must read substantially as follows.

(Title of election) ELECTION WARRANT

(Name of county), ss.

State of Maine

To (name of constable or resident), a constable (or resident) of (name of municipality): You are hereby required in the name of the State of Maine to notify the voters of this municipality of the election described in this warrant.

To the voters of (name of municipality and voting district, if any):

You are hereby notified that an election will be held at (name of voting place) on (day and date of election) for the purpose of

(nomination or election) to the following offices: (list of offices); and determining the following referendum questions: (list of questions).

The polls shall be opened at ____ a.m. and closed at ____ p.m.

The registrar of voters or board of registration will hold office hours while the polls are open to correct any error in or change a name or address on the voting list; to accept the registration of any person eligible to vote and to accept new enrollments.

A person who is not registered as a voter may not vote in any election. A voter who is not enrolled in a political party may not vote in a primary election.

Dated at (name of municipality),

(date signed).

Majority of municipal officers
of (name of municipality)

§ 623. Officer's return on warrant

The officer's return must appear on the back of the warrant substantially as follows.

OFFICER'S RETURN

(Name of county), ss.

State of Maine

I certify that I have notified the voters of (name of municipality and voting district, if any) of the time and place of the (title of election) election by posting an attested copy of the within

warrant at (place of posting) on (date of posting) which is at least 7 days next prior to election day.

Dated at (name of municipality), (date signed).

(Signature of Officer)

Constable (or resident) of

(name of municipality)

§ 624. Voting lists

1. **Posting of.** The registrar shall post a certified copy of the voting list for each voting district at the usual voting place in that district before the polls are opened on election day. He need not post the list before a special election.

2. **Delivery of.** The registrar shall deliver the necessary number of certified copies of the voting list to the clerk by 5 p.m. on the last business day before election day. The clerk shall give the registrar a receipt for the copies.

§ 625. Posting of specimen ballots

At least 7 days before an election, the clerk shall post a specimen ballot, furnished to him under section 603, in a conspicuous, public place in each voting district.

§ 626. Polling times

The following provisions apply to polling times at any election.

1. **Opening time flexible.** Except in municipalities of population less than 100, the polls must be opened no earlier than 6 a.m. and no later than 9 a.m. on election day; except that in municipalities with a population of less than 4,000, the polls must be opened no later than 10:00 a.m. on election day. The municipal

officers of each municipality shall determine the time of opening the polls within these limits.

2. Closing time fixed. The polls must be closed at 8 p.m. on election day, except in municipalities of population less than 100 which may close the polls after all registered voters have voted.

A. The warden shall give all voters present at the voting place at closing time the opportunity to vote. Any person who arrives at the voting place after the time for closing the polls has passed may not vote.

3. Polling times in warrant. The municipal officers shall state the times of opening and closing the polls in the warrant announcing the election.

§ 627. Arrangement of voting place

The arrangement of a voting place is governed by the following provisions.

1. General layout. The voting place must be arranged so that the ballot box is within view of persons present. Each voting booth must be arranged so that those outside the guardrail enclosure can see who enters and leaves it.

2. Guardrail. A guardrail must be constructed so that only those inside its enclosure can approach within 6 feet of the ballot box and the voting booths.

3. Flag displayed. An American flag must be displayed in each voting place at any election.

4. Size. 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. If the chairman of any party's state committee submits a written complaint to the Secretary

of State at least 30 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, he 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.

§ 628. Care and custody of ballot box

The care and custody of an official ballot box are governed by the following provisions.

1. Custody during election. The ballot box is in the custody of the warden of each voting place during an election. He is responsible for requiring that it is attended constantly. He shall return it to the clerk at the close of the election.

2. Custody at other times. At other times, the ballot box is in the custody of the clerk. He shall keep it in good repair and shall provide safe storage for it at the expense of the municipality, subject to the supervision of the Secretary of State.

3. Defective, lost or destroyed. If a ballot box becomes defective, lost or destroyed, the clerk must apply in writing to the Secretary of State for another. The Secretary of State shall supply a replacement at the expense of the municipality.

§ 629. Voting booths

Voting booths are governed by the following provisions.

1. Provided by municipality. The municipal officers of each municipality shall provide a sufficient number of voting booths for each election. Those municipalities using voting machines must comply with section 811, subsection 4. Those municipalities using voting devices must comply with section 842, subsection 4.

A. In a general election, the municipal officers in each municipality of 4,000 or more population must provide at least one voting booth for each 150, or fraction exceeding 1/2 of that number, of the voters qualified to vote at each voting place. In a municipality of less than 4,000 population, the municipal officers must provide at least one voting booth for each 200, or fraction exceeding 1/2 of that number, of the voters qualified to vote in each voting place.

B. In other than a general election, the municipal officers may provide fewer voting booths than required by paragraph A when circumstances indicate that fewer booths will be adequate to provide for an orderly flow of voters on election day.

C. In any election, the municipal officers may provide more than the number of voting booths required by paragraph A.

D. A reasonable time before a general election, the Secretary of State shall notify the clerk of each municipality of the requirements of this subsection. The clerk shall calculate the number of voting booths required at each voting place based on the number of voters registered at that time. Within 10 days after receiving the notice, the clerk shall certify in writing to the Secretary of State the number of voters registered at each voting place and the number of voting booths the municipality will provide at each voting place for the election.

E. The Secretary of State may arrange for inspections to ensure that municipalities comply with this subsection.

2. Voting machines. In municipalities which have voting machines, the municipal officers must also provide sufficient voting booths and paper ballots to ensure adequate voting facilities.

3. Described. Each booth must have within it a pencil or marker and a shelf on which a voter may mark a ballot

conveniently. An instruction poster provided under section 605 must be securely placed above the shelf to assist the voter. Each booth must have back and side panels large enough to screen the voter from the observation of others.

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 specimen ballot at the clerk's own discretion.*

§ 630. Alternative accessible voting places for the physically handicapped

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

A. "Accessible voting place" means a voting place in a building in which the part of the building set aside for voting meets the requirements for accessible routes of the 1981 standards of construction described in Title 25, chapter 331.

B. "Physical handicap" means an impairment which confines an individual to a wheelchair; causes an individual to walk with difficulty; affects the sight or hearing to the extent that an individual functioning in public areas is insecure or exposed to danger; or causes faulty coordination or reduces mobility, flexibility, coordination and perceptiveness to the extent that special facilities are needed to provide for the safety of that individual.

2. Voting places. Before July 1, 1985, each municipality shall provide at least one voting place which is in a building which is accessible as defined in subsection 1.

A. The Secretary of State shall grant a waiver from the requirements of this subsection to any municipality which

satisfactorily demonstrates that those requirements ought not to apply or would create an extreme hardship. Factors which the Secretary of State may consider in making that determination include, but are not limited to, the following: The municipality has no handicapped voters and the physical limitations of a voting place make it impractical to provide an accessible voting place as described in subsection 1. The Secretary of State shall promulgate in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, rules governing the circumstances and procedures for granting a waiver under this paragraph.

B. In municipalities in which one or more voting places are inaccessible to handicapped voters and in which the office of the clerk is in a building which is accessible as defined in subsection 1, paragraph A, the municipal officers shall designate the office of the clerk as an alternative voting place for physically handicapped voters who reside in voting districts which do not have accessible voting places. In municipalities in which one or more voting places and the office of the clerk are inaccessible to physically handicapped voters and in which one or more voting place is accessible to these voters, the municipal officers shall designate one of these accessible voting places, as centrally located as possible, as the alternative voting place for physically handicapped voters who reside in voting districts which do not have accessible voting places. A physically handicapped voter who wishes to vote at an alternative voting place must notify the clerk of the municipality at least 48 hours before the date of any election. This notice may be waived if an emergency exists. The clerk shall keep a list of the persons who give this notice.

Not later than 10 days before the date of any election, the clerk shall issue a public notice designating the location of the alternative accessible voting place. This notice is not required in any municipality in which all or no voting places are accessible to these persons.

When a physically handicapped voter votes at the office of the

clerk or at an alternative voting place, that voter shall vote by absentee ballot and the method of voting shall be the same as

[Remainder of this page left intentionally blank.]

in section 754-A. If an alternative voting place has been designated, the clerk shall furnish a reasonable number of absentee ballots and return envelopes to the warden. When the clerk or the warden receives such a ballot, the clerk or warden shall follow, as far as applicable, the same procedure prescribed in subchapter IV for the clerk to follow in handling absentee ballots.

3. Alternative paper ballots. At all voting places which are equipped with voting machines, paper ballots must be provided for use by voters who are physically unable to operate a voting machine.

§ 631. Voting districts

A municipality may be divided into voting districts as follows.

1. Procedure. The municipal officers may divide a town or ward into convenient voting districts after public notice and hearing held at least 60 days before any election. After the hearing, the municipal officers must prepare a certificate defining the limits of each district. They must file the certificate with the clerk who shall record it. 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. The clerk shall file an attested copy of the certificate with the Secretary of State. 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 which 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 which is as close as possible to the voting district and as convenient as possible to the voters of the voting district.

2. Division terminates office. The division of a town or

ward terminates the office of election officials previously elected or appointed from it.

3. Appointment of wardens and ward clerks. At least 10 days before the election, the municipal officers shall appoint a warden, a ward clerk in a city and at least 2 election clerks for each voting place created by the division. Election clerks must be nominated as provided in section 503.

4. Officials sworn. Before assuming the duties of office, the officials appointed under this section must be sworn by the clerk who shall record the fact of their having been sworn.

5. Term and duties. The appointed election officials shall perform the same duties at elections as those regularly chosen and shall hold office for the same term.

§ 632. Separate voting places; reimbursement of election expense

1. Voting places in unorganized townships. The procedure for establishing a voting place in unorganized townships is as follows.

A. The commissioners of each county may provide or contract with a municipality to provide a voting place in any unorganized township in their county, for all state and national elections, including primary elections, where all residents of unorganized places entitled to vote in municipalities near the township, under section 156, may cast their ballots under conditions provided in this section.

B. The commissioner or the municipal officers of the contracting municipality shall prepare a separate list of these voters and shall select at least 2 ballot clerks from the inhabitants of the township, representing the respective major political parties and shall select a warden who may be a resident of the township.

C. The conduct of elections at that voting place shall be the same as in municipalities and all provisions of the Revised Statutes with respect to voting districts are applicable to that voting place. The powers and duties of the municipal officers in such case are conferred upon the commissioners or the municipal officers of the contracting municipality.

D. Upon receipt of a petition signed by at least 10 persons qualified to vote under section 156, the commissioners shall provide or contract with a municipality to provide a voting place in the unorganized township provided in the petition.

2. **Reimbursement of election expense.** The county commissioners shall reimburse the municipality for those expenses incurred in the conduct of elections held under this section.

3. **Notice to Secretary of State.** The county commissioners shall notify the Secretary of State of all unorganized territories for which voting places are contracted or provided. They shall also notify the Secretary of State of those unorganized territories for which provision of voting places has been discontinued. Notification must be made at least 120 days before the election in which it will be effective.

§ 633. Election expenses

Except for the added expenses incurred by a municipality under section 632, each municipality shall pay for the expense it incurs in calling, holding and reporting the results of an election. The State shall pay for other election expenses incurred as a result of the performance by state officials of their duties under this Title.

SUBCHAPTER II ELECTION PROCEDURE

Article I Materials

§ 651. Furnishing and distribution

The following procedure shall be observed on election day.

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.

A. In a municipality which 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.

2. Election materials distributed and posted. At any time after the materials are received and before the polls are open, the clerk may open the packages or boxes of election materials, break the seals on the packages not marked "ballots," and use the materials for instructional purposes. Then the clerk or the clerk's designated agents shall post an adequate number of instruction posters, posters of specimen ballots for constitutional resolutions and statewide referenda, including the Attorney General's explanatory statements prepared under Title 1, section 353, materials setting out the full text of constitutional resolutions and statewide referenda, and specimen ballots in the voting room outside the guardrail enclosure.

2-A. Testing electronic voting systems. The clerk may break the seals on packages marked test ballots before election day in accordance with the provisions in section 606, subsection 3-A and use them to meet the requirements of section 854.

2-B. Opening of ballot packages. When the polls are opened, or no more than 1/2 hour before the opening of the polls, the warden shall break the seals on the packages containing the ballots and distribute the ballots to the election clerks in charge of them. The breaking of the seals on the packages containing the ballots is a public proceeding and any member of the public may be present.

3. Ballot box examined. The warden shall then open the official ballot box, examine it and show publicly that it is empty. Immediately after examination, he shall lock the box and deliver the key to the ward clerk who shall keep it until the polls are closed. After the box has been locked, it may not be moved until the polls are closed.

4. Voting starts. As soon as the duties required by subsections 1 to 3 have been performed, the warden shall permit voting to start.

§ 652. Certified voting list and official ballot box

The certified copies of the voting list provided by the registrar and official ballot boxes shall be used exclusively at each voting place. If it becomes impossible to use the official ballot box, the warden shall direct the method by which voting is to proceed. The ward clerk shall record the reason why the ballot box was not used and shall place an attested copy of this record in the package with the ballots cast.

**Article II
Powers and Duties of Officials**

§ 661. Registrar

The registrar shall hold office hours as long as the polls are open on any election day for the following purposes.

1. Error in voting list. The registrar shall correct any error in the voting list which might otherwise deprive a voter of his franchise.

A. A voter who is prevented from voting because his name or address does not appear correctly on the voting list may request the registrar to correct it.

B. If the name or address of the voter was omitted by error from or placed incorrectly on the voting list, the

registrar shall issue a certificate to him containing his correct name and address and directed to the warden of his voting place. The registrar shall correct the name and address on the voting list.

C. On receipt of the certificate, the warden shall allow the person named in it to vote, check his name on the certificate as having voted and attach the certificate securely to the incoming voting list.

2. Change of name or address. The registrar shall change a name or address on the voting list.

A. A voter whose name or address has changed as provided in section 129 may request the registrar to change it on the voting list.

B. The registrar shall issue a certificate to him and he may vote as provided in subsection 1.

3. Registration and enrollment. The registrar shall accept registrations under section 122. He shall accept the enrollment of any voter under section 143.

§ 662. Warden

A warden has the following powers and duties.

1. Enforcement of election law. He shall enforce the law governing voting and counting procedures at the voting place over which he has jurisdiction on election day.

2. Order at voting place. He shall keep order at all times in and around the voting place. He shall direct that any person who creates a disturbance or otherwise violates the law at the voting place be removed from it and, if necessary, confined until the polls are closed.

A. On request of the warden, a peace officer shall

remove, confine or arrest a person who creates a disturbance or otherwise violates the law at a voting place.

3. Control of election clerk. The election clerks at the voting place are under the supervision and control of the warden. He may assign their duties for convenience and efficiency and may delegate his ministerial duties to them.

4. Collection of signatures. The warden may select and designate a specific location at the voting place, accessible and observable by the voters, where the collection of signatures may take place. The warden may limit the number of persons collecting signatures to one for each specific question, candidate or issue. Persons collecting signatures may not solicit a voter's signature until the voter has completed voting. The warden may direct the removal, under subsection 2, paragraph A, of any person collecting signatures who does not comply with the requirements of this subsection.

Article III

Voting and Challenges

§ 671. Voting procedure

The voting procedure is as follows.

1. Name announced. A voter who wishes to vote must state his name and, upon request, street address to an election clerk who shall announce the name in a loud, clear voice.

2. Enters guardrail enclosure. The election clerk in charge of the incoming voting list shall place a check mark on the list beside the voter's name and allow him to enter the area enclosed by the guardrail.

3. Ballot issued. The election clerk in charge of the ballots shall give the voter one ballot of each kind to which he is entitled.

4. Retires to voting booth. After receiving his ballot, the voter shall retire to a voting booth, mark his ballot without delay, fold it the same as it was when he received it and leave the voting booth. No ballot, marked or unmarked, may be left in the voting booth by the voter.

5. Ballot deposited. When he 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. He may not leave the guardrail enclosure until he has deposited his ballot.

A. If, by vote of the municipal officials, a municipality has required the use of a outgoing voting list, the voter must announce his name and, upon request, street address to the election clerk in charge of that list before depositing the ballots in the ballot box.

6. Reentry prohibited. A voter who has once left the area enclosed by the guardrail may not reenter.

7. Ballot box opening covered. The election clerk in charge of the ballot box shall keep the opening covered except when receiving a ballot.

§ 672. Assistance

A voter who is unable to read or mark his 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 or marking the ballot.

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.

§ 673. Challenges

A voter of any municipality may challenge the right of another to vote at any election in that municipality.

1. How made. The challenge must be made to the warden. The challenger must state the challenger's name, the name of the voter challenged and the reason for the challenge.

A. 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 is not:
 - (a)** At least 18 years of age;
 - (b)** A citizen of the United States; or
 - (c)** A resident of the municipality or appropriate electoral district within the municipality;
- (4)** Did not properly apply for an absentee ballot;
- (5)** Is not a qualified absentee voter as prescribed by section 751;
- (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; or

(11) Committed any other specified violation of this Title.

2. Voting list marked. As soon as the challenge has been made, the election clerk in charge of the incoming voting list shall write "Challenged" beside the voter's name on the list, and give a ballot to the warden.

3. Ballot marked. The warden shall write a number on the outside of the ballot. The warden shall also complete a certificate on which appears the word "Challenged," the name of the voter challenged and the reason for the challenge over his signature. The challenger shall also sign the certificate. After the challenger has signed the certificate, the warden shall place the number which was written on the ballot in a conspicuous place on the certificate. No one other than the warden may know the ballot number. The warden shall place the challenge certificate in an envelope marked "Challenge Certificate # (certificate number)" and shall retain the envelope until it is sealed with the ballot materials pursuant to section 698.

4. Proceed to vote. The challenged voter shall then proceed to vote in the usual way using the marked ballot.

§ 674. Violations and penalties

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Article IV Restrictions

§ 681. Positions at polling place

The guardrail area is governed by the following provisions.

1. **Within the guardrail enclosure.** The clerk, election officials and not more than 2 voters in excess of the number of voting booths may be within the guardrail enclosure. The warden may permit peace officers to be within the enclosure to enforce the law. All other persons must remain outside of the enclosure.

2. **Limited time within guardrail enclosure or voting machine.** A voter may not remain within the guardrail enclosure for more than 10 minutes and may not occupy a voting booth or voting machine for more than 5 minutes.

3. **Voting booth.** Except as provided in paragraphs A and B, no one may enter a voting booth with a voter.

A. If the voter requests assistance under section 672, a proper election official or aide may enter the voting booth with the voter.

B. If a voter is accompanied by a child of 12 years of age or younger, the child may enter the voting booth with the voter.

4. Outside the guardrail enclosure. Party workers and others 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 person attempts to influence voters or interfere with their free passage, the warden shall have him removed from the voting place.

§ 682. Political activities

Certain activity is prohibited on election day.

1. Instruction limited. Within the voting place, no person may instruct another in the method of marking his ballot, except as provided in section 672.

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.

3. Advertising prohibited. A person may not display any advertising material, operate any advertising medium, including a sound amplification device, or distribute campaign literature, posters, palm cards, buttons or stickers intended to influence the opinion of any voter within 250 feet of the entrance to either the voting place or the registrar's office. The term "sound amplification device" includes, but is not limited to, sound trucks, loudspeakers and blowhorns.

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

A. This subsection does not apply to advertising material

on automobiles traveling to and from the voting place. It does not prohibit a person from passing out stickers at the voting place to be pasted on the ballot at a primary election. It does not prohibit a person who is at the polls solely for the purpose of voting from wearing a campaign button when the longest dimension of the button does not exceed 3 inches.

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

Article V

Marking, Counting and Handling of Ballots

§ 691. Marking ballots; primary election

A voter shall mark the ballot at a primary election as instructed in the directions on the ballot.

1. Individual candidate method. The voter must mark the ballot as instructed in the directions on the ballot to indicate the name of each candidate for nomination for whom the voter wishes to vote.

2. Write-in vote. If the voter wishes to vote for a person whose name is not on the ballot, 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. The voter must then mark the ballot as instructed in the directions on the ballot to indicate a vote for the write-in candidate.

§ 692. General election

A voter shall mark the ballot at a general election as instructed in the directions on the ballot.

1. Individual candidate method. The voter must mark the ballot as instructed in the directions on the ballot to indicate a vote for the name of each nominee for whom the voter wishes to

vote, regardless of political designation, but must follow directions as to the number of nominees to be elected to each office.

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

3. Referendum question. In voting on a referendum question, the voter shall mark the ballot as instructed in the directions on the ballot.

§ 693. Spoiled ballots

If a voter spoils his ballot, he may obtain a replacement, not more than twice, by returning the spoiled ballot to the election clerk in charge of issuing ballots. The warden or ward clerk shall mark "Spoiled by voter" on the outside of the spoiled ballot, sign it and keep it segregated from the other ballots. If a replacement ballot is issued to the voter, the warden or ward clerk must indicate that fact on the outside of the spoiled ballot.

§ 694. Voting list signed

The warden and one election clerk from each party shall sign the incoming voting list as soon as the names of all persons who have voted, including persons who have voted by absentee ballot, have been checked off.

§ 695. Counting of ballots

The election officials shall count the ballots under the supervision of the warden as soon as the polls are closed, except that if, in the opinion of the municipal clerk the public interests will best be served, referendum ballots may be counted on the day immediately following the election, provided that the count is completed within 24 hours after the polls are closed. If referendum

ballots are counted under this exception, the municipal clerk is responsible for the security and safekeeping of the ballots until the count has been completed.

1. **Counted in public.** The ballots must be counted publicly so that those present may observe the proceedings.

2. **Separated into lots.** In counting the ballots, the election clerks shall separate them into distinct lots. Each of these lots must consist of 50 ballots, except for one lot, which may have less than 50 ballots. They shall place with each lot a statement of the count in that lot and the names of the election clerks who made the count. They shall wrap the statement of the count around the outside of each lot of ballots.

3. **Results declared.** As soon as the ballots are counted, the warden shall declare the results publicly at the voting place.

4. **Instructions.** The Secretary of State may issue to each warden instructions on opening the ballot boxes, separating various types of ballots and giving priority in counting various types of ballots.

5. **Uniformity.** The Secretary of State shall design and print uniform tabulation sheets to be used by the workers at the polls. The Secretary of State shall write, print and distribute to wardens instructions on the use of that material and require the use of a uniform system of counting and tabulation.

§ 696. Challenged, defective or void ballots

The counting of ballots is governed by the following provisions.

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

If the challenged ballot affects the result of an election, the envelope containing the challenge certificate must be submitted to the Supreme Judicial Court and its validity must be determined, except when final determination of the election of a candidate is governed by the United States Constitution. The challenge certificate must be in a form the Secretary of State establishes by rule.

2. Defective ballot. A ballot held to be defective by the warden or ward clerk shall not be counted for the office, candidate or question affected by the defect, as follows.

A. If a voter marks more names for an office than there are vacancies to be filled, his vote for that office shall not be counted.

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

C. If a voter marks a write-in square for an office, but does not write in a name and municipality of residence in the blank space provided to the right of the write-in square, that vote for that office shall not be counted.

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

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

F. The warden or ward clerk shall mark "Defective" on the outside of the defective ballot, the reason for the ballot to have been held defective, the office, candidate or question for which it is defective and shall replace the ballot with the other ballots, to be counted for other offices or questions.

3. Void ballots. A ballot held to be void by the warden or ward clerk shall not be counted.

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

B. The warden or ward clerk shall mark "void" on the outside of the void ballot, the reason for the ballot to have been voided and shall keep it segregated from the other ballots.

4. Determination of choice possible. If a voter marks his ballot in a manner which differs from the instructions at the top of the ballot but in such a manner that it is possible to determine the voter's choice, then the vote for the office or question concerned shall be counted. A mark made on or in the square which differs from the instructions at the top of the ballot but which clearly indicates the voter's choice is not a distinguishing mark.

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

§ 697. Disqualification of ballots

Any election official, ballot clerk, assistant ballot clerk or any person employed as a counter of ballots must use pens or pencils containing only red ink or red lead.

§ 698. Packaging and return of ballots and lists

As soon as the election return has been prepared, the election officials shall perform the following duties.

1. Ballots packed. The election clerks shall pack each lot of used ballots and the tabulation of the count in that lot in a sealed package. Referendum ballots must be packaged separately.

A. Each package must be marked substantially as follows: "This package contains ballots cast at the (title of election) election held in (name of voting district and municipality) on (date of election). These ballots were counted, declared, recorded and packaged publicly in accordance with the Maine Revised Statutes, Title 21-A, section 698." This statement must be signed by the warden and the ward clerk.

2. Repealed. Laws 1993, c. 473, § 24 eff. January 1, 1994.

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

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

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

2-B. Unused ballots placed in containers. At the close of the polls, all unused, unsealed absentee and regular ballots must be voided by a physical mark unless all voted ballots have been validated in the course of the election. All sealed ballots must remain sealed and be wrapped with tamper-proof tape. All unused ballots, including both the unsealed and the sealed ballots, must be placed in the containers in which the regular ballots were delivered.

The containers containing the unused ballots must be clearly marked to indicate that the containers contain unused ballots. These ballots must be stored separately from the used ballots.

3. Lists packed separately. The election clerks shall seal the copies of the incoming voting list in a separate package outside the containers of ballots.

4. Ballots and lists returned. The warden shall deliver the ballots and lists to the clerk within 24 hours after the polls have closed.

5. Two or more voting districts. In municipalities having 2 or more voting districts where absentee ballots are counted at a place other than the voting district, all absentee ballots, applications and envelopes may be packed together in the same container, which shall then be sealed publicly.

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

6. Ballot security. The municipal clerk shall take appropriate security measures to ensure the safety and protection of all ballots.

§ 699. Sealing of ballot container

When a container is required to be sealed, it shall be done so that the seal on the container must be broken before its contents can be examined.

Article VI Returns

§ 711. Preparation of returns

As soon as the results of the election have been declared, the

election return must be prepared.

1. **Town.** In a town which has one voting district, the clerk shall fill out in duplicate the election return form provided by the Secretary of State, showing the number of votes cast for each candidate or question. He must sign the return, have it attested by the warden and immediately send the duplicate copy to the Secretary of State.

2. **City or multi-district town.** In a city, or in a town that has more than one voting district, the ward clerk 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 ward clerk must sign the return, have it attested by the warden and immediately deliver it to the municipal clerk. The municipal clerk shall tabulate the returns in duplicate on the election return provided by the Secretary of State. The clerk shall sign the return and immediately send the duplicate copy to the Secretary of State.

3. **Clerk to record.** The clerk shall record the original election return within 3 days after election day.

§ 712. Return not delivered

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

SUBCHAPTER III POST ELECTION PROCEDURE

Article I Tabulation and Results

§ 721. Reports of registration and enrollment

Within 20 days after a primary or general election, the registrar shall send a report to the Secretary of State stating the

number of voters in each voting district of the municipality and the number of voters enrolled in each political party in each voting district of the municipality at the close of the polls on election day.

§ 722. Secretary of State to tabulate and print results

Within 20 days after an election, the Secretary of State shall tabulate the election returns and submit the tabulation to the Governor.

1. **How tabulated.** The Secretary of State shall tabulate all votes that appear by an election return to have been cast for a candidate, even though the candidate's name is misspelled, written with the candidate's initials, with wrong initials, or otherwise, on the return. All candidates receiving less than 1% of the votes cast for that office must be titled "others" when the tabulation is processed.*

2. **Correction of return.** If it appears that an election return does not agree with the record of the vote at any voting place, the Secretary of State shall correct the tabulation by obtaining a certified copy of the record from the clerk.

3. **Tabulation printed.** The Secretary of State shall have copies of the tabulation printed and made available to the public.

§ 723. Determination of election

The determination of an election or referendum question is governed by the following provisions.

1. **Primary election.** In a primary election, the person who receives a plurality of the votes cast for nomination to any office is nominated for that office, except for write-in candidates under paragraph A.

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

[Remainder of this page left intentionally blank.]

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.

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

2. **Other elections.** In any other election, the person who receives a plurality of the votes cast for election to any office is elected to that office.

3. **More than one vacancy.** In any election, if there is more than one vacancy in an office, as many persons are nominated or elected as there are vacancies to be filled in decreasing order of the plurality of votes received by them.

4. **Referendum question.** A referendum question is determined by majority vote.

§ 724. Election certificate issued

Within a reasonable time after an election, the Governor shall issue an election certificate, in accordance with Title 5, section 84, or a notice of apparent election to each person elected to office, according to the tabulation under section 722. The Governor may

not issue a certificate while the election is contested before the court. If the court finds that a candidate has been apparently elected, the court shall immediately notify the Governor of that apparent election. The Governor shall issue a notice of apparent election to the person apparently elected, according to the findings of the court.

1. Ineligible person. The Governor shall not issue an election certificate to a person who is ineligible for the office.

§ 724-A. Written notice to Legislature

At the time the Governor publicly proclaims the result of the vote on any measure referred to the people for approval under the Constitution of Maine, Article IV, Part Third, Section 17 or 18, he shall also provide written notice of the result of that vote to the President of the Senate, the Speaker of the House and the Revisor of Statutes.

§ 725. Commencement of term of office

County officials elected at the general election take office on January 1st directly following election day. The terms of other officials commence on the day provided in the Constitution of the State of Maine or the Constitution of the United States.

**Article II
Tie Votes**

§ 731. Tie defined

There is a tie vote when 2 or more persons receive an equal number of votes, which number would entitle each one to nomination or election, except for the tie. There is a tie vote in a referendum, when a question receives an equal number of affirmative and negative votes.

§ 732. Procedure

When there is a tie vote, the following provisions apply.

1. Primary election. In a primary election, the Secretary of State shall notify each person involved in the tie to be present at his office at a certain time. At that time, the Secretary of State shall select the nominee publicly by lot.

2. Other elections. In any other election, the Governor shall issue a proclamation under section 366 declaring the tie and ordering a special election between the persons tied.

A. If there is a tie vote for presidential electors, the Governor shall convene the Legislature by proclamation. The Legislature by joint ballot of the members assembled in convention shall determine which are elected.

B. This subsection does not apply to the election of the following offices which are governed by the Constitution of the State of Maine or the Constitution of the United States: United States Senator, Representative to Congress, Governor and members of the Legislature.

C. If there is a tie vote for State Senator or Representative to the Legislature as finally determined by the proper House under the Constitution of Maine, Article IV, Part Third, Section 3, the Governor shall issue a proclamation under section 366 declaring the tie and ordering a special election between the persons tied.

3. Referendum. In a referendum, other than on a liquor local option question, the negative vote prevails.

Article III

Inspection and Recount

§ 736. Repealed. Laws 1993, c. 473, § 29 eff. January 1, 1994.

§ 737. Repealed. Laws 1993, c. 473, § 30 eff. January 1, 1994.

§ 737-A. Recount

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7. Disputed ballots segregated. At the recount, the Secretary of State shall segregate disputed ballots. Disputed ballots that are not resolved must be photocopied by a representative of the

Secretary of State. The photocopy of the ballot is not a public record and must be kept separate from the original ballots.

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

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

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

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

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

11. Withdrawal from recount. A candidate who requests and receives a recount may withdraw from the recount at any time while the recount shows that candidate to be the loser. If, during the recount, the candidate requesting the recount overtakes and passes the candidate who initially appeared to win the election, the

candidate requesting the recount may not withdraw the request and the recount must be completed.

§ 738. Statewide referendum ballots

On petition signed by 100 or more affected voters, a recount may be held on any referendum question by applying to the Secretary of State within the deadline provided in section 737-A. A deposit is required if the percentage difference between the yes and no votes falls within the requirements of section 737-A, subsection 1. Appeal of challenged or disputed ballots is to the Supreme Judicial Court.

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

§ 739. Ballots and incoming voting lists available for inspection

On request, a municipal clerk or the Secretary of State, or both, shall produce any ballots or incoming voting lists in their custody before the Governor, either branch of the Legislature, any legislative committee or a court of competent jurisdiction.

After the time for completion of recounts following any election has elapsed, and on request of any person, the clerk of any municipality or the Secretary of State, or both, shall produce any incoming voting lists in his custody.

**Article IV
Determination of Disputed Elections**

§ 741. Repealed. Laws 1993, c. 473, § 34 eff. January 1, 1994.

§ 742. Repealed. Laws 1993, c. 473, § 34 eff. January 1, 1994.

- § 743. Repealed. Laws 1993, c. 473, § 34 eff. January 1, 1994.
- § 744. Repealed. Laws 1993, c. 473, § 34 eff. January 1, 1994.
- § 745. Repealed. Laws 1993, c. 473, § 34 eff. January 1, 1994.
- § 746. Repealed. Laws 1993, c. 473, § 34 eff. January 1, 1994.

SUBCHAPTER IV ABSENTEE VOTING

Article I Regular Absentee Voting

- § 751. Proper at any election

Absentee ballots may be cast at any election by a voter who is unable to cast his ballot for one of the following reasons:

1. **Absence.** Absence from the municipality during the time the polls are open on election day;
2. **Incapacity.** Physical incapacity;
3. **Religious belief.** Religious belief which prohibits his doing so;
4. **Confinement.** Confinement in a penal institution;
5. **Distance from polls.** Unreasonable distance from the polls, if he is a resident of a township or a coastal island ward or district;
6. **Repealed.** Laws 1985, c. 357, § 6.*

applicant is or desires to be enrolled. It must contain a conspicuously printed summary warning of the provisions of Title 17-A, section 703.

3. Form of envelope. The return envelope in which the absentee ballot is placed must include on its outside a conspicuously printed summary warning to the voter of the provisions of section 791, subsection 1, paragraph C and Title 17-A, section 703. The envelope must also include an affidavit to be signed by the voter and a certification to be completed and signed by an aide who assists a voter under section 754-A, subsection 3.

4. Delivery of materials; insufficient quantity. The Secretary of State shall send the voting materials to the clerk of each municipality. If the clerk believes that a larger number should be furnished, he must notify the Secretary of State who shall furnish them as promptly as possible.

§ 753. Procedure for obtaining

The following procedure must be observed in obtaining an absentee ballot.

1. Applications available. On request, the clerk shall furnish a reasonable number of ballot applications to any person, except that no application shall be furnished more than 3 months before the election for which the application will be used. Each application must have the date of the election for which it is to be used plainly printed on the face of the application.

2. Applications by voters outside the State. If a voter is temporarily outside the State, a written request for an absentee ballot from the voter, the voter's spouse, a blood relative of the voter or the voter's former guardian is sufficient.

2-A. Request by telephone. The clerk may issue a ballot to a voter without receiving an application by the following procedures.

A. A voter may request a ballot from the clerk by telephone.

B. The clerk shall ask the voter for the information required on the application and shall fill in the application with that information, except the voter's signature and shall write "telephone request" on the application.

C. The clerk shall verify that it is the voter who is requesting the ballot by making the voter confirm the voter's residence and birthdate on the general register of voters.

D. The clerk shall mail the ballot to the voter at the mailing address requested by the voter.

If a municipal election is to be held on the same date as a statewide election, absentee ballots for the municipal and statewide election may be issued in response to the same application.

3. Application or request received. On receipt of a completed application or a request for an absentee ballot signed by the applicant, the clerk may immediately send or deliver an absentee ballot and return envelope to the applicant or to a 3rd person designated in the application or request. The clerk may not deliver an absentee ballot to any 3rd person whose name appears on an absentee ballot. The clerk may not deliver to a 3rd person any absentee ballot requested under subsection 2-A. If a municipal election is to be held on the same date as a statewide election, absentee ballots for the municipal and statewide election may be issued in response to the same application. The clerk shall issue to any 3rd person designated in an application or request only enough absentee ballots to insure that that person will not have more than 10 absentee ballots for voters in a municipality at any time. A 3rd person must, unless good cause is shown, return an absentee ballot to the clerk's office within the time limits provided in section 755. The clerk shall include a ballot application to be completed by the person who signed only a written request, unless the written request is sufficient under subsection 2. The clerk shall type or write in ink the name and the legal address of the person for whom the absentee

ballot is intended in the upper left hand section of all return envelopes.

A. If the clerk receives a duplicate application from a person from whom the clerk has received a return envelope apparently containing an absentee ballot, the clerk may not furnish another absentee ballot for that person.

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

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

(2) An absentee ballot for the applicant that was furnished to a designated 3rd person is not returned to the clerk's office within 2 business days of the date that ballot was sent or delivered to the 3rd person or the date that 3rd person was notified by the clerk that the ballot was available, or by 10 a.m. on the day before election day, whichever is earlier. If a ballot for an applicant is not returned to the clerk within 2 days of notification, the clerk shall mail a ballot to that applicant on the 3rd day after notification and may issue no other ballot to the applicant except for good cause as provided in this subsection. This subparagraph does not affect the time for delivery of absentee ballots under section 755.

3-A. Alternate method of balloting by residents of licensed nursing homes, licensed boarding homes or certified congregate housing units. The municipal clerk shall designate one or more times during the 30-day period prior to an election during which the municipal clerk must be present in any licensed nursing home, as defined in Title 22, chapter 405; licensed boarding home, as defined in Title 22, chapter 1665; or certified congregate housing unit, as defined in Title 22, chapter 1457-A, for the purpose of

absentee balloting by the residents of these homes or units. The clerk shall designate which areas in these facilities constitute the voting place, the voting booth and the guardrail enclosure. Sections 681 and 682 apply to voting in these facilities within the areas designated by the clerk.

4. Assistance to certain voters. A voter who is unable to read or complete his application because of his 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 him in completing the application. That aide may read the application to the voter or sign it, or both, according to the voter's instructions, or may assist him in signing the application. When an aide assists a voter in this way, the aide must write on the application that he has so assisted the voter in signing the application, the reason the voter was unable to complete or sign the application, or both, and must sign his name.

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

The clerk shall keep a list of the 3rd persons, designated in applications or requests, to whom absentee ballots are sent or delivered under subsection 3 and of the number of absentee ballots sent or delivered to these persons.

6. Registration verified. If the applicant is registered and enrolled where necessary, the ballot must be sent to the applicant. If the applicant has registered and enrolled where necessary, under section 155, and will attain 18 years of age on or before the date of the election, the registrar or municipal clerk shall so certify on the application. If not, the registrar or municipal clerk shall write "Not registered" or "Not enrolled" on the face of the application and sign the registrar's or municipal clerk's name.*

7. Absentee voting in presence of clerk. A person who wishes to vote by absentee ballot because he will not be present in the municipality or able to vote in person at the voting place on election day may, without completing an application, vote by absentee ballot in the presence of the clerk. The method of voting shall otherwise be as prescribed in this Article. After the person has voted, the clerk shall determine whether the affidavit on the return envelope is properly completed.

8. Denial of application. Whenever an application for an absentee ballot is denied, the municipal clerk shall immediately notify the applicant in writing of the reason for the denial.

§ 754. Repealed. Laws 1985, c. 357, § 11.

§ 754-A. Method of voting

Except as provided in section 753, subsection 7, the method of voting by absentee ballot is as follows.

1. Ballot delivered by mail and returned by mail. When a voter obtains his ballot from the clerk by mail and returns his ballot to the clerk by mail and he receives no assistance in marking his ballot, the following procedures apply.

A. The voter must mark his ballot according to section 691 or 692 so that it is impossible for anyone present at the time to see how he voted.

B. While the voter is marking the ballot, there may be no communication between the voter and any other individual as to the person or question for which the voter is to vote.

C. After the voter has completed marking his ballot, he must then seal the ballot in its return envelope and complete the affidavit on the envelope. No notary or witness certification is required.

D. The voter must then complete the address on the

envelope and mail it to the clerk of the municipality of which he is a resident. He must send a completed application, if necessary, in a separate envelope.

2. Ballot delivered by 3rd person or returned by 3rd person. When a ballot is delivered to the voter by a person other than the clerk, or is returned to the clerk by a person other than the voter and the voter receives no assistance in marking his ballot, the following procedures apply.

A. The voter must mark his ballot in the presence of the following witness or witnesses: One notary public, clerk of a municipality, clerk of courts or 2 other individuals. The voter, before marking his ballot, must show it to the witness or witnesses who must examine it to be certain it is unmarked.

B. While the voter is marking the ballot, there may be no communication between the voter and any other individual as to the person or question for which the voter is to vote.

C. The voter must mark his ballot according to section 691 or 692 so that it is impossible for anyone present at the time to see how he voted. The voter must then seal the ballot in its return envelope and complete the affidavit on the envelope in the presence of the witness or witnesses, who shall sign the witness certification.

D. The voter must then complete the address on the envelope and mail or deliver it personally or by agent to the clerk of the municipality of which he is a resident. He must send a completed application, if necessary, in a separate envelope.

3. Assistance in reading or marking ballot. A voter who is unable to read or mark his ballot because of his physical disability, illiteracy, or religious faith must vote according to the

procedures in this subsection instead of the procedures in subsection 1 or 2.

A. A voter who needs assistance 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 or marking the ballot.

B. The voter or the aide must mark the ballot in the presence of one of the following witnesses: Notary public, clerk of a municipality, clerk of courts or another individual.

C. The voter or the aide, before marking the ballot, must show it to the witness who must examine it to be certain it is unmarked.

D. While the voter or the aide is marking the ballot, there may be no communication between the voter and any individual, other than the aide who must mark the ballot as the voter indicates, as to the person or question for which the voter is to vote.

E. The voter or the aide must mark the ballot according to section 691 or 692 so that it is impossible for anyone else present to see how the voter voted, then seal the ballot in its return envelope. The voter, or the aide at the voter's request, shall complete and sign the affidavit in the presence of the witness, who shall sign the witness certification. The aide must complete and sign the certification for aides on the outside of the envelope.

F. The voter or the aide must then complete the address on the envelope and mail or deliver it personally or by agent to the clerk of the municipality of which the voter is a resident. The voter must send a completed application, if necessary, in a separate envelope.

§ 755. Deadline

In order to be valid, an absentee ballot must be delivered to the municipal clerk at any time before the polls are closed.

§ 756. Procedure on receipt

When the clerk receives a return envelope apparently containing an absentee ballot, he shall observe the following procedures.

1. Time of receipt noted. He shall note the date and time of delivery on each return envelope. On request, he shall give the person who delivers the ballot a receipt, stating the exact time of delivery.

2. Clerk to examine signatures and affidavit. He shall compare the signature of the voter on the application, where required, with that on the corresponding return envelope. He shall examine the affidavit on the return envelope. If the signatures appear to have been made by the same person and if the affidavit is properly completed, he shall write "OK" and his initials on the return envelope. Otherwise, he shall note any discrepancy on the return envelope.

A. If the signatures do not appear to have been made by the same person, but this discrepancy is apparently the result of the voter's having properly obtained assistance under either section 753, subsection 4, or section 754-A, subsection 3, or both, then the clerk shall note the discrepancy on the return envelope, but shall also write "OK" and his initials on the return envelope.

3. Application attached. The clerk shall attach each application, where required, to the corresponding envelope. He shall not open any return envelope.

4. Lists prepared. The clerk shall prepare, in duplicate, lists by districts of the names and addresses of the voters as shown on the return envelopes. He shall maintain a copy for a period of 2 years as a public record.

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 required, attached and the list required by subsection 4 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.

§ 757. Challenges

An absentee ballot may be challenged the same as a regular ballot under section 673.

§ 758. Repealed. Laws 1991, c. 466, § 30.

§ 759. Counting procedure

The following counting procedure must be observed at each voting place, except those voting places that use electronic voting systems. Counting procedures for electronic voting systems are described in section 858-A.

1. Warden to review notes of clerk. Unless a request to inspect applications and envelopes is made pursuant to subsection 8, the warden shall review the notes of the clerk on each return envelope as soon as the polls are closed and the regular ballots removed from the ballot box.

2. Deposited in ballot box 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, the warden shall deposit the ballot in the ballot box.

3. Rejected if incorrect. The warden shall not open the envelope and shall write "Rejected" on it, the reason why and his initials if he finds that:

A. The signatures do not appear to have been made by the same person and the discrepancy is not the result of the voter's having obtained assistance under section 753, subsection 4 or section 754-A, subsection 3, in cases where an application is required;

B. The affidavit is not properly completed;

C. The person is not registered or enrolled where necessary;

D. The voter has voted in person; or

E. The ballot was received by the clerk after the deadline.

4. Primary election provisions. At a primary election when the warden removes a ballot from its envelope, he 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 shall immediately replace it in its envelope, reseal the envelope and write "Rejected" on it, the reason why and his initials.

5. Rejected ballots separate. The warden shall place the return envelopes containing rejected ballots in a separate lot. He shall not deposit them in the ballot box.

6. Ballots counted. As soon as the absentee ballots have been processed, they shall be removed from the ballot box and counted the same as regular ballots. Rejected ballots shall not be counted.

7. Processing before close of polls. A notice signed by the municipal officers must be posted at least 7 days before election day in the same manner as posting the warrant under section 621, stating each specific time that the clerk intends to begin processing absentee ballots on election day. The warden may review the notes of the clerk on each return envelope and deposit the absentee ballots into the ballot box before the close of the polls. The clerk shall notify the chairs of each political party of the municipality, in writing, that this procedure is to occur. If the clerk is unable to notify the chair of the municipal political party, the clerk shall notify the chair of the county or state political party.*

8. Inspection after polls close. If a candidate or that candidate's representative notifies the warden before 8:00 p.m. that the candidate wishes to inspect absentee ballot applications and envelopes after the polls close, the warden shall allow the candidate to inspect the applications and envelopes of ballots that have not yet been deposited into the ballot box for 30 minutes after the polls close.*

§ 760. Procedures when counting to be by the clerk

The following procedure shall be used when the municipal officers have voted to have the clerk process the absentee ballots.

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

2. Ballot boxes provided. The municipality shall provide a ballot box with a padlock to be used by the clerk in all primary, regular and special state elections. If the same procedure is to be used in municipal elections, the clerk must be provided with a separate ballot box and padlock for each voting district.

3. Incoming voting list to clerk. Except as provided in paragraph A, as soon as the polls are closed, the ward clerk shall fold, wrap and seal the incoming voting list. This package shall be signed on one of the seals holding the package together by the warden and ward clerk. A ballot clerk or counter shall take the incoming voting list to the designated counting place. The clerk shall select these persons before the election so that the total number from the voting districts is as evenly divided as possible between the political parties. Upon receipt of the voting list, the clerk shall unseal the lists and use them in processing the absentee ballots. When the count is completed, the clerk shall sign each copy of the voting list.

A. In a municipality which has an island voting district, the clerk may instead obtain the information required to process the absentee ballots by telephone and notify the island ward clerk of the names of the absentee voters so that the voting list can be marked in accordance with this subchapter.

4. Counting procedure. The clerk shall use the same counting procedure as set forth in sections 759, 761 and 762. The ballots must be counted publicly so that all those present may observe the proceedings.

§ 761. Deceased voter; ballot rejected

If an absentee voter dies before the polls are opened on election day, and this fact comes to the attention of the clerk, registrar or any election official, he shall notify the warden who shall reject the ballot of the dead person. The warden shall write on the unopened envelope "Rejected as deceased," and place it with the other rejected ballots.

§ 762. Irregularities disregarded

An absentee ballot may not be rejected for any immaterial irregularity in completing the application or affidavit on the return envelope. The following information must be on the envelope for the ballot to be accepted:

1. **Name and address.** The voter's name and legal address typed or written in ink by the clerk in the upper left-hand corner;

2. **Signature.** The voter's signature; and

3. **Repealed.** Laws 1991, c. 466, § 34.

4. **Official's signature.** The certifying official's signature, when required.

§ 763. Return of election materials

As soon as the ballots have been counted, the applications, where required, absentee ballots, return envelopes, lists required by section 756 and other election materials shall be repacked, in accordance with section 698, and returned to the clerk. The clerk shall keep them in the clerk's office for the time required by section 23, subsection 7.

§ 764. Applications and envelopes as public records

Absentee ballot applications and absentee ballot return envelopes are public records until the close of voting on election day. After that time, except as provided in section 759, subsection 8, the applications and envelopes are not public records and may be inspected only in accordance with this Title.

Article II

Voting by Members of the Armed Forces

§ 776. Applicability of provisions

This Article applies to members of the Armed Forces.

§ 777. Methods of registration and enrollment

A member of the Armed Forces may register or enroll at any time as follows.

1. Federal form. He may complete and file the federal postcard application form with the registrar.

2. Municipal application. He may complete and file with the registrar an application provided by the municipality, stating the information necessary to show his qualifications.

3. Request by relative. A blood relative, former guardian or spouse may complete and file the application described in subsection 2 with the registrar.

§ 778. Duty of registrar

On receipt of an application under section 777, the registrar shall register the applicant, unless it appears that he is not qualified. If he is not qualified, the registrar shall notify him of the reason why.

1. Member specially designated. The registrar shall place the letter "S" on the voting list beside the name of each member of the Armed Forces registered under this section.

§ 779. Name may be added at any time

The registrar may add the name of a member of the Armed Forces to the voting list at any time.

§ 780. Absentee ballots; application

A written request for an absentee ballot from the member of the Armed Forces, his spouse, a blood relative or his former guardian is sufficient. The applicant for the absentee ballot may request the regular absentee ballot specified in section 752, subsection 1, or the special blank ballot specified in section 752, subsection 1, paragraph A. The clerk shall promptly fill requests for absentee ballots made under this section.

§ 781. Absentee ballots; procedure on receipt

1. **Name and address.** The voter's name and legal address typed or written in ink by the clerk in the upper left-hand corner;

2. **Signature.** The voter's signature; and

3. **Repealed.** Laws 1991, c. 466, § 34.

4. **Official's signature.** The certifying official's signature, when required.

§ 763. Return of election materials

As soon as the ballots have been counted, the applications, where required, absentee ballots, return envelopes, lists required by section 756 and other election materials shall be repacked, in accordance with section 698, and returned to the clerk. The clerk shall keep them in the clerk's office for the time required by section 23, subsection 7.

§ 764. Applications and envelopes as public records

Absentee ballot applications and absentee ballot return envelopes are public records until the close of voting on election day. After that time, except as provided in section 759, subsection 8, the applications and envelopes are not public records and may be inspected only in accordance with this Title.

Article II

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§ 777. Methods of registration and enrollment

A member of the Armed Forces may register or enroll at any time as follows.

1. **Federal form.** He may complete and file the federal postcard application form with the registrar.

2. **Municipal application.** He may complete and file with the registrar an application provided by the municipality, stating the information necessary to show his qualifications.

3. **Request by relative.** A member of the immediate family may complete and file the application described in subsection 2 with the registrar.*

§ 778. Duty of registrar

On receipt of an application under section 777, the registrar shall register the applicant, unless it appears that he is not qualified. If he is not qualified, the registrar shall notify him of the reason why.

1. **Member specially designated.** The registrar shall place the letter "S" on the voting list beside the name of each member of the Armed Forces registered under this section.

§ 779. Name may be added at any time

The registrar may add the name of a member of the Armed Forces to the voting list at any time.

§ 780. Absentee ballots; application

A written request for an absentee ballot from the member of the Armed Forces, his spouse, a blood relative or his former guardian is sufficient. The applicant for the absentee ballot may request the regular absentee ballot specified in section 752, subsection 1, or the special blank ballot specified in section 752, subsection 1, paragraph A. The clerk shall promptly fill requests for absentee ballots made under this section.

§ 781. Absentee ballots; procedure on receipt

The following absentee ballot procedure shall be observed.

1. Delivery of ballot. On receipt of an absentee ballot application, federal postcard application or a written request under section 780, the clerk shall immediately mail the ballot and voting instructions to the member.

2. Special ballots and envelopes. The Secretary of State shall provide a ballot and an envelope which will move free of postage under federal law.

3. Ballot marked and sealed. The member must mark his ballot according to section 691 or 692 so that it is impossible for anyone present at the time to see how he voted. He must then seal the ballot in its return envelope, write his voting residence, including the street address, in the upper left-hand corner of the return envelope and sign a certification as to authenticity on the envelope, in a form to be prescribed by the Secretary of State, which must include a warning of the provisions of Title 17-A, section 453. He must then mail the envelope to the clerk of his municipality.

§ 782. Absentee ballots; procedure on return

On receipt of a return envelope apparently containing an absentee ballot, the clerk shall note the date and time of delivery on it and deliver it to the registrar. The registrar shall certify on the envelope whether the person whose name appears as sender is registered and, in a primary election, enrolled in the municipality. He shall then return the envelope to the clerk.

§ 783. Authority of Secretary of State

The Secretary of State may act administratively to facilitate voting by members of the Armed Forces. He may use federal or other facilities available for this purpose.

Article III Violations and Penalties

§ 791. Violations and penalties

1. Class E crime. The commission of any act described as follows in this subsection is a Class E crime:

A. Repealed. Laws 1991, c. 466, § 36.

B. A municipal clerk who, when a person has voted by absentee ballot in the clerk's presence under section 753, subsection 7, signs his name to an affidavit on the absentee ballot return envelope when the affidavit is not properly completed; or

C. A 3rd person, designated in an application or request for an absentee ballot, who receives an absentee ballot from the clerk in accordance with that application or request, and who, without good cause, fails to return that absentee ballot to the clerk's office within the time limit provided in section 755.

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

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

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

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

B. Is a candidate who, notwithstanding this subchapter, delivers, receives, accepts, notarizes or witnesses an absentee ballot, other than the candidate's own absentee ballot,

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

SUBCHAPTER V PRESIDENTIAL ELECTORS

§ 801. Election

In a presidential election year, the presidential electors shall be chosen at the general election.

1. **Vote for presidential candidate construed.** A vote for the candidates for President and Vice President is a vote for the presidential electors nominated by the candidates' political party or by petition.

§ 802. Representation

One presidential elector shall be chosen from each congressional district and 2 at large.

§ 803. Duties of Governor

As soon as possible after the presidential electors are chosen, the Governor shall send a certificate of the determination of the electors to the Archivist of the United States under the state seal. The certificate shall state the names of the electors and the number of votes which each received. The Governor shall deliver 6 certificates under the state seal to the electors on or before the first Monday after the 2nd Wednesday of December, following their election.

§ 804. Meeting in convention

The presidential electors shall convene in the House Chamber in Augusta at 2 p.m. on the first Monday after the 2nd Wednesday of December following their election. If any electors are not present, the electors present shall fill the vacancy by majority vote.

§ 805. Convention duties

The duties of the presidential electors in convention are as follows.

1. **Separate ballots.** When convened as required by section 804, the presidential electors shall each cast separate ballots for President and Vice President, at least one of whom must not be a resident of this State.

2. **Presidential electors.** The presidential electors at large shall cast their ballots for the presidential and vice-presidential candidates who received the largest number of votes in the State. The presidential electors of each congressional district shall cast their ballots for the presidential and vice-presidential candidates who received the largest number of votes in each respective congressional district.

3. **Certificate prepared and sent.** The presidential electors shall make and subscribe to 6 certificates containing the number of votes cast separately for President and Vice President. They shall attach one of the lists of electors furnished them by the Governor to each certificate. They shall seal each certificate and attached list in an envelope stating that a certificate of the votes of this State for President and Vice President is contained inside.

4. **Repealed.** Laws 1989, c. 166, § 7.

4-A. **Certificates sent immediately.** The presidential electors shall send immediately by registered mail one certificate to the President of the Senate of the United States and 2 certificates to the Archivist of the United States in Washington, D.C. The

presidential electors shall deliver 2 certificates to the Secretary of State, who shall hold one of them subject to the order of the President of the Senate of the United States and shall retain the other for public inspection for one year. The presidential electors shall deliver one certificate to the Chief Judge of the United States District Court for the District of Maine.

5. Repealed. Laws 1989, c. 166, § 9.

§ 806. Compensation of electors and employees

The presidential electors shall be paid \$10 a day for each day actually and necessarily employed in the performance of their duties and necessary expenses, including travel expenses, at the same rate as that paid to members of the Legislature. The presidential electors may hire necessary clerical employees who shall be paid a reasonable compensation established by the electors.

**SUBCHAPTER VI
VOTING DEVICES**

§ 808. Definitions

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

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.

2. Ballot or paper ballot. "Ballot" or "paper ballot" means the printed paper ballot on which votes may be recorded in the layout and format required to conform to the electronic voting system in use.

3. Ballot card. "Ballot card" means a tabulating card on which votes may be recorded in the layout and format required to conform with the punch card voting system in use.

4. Ballot labels. "Ballot labels" means the pages, cards or other material containing the names of offices and candidates and the referendum questions to be voted on that are placed on the voting device to conform with the voting system in use.

5. Counting center. "Counting center" means one or more locations selected by the municipal officers for the automatic counting of ballots.

6. Electronic voting system. "Electronic voting 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 automatic tabulating equipment at one or more counting centers. "Electronic voting system" includes all the software and firmware required to program and control the equipment in the respective systems.

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.

8. Mark-sense voting system. "Mark-sense voting system" means a system in which votes are recorded on paper ballots by making marks in special voting response locations using a marking device. The votes on the paper ballots are subsequently counted and tabulated by automatic tabulating equipment at one or more counting centers.

9. Punch card voting system. "Punch card voting system" means a system in which votes are recorded on ballot cards by punching holes in designated voting response locations using a marking device. The votes on the ballot cards are subsequently counted and tabulated by automatic tabulating equipment at one or more counting centers.

10. Voting device. "Voting device" means the voting machine or electronic voting system apparatus that the voters use to record their votes on paper ballots or on a tabulating card and all

the automatic tabulating equipment that is integral to the electronic voting system in use.

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

§ 809. Approval of voting devices

1. Rules. The Secretary of State and the Attorney General together may adopt rules governing approval of voting machines under section 812 and electronic voting systems under section 843. The Secretary of State may adopt rules indicating which approved voting machines and electronic voting systems are recommended for use by municipalities to minimize the cost of producing ballot materials.

2. Use of approved voting machines and systems. Voting devices approved and recommended pursuant to rules adopted under subsection 1 may be used by any municipality in a state election. A municipality may use other approved voting devices that are not recommended, however, if the cost of ballot materials for these devices exceeds the Secretary of State's cost of preparing paper ballots for that municipality, the municipality shall reimburse the State for the difference in that cost.

3. Publication of list. The Secretary of State shall publish, biennially in odd-numbered years, the list of approved voting devices, including the estimated amount a municipality is required to reimburse the State if devices that are not recommended are used.

4. Application. This section applies only to those voting devices in use by the municipality after October 1, 1987.

Article 1 Voting Machines

§ 810. Repealed. Laws 1991, c. 347, § 6.

§ 811. Obtaining and using

A municipality may obtain and use voting machines according to the following provisions.

1. Purchased or rented. The municipality may either purchase or rent voting machines.

2. Use authorized. The voting machines shall be used at each type of election authorized by the legislative body of the municipality. Once authorization has been given for use of the machines at any type of election, that authorization continues until specifically revoked by the legislative body.

3. Use in one or more districts. A municipality which has more than one voting district may use voting machines in one or more of the districts as determined by its legislative body.

4. Provided by municipality. In those municipal voting districts using voting machines, the municipal officers of each municipality must provide at least one voting machine for each 450, or fraction exceeding 1/2 of that number, of the voters qualified to vote at each voting place.

§ 812. Requirements for machines

A voting machine purchased by a municipality must meet the following requirements.

1. Secrecy. It must be constructed so that each voter may vote in secrecy.

2. Voting limited. It must permit a voter to vote once and only once for each candidate and each question for whom or on which he is entitled to vote. It must prevent a voter from voting for more persons for an office than there are offices to be filled.

3. **Write-in vote.** It must permit a voter to vote for a write-in candidate.

4. **Form of ballot label.** The titles of offices may be arranged horizontally with the names of candidates for an office arranged vertically under the title of the office, or the titles of offices may be arranged vertically with the names of candidates for an office arranged horizontally opposite the title of the office, or the titles of offices and the names of candidates for an office may be arranged in any horizontal and vertical combination as may be deemed advisable by the Secretary of State.

5. **Voting restricted at primary.** It must prevent a voter from voting for the nomination of candidates of more than one party at a primary election.

6. **Unauthorized voting prohibited.** It must prevent a voter from voting for any office or upon any question for whom or on which he is not entitled to vote.

7. **Change of vote permitted.** It must permit a voter to change or retract a vote he has attempted to cast for any person, or on any question, before his vote has been completed and registered.

8. **Device for printing or photographing candidate or question counters.** It may be provided with a device or devices for printing and photographing candidate and question counters which will provide a record before the polls open and after the polls close.

9. **Official approval required.** It must be of an identical type approved by the Secretary of State and the Attorney General.

§ 813. Regulations of Secretary of State

The Secretary of State may make reasonable rules governing the use of voting machines in accordance with the Maine Administrative Procedure Act.

§ 814. Custody

The municipal clerk has custody of a voting machine used by the municipality.

1. Storage and maintenance. He is responsible for the proper storage and maintenance of each machine.

A. He shall have each machine locked, sealed and stored in a safe, dry building.

B. He shall have each machine kept in proper operating condition.

§ 815. Expense of storage and maintenance

The municipality shall pay reasonable expenses for the storage and maintenance of the machines as authorized by the clerk.

§ 816. Operating instructions

The clerk must hold a meeting before an election whenever it is necessary to instruct election officials in the operation of voting machines.

1. Permission to use machines refused. The clerk may not permit a voting machine to be used at any voting place, unless he is satisfied that the election officials at that voting place know how to operate the machine properly and how to instruct a voter in operating it.

§ 817. Ballot labels

The Secretary of State shall furnish the ballot labels for all except municipal elections.

1. Content of label. The ballot label must contain the names of the candidates or nominees of each political party arranged as nearly as practicable in accordance with the requirements for paper ballots, except that the voting square shall be in the position required by the construction of the machine and subject to section

812, subsection 4.

2. Referendum question. A referendum question must be arranged so that the voter may vote for or against it.

§ 818. Arrangement of voting place

The municipal officers shall arrange each voting place in compliance with section 627, except that voting booths need not be furnished.

§ 819. Secrecy preserved

The warden at each voting place shall not remain or allow any other person to remain where he can see how anyone votes, except that a proper official may remain when his assistance has been requested by a voter.

§ 820. Warden to post specimen ballots or labels

The warden shall post 2 sets of specimen ballots or 2 sets of specimen ballot labels conspicuously at the voting place at the opening of the polls on election day.

§ 821. Delivery

The municipal clerk shall perform the following duties concerning the delivery of voting machines.

1. Delivery. He shall have the voting machines delivered to each voting place at least 12 hours before the polls are opened on election day. At the time of delivery, the ballot labels must be in place on each machine.

2. Arrangements of machines. The clerk shall arrange each voting machine so that each ballot label, when not in use, and the exterior of the machine are completely visible to the election officials.

3. Machines locked. After the voting machines have been placed in the proper position at the voting place, the clerk shall make certain that each machine is ready for use when the polls open and he shall then lock each machine.

4. Keys to voting machines. At least 1/2 hour before the polls are opened on election day, the clerk shall deliver the keys to each machine in a sealed envelope to the warden at the voting place.

§ 822. Preparation for voting

When it is time for the polls to open, the warden shall open the envelope containing the keys to the voting machines in the presence of an election clerk from a political party other than that of the warden.

1. Counters exposed. If the number on the seal agrees with the number on the envelope, the warden shall open the doors concealing the counters, inspect the machine and sign a certificate provided by the Secretary of State showing that all counters are set at "000," that the number of the protective counter agrees with the number on the envelope and that all parts of the machine and the ballot labels are in proper condition for voting.

A. If the machine is provided with a device or devices for printing or photographing candidate and question counters, it is not necessary to open the door concealing the counters. The warden and the election clerk shall proceed to operate the mechanism provided to produce one "before election inspection record" showing whether the candidate and question counters register "000" and sign the certificate as prescribed by the Secretary of State.

2. Machine satisfactory. If the machine is in satisfactory condition for voting, the warden shall immediately permit its use, after closing the doors concealing the counters.

§ 823. Directions for voting

A voter must follow the same procedure before voting as if paper ballots were being used. He is entitled to the same assistance in voting by machine as by paper ballot.

§ 824. Challenge of right to vote

A voter who is challenged in a voting precinct where voting machines are used may not use the voting machine for casting his vote, but must use an official paper ballot.

§ 825. Activation of machines

The voting machines shall be activated by the warden or an election clerk designated by him.

1. Primary election. In a primary election, the warden or, in his absence, a designated election clerk must activate each voting machine so that a voter can vote only for the candidates of the political party in which he is enrolled.

§ 826. Procedure for tabulating votes

The following regulations outline the procedure for tabulating votes at an election in which voting machines are used.

1. Counters exposed. As soon as the polls are closed, the warden shall unlock each machine to prevent further voting. He shall then open the counters on each voting machine so that anyone present can see the totals. If the machine is provided with a device for printing or photographing candidate and question counters, it is not necessary to open the door concealing the counters. The warden and an election clerk from a political party other than that of the warden shall proceed to operate the mechanism provided to produce a record of the votes cast on the candidate and question counters. This record may be considered an official statement or certificate of returns for that machine and may be endorsed, delivered and filed as required by the Secretary of State.

2. Totals announced. The warden shall announce the

total for each candidate in the order shown on the ballot label, for each referendum question and for each write-in candidate. As each total is read, it shall be recorded by an election clerk from a political party other than that of the warden.

3. Totals checked. When all the totals for a voting machine have been read and recorded, the election clerk shall check the totals recorded by him with those appearing on the machine. If the totals do not agree, the election clerk shall record the number of the machine at the top of the column of totals recorded from it.

4. Machine locked. After allowing any person to compare the record with the totals shown on the machine, the warden shall close and lock it with the totals remaining on it and proceed to tabulate the next machine in the same manner.

5. Paper ballots counted. After the totals for all voting machines have been recorded and checked, all absentee and other official paper ballots shall be counted.

6. Total announced. As soon as the paper ballots have been counted, the total vote for each candidate and on each referendum question shall be tabulated and the result announced by the warden.

§ 827. Procedure after election

The following procedure shall be observed after an election at which voting machines are used.

1. Keys sealed in envelope. In the presence of an election clerk from a political party other than that of the warden, the warden shall enclose the keys to each voting machine in separate envelopes furnished by the municipal clerk. The warden shall write the number of each machine, the location of the voting place in which it was used, the number on the seal and the numbers registered on the protective counter on the outside of each envelope.

2. Envelopes signed. After sealing each envelope

securely, the warden and the election clerk shall sign their names on it and the warden shall have it immediately returned to the municipal clerk.

3. Counter totals preserved. The totals shown on the counters of a voting machine must be retained for 22 months after the election at which the machine is used.

A. If the occurrence of another election requires the removal of the counter totals within 22 months after an election, the municipal clerk must have them photographed in his presence and in the presence of the warden and an election clerk of a party other than that of the warden. The warden must make a statement showing the number and counter totals of each machine as it is photographed. He must sign the statement, have it attested and deliver it to the municipal clerk who shall record it. As soon as the photographs are printed legibly, the municipal clerk shall remove the totals and retain the photographs for the balance of the 22-month period. If the machines were equipped with a device or devices which had produced a printed or photographed record of the vote shown on the candidate and question counters, the municipal clerk shall remove the totals and retain the printed or photographed record for the balance of the 22-month period.

Notwithstanding the requirements of this paragraph, counter totals for municipal elections conducted under this Title, referenda elections or special legislative elections shall be kept for 2 months.

§ 828. Security for keys

The municipal clerk shall keep the keys to each voting machine in a vault or safe which is kept securely locked when the keys are not being removed from or replaced in it. He shall not allow any unauthorized person to have possession of the keys to any voting machine.

1. Keys returned. A person who is authorized to have

possession of the keys to a voting machine must return them to the clerk when he no longer needs them for the authorized purpose.

§ 829. Violation and penalty

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

§ 830. Application of provisions to voting by machine

The provisions of this Title which are not inconsistent with this Article apply to all elections where voting machines are used.

**Article II
Electronic Voting Systems**

§ 841. Repealed. Laws 1991, c. 347, § 8.

§ 842. Obtaining and using

A municipality may obtain and use electronic voting systems according to the following provisions.

1. Purchased or rented. The municipality may either purchase or rent voting devices.

2. Use authorized. The voting devices may be used at each type of election authorized by the legislative body of the municipality. Once authorization has been given for use of the devices at any type of election, that authorization continues until specifically revoked by the legislative body.

3. Use in one or more districts. A municipality which has more than one voting district may use voting devices in one or more of the districts as determined by its legislative body.

4. Provided by municipality. In those municipal voting

districts using electronic voting systems, the municipal officers of each municipality must provide at least one voting device for each 250, or fraction exceeding 1/2 of that number, of the voters qualified to vote at each voting place.

§ 843. Requirements for devices

A voting device purchased or rented by a municipality must meet the following requirements.

1. **Secrecy.** It must be used so that each voter may vote in secrecy.

2. **Voting limited.** It must permit each voter to vote at any election for all persons and offices for whom and for which he is entitled to vote; to vote for as many persons for an office as he is entitled to vote for; to vote for or against any question upon which he is entitled to vote; and the automatic tabulating equipment must reject choices recorded on his ballot or ballot card, if the number of choices exceeds the number for which he is entitled to vote for the office or on the measure.

3. **Write-in vote.** It must permit a voter to vote for a write-in candidate.

4. **Voting restricted at primary.** It must prevent a voter from voting for the nomination of candidates of more than one party at a primary election.

5. **Unauthorized voting prohibited.** It must prevent a voter from voting for any office or upon any question for whom or on which he is not entitled to vote.

6. **Change of vote permitted.** It must permit a voter to change or retract a vote he has attempted to cast, in accordance with section 693, before his ballot or ballot card has been deposited in the ballot box.

7. **Official approval required.** It must be of an identical

type approved by the Secretary of State and the Attorney General.

§ 844. Regulations of Secretary of State

The Secretary of State may make reasonable rules governing the use of electronic voting systems in accordance with the Maine Administrative Procedure Act.

§ 845. Custody

The municipal clerk has custody of voting devices used by the municipality.

1. Storage and maintenance. He is responsible for the proper storage and maintenance of each device.

A. He shall have each device sealed and stored in a safe, dry building.

B. He shall have each device kept in proper operating condition.

§ 846. Expense of storage and maintenance

The municipality shall pay reasonable expenses for the storage and maintenance of the devices as authorized by the clerk.

§ 847. Operating instructions

The clerk must hold a meeting before an election whenever it is necessary to instruct election officials in the operation of voting devices.

1. Permission to use devices refused. The clerk may not permit a voting device to be used at any voting place unless he is satisfied that the election officials at that voting place know how to operate the device properly and how to instruct a voter in operating it.

§ 848. Ballot labels

The Secretary of State shall furnish all ballot materials for all except municipal elections.

1. Ballot format. Ballots furnished for elections must have the titles of offices and the names of candidates arranged in vertical columns. The office title with a statement of the number of candidates to be voted for must be printed above the names of the candidates for that office. The names of candidates must be printed in the order provided by law and the party designation of each candidate must be printed following or below his name, in bold type. The number of columns and the length of the ballot may be adjusted as is necessary to accommodate all of the offices, candidates and write-in spaces constituting the total slate for that election.

2. Content of label. The titles of offices and the names of candidates on ballot labels may be arranged in vertical columns or in a series of separate pages. The office title with a statement of the number of candidates to be voted for must be printed above or at the side of the names of the candidates for that office. The names of candidates must be printed in the order provided by law, and in general elections the party designation of each candidate, which may be abbreviated, must be printed following his name. In case there are more candidates for an office than can be printed in one column or on one ballot page, the ballot label must be clearly marked that the list of candidates is continued on the following column or page, and so far as possible, the same number of names must be printed on each column or page. Arrows may be used to indicate the place to vote for each candidate and on each measure.

3. Ballot labels for separate elections. The different parts of the ballot, such as partisan, nonpartisan and measures, must be prominently indicated on the ballot labels, and, if practicable, each part must be placed on a separate page or pages. If 2 or more elections are held on the same day, the ballot labels must be clearly marked to indicate the ballot for each election, and, if practicable, the ballot labels for each election must be placed upon separate

pages and labels of a different color or tint may be used for each election.

4. Referendum question. A referendum question must be arranged so that the voter may vote for or against it.

§ 849. Arrangement of voting place

The municipal officers shall arrange each voting place in compliance with section 627.

§ 850. Secrecy preserved

The warden at each voting place shall not remain or allow any other person to remain where he can see how anyone votes, except that a proper official may remain when his assistance has been requested by a voter.

§ 851. Preparation for elections

The municipal clerk shall perform the following duties in preparing for an election.

1. Ballots and supplies. He shall have the voting devices prepared for the election and shall deliver, to the precinct election officials or to the polling place, voting devices, voting booths, ballot boxes, ballots, ballot cards, "write-in" ballots, marking devices and other records and supplies as required to conform with the system in use.

2. Ballot cards. Ballot cards must be of the size, design and stock suitable for processing by automatic data processing machines. In primary elections, the ballot cards of each political party must be distinctly marked or must be a different color or tint so that the ballot cards of each political party are readily distinguishable.

3. Write-in ballots. A separate write-in ballot must be provided to permit voters to write in the title of the office and the

name of the person or persons for whom he wishes to vote.

4. Voting booths. Unless the voting device enables the voter to mark his choices in secret, the clerk must provide a sufficient number of voting booths for each voting district or precinct, which must allow the voter to mark his ballot in secret.

§ 852. Procedure at the polling place

The following regulations govern the procedure for the conduct of elections in which an electronic voting system is used.

1. Preparation for voting. Before the polls are opened, the election officials shall arrive at the polling place and place the voting devices in position for voting. The officials shall ensure that the devices are in proper working order and shall see that the devices have the correct ballot labels by comparing them with the specimen ballots. They shall open and check the ballots, ballot cards, supplies, records and forms and post the specimen ballots and instructions to voters.

2. Instruction of voters. If requested, election officials shall instruct a voter on how to operate the voting device before he enters the voting booth. If he needs additional instruction after entering the voting booth, election officials may, if necessary, enter the booth and give him additional instructions in accordance with section 672.

3. Depositing ballot card in ballot box. After the voter has marked his ballot card, he must place the ballot card inside the envelope provided for this purpose and deposit the envelope with the enclosed ballot card in the ballot box.

4. Spoiled ballots. Any voter who spoils his ballot card may return it enclosed in the envelope and obtain a replacement not more than twice. The word "Spoiled" must be written across the face of the envelope which shall be placed in the spoiled ballot card container.

5. Closing of the polls. As soon as the polls have closed and the last qualified voter has voted, all unused ballot cards and records and supplies shall be placed in a container and sealed for return to the municipal clerk. The ballot box shall be opened at the polling place and all write-in votes and absentee and other official paper ballots counted and the regular ballot cards separated from the envelopes. The separated ballot cards and envelopes, along with absentee, write-in and other official paper ballots, shall then be delivered to the counting center for the official counting and recording of all ballots cast.

§ 853. Delivery of ballots or ballot cards to the counting center

The precinct election officials shall prepare a report of the number of voters who have voted, as indicated by the incoming voting list, and shall place the original copy of this report in the ballot box or ballot card container for delivery to the counting center. The ballot box or ballot card container must be sealed so that no additional ballots or ballot cards may be deposited or removed. The duplicate copy of the report shall be returned to the municipal clerk with other records. The clerk shall have the voted ballots or ballot cards of designated polling places picked up at the polling places and delivered to the counting center by authorized election officials or police officers.

§ 854. Test of automatic tabulating equipment; programs and voted ballot cards to be retained under seal

Before counting the ballots, the clerk must have the automatic tabulating equipment tested to ascertain that it will accurately count the votes cast for all offices and on all measures. The test must be conducted by processing a preaudited group of ballots or ballot cards, marked or punched to record a predetermined number of valid votes for each candidate and on each measure. The test must include one or more ballots which have votes for each office in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject those votes. In this test a different number of valid votes must be assigned to each candidate

for an office and for and against each measure. If any error is detected, the cause for the error must be ascertained and corrected and an errorless count must be made and certified to by the clerk before the count is started. The tabulating equipment must pass the same test at the conclusion of the count before the election returns are approved as official. The tests provided for in this section must be open to the public.

§ 855. Proceedings at the counting center

All proceedings at the counting center are under the direction of the municipal clerk and shall be conducted in the following manner.

1. Open to public. The count must be conducted under the observation of the public, but no persons except those authorized may touch any ballot card or return.

2. Personnel to be deputized and take oath. All persons who are engaged in processing and counting the ballots must be deputized and take an oath that they will faithfully perform their assigned duties.

3. Damaged or defective ballots or ballot cards. If it appears that any ballot or ballot card is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, in the case of a paper ballot, it must be tabulated manually and, in the case of a ballot card, a true duplicate copy must be made and substituted for the damaged ballot card or the card may be tabulated manually. All duplicate ballot cards must be clearly labeled "duplicate" and must bear a serial number which shall be recorded on the damaged or defective ballot card.

4. Ballots, ballot cards, program and text materials to be retained. When the count is completed, the programs, test materials, ballots and ballot cards shall be sealed and retained as provided in section 23.

§ 856. Official returns

The official return of each voting district consists of the certified return printed by the automatic tabulating equipment and all certified absentee, write-in and other official paper ballots. The official returns shall be open to the public as soon as the count is completed.

§ 857. Manual counting authorized

If for any reason it becomes impracticable to count all or a part of the ballots or ballot cards with tabulating equipment, the clerk shall have them counted manually following the provisions governing the counting of paper ballots.

§ 858. Repealed. Laws 1993, c. 447, § 19, eff. Oct. 13, 1993.

§ 858-A. Counting procedure for absentee ballots

1. Warden to review notes of clerk. Unless a request to inspect applications and envelopes is made pursuant to subsection 8, the warden shall review the notes of the clerk on each return envelope.

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 and that the person is registered and enrolled where necessary, the warden or another election official designated by the warden shall then announce the name of each absentee voter to an election clerk who shall verify on the incoming voting list that the voter has not voted in person and after verification write "AV" next to the absentee voter's name on the incoming voting list. The warden or the warden's designee shall then remove each ballot from its envelope without destroying the envelope.

3. Rejected if incorrect. The warden may not open the envelope and shall write "Rejected" on it, the reason why and the warden's own initials if the warden finds that:

A. The signatures do not appear to have been made by the same person and the discrepancy is not the result of the voter's having obtained assistance under section 753, subsection 4 or section 754-A, subsection 3 in cases when an application is required;

B. The affidavit is not properly completed;

C. The person is not registered or enrolled where necessary;

D. The voter has voted in person; or

E. The ballot was received by the clerk after the deadline.

4. Primary election provisions. At a primary election when the warden removes a ballot from its envelope, 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, the warden shall immediately replace it in its envelope, reseal the envelope and write "Rejected" on it, the reason why and the warden's own initials.

5. Rejected ballots separate. The warden shall place the return envelopes containing rejected ballots in a separate lot.

6. Ballots counted. As soon as the absentee ballots have been processed, they must be counted in the same manner as regular ballots. Rejected ballots may not be counted.

7. Processing before close of polls. If notice is given following the procedure in section 621 that the clerk intends to begin processing after 2 p.m. on election day, the warden or the warden's designee may review the notes of the clerk on each return envelope and process the ballots.

8. Inspection after polls close. If a candidate notifies the warden before 8 p.m. that the candidate wishes to inspect absentee ballot applications and envelopes after the polls close, the warden shall allow the candidate to inspect the applications and

envelopes of ballots that have not yet been opened for 30 minutes after the polls close.

§ 859. Recounts

In case of a recount, the ballots or ballot cards shall be recounted in the manner provided by sections 854 to 857, unless the court ordering the recount directs that they be counted manually.

§ 860. Violation and penalty

Any person who, before, during or after an election, tampers with or willfully injures any voting device, ballot cards or other records or equipment used in the election, or interferes or attempts to interfere with the correct operation of such a device or equipment or the secrecy of voting, commits a Class C crime.

§ 861. Application of provisions to voting by electronic voting system

The provisions of this Title which are not inconsistent with this Article apply to all elections where an electronic voting system is used.

**CHAPTER 11
BALLOT QUESTIONS**

§ 901. Petitions

To initiate proceedings for a people's veto referendum or the direct initiative of legislation, provided in the Constitution of Maine, Article IV, Part Third, Sections 17 and 18, a voter shall submit a written application to the Department of the Secretary of State on a form designed by the Secretary of State. The application must contain the names, addresses and signatures of 5 voters, in addition to the applicant, who are designated to receive any notices in proceedings under this chapter. For a direct initiative, the application must contain the full text of the proposed law. The voter submitting the application shall sign the application in the

presence of the Secretary of State, the Secretary of State's designee or a notary public.*

On receipt, the Secretary of State or the Secretary of State's designee shall review the application and determine the form of the petition to be submitted to the voters. The date the approved form of the petition is provided to the voter submitting the application is the date of issuance for the purposes of this chapter.*

1. Limitation on petitions. An application for a people's veto referendum petition must be filed in the Department of the Secretary of State within 10 working days after adjournment of the legislative session at which the Act in question was passed. A direct initiative of legislation must meet the filing deadlines specified in the Constitution of Maine, Article IV, Part Third, Section 18.

2. Repealed. Laws 1993, c. 352, § 1, eff. Oct. 13, 1993.

3. Repealed. Laws 1993, c. 352, § 1, eff. Oct. 13, 1993.

3-A. Review for proper form. The Secretary of State shall review the proposed law for a direct initiative of legislation within 15 working days after receipt of the application. The Secretary of State may reject the application if the Secretary of State determines that the proposed law:

A. Does not conform to the form prescribed by the Secretary of State; or

B. Does not conform to the essential aspects of the drafting conventions established for the Maine Revised Statutes. The drafting conventions include but are not limited to:

(1) Correct allocation to the statutes and correct integration with existing statutes;

(2) Bill titles and statute section headnotes that objectively reflect the content of the bill, section or sections to which they apply;

(3) Conformity to the statutory numbering system; and

(4) Ensuring that bills enacting statutes do not contain provisions that describe intent or make testimonial statements without creating a legal requirement or duty.

By consent of the applicant the proposed law may be modified to conform with the requirements of this section. The Secretary of State may request assistance from the Revisor of Statutes in reviewing the proposed law.

3-B. Approved petitions printed by voters. A voter must print the petitions in the form approved by the Secretary of State.

4. Ballot question. The ballot question for an initiative or a people's veto referendum must be drafted by the Secretary of State in accordance with section 906 and rules adopted in accordance with the Maine Administrative Procedure Act. The question must be conspicuously displayed on the face of the petition.

5. Summary of proposal. For a direct initiative, the Secretary of State shall request the Revisor of Statutes to recommend a concise summary that objectively describes the content of the proposed law. The Secretary of State shall approve or amend the summary and the summary must be attached to the end of the proposed law.

6. Rejection. If the Secretary of State rejects an application under this section, the Secretary of State shall provide a written statement of the reasons for the decision.

7. Court review. A voter named in the application under this section may appeal any decision made by the Secretary of State

under this section using the procedures for court review provided for in section 905, subsections 2 and 3.

§ 902. Verification and certification

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The verification and certification of the petition as required by the Constitution of Maine, Article IV, Part Third, Section 20, must be worded so that a single verification or certification may cover one or more pages fastened together as a single petition.

§ 903. Instructions to be printed on

The Secretary of State shall prepare complete instructions to inform the clerk and the signer or circulator of a petition of the statutory and constitutional requirements. The instructions must specify the conditions which have been held to invalidate either individual signatures or complete petitions. The instructions must be printed in bold type or capital letters on the petition.

§ 903-A. Circulation

Petitions issued under this chapter may be circulated by any registered voter.

1. Filing. Filing of petitions in accordance with the deadlines specified in the Constitution of Maine, Article IV, Part Third, Section 18 must be completed within 3 years of the date of issuance under this chapter.*

2. Invalid petition. Petitions not filed in accordance with the deadlines specified in the Constitution of Maine, Article IV, Part Third, Section 18 within 3 years of the date of issuance under this chapter are invalid for circulation.*

§ 904. Violations and penalties

The commission of any of the following acts is a Class E crime:

1. False statement. A circulator of an initiative or referendum petition who willfully swears that one or more signatures to the petition were made in his presence when those signatures were not made in his presence or that one or more signatures are those of the persons whose names they purport to be

when he knows that the signature or signatures are not those of such persons;

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

3. Unauthorized signature. A person who knowingly signs an initiative or referendum petition with any name other than his own; or

4. Duplicate signature. A person who knowingly signs his name more than once on initiative or referendum petitions for the same measure.

§ 904-A. Payment per signature; prohibition*

A circulator of an initiative or a referendum petition or a person who causes the circulation of an initiative or referendum petition may not receive payment for the collection of signatures if that payment is based on the number of signatures collected. Nothing in this section prohibits a circulator of an initiative or a referendum petition or a person who causes the circulation of an initiative or referendum petition from being paid a salary that is not based on the number of signatures collected.

§ 904-B. Payment for signature; prohibition*

A circulator of an initiative or a referendum petition or a person who causes the circulation of an initiative or referendum petition may not pay or offer to pay any compensation to a person for the person's signature on the initiative or referendum petition.

§ 905. Review of initiative and referendum petitions

1. Secretary of State. The Secretary of State shall review all petitions filed in the Department of the Secretary of State for a people's veto referendum under the Constitution of Maine,

Article IV, Part Third, Section 17, or for a direct initiative under the Constitution of Maine, Article IV, Part Third, Section 18.

The Secretary of State shall determine the validity of the petition and issue a written decision stating the reasons for the decision within 30 days after the final date for filing the petitions in the Department of the Secretary of State under the Constitution of Maine, Article IV, Part Third, Section 17 or 18.

2. Superior Court. Any voter named in the application under section 901, or any person who has validly signed the petitions, if these petitions are determined to be invalid, or any other voter, if these petitions are determined to be valid, may appeal the decision of the Secretary of State by commencing an action in the Superior Court. This action shall be conducted in accordance with the Maine Rules of Civil Procedure, Rule 80C, except as modified by this section. In reviewing the decision of the Secretary of State, the court shall determine whether the description of the subject matter is understandable to a reasonable voter reading the question for the first time and will not mislead a reasonable voter who understands the proposed legislation into voting contrary to his wishes. This action must be commenced within 5 days of the date of the decision of the Secretary of State and shall be tried, without a jury, within 15 days of the date of that decision. Upon timely application, anyone may intervene in this action when the applicant claims an interest relating to the subject matter of the petitions, unless the applicant's interest is adequately represented by existing parties. The court shall issue its written decision containing its

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findings of fact and stating the reasons for its decision within 30 days of the commencement of the trial or within 45 days of the date of the decision of the Secretary of State, if there is no trial.

3. Supreme Judicial Court. Any aggrieved party may appeal the decision of the Superior Court, on questions of law, by filing a notice of appeal within 3 days of that decision. The appellant must file the required number of copies of the record with the clerk within 3 days after filing notice of appeal. After a notice of appeal is filed, the parties have 10 days to file briefs with the clerk of courts. As soon as the record and briefs have been filed, the court shall immediately consider the case. The standard of review shall be the same as for the Superior Court. The court shall issue its decision within 30 days of the date of the decision of the Superior Court.

§ 906. Form of ballot

The Secretary of State shall prepare the ballots for referendum questions according to the following provisions, subject to the authority contained in section 604-A.

1. Referendum questions on separate ballot. Referendum questions must be printed on a ballot separate from the general election ballots, except for municipalities using electronic scanning devices. There must be a place on the ballot for the voter to designate the voter's choice.

2. Bond issues; total interest. Whenever ratification by the electors is essential to the validity of bonds issued on behalf of the State, the ballot must contain the total interest necessary for the retirement of the bonds outstanding and unpaid.

3. Distinctively colored. Referendum ballots must be printed on paper of a distinctive color selected by the Secretary of State.

4. Size. The Secretary of State shall determine the size of the ballots.

5. Contents concealed. The ballots must be folded uniformly so that the interior contents are concealed.

6. Wording of ballots for people's veto and direct initiative referenda. Ballots for a statewide vote on a people's veto referendum or a direct initiative must set out the question or questions to be voted on as set forth in this subsection.

A. The Secretary of State shall advise petitioners that the proper suggested format for an initiative question is a separate question for each issue. In determining whether there is more than one issue, each requiring a separate question, considerations include whether:

(1) A voter would reasonably have different opinions on the different issues;

(2) Having more than one question would help voters to better understand the subject matter; and

(3) The questions are severable and can be enacted or rejected separately without negating the intent of the petitioners.

B. The Secretary of State shall write the question in a simple, clear, concise and direct manner that describes the subject matter of the people's veto or direct initiative.

C. The question must be phrased so that an affirmative vote is in favor of the people's veto or direct initiative.

D. If the Legislature adopts a competing measure, the ballot must clearly designate the competing question and legislation as a competing measure and allow voters to indicate whether they support the direct initiative, support the competing measure or reject both.

E. If there is more than one direct initiative referendum on the same general subject, the Secretary of State shall write

the questions in a manner that describes the differences between the initiatives.

6-A. Wording of referendum questions enacted by the Legislature. The proper format for a statutory referendum enacted by the Legislature is a separate question for each issue. In determining whether there is more than one issue, each requiring a separate question, considerations include whether:

A. A voter would reasonably have different opinions on the different issues;

B. Having more than one question would help voters to better understand the subject matter; and

C. The Legislature determines the questions are severable and can be enacted or rejected separately without negating the intent of the Legislature.

7. Order of questions on the ballot. The Secretary of State shall arrange questions on the ballot in the following order: People's veto questions; initiated measures; bond issues; constitutional amendments; and other legislatively proposed referenda. Within each group, questions must be arranged in a random order determined by a selection process conducted in public. All ballot questions must be numbered sequentially.

CHAPTER 13 CAMPAIGN REPORTS AND FINANCES

SUBCHAPTER I GENERAL PROVISIONS

§ 1001. Definitions

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

1. Commission. "Commission" means the Commission on Governmental Ethics and Election Practices established under Title 1, section 1002.

2. Election. "Election" means any primary, general or special election for state or county offices.

3. Person. "Person" means an individual, committee, firm, partnership, corporation, association, group or organization.

§ 1002. Meetings of commission

The commission shall meet in Augusta for the purposes of this chapter at least 4 times during any year in which primary and general elections are held. The commission shall meet at other times on the call of the Secretary of State, the Speaker of the House, the President of the Senate, the chairman or a majority of the members of the commission, provided that all members are notified of the time, place and purpose of the meeting at least 24 hours in advance.

§ 1003. Investigations by commission

1. Investigations. The commission may investigate to determine the facts concerning the registration of a candidate, treasurer, political committee or political action committee and contributions by or to and expenditures by a person, candidate, treasurer, political committee or political action committee. For this purpose, the commission may subpoena witnesses and records and take evidence under oath. A person or political action committee that fails to obey the lawful subpoena of the commission or to testify before it under oath must be punished by the Superior Court for contempt upon application by the Attorney General on behalf of the commission.

2. Investigations requested. A person may apply in writing to the commission requesting an investigation concerning the registration of a candidate, treasurer, political committee or political action committee and contributions by or to and expenditures by a

person, candidate, treasurer, political committee or political action committee. The commission shall review the application and shall make the investigation if the reasons stated for the request show sufficient grounds for believing that a violation may have occurred.

3. State Auditor; Secretary of State. The State Auditor and the Secretary of State shall assist the commission in making investigations and in other phases of the commission's duties under this chapter, as requested by the commission, and shall have all necessary powers to carry out these responsibilities.

4. Attorney General. The Attorney General is the counsel for the commission and may examine any witnesses before the commission. The commission shall refer any apparent violations of this chapter to the Attorney General for prosecution.

§ 1004. Violations

The violation of any of the following subsections is a Class E crime.

1. Contributions and expenditures. A person, candidate, treasurer, political committee or political action committee may not knowingly make or accept any contribution or make any expenditure in violation of this chapter.

2. False statements. No person, candidate, treasurer or political action committee may make a false statement in any report required by this chapter.

3. Contributions in another's name. No person may make a contribution in the name of another person or knowingly permit his name to be used to accomplish such a contribution, and no person may knowingly accept a contribution made by one person in the name of another person.

4. Registration; political action committees. No political action committee required to be registered under section 1053 may operate in this State unless it is so registered.

SUBCHAPTER II

REPORTS ON CAMPAIGNS FOR OFFICE

§ 1011. Application

This subchapter applies to candidates for all state and county offices and to campaigns for their nomination and election. This subchapter also applies to candidates for federal offices for the purposes of section 1017, subsection 1.

§ 1012. Definitions

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

1. **Clearly identified.** "Clearly identified," with respect to a candidate, means that:

- A. The name of the candidate appears;
- B. A photograph or drawing of the candidate appears; or
- C. The identity of the candidate is apparent by unambiguous reference.

2. **Contribution.** The term "contribution:"

A. Includes:

- (1) A gift, subscription, loan, advance or deposit of money or anything of value made for the purpose of influencing the nomination or election of any person to state or county office or for the purpose of liquidating any campaign deficit of a candidate, except that a loan of money to a candidate by a financial institution in this State made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;

(2) A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make a contribution for such purposes;

(3) Funds received by a candidate or a political committee which are transferred to the candidate or committee from another political committee or other source; and

(4) The payment, by any person other than a candidate or a political committee, of compensation for the personal services of other persons which are provided to the candidate or political committee without charge for any such purpose; and

B. Does not include:

(1) The value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee;

(2) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services for candidate-related activities, if the cumulative value of these activities by the individual on behalf of any candidate does not exceed \$50 with respect to any election;

(3) The sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if the charge to the candidate is at least equal to the cost of the food or beverages to the vendor and if the cumulative value of the food or beverages does not exceed \$50 with respect to any election;

(4) Any unreimbursed travel expenses incurred

and paid for by an individual who volunteers his personal services to a candidate, if the cumulative amount of these expenses does not exceed \$50 with respect to any election; or

(5) The payment by a party's state, district, county or municipal committee of the costs of preparation, display or mailing or other distribution incurred by the committee with respect to a printed slate card, sample ballot or other printed listing of 3 or more candidates for any political office.

3. Expenditure. The term "expenditure:"

A. Includes:

(1) A purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made for the purpose of influencing the nomination or election of any person to political office, except that a loan of money to a candidate by a financial institution in this State made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;

(2) A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make any expenditure; or

(3) The transfer of funds by a candidate or a political committee to another candidate or political committee; and

B. Does not include:

(1) Any news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine or other periodical publication, unless the facilities are owned or

controlled by any political party, political committee or candidate;

(2) Nonpartisan activity designed to encourage individuals to register to vote or to vote;

(3) Any communication by any membership organization or corporation to its members or stockholders, if that membership organization or corporation is not organized primarily for the purpose of influencing the nomination or election of any person to state or county office;

(4) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services for candidate-related activities, if the cumulative value of these activities does not exceed \$50 with respect to any election;

(5) Any unreimbursed travel expenses incurred and paid for by an individual who volunteers his personal services to a candidate, if the cumulative amount of these expenses does not exceed \$50 with respect to any election;

(6) Any communication by any person which is not made for the purpose of influencing the nomination for election, or election, of any person to state or county office;

(7) The payment by a party's state, district, county or municipal committee of the costs of preparation, display or mailing or other distribution incurred by the committee with respect to a printed slate card or sample ballot, or other printed listing, of 3 or more candidates for any political office for which an election is held; or

(8) The use or distribution of any communication, as described in section 1014, prepared for a previous election and fully paid for during that election campaign which was not used or distributed in that previous election.

4. Repealed. Laws 1991, c. 839, § 3, eff. January 1, 1993.

§ 1013. Repealed. Laws 1989, c. 504, § 3, eff. Nov. 1, 1989.

§ 1013-A. Registration

1. Candidates, their treasurers and political committees. A candidate shall register the candidate's name and the name of a treasurer with the commission at least once in each legislative biennium, as provided in this section. A candidate may have only one treasurer, who must be appointed pursuant to paragraph A or B. For purposes of this section, "legislative biennium" means the term of office a person is elected to serve in the Legislature.

A. No later than 10 days after becoming a candidate, and before accepting contributions, making expenditures or incurring obligations, a candidate for state or county office shall appoint a treasurer. The candidate may serve as treasurer. The candidate may have only one treasurer, who is responsible for the filing of campaign finance reports under this chapter. A candidate shall register the candidate's name and address and the name and address of the treasurer appointed under this section no later than 10 days after the appointment of the treasurer. A candidate may accept contributions personally or make or authorize expenditures personally, as long as the candidate reports all contributions and expenditures to the treasurer. The treasurer shall make a consolidated report of all income and expenditures and provide this report to the commission.

(1) A candidate may appoint a deputy treasurer to act in the absence of the treasurer. The deputy treasurer, when acting in the absence of the treasurer, has the same powers and responsibilities as the treasurer. When a treasurer dies or resigns, the deputy treasurer may not assume the position of treasurer unless the candidate appoints the deputy treasurer to the position of treasurer. The candidate shall report the name and address of the deputy treasurer to the commission no later than 10 days after the deputy treasurer has been appointed.

B. A candidate may authorize one political committee to promote the candidate's election. No later than 10 days after appointing a political committee, and before accepting contributions, making expenditures or incurring obligations, a candidate for state or county office shall appoint a treasurer of the political committee. The treasurer of the political committee is responsible for filing campaign finance reports under this chapter. No later than 10 days after appointing a political committee, the candidate shall register with the commission the following information regarding the political committee:

- (1) The name of the committee;
- (2) The name and address of the committee's treasurer;
- (3) The name of the candidate who authorized the committee; and
- (4) The names and addresses of the committee's officers.

2. **Repealed.** Laws 1991, c. 839, § 5, eff. January 1, 1993.
3. **Party committees.** The state, district, county and

municipal committees of parties shall submit to the commission the names and addresses of all their officers and of their treasurers and the name and address of the principal paid employee, if any, within 30 days after the appointment, election or hiring of these persons. District, county and municipal committees which provide their state party committees with the information required by this subsection to be submitted to the commission shall be deemed to have submitted that information to the commission. No later than the 2nd Monday in April of each year in which a general election is scheduled, the state committee of a party shall submit a consolidated report, including the information required under this subsection for the district, county and municipal committees of that party.

4. Reporting by registered treasurers. Any contribution accepted and any expenditure made or authorized by or on behalf of a candidate registered under this section or qualified under sections 335 and 336 or sections 354 and 355 must be recorded and reported as provided in sections 1016 and 1017.

5. Changes in registration information. Every change in information required by this section to be reported to the commission shall be reported within 10 days of the date of the change.

§ 1013-B. Removal of treasurer; filling vacancy of treasurer; substantiation of records of treasurer; notification to commission

A candidate may remove any treasurer that the candidate has appointed. In case of a vacancy in the position of treasurer of a candidate or treasurer of a political committee before the obligations of the treasurer have been performed, the candidate shall serve as treasurer from the date of the vacancy until the candidate appoints a successor and reports the name and address of the successor to the commission. The candidate shall file a written statement of resignation of a treasurer of a candidate or a treasurer of a political committee and until that statement has been filed, the resignation is not effective. An individual who vacates the position of treasurer by reason of removal or resignation shall certify the accuracy of the

treasurer's records to the succeeding treasurer. A succeeding treasurer may not be held responsible for the accuracy of the predecessor's records.

§ 1014. Publication or distribution of political statements

1. Authorized by candidate. Whenever a person makes an expenditure to finance a communication expressly advocating the election or defeat of a clearly identified candidate through broadcasting stations, newspapers, magazines, outdoor advertising facilities, direct mails or other similar types of general public political advertising or through flyers, handbills, bumper stickers and other nonperiodical publications, the communication, if authorized by a candidate, a candidate's authorized political committee or their agents, must clearly and conspicuously state that the communication has been so authorized and must clearly state the name and address of the person who made or financed the expenditure for the communication. The following forms of political communication do not require the name and address of the person who made or authorized the expenditure for the communication because the name or address would be so small as to be illegible or infeasible: ashtrays, badges and badge holders, balloons, campaign buttons, clothing, coasters, combs, emery boards, envelopes, erasers, glasses, key rings, letter openers, matchbooks, nail files, noisemakers, paper and plastic cups, pencils, pens, plastic tableware, 12-inch or shorter rulers, swizzle sticks, tickets to fund-raisers and similar items determined by the commission to be too small and unnecessary for the disclosures required by this section.

2. Not authorized by candidate. If the communication described in subsection 1 is not authorized by a candidate, a candidate's authorized political committee or their agents, the communication must clearly and conspicuously state that the communication is not authorized by any candidate and state the name and address of the person who made or financed the expenditure for the communication.

3. Broadcasting prohibited without disclosure. No

person operating a broadcasting station within this State may broadcast any communication, as described in subsections 1 and 2, without an oral or written visual announcement of the name of the person who made or financed the expenditure for the communication.

3-A. In-kind contributions of printed materials. A candidate, political committee or political action committee shall report on the campaign finance report as a contribution to the candidate, political committee or political action committee any contributions of in-kind printed materials to be used in the support of a candidate or in the support or defeat of a cause to be voted upon at referendum. Any in-kind contributions of printed materials used or distributed by a candidate, political committee or political action committee must include the name or title of that candidate, political committee or political action committee as the authorizing agent for the printing and distribution of the in-kind contribution.

The use or distribution of in-kind printed materials contributed to a candidate, political committee or political action committee must be reported as an expenditure on the campaign finance report of that candidate, political committee or political action committee.

4. Enforcement. An expenditure, communication or broadcast made within 10 days before the election to which it relates that results in a violation of this section may result in a civil forfeiture of no more than \$200. An expenditure, communication or broadcast made more than 10 days before the election that results in a violation of this section may result in a civil forfeiture of no more than \$100 if the violation is not corrected within 10 days after the candidate or other person who committed the violation receives notification of the violation from the commission. Enforcement and collection procedures must be in accordance with section 1020.

§ 1015. Limitations on contributions and expenditures

1. Individuals. No individual may make contributions to a candidate in support of the candidacy of one person, aggregating more than \$1,000 in any election. This limitation does

not apply to contributions in support of a candidate by that candidate or his spouse.

2. Committees; corporations; associations. No political committee, other committee, corporation or association may make contributions to a candidate, in support of the candidacy of one person, aggregating more than \$5,000 in any election.

3. Aggregate contributions. No individual may make contributions to candidates aggregating more than \$25,000 in any calendar year. This limitation does not apply to contributions in support of a candidate by that candidate or his spouse.

4. Political committees; intermediaries. For the purpose of the limitations imposed by this section, contributions made to any political committee authorized by a candidate to accept contributions on the candidate's behalf are considered to be contributions made to that candidate.

For the purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to the candidate, are considered to be contributions from that person to the candidate. The intermediary or conduit shall report the original source and the intended recipient of the contribution to the commission and to the intended recipient.

5. Other contributions and expenditures. Any expenditure made by any person in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's political committee or their agents is considered to be a contribution to that candidate.

The financing by any person of the dissemination, distribution or republication, in whole or in part, of any broadcast or any written or other campaign materials prepared by the candidate, the candidate's political committee or committees or their authorized agents is considered to be a contribution to that candidate.

6. Prohibited expenditures. A candidate, a treasurer, a political committee, a party or party committee, a person required to file a report under this subchapter or their authorized agents may not make any expenditures for liquor to be distributed to or consumed by voters while the polls are open on election day.

§ 1015-A. Corporate contributions

Contributions made by a for-profit or a nonprofit corporation including a parent, subsidiary, branch, division, department or local unit of a corporation, and contributions made by a political committee or political action committee whose contribution or expenditure are financed, maintained or controlled by a corporation are considered to be made by that corporation, political committee or political action committee.

1. Single entities. Two or more entities are treated as a single entity if the entities:

- A.** Share the majority of members of their boards of directors;
- B.** Share 2 or more officers;
- C.** Are owned or controlled by the same majority shareholder or shareholders; or
- D.** Are in a parent-subsidiary relationship.

§ 1016. Records

Each treasurer shall keep detailed records of all contributions received and of each expenditure that the treasurer or candidate makes or authorizes, as provided in this section. When reporting contributions and expenditures to the commission as required by section 1017, the treasurer shall certify the completeness and accuracy of the information reported by that treasurer.

1. Segregated funds. All funds of a political committee

and campaign funds of a candidate must be segregated from, and may not be commingled with, any personal funds of the candidate, treasurer or other officers, members or associates of the committee. Personal funds of the candidate used to support the candidacy must be recorded and reported to the treasurer as contributions to the political committee, or the candidate if the candidate has not authorized a political committee.

2. Report of contributions and expenditures. A person who receives a contribution or makes an expenditure for a candidate or political committee shall report the contribution or expenditure to the treasurer within 5 days of the receipt of the contribution or the making of the expenditure. A person who receives a contribution in excess of \$10 for a candidate or a political committee shall report to the treasurer the amount of the contribution, the name and address of the person making the contribution and the date on which the contribution was received.

3. Record keeping. A treasurer shall keep a detailed and exact account of:

A. All contributions made to or for the candidate or committee, including any contributions by the candidate;

B. The name and address of every person making a contribution in excess of \$10, the date and amount of that contribution and, if a person's contributions in any report filing period aggregate more than \$50, the account must include the contributor's occupation and his principal place of business, if any. If the contributor is the candidate or a member of the candidate's immediate family, the account must also state the relationship. For purposes of this paragraph, "filing period" is as provided in section 1017, subsections 2 and 3-A;

C. All expenditures made by or on behalf of the committee or candidate; and

D. The name and address of every person to whom any

expenditure is made and the date and amount of the expenditure.

4. Receipts preservation. A treasurer shall obtain and keep a receipted bill, stating the particulars, for every expenditure in excess of \$50 made by or on behalf of a political committee or a candidate and for any such expenditure in a lesser amount if the aggregate amount of those expenditures to the same person in any election exceeds \$50. The treasurer shall preserve all receipted bills and accounts required to be kept by this section for 2 years following the final report required to be filed for the election to which they pertain, unless otherwise ordered by the commission or a court.

§ 1017. Reports by candidates

1. Federal candidates. The treasurer of the campaign committee of each candidate for federal office shall file with the commission a copy of the complete report required of them under federal law on the same date that those reports are required to be filed under federal law.

2. Gubernatorial candidates. A treasurer of a candidate for the office of Governor shall file reports with the commission as follows. Once the first required report has been filed, each subsequent report must cover the period from the completion date of the prior report filed.

A. In any calendar year, other than a gubernatorial election year, in which the candidate or the candidate's political committee has received contributions in excess of \$1,000 or made or authorized expenditures in excess of \$1,000, reports must be filed no later than 5 p.m. on July 15th of that year and January 15th of the following calendar year. These reports must include all contributions made to and all expenditures made or authorized by or on behalf of the candidate or the candidate's treasurer as of the end of the preceding month, except those covered by a previous report.

B. Reports must be filed no later than 5 p.m. on the 42nd day before the date on which an election is held and must be complete as of the 49th day before that date. If a report was not filed under paragraph A, the report required under this paragraph must cover all contributions and expenditures through the completion date.

C. Reports must be filed no later than 5 p.m. on the 6th day before the date on which an election is held and must be complete as of the 12th day before that date.

D. Contributions aggregating \$1,000 or more from any one contributor or single expenditures of \$1,000 or more, made after the 12th day before the election, and more than 48 hours before 5 p.m. on the day of the election, must be reported within 48 hours of those contributions or expenditures or by noon of the first business day after the contributions or expenditures, whichever is later.

E. Reports must be filed no later than 5 p.m. on the 42nd day after the date on which an election is held and must be complete for the filing period as of the 35th day after that date.

F. Unless further reports will be filed in relation to a later election in the same calendar year, the disposition of any surplus or deficit in excess of \$50 shown in the reports described in paragraph E must be reported as provided in this paragraph. The treasurer of a candidate or political committee with a surplus or deficit in excess of \$50 shall file reports semiannually with the commission within 15 days following the end of the 2nd and 4th quarters of the State's fiscal year, complete as of the last day of the quarter, until the surplus is disposed of or the deficit is liquidated. The first report under this paragraph is not required until the 15th day of the period beginning at least 90 days from the date of the election. The reports may either be filed in person with the commission on that date or postmarked on that date. The reports must set forth any contributions for the purpose of liquidating the

deficit, in the same manner as contributions are set forth in other reports required in this section.

G. Unless otherwise specified in this subsection, reports must be complete back to the completion date of the previous report. The reports described in paragraph E, if filed with respect to a primary election, are considered previous reports in relation to reports concerning a general election.

H. Reports with respect to a candidate who seeks nomination by petition for the office of Governor must be filed on the same dates that reports must be filed with respect to a candidate who seeks that nomination by primary election.

3. Repealed. Laws 1989, c. 504, § 13, eff. Nov. 1, 1989.

3-A. Other candidates. A treasurer of a candidate for state or county office other than the office of Governor shall file reports with the commission as follows. Once the first required report has been filed, each subsequent report must cover the period from the completion date of the prior report filed.

A. In any calendar year in which an election for the candidate's particular office is not scheduled, when any candidate or candidate's political committee has received contributions in excess of \$500 or made or authorized expenditures in excess of \$500, reports must be filed no later than 5 p.m. on July 15th of that year and January 15th of the following calendar year. These reports must include all contributions made to and all expenditures made or authorized by or on behalf of the candidate or the treasurer of the candidate as of the end of the preceding month, except those covered by a previous report.

B. Reports must be filed no later than 5 p.m. on the 6th day before the date on which an election is held and must be complete as of the 12th day before that date. If a report was not filed under paragraph A, the report required under this

paragraph must cover all contributions and expenditures through the completion date.

C. Contributions aggregating \$1,000 or more from any one contributor or single expenditures of \$1,000 or more made after the 12th day before any election and more than 48 hours before 5 p.m. on the day of any election must be reported within 48 hours of those contributions or expenditures, or by noon of the first business day after the contributions or expenditures, whichever is later.

D. Reports must be filed no later than 5 p.m. on the 42nd day after the date on which an election is held and must be complete for the filing period as of the 35th day after that date.

E. Unless further reports will be filed in relation to a later election in the same calendar year, the disposition of any surplus or deficit in excess of \$50 shown in the reports described in paragraph D must be reported as provided by this paragraph. The treasurer of a candidate with a surplus or deficit in excess of \$50 shall file reports semiannually with the commission within 15 days following the end of the 2nd and 4th quarters of the State's fiscal year, complete as of the last day of the quarter, until the surplus is disposed of or the deficit is liquidated. The first report under this paragraph is not required until the 15th day of the period beginning at least 90 days from the date of the election. The reports may either be filed in person with the commission on that date or postmarked on that date. The reports must set forth any contributions for the purpose of liquidating the deficit, in the same manner as contributions are set forth in other reports required in this section.

F. Reports with respect to a candidate who seeks nomination by petition must be filed on the same dates that reports must be filed by a candidate for the same office who seeks that nomination by primary election.

4. New candidate or nominee. A candidate for nomination or a nominee chosen to fill a vacancy under chapter 5, subchapter III is subject to section 1013-A, subsection 1, except that the candidate shall register the name of a treasurer or political committee and all other information required in section 1013-A, subsection 1, paragraphs A and B within 7 days after the candidate's appointment or at least 6 days before the election, whichever is earlier. The person required to file a report under section 1013-A, subsection shall file a campaign report under this section 15 days after the candidate's appointment or 6 days before the election, whichever is earlier. The report must include all contributions received and expenditures made through the completion date. The report must be complete as of 4 days before the report is due. Subsequent reports must be filed on the schedule set forth in this section. The commission shall send notification of this requirement and registration and report forms to the candidate and the candidate's treasurer immediately upon notice of the candidate's and treasurer's appointments.

5. Content. A report required under this section must contain the itemized accounts of contributions received during that report filing period, including the date a contribution was received, and the name, address, occupation, principal place of business, if any, and the amount of the contribution of each person who has made a contribution or contributions aggregating in excess of \$50. The report must contain the itemized expenditures made or authorized during the report filing period, the date and purpose of each expenditure and the name of each payee and creditor. Total contributions with respect to an election of less than \$500 and total expenditures of less than \$500 need not be itemized. The report must contain a statement of any loan to a candidate by a financial institution in connection with that candidate's candidacy that is made during the period covered by the report, whether or not the loan is defined as a contribution under section 1012, subsection 2, paragraph A. Until December 31, 1992, the candidate is responsible for the timely and accurate filing of each required report. Beginning January 1, 1993, the candidate and the treasurer are jointly responsible for the timely and accurate filing of each required report.

5-A. Valuation of contributions sold at auction. Any contribution received by a candidate that is later sold at auction shall be reported in the following manner.

A. If the contribution is sold at auction before the commencement of the appropriate reporting period specified in subsections 1 to 4, or during that period, the value of the contribution is deemed to be the amount of the purchase price paid at auction.

B. If the contribution is sold after the termination of the appropriate reporting period specified in subsections 1 to 4, the value of the contribution is the difference between the value of the contribution as originally reported by the treasurer and the amount of the purchase price paid at auction. Unless further reports are filed in relation to a later election in the same calendar year, the disposition of any net surplus or deficit in excess of \$50 resulting from the difference between the auction price and the original contribution value must be reported in the same manner as provided in subsection 2, paragraph F or subsection 3-A, paragraph E, as appropriate.

6. Forms. Reports required by this section must be on forms prescribed, prepared and sent by the commission to the treasurer of each registered candidate at least 7 days before the filing date for the report. Persons filing reports may use additional pages if necessary, but the pages must be the same size as the pages of the form. Although the commission mails the forms for required reports, failure to receive forms by mail does not excuse treasurers, committees and other persons who must file reports from otherwise obtaining the forms.

7. Repealed. Laws 1991, c. 839, § 20, eff. January 1, 1993.

8. Disposition of surplus. A treasurer of a candidate registered under section 1013-A or qualified under sections 335 and 336 or sections 354 and 355 may dispose of a surplus exceeding \$50 by:

- A.** Pro rata distribution to the candidate's or candidate's authorized political committee's contributors;
- B.** A gift to a qualified political party within the State, including any county or municipal subdivision of such a party;
- C.** An unrestricted gift to the State;
- D.** Carrying forward the surplus balance to a political committee established to promote the same candidate for a subsequent election;
- D-1.** Carrying forward the surplus balance for use by the candidate for a subsequent election;
- E.** Transferring the surplus balance to one or more other candidates registered under section 1013-A or qualified under sections 335 and 336 or sections 354 and 355, or to political committees established to promote the election of those candidates, provided that the amount transferred does not exceed the contribution limits established by section 1015;
- F.** Repaying any loans or retiring any other debts incurred to defray campaign expenses of the candidate; and
- G.** Paying for any expense incurred in the proper performance of the office to which the candidate is elected, as long as each expenditure is itemized on expenditure reports.

The choice must be made by the candidate for whose benefit the contributions were made and distribution of the entire surplus by one or more of the methods prescribed in this subsection must be completed within 4 years of the election for which the contributions were received.

9. Campaign termination report forms. The commission shall provide each candidate required to report campaign contributions and expenditures with a campaign termination report form. A candidate shall file the campaign

termination report with the commission as required in this subsection. The campaign termination report must be complete as of June 30th of the year following the campaign of the previous year. This form must show any deficits or surpluses to be carried over to the next campaign. Funds not carried forward to the next campaign must be disposed of as provided in section 1017, subsection 8. Campaign reporting is as follows.

A. Candidates with surplus campaign funds following an election shall file termination reports no later than July 15th of the year following the campaign of the previous year.

B. Candidates with a campaign deficit following an election shall file termination reports no later than July 15th of the year following the campaign of the previous year.

C. Candidates with a deficit who will not participate in the next election for the same office shall file semiannual reports until the deficit is liquidated.

D. Candidates who collect funds subsequent to an election for purposes other than retiring campaign debt shall register with the commission pursuant to section 1013-A.

§ 1017-A. Reports of contributions and expenditures by party committees

1. Contributions. A party committee shall report all contributions in cash or in kind from an individual contributor that in the aggregate in a campaign total more than \$200. The party committee shall report the name, mailing address, occupation and place of business of each contributor. Contributions of \$200 or less must be reported, and these contributions may be reported as a lump sum.*

2. Expenditures on behalf of candidates, others. A party committee shall report all expenditures in cash or in kind of the committee made on behalf of a candidate, political committee, political action committee or party committee registered under this

chapter. The party committee shall report:

- A. The name and address of each candidate and the identity and address of a campaign or committee;
- B. The office sought by a candidate and the district that the candidate seeks to represent; and
- C. The date and amount of each expenditure.*

3. Other expenditures. Operational expenses and other expenditures in cash or in kind of the party committee that are not made on behalf of a candidate, committee or campaign must be reported as a separate item. The party committee shall report:*

- A. The name and address of each recipient;*
- B. The reason for the expenditure; and*
- C. The date and amount of each expenditure.*

4. Filing schedule. A party committee shall file its reports according to the following schedule.

A. Reports filed during an election year must be filed with the commission on: July 15th and be complete as of June 30th; October 27th and be complete as of October 22nd; and January 15th and be complete as of December 31st.

B. Reports filed during a nonelection year must be filed on July 15th and be complete as of June 30th and on January 15th and be complete as of December 31st.

C. Any contribution or expenditure of \$1,000 or more made after the 12th day before any election and more than 48 hours before that election must be reported within 48 hours of that contribution or expenditure or by noon of the first business day after the contribution or expenditure, whichever is later.

5. Penalties. A party committee is subject to the penalties in section 1020, subsection 2, except that the commission may waive the penalties until January 1994.

6. Notice; forms. A state party committee shall notify

[Remainder of this page left intentionally blank.]

all county, district and municipal party committees of the same political party of the party committee reporting requirements. The party committees shall obtain the necessary forms from the commission to complete the filing requirements.

7. Exemption. Any party committee receiving and expending less than \$1,500 in one calendar year is exempt from the reporting requirements of this section for that year.

§ 1018. Reports by party committees

1. State committee; federal reports. The state committee of each party shall file with the commission a copy of the complete report required of them under federal law on the same date that those reports are required to be filed under federal law.

2. Party committee. When a state, district, county or municipal committee of a party makes contributions or expenditures, aggregating in excess of \$50 in an election, that expressly advocate the election or defeat of a candidate or candidates, other than by contribution to a candidate or a candidate's authorized political committee, the party committee making the contribution or expenditure shall file a report with the commission.

A. Reports required by this subsection in relation to a candidate for Governor must be filed on the same dates on which reports for gubernatorial candidates are filed under section 1017, subsection 2. Reports required by this subsection in relation to a candidate for state or county office, other than Governor, must be filed on the same dates on which reports for these candidates are filed under section 1017, subsection 3-A.

B. This report must contain an itemized account of each such contribution or expenditure aggregating in excess of \$50 in any election, the date and purpose of each and the name of each payee or creditor. Total contributions or expenditures of less than \$500 in any election need not be itemized.

C. Reports required by this subsection must be on forms prescribed, prepared and sent by the commission to the candidate at least 7 days before the filing date for the report. Persons filing these reports may use additional pages if necessary, but the pages must be the same size as the pages of the form. Although the commission mails the forms for required reports, failure to receive forms by mail does not excuse committees, candidates and other persons who must file reports from otherwise obtaining the forms.

§ 1019. Reports by other persons

Each person, other than a candidate, a candidate's authorized political committee or a party committee, who makes contributions or expenditures, aggregating in excess of \$50 in an election, that expressly advocate the election or defeat of a clearly identified candidate, other than by contribution to a candidate or a candidate's authorized political committee, shall file a report with the commission.

1. **Filing dates.** Reports required by this section in relation to a candidate for Governor must be filed on the same dates on which reports for gubernatorial candidates are filed under section 1017, subsection 2. Reports required by this section in relation to a candidate for state or county office, other than the office of Governor, must be filed on the same dates on which reports for those candidates are filed under section 1017, subsection 3-A.

2. **Content.** This report must contain an itemized account of each contribution or expenditure aggregating in excess of \$50 in any election, the date and purpose of each and the name of each payee or creditor. Total contributions or expenditures of less than \$500 in any election need not be itemized. The report must state whether the contribution or expenditure is in support of or in opposition to the candidate and must include, under penalty of perjury, as provided in Title 17-A, section 451, a statement under oath or affirmation whether the expenditure is made in cooperation, consultation or concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of a candidate. Any

membership organization or corporation that makes a communication to its members or stockholders expressly advocating the election or defeat of a clearly identified candidate must report any expenditures aggregating in excess of \$50 for such a communication in any election, whether or not the communication is defined as an expenditure under section 1012, subsection 3, paragraph A.

3. Forms. Reports required by this section must be on forms prescribed and prepared by the commission and, in the case of semiannual reports, sent by the commission to the person at least 7 days before the filing date for the report. Persons filing these reports may use additional pages if necessary, but the pages must be the same size as the pages of the form. Although the commission mails the forms for required reports, failure to receive forms by mail does not excuse committees, candidates and other persons who must file reports from otherwise obtaining the forms.

§ 1020. Failure to file on time

1. Registration. Any candidate or political committee that fails to register the name of a candidate, treasurer or political committee with the commission within the time allowed by section 1013-A, subsection 1, must be assessed a forfeiture of \$50. The commission shall determine whether a registration satisfies the requirements for timely filing under section 1013-A, subsection 1.

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission before 5 p.m. on the date it is due. The commission shall determine whether a required report satisfies these requirements for timely filing and, if determined to be late, the number of days of lateness. If the reason for the late filing is that forms required to be sent by the commission were not postmarked at least 7 days before the filing date, the period for filing shall be increased by the deficiency without penalty.

A. Except as provided in paragraph B, there is a penalty of \$10 for each business day a report required to be filed under this subchapter is late.

B. A forfeiture of \$50 must be adjudged for each business day that reports required under section 1017, subsection 2, paragraph C or D; section 1017, subsection 3-A, paragraph B or C; section 1018, subsection 2, paragraph A; or section 1019, subsection 1 are late.

C. The maximum penalty under this subsection is \$500, except in the case of penalties assessed under paragraph B, in which case the maximum penalty is \$1,000.

D. A notice of lateness shall be sent to candidates and treasurers registered with the commission whose campaign finance reports are not received within 2 days of the filing deadline. That notice shall be sent on the 3rd day following the deadline.

E. A late report required under section 1017, subsection 2, paragraph A, B, E or F, or section 1017, subsection 3-A, paragraph A, D or E, that is filed within 10 days of the due date is not subject to penalty.

F. A report required to be filed 6 days before an election which is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty. Any required report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as an original of the same report is received by the commission within 5 calendar days thereafter. Reports filed after the applicable grace period are subject to penalties from the original filing deadline.

G. The commission, upon determining that a report is late, shall notify the Secretary of State of the lateness. The Secretary of State has the initial responsibility for collecting the full amount of any penalty within 30 days after receiving

notice of a late report from the commission. The Secretary of State shall have all necessary powers to carry out this responsibility.

H. The commission shall prepare a list of the names of candidates who are late in filing a report required under section 1017, subsection 2, paragraph C or D, or section 1017, subsection 3-A, paragraph B or C, within 30 days of the date of the election and shall make that list available for public inspection.

3. Enforcement. Failure to pay the full amount of any penalty levied under this section is a civil violation by the candidate, political party or other person whose campaign finance activities are required by this subchapter to be reported. Thirty days after receiving notice of the lateness of any report, the Secretary of State shall report to the Attorney General the name of any person who has failed to pay the full amount of any penalty. The Attorney General shall enforce the violation in a civil action to collect the full outstanding amount of the penalty. This action shall be brought in the Superior Court for the County of Kennebec or the District Court, 7th District, Division of Southern Kennebec.

SUBCHAPTER III REPORTS ON REFERENDUM CAMPAIGNS

§ 1031. Repealed. Laws 1985, c. 614, § 24.

§ 1032. Repealed. Laws 1985, c. 614, § 24.

§ 1033. Repealed. Laws 1985, c. 614, § 24.

§ 1034. Repealed. Laws 1985, c. 614, § 24.

§ 1035. Repealed. Laws 1985, c. 614, § 24.

§ 1036. Repealed. Laws 1985, c. 614, § 24.

§ 1037. Repealed. Laws 1985, c. 614, § 24.

**SUBCHAPTER IV
REPORTS BY
POLITICAL ACTION COMMITTEES**

§ 1051. Application

This subchapter applies to the activities of political action committees organized in and outside this State that accept contributions, incur obligations or make expenditures in an aggregate amount in excess of \$50 in any one calendar year for the election of state or county officers, or for the support or defeat of any campaign, as defined in this subchapter.

This subchapter does not apply to any broadcast time concerning any referendum campaign, as defined in section 1, subsection 36, which is provided by a broadcaster in accordance with the requirements of the Federal Communications Act, United States Code, Title 47, Section 315, generally referred to as the "Fairness Doctrine."

§ 1052. Definitions

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

1. Campaign. "Campaign" means any course of activities for a specific purpose such as the initiation, promotion or defeat of a candidate or question, including:

A. The referendum procedure under the Constitution of Maine, Article IV, Part Third, Section 17;

B. The initiative procedure under the Constitution of Maine, Article IV, Part Third, Section 18;

C. An amendment to the Constitution of Maine under Article X, Section 4;

D. Legislation expressly conditioned upon ratification by a referendum vote under the Constitution of Maine, Article IV, Part Third, Section 19;

E. The ratification of the issue of bonds by the State or any agency thereof; and

F. Any county referendum.

2. Committee. "Committee" means any political action committee, as defined in this subchapter, and includes any agent of a political committee.

3. Contribution. "Contribution" includes:

A. A gift, subscription, loan, advance or deposit of money or anything of value made to a political action committee, except that a loan of money by a financial institution made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;

B. A contract, promise or agreement, expressed or implied whether or not legally enforceable, to make a contribution to a political action committee;

C. Any funds received by a political action committee which are to be transferred to any candidate, committee, campaign or organization for the purpose of promoting, defeating or initiating a candidate, referendum, political party or initiative in this State; or

D. The payment, by any person or organization, of compensation for the personal services of other persons provided to a political action committee which is used by the political action committee to promote, defeat or initiate a candidate, campaign political party, referendum or initiated petition in this State.

4. Expenditure. The term "expenditure:"

A. Includes:

(1) A purchase, payment, distribution, loan, advance, deposit or gift or money or anything of value, made for the purpose of influencing the nomination or election of any person to political office; or for the initiation, support or defeat of a campaign, referendum or initiative in this State;

(2) A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make any expenditure for the purposes set forth in this paragraph; and

(3) The transfer of funds by a political action committee to another candidate or political committee; and

B. Does not include:

(1) Any news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine or other periodical publication, unless these facilities are owned or controlled by any political party, political committee or candidate;

(2) Nonpartisan activity designed to encourage individuals to register to vote or to vote;

(3) Any communication by any membership organization or corporation to its members or stockholders, if that membership organization or corporation is not organized primarily for the purpose of influencing the nomination or election of any person to state or county office;

(4) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by a political action committee in rendering voluntary personal services for candidate-related activities, if the cumulative value of these activities by the political action committee on behalf of any candidate does not exceed \$50 with respect to any election;

(5) Any unreimbursed travel expenses incurred and paid for by a political action committee which volunteers personal services to a candidate, if the cumulative amount of these expenses does not exceed \$50 with respect to any election; and

(6) Any communication by any political action committee member which is not made for the purpose of influencing the nomination for election, or election, of any person to state or county office.

5. Political action committee. The term "political action committee:"

A. Includes:

(1) Any separate or segregated fund established by any corporation, membership organization, cooperative or labor organization whose purpose is to influence the outcome of an election, including a candidate or question;

(2) Any person who serves as a funding and transfer mechanism and spends money to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition in this State;

(3) Any person who makes expenditures other than by contribution to a political action committee,

for the purpose of the initiation, promotion or defeat of any question; and

(4) Any person, including any corporation or association, who solicits funds from members of nonmembers and spends more than \$1,500 in a calendar year to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition in this State; and

B. Does not include:

(1) A candidate or a candidate's treasurer under section 1013-A, subsection 1;

(2) A candidate's authorized political committee under section 1013-A, subsection 2; or

(3) A party committee under section 1013-A, subsection 3.

§ 1053. Registration

Every political action committee that accepts contributions, incurs obligations or makes expenditures in the aggregate in excess of \$50 in any single calendar year to initiate, support, defeat or influence in any way a campaign, a referendum, initiated petition, candidate, political committee or another political action committee must register with the commission, within 7 days of accepting those contributions, incurring those obligations or making those expenditures, on forms prescribed by the commission. These forms must include the following information and any additional information reasonably required by the commission to monitor the activities of political action committees in this State under this subchapter:

1. Identification of committee. The names and mailing addresses of the committee, its treasurer, its principal officers and

the identity of any candidate for any constitutional office or who is registered under section 1013-A and who is involved in decision making for a political action committee organized to advance the election of that candidate;

2. **Status.** A statement whether the political action committee is a continuing one;

3. **Depository of funds.** The names and addresses of the depositories in which funds of the committee are kept and the account numbers of each depository account;

4. **Form of organization.** The form or structure of organization, including cooperatives, corporations, voluntary associations, partnerships or any other structure by which the committee functions. The date of origin or incorporation must also be specified;

5. **Assets.** The total assets of the committee available to influence elections in this State at the time of registration to be itemized and to include deposits in financial institutions, real property, personal property, investments, cash and any other form of wealth available to the committee;

6. **Statement of support or opposition.** A statement indicating the positions of the committee, support or opposition, with respect to a candidate, political committee, referendum, initiated petition or campaign, if known at the time of registration. If a committee has no position on a candidate, campaign or issue at the time of registration, the committee must inform the commission as soon as the committee knows this information; and

7. **Contributions to committee.** The names and mailing addresses of contributors who donate in excess of \$50 each year to the committee with amount or value of each contribution at the time of registration. Any person who makes contributions on an installment basis, the total of which exceeds \$50 in the calendar year, is considered a contributor to be identified under this subsection.

§ 1054. Appointment of treasurer

Any political action committee required to register under section 1053 must appoint a treasurer before making any expenditure, as defined in this chapter. The treasurer shall retain, for a minimum of 4 years, all receipts, including cancelled checks, of expenditures made in support of or in opposition to a campaign, political committee, political action committee, referendum or initiated petition in this State.

§ 1055. Publication or distribution of statements

When a political action committee makes an expenditure to finance a communication expressly advocating the initiation, promotion or defeat of a question or candidate through broadcasting stations, newspapers, magazines, outdoor advertising facilities, direct mails and other similar types of general public political advertising and through flyers, handbills, bumper stickers and other nonperiodical publications, the communication must clearly and conspicuously state the name and address of the political action committee that authorized, made or financed the expenditure for the communication and that the communication has been authorized by the political action committee.

No person operating a broadcasting station within this State may broadcast any such communication without an oral or visual announcement of the name and address of the political action committee which made or financed the expenditure for the communication and statement that reads: "A copy of our report is available from and may be viewed at the office of the Secretary of State."

An expenditure, communication or broadcast which results in a violation of this section may result in a civil penalty of no more than \$100. Enforcement and collection procedures shall be in accordance with section 1062.

§ 1056. Expenditure limitations

Any committee required to register under this chapter shall comply with the following expenditure limitations.

1. **Aggregate expenditures.** No committee may make expenditures in support of or opposition to the candidacy of one person or to a political committee in an aggregate amount greater than \$5,000 in any election.

2. **Prohibited expenditures.** No committee may make any expenditure for liquor to be distributed to or consumed by voters while the polls are open on election day.

§ 1056-A. Expenditures by political action committees*

A political action committee shall report all expenditures in cash or in kind made by the committee.

§ 1057. Records

Any political action committee that makes expenditures which aggregate in excess of \$50 to any one or more candidates, committees or campaigns in this State shall keep records as provided in this section. Records required to be kept under subsections 1, 2 and 3 shall be retained by the political action committee until 10 days after the next election following the election to which the records pertain.

1. **Details of records.** The treasurer of a political action committee must record a detailed account of:

A. All expenditures made to or in behalf of a candidate, campaign or committee;

B. The identity and address of each candidate, campaign or committee;

C. The office sought by a candidate and the district he seeks to represent, for candidates which a political action committee has made an expenditure to or in behalf of; and

D. The date of each expenditure.

2. Receipts. The treasurer of a political action committee must retain all receipts of expenditures made for a candidate, committee or campaign in this State. Receipts may be in the form of cancelled checks.

3. Record of contributions. The treasurer of a political action committee must keep a record of all contributions to the committee, by name and mailing address, of each donor and the amount and date of the contribution. This provision does not apply to contributions which do not exceed \$50 each for a general election, primary election and referendum campaign. When any donor's contributions to a political action committee exceed \$50, the record must include the aggregate amount of all contributions from that donor.

§ 1058. Reports, qualifications for filing*

A political action committee that is registered with the commission or that accepts contributions or incurs obligations in an aggregate amount in excess of \$50 on any one or more campaigns for the office of Governor, for state or county office or for the support or defeat of a referendum or initiated petition shall file a report on its activities in that campaign with the commission on forms as prescribed by the commission. A political action committee organized in this State required under this section to file a report shall file the report for each filing period under section 1059. A political action committee organized outside this State shall file with the Commission on Governmental Ethics and Election Practices of this State a copy of the report that the political action committee is required to file in the state in which the political action committee is organized. The political action committee shall file the copy only if it has expended funds or received contributions or made expenditures in this State. The copy of the report must be filed in accordance with the schedule of filing in the state where it is organized. Any person or organization organized to oppose a question to be voted on by the electorate at referendum shall report, within 10 days following the drafting of the question by the

Any committee required to register under this chapter shall comply with the following expenditure limitations.

1. **Aggregate expenditures.** No committee may make expenditures in support of or opposition to the candidacy of one person or to a political committee in an aggregate amount greater than \$5,000 in any election.

2. **Prohibited expenditures.** No committee may make any expenditure for liquor to be distributed to or consumed by voters while the polls are open on election day.

§ 1057. Records

Any political action committee that makes expenditures which aggregate in excess of \$50 to any one or more candidates, committees or campaigns in this State shall keep records as provided in this section. Records required to be kept under subsections 1, 2 and 3 shall be retained by the political action committee until 10 days after the next election following the election to which the records pertain.

1. **Details of records.** The treasurer of a political action committee must record a detailed account of:

A. All expenditures made to or in behalf of a candidate, campaign or committee;

B. The identity and address of each candidate, campaign or committee;

C. The office sought by a candidate and the district he seeks to represent, for candidates which a political action committee has made an expenditure to or in behalf of; and

D. The date of each expenditure.

2. **Receipts.** The treasurer of a political action committee must retain all receipts of expenditures made for a candidate,

committee or campaign in this State. Receipts may be in the form of cancelled checks.

3. Record of contributions. The treasurer of a political action committee must keep a record of all contributions to the committee, by name and mailing address, of each donor and the amount and date of the contribution. This provision does not apply to contributions which do not exceed \$50 each for a general election, primary election and referendum campaign. When any donor's contributions to a political action committee exceed \$50, the record must include the aggregate amount of all contributions from that donor.

§ 1058. Reports; qualifications for filing

A political action committee that is registered with the commission or that accepts contributions, incurs obligations or makes expenditures in an aggregate amount in excess of \$50 on any one or more campaigns for the office of Governor, for state or county office or for the support or defeat of a referendum or initiated petition shall file a report on its activities in that campaign with the commission on forms as prescribed by the commission. A political action committee organized in this State required under this section to file a report shall file the report for each filing period under section 1059, whether or not the expenditures are in excess of \$50 in any one period. A political action committee organized outside this State shall file with the commission on Governmental Ethics and Election Practices of this State a copy of the report that the political action committee is required to file in the state in which the political action committee is organized. The political action committee shall file the copy only if it has expended funds, received contributions or made expenditures in this State. The copy of the report must be filed in accordance with the schedule of filing in the state where it is organized. Any person or organization organized to oppose a question to be voted on by the electorate at referendum shall report, within 10 days following the drafting of the question by the Secretary of State and prior to the distribution of any petitions for voter signatures pursuant to chapter 11, to the commission as required in this section and sections 1059 and 1060.

Secretary of State and prior to the distribution of any petitions for voter signatures pursuant to chapter 11, to the commission as required in this section and sections 1059 and 1060.*

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§ 1059. Report; filing requirements

Committees required to register under section 1053 shall file reports in compliance with this section. All reports must be filed no later than 5 p.m. on the filing deadline.

1. Contents; quarterly reports and election year reports. The reports required under subsection 2, paragraphs A, B and C, must contain the following:

A. Itemized expenditures required by the commission to closely monitor the activities of political action committees;

B. Aggregate expenditures, listed by candidate or political committee, for the reporting period for which the report is filed;

B-1. Cumulative expenditures, listed by candidate or political committee, aggregating the expenditures made during preceding reporting periods in the same calendar year and during the reporting period for which the report is filed;

C. The total cumulative balance from all preceding reporting periods; and

D. In the report required to be filed under subsection 2, paragraph B, subparagraph 2, a summary of all expenditures made during the calendar year in which the election was held.

The commission may accept computer printout sheets that contain the information required by this chapter.

2. Reporting schedule. Committees shall file reports according to the following schedule.

A. Quarterly reports shall be filed:

(1) On January 15th and must be complete as of January 5th;

(2) On April 10th and must be complete as of March 31st;

(3) On July 15th and must be complete as of July 5th; and

(4) On October 10th and must be complete as of September 30th.

B. General and primary election reports shall be filed:

(1) On the 6th day before the date on which the election is held and must be complete as of the 12th day before that date; and

(2) On the 42nd day after the date on which the election is held and must be complete as of the 35th day after that date.

C. Reports of spending to influence special elections, referenda, initiatives, bond issues or constitutional amendments shall be filed:

(1) On the 6th day before the date on which the election is held and must be complete as of the 12th day before that date; and

(2) On the 42nd day after the date on which the election is held and must be complete as of the 35th day after that date.

D. A committee that files an election report under paragraph B or C is not required to file a quarterly report when the deadline for that quarterly report falls within 10 days of the filing deadline established in paragraph B or C.

E. A committee shall report any expenditure of \$500 or more, made after the 12th day before the election and more than 48 hours before 5 p.m. on the day of the election, within

48 hours of that expenditure or by noon of the first business day after the expenditure, whichever is later.

3. **Repealed. Laws 1989, c. 504, § 28.**

4. **Repealed. Laws 1989, c. 504, § 28.**

§ 1060. Content of reports

The reports must contain the following information and any additional information required by the commission to monitor the activities of political action committees:

1. **Identification of candidates.** The names and mailing addresses of any candidate whom the committee supports, intends to support or seeks to defeat. The report must indicate the office that the candidate is seeking, the political party represented by the candidate, if any, the date of the contest and whether the contest is an election or a primary;

2. **Identification of committees; parties.** The names and mailing addresses of any political committee or political party supported in any way by the registrant;

3. **Identification of referendum or initiated petition.** The referendum or initiated petition which the committee supports or opposes and the names and mailing addresses of the organizations to which expenditures were made;

4. **Itemized expenditures.** An itemization of expenditures and the date of each expenditure made to support or oppose any candidate, campaign, political committee, political action committee, political party, referendum or initiated petition. The commission may specify the categories of expenditures which are to be reported to enable the commission to closely monitor the activities of political action committees;

5. **Aggregate expenditures.** An aggregation of expenditures and cumulative aggregation of expenditures to a

candidate, campaign, political committee, political action committee, referendum or initiated petition;

6. Identification of contributions. Names and mailing addresses of contributors who have given more than \$50 to the political committee after the committee has registered under section 1053, the amount contributed by each donor and the date of the contribution. The information already reported as required by section 1053, subsection 7 should not be duplicated; and

7. Other expenditures. Operational expenses and other expenditures in cash or in kind that are not made on behalf of a candidate, committee or campaign.

§ 1061. Dissolution of committees

Whenever any political action committee disbands or determines that obligations will no longer be incurred and no expenditures will be made to any candidate, political committee or political party, or to initiate, support, defeat or influence in any way the outcome of a referendum, initiated petition, election or primary, and the committee has no outstanding obligations, the committee shall file a termination report with the Commission on Governmental Ethics and Election Practices. If a termination report is not filed, the committee shall continue to file periodic reports as required in this chapter.*

§ 1062. Failure to file on time

1. Registration. A political action committee required to register under section 1053 that fails to do so in accordance with section 1053 or that fails to provide the information required by the commission for registration must be assessed a forfeiture of \$250.

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission before 5 p.m. on the date it is due. The commission shall determine whether a required

report satisfies these requirements for timely filing and, if

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determined to be late, the number of days of lateness.

A. Except as provided in paragraph B, there is a penalty of \$250, plus an additional penalty of \$50 for each business day beginning with the 2nd such day that a campaign finance report required to be filed under this subchapter is late, up to a maximum of \$1,000.

B. There is a penalty of \$250 for each business day that a report required to be filed under section 1059, subsection 2, paragraph B, subparagraph (1); section 1059, subsection 2, paragraph C, subparagraph (1); or section 1059, subsection 2, paragraph E is late, up to a maximum of \$2,000.

C. A notice of lateness shall be sent to political action committees and treasurers registered with the commission whose campaign finance reports are not received by 2 days after the filing deadline. That notice shall be sent on the 3rd day following the deadline.

D. A late report required to be filed under section 1059, subsection 2, paragraph A; section 1059, subsection 2, paragraph B, subparagraph (2); or section 1059, subsection 2, paragraph C, subparagraph (2), filed within 10 days of any deadline is not subject to penalty. Reports filed after the applicable grace period are subject to penalties from the original filing deadline.

E. A report required to be filed within 6 days before an election which is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty. Any required report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as an original of the same report is received by the commission within 5 calendar days thereafter.

F. The commission, upon determining that a report is late, shall notify the Secretary of State of the lateness. The

Secretary of State has the initial responsibility for collecting the full amount of any penalty within 30 days after receiving notice of a late report from the commission. The Secretary of State shall have all necessary powers to carry out this responsibility.

G. The commission shall prepare a list of the names of committees that are late in filing a report required under section 1059, subsection 2, paragraph B, subparagraph (1); section 1059, subsection 2, paragraph C, subparagraph (1); or section 1059, subsection 2, paragraph E, within 30 days of the date of the election and shall make that list available for public inspection.

3. Enforcement. Failure to pay the full amount of any penalty levied under this section is a civil violation by the political action committee and its treasurer. Thirty days after receiving notice of the lateness of any report, the Secretary of State shall report to the Attorney General the name of any political action committee and treasurer that failed to pay the full amount of any penalty. The Attorney General shall enforce this violation in a civil action to collect the full outstanding amount of the penalty. The action shall be brought in the Superior Court for the County of Kennebec or the District Court, 7th District, Division of Southern Kennebec.

4. Repealed. Laws 1989, c. 504, § 29.

SUBCHAPTER V MAINE CODE OF FAIR CAMPAIGN PRACTICES

§ 1101. Maine Code of Fair Campaign Practices

1. Distribution to candidates. At the time a candidate for the office of Governor, the Senate of the House of Representatives registers with the commission as required under section 1013-A, the commission shall give the candidate a form containing a copy of the Maine Code of Fair Campaign Practices

established in this subchapter. The commission shall, at that time, inform the candidate that subscription to the code is voluntary. For the purposes of this subchapter, "code" means the Maine Code of Fair Campaign Practices.

2. **The code form.** The code, printed on the form provided to candidates under subsection 1, must read as follows:

"Maine Code of Fair Campaign Practices

I shall conduct my campaign and, to the extent reasonably possible, insist that my supporters conduct themselves, in a manner consistent with the best Maine and American traditions, discussing the issues and presenting my record and policies with sincerity and candor.

I shall uphold the right of every qualified voter to free and equal participation in the election process.

I shall not participate in and I shall condemn defamation of and other attacks on any opposing candidate or party that I do not believe to be truthful, provable and relevant to my campaign.

I shall not use or authorize and I shall condemn material relating to my campaign that falsifies, misrepresents or distorts the facts, including, but not limited to, malicious or unfounded accusations creating or exploiting doubts as to the morality, patriotism or motivations of any party or candidate.

I shall not appeal to and I shall condemn appeals to prejudices based on race, creed, sex or national origin.

I shall not practice and I shall condemn practices that tend to corrupt or undermine the system of free election or that hamper or prevent the free expression of the will of the voters.

I shall promptly and publicly repudiate the support of any individual or group that resorts, on behalf of my candidacy or in opposition to that of an opponent, to methods in violation of the

letter or spirit of this code.

I, the undersigned, candidate for election to public office in the State of Maine, hereby voluntarily endorse, subscribe to and solemnly pledge to conduct my campaign in accordance with the above principles and practices.

Candidate for Public Office"

§ 1102. Printing of code forms

The commission shall print, or cause to be printed, copies of the code for distribution to registered candidates.

§ 1103. Acceptance of completed forms

The commission shall accept, at all times prior to the election, completed code forms that are properly subscribed to by a candidate.

§ 1104. Public records

The commission shall retain for public inspection all completed code forms accepted by the commission under section 1103. A code subscribed to by a candidate is a public record under Title 1, section 408.

§ 1105. Subscription to code voluntary

In no event may a candidate be required to subscribe to or endorse the code.

**CHAPTER 15
APPORTIONMENT**

§ 1201. Repealed. Laws 1993, c. 628, § 1.*

[Sections 1202 through 1205, detailing Maine Senate, House of

Representatives and congressional district boundaries, are not reprinted here. The information is available upon request from the Elections Section.]*

§ 1206. Reapportionment*

The state legislative districts established in this chapter must be reapportioned pursuant to the Constitution of Maine, Article IV, Part Third, Section 1-A, and congressional districts must be reapportioned as follows.

1. Procedure. In 1993 and every 10 years thereafter, when the Secretary of State has received notification of the number of congressional seats to which the State is entitled and the Federal Decennial Census population count is final, the Legislative Apportionment Commission, established every 10 years pursuant to the Constitution of Maine, Article IV, Part Third, Section 1-A, shall review the existing congressional districts. If the districts do not conform to Supreme Judicial Court guidelines, the commission shall reapportion the State into congressional districts.

In making such a reapportionment, the commission shall ensure that each congressional district is formed of compact and contiguous territory and crosses political subdivisions the least number of times necessary to establish districts as equally populated as possible. The commission shall submit its plan to the Clerk of the House of Representatives no later than 120 calendar days after the convening of the Legislature in which apportionment is required. The Legislature shall enact the submitted plan of the commission or a plan of its own in regular or special session by a vote of 2/3 of the members of each house within 30 calendar days after the plan is submitted to the Clerk of the House of Representatives. This action is subject to the Governor's approval, as provided in the Constitution of Maine, Article IV, Part Third, Section 2.

2. Court apportionment. If the Legislature fails to make an apportionment within 120 calendar days of the convening of the session in which apportionment is required, the Supreme Judicial Court shall make the apportionment within 60 days

following the period in which the Legislature is required to act but fails to do so. In making the apportionment, the Supreme Judicial Court shall take into consideration plans and briefs filed by the public with the court during the first 30 days of the period in which the court is required to apportion.

3. Judicial review. The Supreme Judicial Court has original jurisdiction to hear any challenge to an apportionment law enacted by the Legislature, as registered by any citizen or group of citizens. If a challenge is sustained, the Supreme Judicial Court shall make the apportionment.

§ 1207. Implementation and interpretation*

1. Implementation. The Secretary of State shall implement the election districts established in this chapter pursuant to this Title and the Constitution of Maine. The Secretary of State shall inform the municipal clerks of the voting district or districts in which each municipality lies and shall provide copies of this chapter and district maps and narrative geographic descriptions of relevant election districts to those officials. The Secretary of State may resolve ambiguities concerning the location of election district lines consistent with subsection 2 and this chapter.

2. Interpretation. Where a road, street, waterway, boundary of a tract, boundary of a block group or boundary of a block is used as a boundary of an election district, the boundary line lies at the center of the street or road, at the thread of the waterway or at the boundary of the tract, block group or block, unless otherwise noted. When a description refers to a bridge or railroad line, the district boundary lies at the center of the bridge or railroad tracks. When a description refers to a railroad spur, it refers to the principal spur in the area. When a description uses the word "ocean," the district boundary line lies coincident with the legal boundary of the particular community along or within the Atlantic Ocean. When an election district includes a particular unorganized territory, it includes that unorganized territory as described in the United States Census for 1990, whether the territory is organized or unorganized on the effective date of this chapter. Unless otherwise

noted, a district that names a municipality includes all of the municipality.

3. Nonseverability. It is the intent of the Legislature that the apportionment of the Maine Senate, the Maine House of Representatives and Maine congressional districts, as established in this chapter, become law as an entirety. If the apportionment of one or more of the bodies apportioned in this chapter is rendered invalid or unlawful by a court of law, it is the intent of the Legislature that the apportionment of all of the bodies apportioned in this chapter become void.

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Title 30-A Municipalities

CHAPTER 121 MEETINGS AND ELECTIONS

SUBCHAPTER I GENERAL PROVISIONS

§ 2501. Applicability of provisions

Except as otherwise provided by this Title or by charter, the method of voting and the conduct of a municipal election are governed by Title 21-A.

1. **Clerk to perform duties of Secretary of State.** When Title 21-A applies to any municipal election, the municipal clerk shall perform the duties of the Secretary of State prescribed by Title 21-A.

2. **Qualifications for voting.** The qualifications for voting in a municipal election conducted under this Title are governed solely by Title 21-A, section 111.

§ 2502. Campaign reports in municipal elections

1. **Reports by candidates.** Title 21-A, sections 1001 to 1020 do not apply to a candidate for municipal office in a town. A candidate for municipal office of a city with a population of 10,000 or more is governed by Title 21-A, sections 1001 to 1020, except that notices of appointment of a treasurer and campaign reports must be filed with the municipal clerk instead of the Secretary of State.

A. Notwithstanding Title 17-A, section 4-A, a candidate who fails to file a notice or report, as required by this section, is guilty of a Class E crime and shall be punished by a fine of \$5 for every day the candidate is in default or by

imprisonment for not more than 30 days, or both.

2. **Municipal referenda campaigns.** Title 21-A, chapter 13, subchapter IV, does not apply to municipal referenda campaigns.

§ 2503. Reapportionment

1. **Adoption by ordinance.** Districts established for the purpose of electing, from each district, an equal number of municipal officers may be adjusted, by ordinance, by the municipal legislative body subject to the following conditions.

A. Each district must be formed of compact, contiguous territory. Its boundary lines may follow the center lines of streets.

B. Each district must contain as nearly as possible the same number of inhabitants as determined according to the latest Federal Decennial Census, but districts may not differ in number of inhabitants by more than 10% of the inhabitants in the smallest district created.

C. The ordinance must include a map and a description of the districts.

D. The ordinance takes effect on the 30th day after adoption by the legislative body. The new districts and boundaries, as of the effective date, supersede previous districts and boundaries for the purposes of the next regular municipal election, including nominations.

2. **Failure to enact ordinance.** The municipal legislative body must enact the reapportionment ordinance within 18 months after the official publication of the latest decennial census as required by the United States Code, Title 13, Section 141, paragraph (c); provided that ordinance is enacted at least 90 days before a regular municipal election occurring within that 18-month period. If the legislative body fails to do so, all municipal officers

to be elected shall be elected at large and shall serve until their terms expire. Such at-large elections shall continue until the legislative body enacts an ordinance in accordance with subsection 1 at least 90 days before a regular municipal election.

3. Referendum. Except when the municipal legislative body is the town meeting, the voters of the municipality may require the municipal legislative body to reconsider any ordinance adopted under subsection 1. If the legislative body does not repeal an ordinance so reconsidered, the voters may approve or reject it at a municipal election.

A. Any 5 voters may commence referendum proceedings by filing an affidavit with the municipal clerk stating:

(1) They will constitute the petitioners' committee;

(2) They will be responsible for circulating the petition and filing it in proper form;

(3) Their names and addresses;

(4) The address to which all notices to the committee are to be sent; and

(5) The ordinance sought to be reconsidered.

Promptly after the affidavit of the petitioners' committee is filed, the clerk shall issue the appropriate petition blanks to the petitioners' committee.

B. Petitions under this subsection must meet the following requirements.

(1) Petitions must be signed by a number of voters of the municipality equal to at least 15% of the total number of voters in the municipality at the last presidential election.

(2) All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature must be executed in ink or indelible pencil and must be followed by the address of the person signing. While being circulated, petitions must have the full text of the ordinance sought to be reconsidered contained in or attached to the petition.

(3) When filed, each paper of a petition must have an affidavit, executed by the circulator of the petition, attached to it stating:

(a) That the circulator personally circulated the paper;

(b) The number of signatures on the paper;

(c) That all the signatures were signed in the circulator's presence;

(d) That the circulator believes them to be the genuine signatures of the persons whose names they purport to be; and

(e) That each signer had an opportunity before signing to read the full text of the ordinance sought to be reconsidered.

(4) Petitions must be filed within 30 days after the municipal legislative body adopts the ordinance sought to be reconsidered.

C. The following procedure shall be followed after the petition is filed with the municipal clerk.

(1) Within 20 days after the petition is filed, the municipal clerk shall complete a certificate as to its

sufficiency, specifying, if it is insufficient, the particulars which render it defective. The clerk shall promptly send a copy of the certificate to the petitioners' committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the clerk within 2 days after receiving the copy of the clerk's certificate and files a supplementary petition upon additional papers within 10 days after receiving a copy of the certificate. This supplementary petition must comply with the requirements of paragraph B, subparagraphs (2) and (3). Within 5 days after it is filed, the clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of that certificate to the petitioners' committee by registered mail as in the case of an original petition. If a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend the petition or request review under subparagraph (2), within the time required, the clerk shall promptly present the clerk's certificate to the municipal legislative body and the certificate is then a final determination as to the sufficiency of the petition.

(2) If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee, within 2 days after receiving the copy of the certificate, may file a request that it be reviewed by the municipal legislative body. The legislative body shall review the certificate at its next meeting following the filing of the committee's request and approve or disapprove it. This determination is then final as to the sufficiency of the petition.

(3) A final determination as to the sufficiency of

a petition is subject to court review. A final determination of insufficiency, even if sustained upon court review, does not prejudice the filing of a new petition for the same purpose.

D. When a petition is filed with the clerk under this subsection, the ordinance sought to be reconsidered is suspended from taking effect. This suspension ends when:

- (1) There is a final determination of insufficiency of the petition;
- (2) The petitioners' committee withdraws the petition;
- (3) The council repeals the ordinance; or
- (4) Thirty days have elapsed after a vote of the municipality on the ordinance.

E. The following procedure shall be followed if a petition is determined to be sufficient.

- (1) When a petition has been finally determined sufficient, the municipal legislative body shall promptly reconsider the referred ordinance by voting its repeal. If the legislative body fails to repeal the referred ordinance within 30 days after the date the petition was finally determined sufficient, it shall submit the referred ordinance to the voters of the municipality.
- (2) The vote of the municipality on a referred ordinance shall be held at least 30 days and not more than one year after the municipal legislative body's final vote on the ordinance. If no regular municipal election is to be held within this period, the legislative body shall provide for a special election; otherwise the vote shall be held at the same time as a regular

election occurring within this period, except that the legislative body, in its discretion, may provide for a special election at an earlier date within the prescribed period. Copies of the referred ordinance shall be made available at the polls.

(3) The form of the ballot for the repeal of the ordinance shall be substantially as follows:

"Shall the ordinance entitled '.....'
be repealed?

YES / /

NO / /"

(The voters shall indicate their choice by a cross or check mark placed in the appropriate box opposite the words YES or NO.)

(4) A petition may be withdrawn at any time before the 15th day prior to the day scheduled for a vote of the municipality. The petitioners' committee must file with the municipal clerk a request for withdrawal signed by at least 4 members of the petitioners' committee. Upon filing this request, the petition has no further effect and all proceedings on the petition shall be terminated.

F. If a majority of the voters who vote on a referred ordinance vote for its repeal, it is considered repealed upon certification of the election results.

4. **Exception.** This section does not apply to municipalities whose charters specify different methods of reapportionment.

§ 2504. Circulation of petitions for local initiative

No municipality may enact any charter provision or ordinance prohibiting the circulation of petitions for any local initiative. A

petition related to any local initiative, including, without limitation, petitions filed under section 2522, section 2528, subsection 5, the Constitution of Maine, Part Third, Article IV, Section 21, or a municipal charter provision authorizing local initiatives, may be circulated as provided in Title 21-A, section 903-A.

SUBCHAPTER II TOWN MEETINGS AND ELECTIONS

§ 2521. Call of town meeting

Each town meeting shall be called by a warrant. The warrant must be signed by a majority of the selectmen, except as follows.

1. **First town meeting.** The first town meeting shall be called in the manner provided in the act of incorporation.

2. **Majority of selectmen.** If, for any reason, a majority of the selectmen do not remain in office, a majority of those remaining may call a town meeting.

3. **Petition of 3 voters, if no selectmen.** When a town, once organized, is without selectmen, a notary public may call a meeting on the written petition of any 3 voters.

4. **Petition by voters, if selectmen refuse.** If the selectmen unreasonably refuse to call a town meeting, a notary public may call the meeting on the written petition of a number of voters equal to at least 10% of the number of votes cast in the town at the last gubernatorial election, but in no case less than 10.

§ 2522. Petition for article in warrant

On the written petition of a number of voters equal to at least 10% of the number of votes cast in the town at the last gubernatorial election, but in no case less than 10, the municipal officers shall either insert a particular article in the next warrant issued or shall within 60 days call a special town meeting for its consideration.

§ 2523. Warrant

The warrant for calling any town meeting must meet the following requirements.

1. **Time and place.** It shall specify the time and place of the meeting.

2. **Business to be acted upon.** It shall state in distinct articles the business to be acted upon at the meeting. No other business may be acted upon.

3. **Notification.** It shall be directed to a town constable, or to any resident by name, ordering that person to notify all voters to assemble at the time and place appointed.

4. **Attested copy posted.** The person to whom it is directed shall post an attested copy in some conspicuous, public place in the town at least 7 days before the meeting, unless the town has adopted a different method of notification.

5. **Return on warrant.** The person who notifies the voters of the meeting shall make a return on the warrant stating the manner of notice and the time when it was given.

A. If an original town meeting warrant is lost or destroyed, the return may be made or amended on a copy of the original warrant.

§ 2524. General town meeting provisions

The following provisions apply to all town meetings.

1. **Qualified voter.** Every voter in the town may vote in the election of all town officials and in all town affairs.

2. **Moderator elected and sworn.** The clerk, or in the clerk's absence a selectman or constable, shall open the meeting by:

- A.** Calling for the election of a moderator by written ballot;
- B.** Receiving and counting the votes for moderator; and
- C.** Swearing in the moderator.

3. Moderator presides. As soon as the moderator has been elected and sworn, the moderator shall preside over and supervise the voting at the meeting and may appoint a deputy moderator to assist the moderator. If the moderator is absent or is unable to carry out the duties, the clerk, or in the clerk's absence a selectman or constable, may call for the election of a deputy moderator to act in the absence of the moderator.

A. All persons shall be silent at the moderator's command. A person may not speak before that person is recognized by the moderator. A person who is not a voter in the town may speak at the meeting only with the consent of 2/3 of the voters present.

(1) If any person, after a command for order by the moderator, continues to act in a disorderly manner, the moderator may direct that person to leave the meeting. If the person refuses to leave, the moderator may have that person removed by a constable and confined until the meeting is adjourned.

B. When a vote declared by the moderator is immediately questioned by at least 7 voters, the moderator shall make it certain by polling the voters or by a method directed by the municipal legislative body.

C. The moderator shall serve until the meeting is adjourned. The moderator is subject to the same penalties for neglect of official duty as other town officials.

4. Votes recorded by clerk. The clerk shall accurately record the votes of the meeting.

A. If the clerk is absent, the moderator shall appoint and swear in a temporary clerk.

5. **Written ballots.** The clerk shall prepare the ballots. Ballots shall be of uniform size and color, and must be blank except that 2 squares with "yes" by one and "no" by the other may be printed on them.

The moderator shall ensure that each voter receives only one ballot for each vote taken.

6. **Location of meetings.** Town meetings may be held outside the corporate limits of the municipality if the municipal officers determine that there is no adequate facility for the meeting within the municipality. The proposed location must be:

A. Within an adjoining or nearby municipality;

B. Not more than 25 miles from the corporate limits of the municipality holding the meetings; and

C. Reasonably accessible to all voters of the town.

§ 2525. Annual meeting

1. **Officials required to be elected.** Each town shall hold an annual meeting at which the following town officials shall be elected by ballot:

A. Moderator;

B. Selectmen; and

C. School committee.

2. **Other officials.** A town, at a meeting held at least 90 days before the annual meeting, may designate other town officials to be elected by ballot. The election of officials at the last annual town meeting is deemed to be such a designation until the town acts

otherwise at a meeting held at least 90 days before the annual meeting at which the election will be held.

3. Limitation. A town official may not be elected on a motion to cast one ballot.

§ 2526. Choice and qualifications of town officials

Unless otherwise provided by charter, the following provisions apply to the choice and qualifications of town officials.

1. Manner of election. In a town with a population greater than 4,000, according to the last Federal Decennial Census, election shall be by plurality. Except as provided in section 2528, subsection 10, in a town with a population of 4,000 or under, election shall be by majority.

2. Appointment in writing. The appointment of any town official or deputy must be in writing and shall be signed by the appointing party.

3. Qualifications. In order to hold a municipal office, a person must be a resident of the State, at least 18 years of age and a citizen of the United States.

A. In order to hold the office of selectman, a person must be a voter in the town in which that person is elected.

4. Selectmen and overseers. The following provisions apply to selectmen and overseers.

A. A town may determine at a meeting held at least 90 days before the annual meeting whether 3, 5 or 7 will be elected to each board and their terms of office.

(1) Once the determination has been made, it stands until revoked at a meeting held at least 90 days before the annual meeting.

(2) If a town fails to fix the number, 3 shall be elected. If a town fails to fix the term, it is for one year.

B. When others have not been elected, the selectmen shall serve as overseers of the poor.

C. A selectman may also serve as a member of the board of assessors.

D. A town, in electing selectmen and overseers, may designate one of them as chairman of the board.

(1) If no person is designated as chairman, the board shall elect by ballot a chairman from its own membership, before assuming the duties of office. When no member receives a majority vote, the clerk shall determine the chairman by lot.

E. If the town fails to fix the compensation of these officials at its annual meeting, they shall be paid \$10 each per day for every day actually and necessarily employed in the service of the town.

5. Assessors. The following provisions apply to assessors.

A. A town may determine at a meeting of its legislative body held at least 90 days before the annual meeting whether a single assessor will be appointed under subparagraph (3) or a board of 3, 5 or 7 will be elected and the term of office of the assessor or assessors. In towns where the municipal legislative body is the town meeting, the determination is effective only if the total number of votes cast for and against the determination equals or exceeds 10% of the number of votes cast in the town at the last gubernatorial election.

(1) Once a determination has been made, it stands until revoked at a meeting held at least 90 days before

the annual meeting.

(2) If a town fails to fix the number, 3 shall be elected. If a town fails to fix the term, it is for one year.

(3) When a town has chosen a single assessor under this paragraph, the selectmen shall appoint the assessor for a term not exceeding 5 years.

B. In addition to the method provided by paragraph A and notwithstanding the provision of any town charter to the contrary, the municipal officers of any town, or the municipal officers of 2 or more towns acting jointly, may enact an ordinance providing for a single assessor. The municipal officers shall appoint the assessor for a term not exceeding 5 years.

1) Seven days' notice of the meeting at which the ordinance is to be proposed shall be given in the manner provided for town meetings.

(2) In towns where the municipal legislative body is the town meeting, the ordinance is effective immediately after the next regular town meeting if enacted at least 90 days before the meeting. The ordinance stands until revoked by the municipal legislative body or the municipal officers at a meeting held at least 90 days before the annual town meeting.

C. When a town has not elected a full board of assessors, the selectmen shall serve as assessors as provided in Title 36, section 703. A selectman who is an assessor pursuant to this paragraph and Title 36, section 703 may resign the position of assessor without resigning the office of selectman. The position of assessor must then be filled by appointment pursuant to section 2602, subsection 2.

D. A town, if it elects a board of assessors, may

designate one member as chairman of the board.

(1) If no person is designated as chairman, the board shall elect by ballot a chairman from its own membership, before assuming the duties of office. When no member receives a majority vote, the clerk shall determine the chairman by lot.

E. If the town fails to fix the compensation of assessors at its annual meeting, they shall be paid \$10 each per day for every day actually and necessarily employed in the service of the town.

F. This subsection does not apply to any municipality which is incorporated into a primary assessing area.

G. Notwithstanding any other law when a vacancy occurs on an elected board of assessors, the municipal officers shall fill that vacancy as provided in section 2602, subsection 2.

6. **Board of assessment review.** The following provisions apply to a board of assessment review.

A. Any municipality may adopt a board of assessment review at a meeting of its legislative body held at least 90 days before the annual meeting.

B. The board of assessment review consists of 3 members and 2 alternates appointed by the selectmen. The municipality, when adopting such a board, may fix the compensation of the members. Initially, one member must be appointed for one year, one member for 2 years and one member for 3 years, and one of the alternates must be appointed for one year and one alternate for 2 years. Thereafter, the term of each new member or alternate is 3 years.

C. Any town adopting a board of assessment review may discontinue the board by vote in the same manner and under

the same conditions as in adopting the board.

D. Municipalities may provide by ordinance for a board of assessment review consisting of 5 or 7 members and up to 3 alternates. The terms of office of members and alternates may not exceed 5 years and initial appointments must be such that the terms of office of no more than 2 members or alternates will expire in any single year.

E. Any town, by ordinance, may designate a board of appeals appointed under section 2691 as the board of assessment review.

F. A board of assessment review shall annually elect from its membership a chairman and a secretary.

G. The procedure of a board of assessment is governed by section 2691, subsection 3.

H. This subsection does not apply to any municipality which is incorporated into a primary assessing area.

7. Road commissioners. The following provisions apply to road commissioners.

A. A town may determine at a meeting held at least 90 days before the annual meeting whether one or more road commissioners will be chosen and the term of office which may not exceed 3 years.

(1) Once the determination has been made, it stands until revoked at a meeting held at least 90 days before the annual meeting.

(2) If a town fails to fix the number, one shall be chosen. If a town fails to fix the term, it is one year.

B. A road commissioner appointed by the selectmen may be removed from office for cause by the selectmen.

C. The board of selectmen may act as a board of road commissioners.

8. **Treasurers and tax collectors.** Treasurers and tax collectors of towns may not be selectmen or assessors until they have completed their duties and had a final settlement with the town.

A. The same person may serve as treasurer and tax collector of a municipality.

9. **Sworn in.** Before assuming the duties of office, a town official or deputy shall be sworn by the moderator in open town meeting, by the clerk, or by any other person authorized by law to administer an oath, including a notary public or dedimus justice.

A. Unless the oath is administered in the clerk's presence, the person who administers it shall give the official or deputy sworn a certificate which shall be returned to the clerk for filing. The certificate must state:

- (1) The name of the official or deputy sworn;
- (2) The official's or deputy's office;
- (3) The name of the person who administered the oath; and
- (4) The date when the oath was taken.

B. The clerk shall be sworn to accurately record the votes of town meetings and to discharge faithfully all the other duties of that office, until another clerk is elected and sworn.

C. After the town meeting, the clerk shall immediately issue a warrant directed to a constable containing the names of persons chosen for office who have not been sworn.

(1) The constable shall immediately summon the named persons to appear before the clerk within 7 days from the time of notice to take the oath of office.

(2) The constable shall make a return immediately to the clerk.

(3) The town shall pay the constable a reasonable compensation for these services.

D. The clerk shall record the election or appointment of each official or deputy, including the clerk's own, and the other information specified in paragraph A.

E. A record by the clerk that a person was sworn for a stated town office is sufficient evidence that the person was legally sworn for the office. The entire oath need not be recorded.

§ 2527. Alternative nomination procedure

When any town accepts this section at a meeting held at least 90 days before the annual meeting, the following provisions apply to the nomination of all town officials required by section 2525 to be elected by ballot, except for the moderator, and to the nomination of any other officials which the town designates by a separate article in the warrant at the time of acceptance. No change may be made thereafter in the nomination of town officials, except at a meeting held at least 90 days before the annual meeting.

1. Nomination papers; certificate of political caucus. The nomination of candidates for any office shall be by nomination papers or certificate of political caucus as provided in section 2528, subsection 4.

2. Attestation and posting. The names of candidates nominated and the office for which they are nominated shall be attested by the clerk and posted at least 7 days before town meeting.

§ 2528. Secret ballot

The following provisions govern a town's use of a secret ballot for the election of town officials or for municipal referenda elections. A vote by secret ballot takes precedence over a vote by any other means at the same meeting.

1. Acceptance by town. When any town accepts this section at a meeting held at least 90 days before the annual meeting, the provisions of this section apply to the election of all town officials required by section 2525 to be elected by ballot, except the moderator, who shall be elected as provided in section 2524, subsection 2.

A. The provisions of this section relating to the nomination of town officials by political caucus apply only when a town separately accepts those provisions at a meeting held at least 90 days before the annual meeting. If any town accepts those provisions, they remain effective until the town votes otherwise.

B. A town may accept only the provisions of subsection 4, relating to the nomination of town officials, as provided in section 2527.

2. Designation, number and terms of officials. At the time of acceptance, the town shall determine, by a separate article in the warrant, which other officials are to be elected according to this section, and may determine the number and terms of selectmen, assessors and overseers according to section 2526.

A. After the determination under this subsection, a town may not change the designation, number or terms of town officials, except at a meeting held at least 90 days before the annual meeting.

3. Voting place specified; polls. The warrant for a town meeting for the election of officials shall specify the voting place, which must be in the same building or a building nearby where the

meeting is to be held. It shall specify the time of opening and closing the polls, which must be kept open at least 4 consecutive hours.

A. In the warrant for a town meeting under this section, the municipal officers may designate the date of the election and designate another date within 14 days of the date set for elections as the time for considering the other articles of business in the warrant.

4. Nomination papers; caucuses. The nomination for any office shall be made by nomination papers or by political caucus as provided in this subsection.

A. The municipal clerk shall make nomination papers available to prospective candidates during the 40 days before the filing deadline. Before issuing nomination papers, the clerk must complete each sheet by writing in the name of the candidate and the title and term of office being sought.

(1) Nomination papers must be signed by the following number of voters based on the population of the town according to the last Federal Decennial Census of the United States:

(a) Not less than 3 nor more than 10 in towns with a population of 200 or less;

(b) Not less than 10 nor more than 25 in towns with a population of 201 to 500; and

(c) Not less than 25 nor more than 100 in towns with a population of more than 500.

(2) Each voter who signs a nomination paper shall add the voter's residence with the street and number, if any. The voter may sign only as many nomination papers for each office as there are vacancies to be filled. If a voter signs more nomination papers for an

office than there are vacancies to be filled, any signatures of that voter on nomination papers, submitted after the clerk has received a number of nomination papers bearing that voter's signature which equals the number of vacancies to be filled, are not valid.

B. 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 in which a voter may write in the name and, if residence in the municipality is not a requirement to hold office, municipality of residence of any person for whom the voter desires to vote. A sticker may not be used to vote for a write-in candidate in any municipal election other than a primary election.

C. Completed nomination papers or certificates of political caucus nomination must be filed with the clerk during business hours by the 45th day prior to election day. They must be accompanied by the written consent of the person proposed as a candidate agreeing:*

- (1) To accept the nomination if nominated;
- (2) Not to withdraw; and
- (3) If elected at the municipal election, to qualify as such municipal officer.

When these papers and certificates are filed, the clerk shall make them available to public inspection under proper protective regulations. The clerk shall keep them in the office for 6 months.*

D. A nomination paper or a certificate of political caucus nomination that complies with this section is valid unless a written objection to it is made to the municipal officers by the 43rd day prior to election day.*

(1) If an objection is made, the clerk shall immediately notify the candidate affected by it.

(2) The municipal officers shall determine objections arising in the case of nominations. Their decision is final.*

E. Notwithstanding this subsection, when the municipal officers determine to fill a vacancy under section 2602, which must be filled by election, the municipal officers may designate a shorter time period for the availability of nomination papers, but not less than 10 days before the filing deadline, and may designate a shorter time period for the final date for filing nomination papers, but not less than the 14th day before election day. Notice of the designation shall be posted in the same place or places as town meeting warrants are posted and local representatives of the media shall be notified of the designation.

5. **Referendum questions.** By order of the municipal officers or on the written petition of a number of voters equal to at least 10% of the number of votes cast in the town at the last gubernatorial election, but in no case less than 10, the municipal officers shall have a particular article placed on the next ballot printed or shall call a special town meeting for its consideration. A petition or order under this subsection is subject to the filing provisions governing nomination papers under subsection 4.

The municipal officers shall hold a public hearing on the subject of the article at least 10 days before the day for voting on the article. At least 7 days before the date set for the hearing, the municipal officers shall give notice of the public hearing by having a copy of the proposed article, together with the time and place of hearing, posted in the same manner required for posting a warrant for a town meeting under section 2523. The municipal officers shall make a return on the original notice stating the manner of notice and the time it was given.

A. The requirement for public hearing is not a

prerequisite to the valid issuance of any bond, note or other obligation of a municipality authorized to borrow money by vote under any such particular article.

B. If a particular article to be voted on by secret ballot requests an appropriation of money by the municipality, the article, when printed in the warrant and on the ballot, must be accompanied by a recommendation of the municipal officers.

(1) If by town meeting vote or charter provision, a budget committee has been established to review proposed town expenditures, the recommendations of the budget committee shall be printed in addition to those of the municipal officers.

(2) If the action affects the school budget, a recommendation by the school board shall be printed in addition to those of the municipal officers and the budget committee, if any.

6. Ballots, specimen ballots and instruction cards. The clerk shall prepare ballots, specimen ballots and instruction cards according to the following provisions.

A. The ballot shall contain the names of properly nominated candidates arranged under the proper office designation in alphabetical order by last name. It may contain no other names.

B. 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 in which a voter may write in the name and, if residence in the municipality is not a requirement to hold office, municipality of residence of any person for whom the voter desires to vote. A sticker may not be used to vote for a write-in candidate in any municipal election other than a primary election.

C. Any question or questions required by law to be

submitted to a vote shall be printed either below the list of candidates or on a separate ballot from the ballot listing candidates. If a separate ballot is used, this ballot must be a different color than the ballot listing candidates.

D. A square shall be printed at the left of the name of each candidate, and 2 squares shall be printed at the left of any question submitted with "yes" above one and "no" above the other, so that a voter may designate the voter's choice clearly by a cross mark (X) or a check mark (✓).

E. Words of explanation such as "Vote for one" and "Vote yes or no" may be printed on the ballot.

F. Ballots must be uniform in size. On the ballot must appear "Official Ballot for the Town of", the date of election and a facsimile of the signature of the clerk.*

G. A sufficient number of ballots shall be printed, photocopied or otherwise mechanically reproduced and furnished, and a record of the number shall be kept by the clerk. The printed ballots shall be packaged in convenient blocks so that they may be removed separately.

H. Ten or more specimen ballots printed on paper of a distinctive color without the endorsement of the clerk shall be provided.

I. Instruction cards containing the substance of Title 21-A, sections 671 to 674, 681, 682, 692 and 693, to guide voters in obtaining and marking ballots and to inform them of penalties for improper conduct shall be printed.

J. The ballots and specimen ballots shall be packed in sealed packages with marks on the outside specifying the number of each enclosed.

K. When voting machines are used, the clerk shall prepare and furnish ballot labels that comply, as nearly as practicable, with the provisions of this section which apply to ballots.

6-A. Candidate withdrawal; new ballots. The following provisions govern the withdrawal of a candidate from an elective race.*

A. A candidate may withdraw from an elective race by notifying the municipal clerk in writing of the candidate's intent to withdraw and the reason for withdrawal at least 45 days before the election. This notice must be signed by the candidate and must be notarized.

B. Within the 45-day period before an election, the municipal clerk may allow a candidate to withdraw from an elective race. A candidate who requests to withdraw within the 45-day period before an election shall notify the municipal clerk in writing of the candidate's intent to withdraw and the reason for withdrawal. This notice must be signed by the candidate and must be notarized.

C. The municipal clerk shall ensure that new ballots are produced, if necessary, to reflect the withdrawal of a candidate from an elective race.

7. Specimen ballot posted. At least 4 days before the election, the clerk shall have posted in one or more conspicuous, public places a specimen ballot or a list, substantially in the form of a ballot, containing the name and office designation of each candidate.

8. Ballot clerks. Before the polls are opened, the selectmen shall appoint the necessary number of ballot clerks as provided in Title 21-A, section 503. When there are vacancies after the polls are opened, the moderator shall appoint replacement clerks. The ballot clerks shall be sworn before assuming their duties.

A. On election day, before the polls are opened, the clerk shall deliver the ballots to the ballot clerks and shall post an instruction card at each voting compartment and at least 3 instruction cards and 5 specimen ballots in the voting room outside the guardrail enclosure.

B. The ballot clerks shall give a receipt to the clerk for the ballots received by them. The clerk shall keep the receipt in the clerk's office for 6 months.

C. Ballots may not be delivered to the voters until the moderator has been elected. The moderator may appoint a qualified person to act as temporary moderator during a temporary absence from the polling place.

D. The selectmen shall prepare a duplicate incoming voting list for the use of the ballot clerks. The law pertaining to incoming voting lists applies equally to duplicate incoming voting lists.

9. After votes counted, ballots delivered to clerk. After the ballot clerks have counted and tabulated the votes cast, the moderator shall deliver the ballots to the clerk who shall seal them in a suitable package and keep them in the clerk's office for 2 months.

10. Election by plurality vote; tie vote. Election must be by plurality vote. In the case of a tie vote, the meeting must be adjourned to a day certain, when ballots are again cast for the candidates tied for the office in question, unless the municipality's legislative body has provided by ordinance that any tied candidate may withdraw from a subsequent election by delivering written notice of withdrawal signed by the candidate and notarized to the municipal offices within the 5-day period following the election. After the 5-day period has expired, the municipal officers shall call a run-off election between the remaining candidates by posting a warrant in the manner required for calling a town meeting. If only one candidate remains, that candidate is declared the winner and sworn into office.

§ 2529. Absentee ballots

If a town has accepted section 2528, absentee ballots may be cast at all regular and special elections to which section 2528 applies, including elections for town meeting members where the representative town meeting form of government is used.

1. **Procedure.** The absentee voting procedure outlined in Title 21-A shall be used, except that the clerk shall perform the duties of the Secretary of State.

2. **Absentee ballot.** The absentee ballot requirements of Title 21-A, section 752 apply.*

§ 2530. Repealed. Laws 1993, c. 608, § 10.*

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§ 2530-A. Candidate's inspection of ballots and incoming voting lists*

This section governs all inspections of ballots and incoming voting lists cast in any election for municipal office. Inspection procedures for other offices do not apply to elections for municipal office.

If a candidate other than a declared winner in an election applies in writing to the municipal clerk within 5 days after the result of a city election or an election under section 2528 has been declared, the municipal clerk shall permit the candidate or the candidate's agent, after payment of any deposit required under subsection 2, to inspect the ballots and incoming voting lists under proper protective regulations. The final day of the 5-day period ends at the close of regular business hours in the office of the municipal clerk. The candidate requesting the inspection may request a random or complete inspection of the ballots and incoming voting lists.

Any inspection of ballots and incoming voting lists is subject to the following provisions.

1. Notice. The inspection may be permitted only after written notice by the municipal clerk to:

A. The ward officers who signed the election returns in a city or the moderator in a town; and

B. All candidates for the office specified in the application.

This notice must state the time and place of the inspection and provide the persons listed in paragraphs A and B with a reasonable opportunity to be present and heard in person or to be represented by counsel.

2. When deposit is required. A deposit is not required if the percentage difference shown by the official tabulation is equal

to or less than:

- A. Two and one-half percent, if the combined vote for the candidates is 1,000 or less;
- B. Two percent, if the combined vote for the candidates is 1,001 to 5,000; or
- C. One and one-half percent, if the combined vote for the candidates is 5,001 or over.

For purposes of this subsection, "percentage difference" means the difference between the percentage of the total votes for an office received by the candidate requesting a ballot inspection and the percentage of the total votes for that office received by the nearest winning candidate.

3. Amount of deposit. The amount of the deposit is determined by the clerk of the municipality and must be 50% of the reasonable estimate of the cost to the municipality performing the inspection.

4. Forfeiture or refund of deposit. All deposits required by this section must be made with the municipal clerk when a ballot inspection is requested. This deposit, made by the candidate requesting the ballot inspection, is forfeited to the municipality if a subsequent recount fails to change the result of the election. If a recount changes the result of the election, the deposit must be returned to the candidate who paid the deposit. After the completion of the recount, if the recount has not changed the result of the election, the municipality shall calculate the actual cost of the procedure. If the deposit was greater than the actual cost, the overpayment must be refunded to the candidate. If the actual cost was greater than the deposit, the candidate shall pay the remainder of the actual cost to the municipality. A candidate who is not required to pay a deposit pursuant to subsection 2 may not be charged for the inspection or recount regardless of whether the procedure changes the result of the election.

5. Time of inspection. The inspection must be held within 5 days after the municipal clerk receives the written application requesting an inspection.

6. Packages resealed. After each inspection, the municipal clerk shall reseat the packages of ballots and the incoming voting lists and shall note the fact and date of inspection on them.

7. Candidate defined. As used in this section and section 2531-A, "candidate" means any person who has received at least one vote for the municipal office in question.

8. Calculation of time. The periods established in this section must be calculated according to the Maine Rules of Civil Procedure, Rule 6(a). The final day of any period calculated pursuant to this section ends at the close of regular business hours in the office of the municipal clerk. Actions required to be taken by the end of a day certain that are taken after the close of regular business hours in the office of the municipal clerk on the day certain are not timely.

§ 2531. Repealed. Laws 1993, c. 608, § 12.*

[Remainder of this page left intentionally blank.]

§ 2531-A. Recount hearing*

This section governs all recount hearings in any election for municipal office. Recount procedures for other offices do not apply to elections for municipal office.

A candidate other than a declared winner in an election may apply in writing to the municipal clerk for a recount, pursuant to subsection 4, within 5 days after the results of an election for municipal office are declared or within 5 days after an inspection pursuant to section 2530-A. The final day of the periods provided in this paragraph ends at the close of regular business hours in the office of the municipal clerk.

Any recount pursuant to this section is subject to the following provisions.

1. When deposit is required. A deposit is not required if the candidate requesting the recount has already paid a deposit pursuant to an inspection under section 2530-A for the same office in the same election or if the percentage difference shown by the official tabulation is equal to or less than:

A. Two and one-half percent, if the combined vote for the candidates is 1,000 or less;

B. Two percent, if the combined vote for the candidates is 1,001 to 5,000; or

C. One and one-half percent, if the combined vote for the candidates is 5,001 or over.

For purposes of this subsection, "percentage difference" means the difference between the percentage of the total votes for an office received by the candidate requesting a recount and the percentage of the total votes for that office received by the nearest winning candidate.

2. Amount of deposit. The amount of the deposit is

determined by the municipal clerk and must be 50% of the reasonable estimate of the cost to the municipality of performing the recount.

3. Forfeiture or refund of deposit. All deposits required by this section must be made with the municipal clerk when a ballot inspection is requested. This deposit, made by the candidate requesting the ballot inspection, is forfeited to the municipality if a recount fails to change the result of the election. If a recount changes the result of the election, the deposit must be returned to the candidate who paid the deposit. After the completion of the recount, if the recount has not changed the result of the election, the municipality shall calculate the actual cost of the procedure. If the deposit was greater than the actual cost, the overpayment must be refunded to the candidate. If the actual cost was greater than the deposit, the candidate shall pay the remainder of the actual cost to the municipality. A candidate who is not required to pay a deposit pursuant to subsection 1 may not be charged for the inspection or recount regardless of whether the procedure changes the result of the election.

4. Written request. The candidate must request the recount by filing a written request with the municipal clerk within the time period provided in this section. The written request must state the office for which that person was a candidate and the reason for the recount based on the candidate's own knowledge or on information and belief.

5. Date of hearing and notice. When the petition has been filed, the municipal clerk shall immediately set a date for the recount hearing, which must be held within 5 days after the petition is filed. The municipal clerk shall notify the municipal officers, the petitioner and the opposing candidates of the hearing date.

6. Procedure at recount. The procedure at the recount hearing is as follows.

A. The municipal clerk shall sort and count the votes under the supervision of the municipal officers who were in

office immediately before the election. If the votes were originally counted by automatic tabulating equipment, the municipal clerk may use automatic tabulating equipment to recount the votes.

B. The municipal officers in making corrected returns, in their discretion, may accept any facts that the candidates agreed upon at the ballot inspection.

C. The petitioner or the petitioner's opponents may have all ballots in any way involved in the election and all records required by law to be kept in connection with absentee ballots displayed for counting or inspection.

D. Witnesses may be called by the candidates and may be sworn by any municipal officer. If authorized by the municipal officers, the municipality shall pay witness fees as provided in Title 16, section 251. A record of the recount proceedings must be kept if a candidate so requests.

E. If, during the recount, the election is conceded to a candidate by a statement signed by the other interested candidates and addressed to the municipal officers, the municipal officers shall stop the recount and issue a certificate of election to the candidate whose election is conceded.

7. Package resealed and marked. After the recount, the municipal clerk shall reseat the packages of ballots and the incoming voting lists and shall note the fact and date of the recount on them.

8. Withdrawal from recount. A losing candidate who requests and receives a recount may withdraw from the recount at any time while the recount shows that candidate to be the loser. If, during the recount, the losing candidate overtakes and passes the winning candidate, the losing candidate may not withdraw and the recount must be completed.

9. Certificate of election. Within 24 hours after the results of a contested election are determined, the municipal officers

shall certify the results of their count to the respective candidates involved and issue a certificate of election to the candidate whom they find to have been elected. This certificate of election supersedes any certificate issued previously.

10. Calculation of time. The periods established in this section must be calculated according to the Maine Rules of Civil Procedure, Rule 6(a). The final day of any period calculated pursuant to this section ends at the close of regular business hours in the office of the municipal clerk. Actions required to be taken by the end of a day certain that are taken after the close of regular business hours in the office of the municipal clerk on the day certain are not timely.

§ 2532. Referendum ballot inspection and recount procedure

In the case of a referendum, a ballot inspection or a recount hearing must be granted upon written application of 10% or 100, whichever is less, of the persons whose names were checked on the voting list at any town referendum or ballot question under section 2105 or 2528, or any city referendum. The time limits, rules and all other matters applying to candidates under sections 2530-A and 2531-A apply equally to applicants for either the inspection or recount.*

§ 2533. Title to municipal office

Within 30 days after election day, a person who claims to have been elected to any municipal office may proceed against another who claims title to the office by the following procedure.*

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

2. Appeal procedure. The party against whom the

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

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entered accordingly.

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

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

SUBCHAPTER III CITY ELECTIONS

§ 2551. Warrant for city election; conduct of election

Each city election shall be called by a warrant. The warrant must meet the requirements listed in section 2523. An attested copy shall be posted in a conspicuous, public place in each ward.

§ 2552. Designation of officials

1. Assessors and assistant assessors. The following provisions apply to assessors and their assistants.

A. Assessors and their assistants shall be chosen annually on the 2nd Monday of March to serve for one year and until others are chosen and qualified in their places, unless the city charter provides otherwise.

B. In addition to the assistant assessors chosen under a city charter, the municipal officers may authorize the assessors to appoint any necessary assistants to serve during the municipal year in which they are appointed.

C. Notwithstanding the provisions of any city charter to

the contrary, the city council, by ordinance, may provide for a single assessor whose powers and duties are the same as for towns, and who is appointed for a term not exceeding 5 years.

2. Board of assessment review. The following provisions apply to a board of assessment review.

A. Any city choosing a single assessor may adopt a board of assessment review by vote of the city council at least 90 days before the annual city election.

B. The board of assessment review shall consist of 3 members appointed by the city council.

C. The city council, when adopting a board of assessment review, may fix the compensation of the board's members. One member shall be appointed for one year, one member for 2 years and one member for 3 years. Thereafter, the term of each new member is 3 years.

D. Any city adopting a board of assessment review may discontinue the board by vote of the city council at least 90 days before the annual city election, in which case the board ceases to exist at the end of the municipal year.

E. Cities with a population of 5,000 or more may provide by ordinance for a board of assessment review consisting of 5 or 7 members. The terms of office of members must not exceed 5 years and initial appointments must be such that the terms of office of no more than 2 members will expire in any single year.

F. This subsection does not apply in any city which is incorporated into a primary assessing area.

3. Constable. When a vacancy occurs in the office of constable, the municipal officers may appoint a qualified person to fill the vacancy for the remainder of the term.

4. Warden and clerk. A warden and clerk for each ward shall be elected by secret ballot at the regular election of municipal officers.

A. They shall assume the duties of office on the Monday following election.

B. They shall hold office for one year and until others are chosen and qualified in their places.

5. Officials elected by aldermen and common council. In the election of any official by the board of aldermen or jointly by the aldermen and common council in which the mayor has a right to give a deciding vote, if the candidates have an equal number of votes, the mayor shall determine which of them is elected.

6. Officials appointed by the municipal officers. Whenever appointments to office are made by the municipal officers, they shall be made by the mayor with the consent of the aldermen and may be removed by the mayor.

§ 2553. Nomination to city office by petition

A person may be nominated to any city office by nomination petition following the procedure prescribed by Title 21-A, chapter 5, subchapter II. A person seeking nomination under this section may use a political designation only if permitted by the city charter. The petition and consent must be filed with the clerk at least 14 days before election day.

§ 2554. Ballots, specimen ballots and instruction posters

Except as otherwise provided by its charter, the ballots, specimen ballots and instruction posters for use in a city election are governed by the following provisions.

1. Prepared by clerk. The clerk shall prepare, at the city's expense, the ballots, specimen ballots and instruction posters for use in a city election a reasonable time and as nearly as

practicable before each election, in accordance with section 2528, subsection 6.

2. Write-in votes. In any city election, a voter may write in the name and municipality of residence of any person for whom the voter desires to vote in the blank space provided at the end of the list of candidates for office. A sticker may not be used to vote for a write-in candidate in any city election other than a primary election.

3. Specimen ballots and instruction posters. At least 4 days before election day, the clerk shall post a specimen ballot in one or more conspicuous, public places in each ward. Before the election, the clerk shall publish a composite specimen ballot containing the names of all the nominees in a newspaper having general circulation in the city. On election day, when the polls are opened, the clerk shall post an instruction poster in each voting booth, and 3 instruction posters and 5 specimen ballots in the voting room outside the guardrail enclosure.

§ 2555. Election by plurality

In a city election, unless otherwise provided by municipal charter, the person who receives a plurality of the votes cast for election to any office is elected to that office.

§ 2556. Ballot inspection; recount; challenge for office

Sections 2530-A to 2533 apply in a city and govern ballot inspections, recounts of elections for office, referenda and the procedure for challenging a person who claims title to an office.*

WHAT OFFICES ARE AVAILABLE AND WHAT ARE THE REQUIREMENTS?

<u>Office</u>	<u>Age</u>	<u>Citizenship/Residency</u>
NATIONAL		
President (U.S. Constitution, Art. II, § 1)	35	Lifetime/14 yrs. in U.S.
United States Senator (U.S. Constitution, Art. I, § 3)	30	9 years/Resident of State in which running.
Representative to Congress (U.S. Constitution, Art. I, § 2)	25	7 years/Resident of State in which running.
STATE		
Governor (Maine Constitution, Art. V, Part First, § 4)	30	15 years/5 years
State Senator (Maine Constitution, Art. IV, Part Second, § 6)	25	5 years/1 year in State; reside in district 3 months before the election*
Representative to Legislature (Maine Constitution, Art. IV, Part First, § 4)	21	5 years/1 year in State; reside in district 3 months before the election*

*No person may be a candidate unless, at the time of nomination for placement on the primary, general or special election ballot, he or she is a resident in the district which he or she seeks to represent.

COUNTY OFFICES
(21-A MRSA § 333 and § 352)

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Resident and voter in
the electoral division he
or she seeks to
represent.

County Commissioner
(30-A MRSA § 61)

County Treasurer
(30-A MRSA § 151)

District Attorney
(30-A MRSA § 251 -- must be an attorney)

Judge of Probate
(Maine Constitution, Art. 6, § 6; 4 MRSA § 301 -- must be an attorney)

Register of Probate
(Maine Constitution, Art. 6, § 6)

Register of Deeds
(33 MRSA § 601)

Sheriff
(Maine Constitution, Art. 9, § 10; 30-A MRSA § 371)

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MAINE LAW ON ELECTIONS:

Title 21-A

Instructions for replacement pages, 9/29/95, 12/7/95 and 4/8/96 revisions:

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| - replace page(s) | 41 - 42 | with page(s) | 41 - 42 |
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| - replace page(s) | 215 - 216 | with page(s) | 215 - 216 |

referred to in this subchapter as "NVRA."

§ 181. Designated agencies

1. Designated voter registration agencies. The designated voter registration agencies pursuant to NVRA include, but are not limited to:

A. Inside agencies that include the Department of the Secretary of State, Bureau of Corporations, Elections and Commissions and Bureau of Motor Vehicles; and

B. Outside agencies that include the following:

(1) The Department of Human Services, Bureau of Family Independence, Bureau of Health and Bureau of Rehabilitation;*

(2) The armed forces recruitment offices;

(3) The public high schools; and

(4) The offices of municipal clerks and registrars.

2. Voter registration. The agencies designated in subsection 1 shall provide voter registration by January 1, 1995.

§ 182. Forms and notices

The design and contents of all application forms used for voter registration must be approved by the Secretary of State.

**CHAPTER 5
NOMINATIONS**

**SUBCHAPTER I
BY POLITICAL PARTIES**

Article I
Party Qualification

§ 301. Qualified parties

1. Primary election. A party qualifies to participate in a primary election if its designation was listed on the general election ballot in the last preceding gubernatorial or presidential election and if:

A. The party held municipal caucuses as prescribed by Article II in at least one municipality in each county in the State during that election year and fulfills this same requirement during the year of the primary election;

B. The party held a state convention as prescribed by Article III during that election year;

C. Its candidate for Governor or for President polled at least 5% of the total vote cast in the State for Governor or President in the last preceding gubernatorial or presidential election; and

D. Each state party committee must file a statement with the Secretary of State on or before April 4th certifying that the party has held the municipal caucuses required by paragraph A. The statement must be signed by the party chairman or his designated agent.

2. General election. A party which qualifies under subsection 1 to participate in a primary election must, in that same year, hold a state convention as prescribed by Article III in order to have the party designation of its candidates printed on the ballot in the general election of that year.

§ 302. Formation of new party; organization about a candidate

A party whose designation was not listed on the general

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

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

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

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

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

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

11. Withdrawal from recount. A candidate who requests and receives a recount may withdraw from the recount at any time

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

§ 738. Statewide referendum ballots

Except as otherwise provided in this section, the method of conducting a referendum recount is governed by section 737-A.*

On petition signed by 100 or more affected voters, a recount may be held on any referendum question by applying to the Secretary of State within the deadline provided in section 737-A. A deposit is required if the percentage difference between the yes and no votes falls within the requirements of section 737-A, subsection 1. Appeal of challenged or disputed ballots is to the Supreme Judicial Court.

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

§ 739. Ballots and incoming voting lists available for inspection

On request, a municipal clerk or the Secretary of State, or both, shall produce any ballots or incoming voting lists in their custody before the Governor, either branch of the Legislature, any legislative committee or a court of competent jurisdiction.

After the time for completion of recounts following any election has elapsed, and on request of any person, the clerk of any municipality or the Secretary of State, or both, shall produce any incoming voting lists in his custody.

**Article IV
Determination of Disputed Elections**

§ 741.

Repealed. Laws 1993, c. 473, § 34 eff. January 1, 1994.

consultation or concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of a candidate. Any membership organization or corporation that makes a communication to its members or stockholders expressly advocating the election or defeat of a clearly identified candidate must report any expenditures aggregating in excess of \$50 for such a communication in any election, whether or not the communication is defined as an expenditure under section 1012, subsection 3, paragraph A.

3. Forms. Reports required by this section must be on forms prescribed and prepared by the commission and, in the case of semiannual reports, sent by the commission to the person at least 7 days before the filing date for the report. Persons filing these reports may use additional pages if necessary, but the pages must be the same size as the pages of the form. Although the commission mails the forms for required reports, failure to receive forms by mail does not excuse committees, candidates and other persons who must file reports from otherwise obtaining the forms.

§ 1020. Repealed. Laws 1995, c. 483, § 14.

§ 1020-A. Failure to file on time

1. Registration. A candidate that fails to register the name of a candidate, treasurer or political committee with the commission within the time allowed by section 1013-A, subsection 1 may be assessed a forfeiture of \$10. The commission shall determine whether a registration satisfies the requirements for timely filing under section 1013-A, subsection 1.

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission before 5 p.m. on the date it is due. Except as provided in subsection 7, the commission shall determine whether a report satisfies the requirements for timely filing. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely

report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

- A. A valid personal emergency such as a personal illness or death in the immediate family;
- B. An error by the commission staff; or
- C. Failure to receive notice of the filing deadline.

3. Municipal campaign finance reports. Municipal campaign finance reports must be filed, subject to all the provisions of this subchapter, with the municipal clerk on forms prescribed by the Commission on Governmental Ethics and Election Practices. The municipal clerk shall send any notice of lateness required by subsection 6 and shall notify the commission of any late reports subject to a penalty.*

4. Basis for penalties. The penalty for late filing of a report required under this subchapter is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

- A. For the first violation, 1%;
- B. For the 2nd violation, 3%; and
- C. For the 3rd and subsequent violations, 5%.

Any penalty of less than \$5 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A report required to be filed under this subchapter that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

State of Maine
Election Law
(excluding Appropriation)

TITLE 21-A



Division of Elections
Bureau of
Corporations, Elections, and Commissions

1992

Bill Diamond
Secretary of State

Appropriation 010-29A-3310-012

✓
**RETURN TO RESOURCE CENTER
INTERNATIONAL FOUNDATION
FOR ELECTORAL SYSTEMS
1101 15th STREET, NW 3rd FLOOR
WASHINGTON, DC 20005**

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William Diamond
Secretary of State

Bureau of Corporations, Elections, and Commissions

*Department of
the Secretary of State*

Janet E. Waldron
Assistant Secretary of State

Gary Cooper
Deputy Secretary of State

INTRODUCTION

I am pleased to publish this new edition of the Maine Law on Elections, Title 21-A.

You will note that we have made the type larger so that it will be easier to read and have made changes to the index to reflect the additions and deletions since our last publication.

As always, my staff is available to assist you with any questions regarding the conduct of state elections and interpretation of the law.

The telephone number for the Division of Elections is 287-4186.

Sincerely,

A handwritten signature in cursive script that reads "Bill Diamond".

Bill Diamond
Secretary of State

TITLE 21-A ELECTIONS

CHAPTER 1 GENERAL PROVISIONS

SUBCHAPTER I DEFINITIONS, CONSTRUCTION AND APPLICATION

§ 1. Definitions

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

1. **Absentee voter.** "Absentee voter" means a person who qualifies under section 751 to cast an absentee ballot.

2. **Any election.** "Any election" means primary and general elections and referenda, whether regular or special.

2-A. **Armed Forces members; members of the Armed Forces.** "Armed Forces members" or "members of the Armed Forces" means:

A. Personnel serving in the Army, Navy, Air Force, Marine Corps or Coast Guard and their spouses and dependents;

B. Members of the Merchant Marine of the United States, except those employed in the inland waterways and their spouses and dependents;

C. Civilian employees of the United States serving outside the territorial limits of the several states and the District of

Columbia, whether or not paid from appropriated federal funds and their spouses and dependents when accompanying them; and

D. Members of religious groups and welfare agencies serving with or accompanying the Armed Forces and their spouses and dependents.

3. **Ballot label.** "Ballot label" means that portion of the cardboard, paper or other material to be placed within the ballot frames of a voting machine containing the items required of a paper ballot.

4. **Business day.** "Business day" means any day of the calendar year other than a Saturday, Sunday or legal holiday.

5. **Candidate.** "Candidate" means any person who has filed a petition under either sections 335 and 336 or sections 354 and 355 and has qualified as a candidate by either procedure, or any person who has received contributions or made expenditures or has given his consent for any other person to receive contributions or make expenditures with the intent of qualifying as a candidate.

6. **Caucus.** "Caucus" means a meeting of a political party or committee.

7. **Challenged ballot.** "Challenged ballot" means a ballot cast by one whose eligibility to vote has been questioned.

8. **Circulate.** "Circulate" means the presenting of a petition to a voter with an accompanying request that the voter sign it.

9. **Clerk; municipal clerk.** "Clerk" or "municipal clerk" means the clerk, deputy clerk or assistant clerk, where directed by the clerk to carry out duties under this Title, of a municipality.

10. Closed period. "Closed period" means that time period when the registrar may accept only those voter registration applications presented in person.

11. County office. "County office" means the office of judge of probate, register of probate, county treasurer, register of deeds, sheriff, district attorney or county commissioner.

12. Disputed ballot. "Disputed ballot" means a ballot whose validity has been questioned during the recount process.

13. Distinguishing mark. "Distinguishing mark" means a mark on a ballot of a type or in a place not specifically permitted by this Title, which indicates the apparent intent of the voter to make his ballot distinguishable.

14. Election official. "Election official" means a warden, ward clerk or election clerk.

15. Election year. "Election year" means the calendar year within which a particular election is held.

16. Electoral division. "Electoral division" means an area set off for election purposes. It may include the entire State.

17. Enroll. "Enroll" means to enlist as a member of a political party.

18. Federal office. "Federal office" means the office of the United States Senator or Representative to Congress.

19. General election. "General election" means the regular election of state and county officials occurring biennially in November.

20. Immediate family. "Immediate family" means a person's spouse, parent, child, sister or brother.

21. Incoming voting list. "Incoming voting list" means the list of all of the voters in a municipality which is used by election officials at a voting place to record which voters have been issued a ballot at an election.

22. Major party. "Major party" means a political party polling the greatest or the next greatest number of votes cast for Governor at the last gubernatorial election.

23. (REPEALED).

24. Minor party. "Minor party" means a political party other than a major party.

25. Municipal committee. "Municipal committee" means a city, town or ward committee of a political party.

26. Municipal officers. "Municipal officers" means the mayor and aldermen or councillors of a city, the selectmen or councillors of a town and the assessors of a plantation.

27. Municipality. "Municipality" means a city, town or plantation.

28. Party. "Party" means a political organization which has qualified to participate in a primary or general election under chapter 5.

29. Peace officer. "Peace officer" means state police officer, local police officer, sheriff, deputy sheriff or constable.

30. Political committee. "Political committee" means 2 or more persons associated for the purpose of promoting or defeating a candidate, party or principle.

31. Population. "Population" means the population determined by the last Decennial Census of the United States.

32. Primary election. "Primary election" means the regular election for the election of nominees of a party for the general election.

33. Protective counter. "Protective counter" means a separate counter built into a voting machine which records the total number of movements of the operating lever and which cannot be reset.

34. Public official. "Public official" means a person elected or appointed to serve the people.

35. Question. "Question" means any proposition submitted to the voters.

36. Referendum. "Referendum" means an election for the determination of a question.

37. Register. "Register" means to enlist as a voter.

38. Registrar. "Registrar" means the registrar, deputy registrar or the board of registration of voters of a municipality.

39. Regular election. "Regular election" means an election or a referendum held at a regular time prescribed by statute.

40. Residence. "Residence" means that place in which a person's habitation is fixed and to which that person, whenever absent, has the intention to return.

41. Special election. "Special election" means an election other than a regular election.

42. State office. "State office" means the office of Governor, State Senator, Representative to the State Legislature or presidential elector.

43. Street address. "Street address" means the street and number or other designation indicating the location of a person's dwelling place.

44. Township. "Township" means unorganized territory.

45. Treasurer. "Treasurer" means a person appointed by a candidate or a political committee to accept or disburse money to promote or defeat a candidate, party or principle. A person who collects money to be transferred to the treasurer of a candidate or committee is not a treasurer.

46. Uncontested office. "Uncontested office" means an office where, as of the final date for filing primary nomination petitions, either:

A. Only members of one party have filed as candidates for nomination for that office; or

B. Only one unenrolled nominee has filed as a candidate for that office.

47. Voter. "Voter" means a person registered to vote.

48. Voting district. "Voting district" means an area set off from another in the same municipality for voting purposes. It includes wards and precincts. In a municipality which has only one voting place, it means the entire municipality.

49. Voting place. "Voting place" means the building in which ballots are cast at an election.

50. Warden. "Warden" means the presiding officer at a voting place.

51. Write-in candidate. "Write-in candidate" means a person whose name does not appear on the ballot under the office designation to which a voter may wish to elect him.

§ 2. Delegation of authority

When this Title requires the performance of a duty by an official, he may delegate the duty to another under his supervision, if it is ministerial.

§ 3. Signatures and names

When this Title requires a name or signature on a document, immaterial irregularities shall not invalidate the name or signature if the identity of the person named is clear to the public official charged with reviewing that document.

1. **Immaterial irregularities.** Immaterial irregularities include, but are not limited to, misspelling, inclusion or omission of initials and substitution of initials for given names.

2. **Application.** This policy shall apply to circumstances including, but not limited to, the following:

- A. Absentee ballot applications;
- B. Absentee ballot affidavits;
- C. Signatures on petitions; and
- D. Names appearing for write-in candidates on ballots.

§ 4. Town clerk to perform ward clerk's duties

In a town, the municipal clerk shall perform the duties prescribed for the ward clerk of a city as far as applicable to an election in the town.

§ 5. Application to plantations

The provisions of this Title pertaining to towns apply equally to plantations.

§ 6. Date falling on holiday

When the date on which an act must be performed or an event must take place falls on a Saturday, Sunday or legal holiday, the act shall be performed or the event shall take place on the next following business day.

§ 7. Use of words

When used in this Title, the words "shall" and "must" are used in a mandatory sense to impose an obligation to act or refrain from acting in the manner specified by the context. The word "may," when used in this Title, is used in a permissive sense to grant authority or permission, but not to create duty, to act in the manner specified by the context. When used in this Title, the term "may not" indicates a lack of authority or permission to act or refrain from acting in the manner specified by the context, whereas the term "shall not" indicates a duty to refrain from action or omission in the manner specified by the context.

SUBCHAPTER II RECORDS AND DOCUMENTS

§ 21. Form and content of documents

The Secretary of State may establish the form and content of all forms, lists, documents and records required by or necessary to the efficient operation of this Title.

§ 22. Records and documents are public

All lists, books, documents and records required to be prepared by or filed with a public official are public records. Public records are open to public inspection during regular business hours under proper protective regulations made by the official charged with their custody. Ballots are not public records and may be inspected only in accordance with this Title.

§ 23. Preservation and destruction of records

The preservation and destruction of records and other materials required by this Title are governed by the following provisions.

1. Registration and enrollment applications. The registrar shall keep registration, enrollment and changes of enrollment applications and requests in his office permanently, except that those records must be kept only 10 years for a voter whose name has been removed from the voting lists of the municipality under sections 161 and 162.

2. Convention certificates. The Secretary of State shall keep the certificates required by section 322 in his office for 2 years.

3. Primary and nomination petitions. The Secretary of State shall keep primary petitions, nomination petitions and consents in his office for 2 years.

4. Receipts for ballots. The Secretary of State and each clerk shall keep a record of receipts for ballots issued and received under sections 606 and 651 in his office for one year.

5. Receipt of voting list. The registrar shall keep the receipt for certified copies of the voting list required by section 624, subsection 2, in his office for one year.

6. Election tabulations. The Secretary of State shall keep election tabulations in his office for 10 years.

7. Ballots and other election materials. The clerk shall keep the ballots and other election materials listed in section 698 in his office for 22 months and incoming voting lists for 2 years, unless sooner released to the Secretary of State or required by the Secretary of State to be kept longer. Once released to the Secretary of State, they shall be kept by him until any appeal period bearing on the validity of the election has expired. Notwithstanding this subsection, ballots used for municipal elections conducted under this

Title, referenda elections or special legislative elections shall be kept for 2 months.

8. Certificate of presidential electors. The Secretary of State shall keep the certificate of the votes of the presidential electors, delivered to him under section 805, in his office for one year.

9. Registration of treasurer. The Commission on Governmental Ethics and Election Practices shall keep the registration of a treasurer under section 1013 in its office for 2 years.

10. Records and campaign finances. Each treasurer and each candidate shall keep the records required by section 1016 for 2 years following the election to which they pertain.

11. Campaign reports. The Commission on Governmental Ethics and Election Practices shall keep the campaign reports in its office for 2 years or until the expiration of the term of office to which the candidate aspired or was elected, whichever is longer.

12. Certificate of appointment. The Secretary of State shall keep a certificate of appointment to fill a vacancy under section 363 in his office for 2 years.

13. Miscellaneous. The official charged with the custody of any record not specifically provided for in this section shall keep it in his office for 2 years.

14. Destruction of records. After the records and other materials have been kept for the required period, they may be destroyed. Posted notices, specimen ballots and instruction posters may be destroyed as soon as the election to which they pertain is past.

§ 24. Newspaper publication to be reasonably noticeable

When publication in a newspaper is required by this Title, the item published must be set in such a size and location as to be reasonably noticeable.

§ 25. Ditto marks

Ditto marks may be used, wherever practicable, in the preparation of lists required under this Title.

**SUBCHAPTER III
GENERAL PENALTIES**

§ 31. Class E crimes

A Class E crime is committed by:

1. Public officials. An official who knowingly fails or refuses to perform a duty required of him by this Title;

2. General penalty. A person who knowingly violates any provision of this Title for which no penalty has been provided; or

3. Political advertisements on state property. A person who knowingly displays or distributes political advertisements in or on state-owned or state-leased property.

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

CHAPTER 3 VOTER REGISTRATION

SUBCHAPTER I REGISTRAR OF VOTERS; BOARD OF REGISTRATION

§ 101. Registrar

The municipal officers of each municipality shall appoint in writing a qualified registrar of voters within 10 days after the regular election of municipal officials.

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 or county office, or hold membership on any party committee.

2. Term of office. He shall serve for one year and until his successor is appointed and sworn.

3. Oath required. Before assuming the duties of office, he must be sworn and the fact of his oath recorded as provided in Title 30-A, section 2526, subsection 9.

4. Secretary of State notified. The municipal officers shall notify the Secretary of State of the name of the registrar within 10 days after he is appointed and sworn.

5. Compensation. The municipal officers shall determine the compensation of the registrar.

6. Office hours. The municipal officers shall establish reasonable office hours for the registrar consistent with the requirements of the municipality.

7. Office space, expenses and clerical help. Each municipality shall provide a suitable place in which the registrar may perform his duties, and shall pay reasonable expenses for

necessary office supplies purchased and clerical help engaged by the registrar.

8. Vacancy. When there is a vacancy in the office of registrar, the municipal officers shall appoint a qualified person to fill the vacancy for the remainder of the term of office.

§ 102. Deputy registrar

The registrar may appoint one or more deputies. If the registrar is to be absent from the municipality for a period exceeding 15 consecutive days, he shall appoint a deputy registrar who must be physically present in the municipality. If the registrar and his appointed deputy are absent from the municipality for more than 15 consecutive days, the clerk shall serve as registrar pro tem.

1. Qualifications and compensation. Section 101, subsections 1, 3 and 5, apply to a deputy registrar.

2. Term of office. He shall serve at the will of the registrar.

3. Duties. He may perform any of the duties of office prescribed by the registrar.

§ 103. Board of registration in certain cities

1. Population of 5,000 or over. In a city or town that has a population of 5,000 or over, a board of registration consisting of 3 members must be appointed as follows: The municipal committee of each of the major political parties shall nominate one member, who must be enrolled in the party of the municipal committee that nominates the member, and the municipal officers shall appoint the persons nominated by the municipal committees and the 3rd member must be nominated by the clerk of the municipality and appointed by the municipal officers. The clerk of the municipality may give the municipal committees of the political parties a list of qualifications necessary for a person to fulfill the

duties of the board of registration, and the municipal committees shall take those qualifications into consideration when nominating members to the board. The 2 members of the board nominated by the municipal committees of the major political parties may be members of the political committee nominating them and of the county or state committees of the political party that nominates them and may be members of a state or county delegation to a political convention. When a municipal committee nominates a member to the board of registration, it shall also nominate an alternate board member, who shall serve if the member nominated by the municipal committee is or becomes unable to serve.

2. Population of 4,000 to 5,000. A city or town which has a population of 4,000 to 5,000 may, by vote of its legislative body, have a board of registration instead of a registrar.

3. Term of office. Each member nominated by the municipal committees of the major political parties and appointed to the board shall serve for 3 years and until his successor is appointed and sworn. The member nominated by the clerk of the municipality and appointed to the board shall serve for 4 years and until his successor is appointed and sworn.

4. Chairman of the board. The member nominated by the clerk of the municipality is chairman of the board.

5. Vacancy. When there is a vacancy on the board, the alternate board member nominated by the municipal committee of the political party of the former incumbent shall serve. If an alternate is not available, the municipal officers shall appoint a qualified person nominated by the municipal committee of the party of the former incumbent to fill the vacancy. If the vacancy is in the office of the chair of the board, the municipal officers shall appoint a qualified person nominated by the clerk of the municipality to fill the vacancy. Vacancies must be filled for the remainder of the term of office.

6. Hours. In addition to the schedules under section 122, each board shall be open to act upon applications for registration

and enrollment on at least one business day in each of the months of January, February and March in each even-numbered year.

7. Provisions apply to board of registration. Except as otherwise provided in this section, the provisions of law pertaining to the registrar apply equally to a board of registration. A board of registration may only act by unanimous or majority action, except that the chairman of the board may designate himself or another member of the board to accept the application of a disabled person for registration under section 153.

8. Removal from office. A member of the board may be removed from office at any time during the member's term by the appointing authority if the appropriate nominating authority nominates a replacement. The replacement nominee shall serve out the remainder of the replaced member's term.

§ 104. Deputies for boards of registration

By unanimous action, the board of registration may appoint one or more deputies to serve the board.

1. Qualifications and compensation. Qualifications and compensation of deputies serving on boards are governed by the following provisions.

A. Section 101, subsections 1, 3 and 5, apply to deputies of boards of registration.

B. Deputies must be appointed so that the number of board members plus deputies enrolled in one of the 2 major parties does not exceed the number of board members plus deputies enrolled in the other major party by more than one.

2. Duties. Deputies shall perform duties assigned by majority vote of the board, including the acceptance of registrations and enrollments, as if the board had acted. A deputy or deputies assigned to be present at a caucus must be enrolled in the party holding that caucus. Nothing in this section may be construed as

limiting the authority of the board to override the actions of its deputies.

SUBCHAPTER II VOTER ELIGIBILITY

§ 111. General qualifications

A person who meets the following requirements may vote in any election in a municipality.

1. **Citizenship.** He must be a citizen of the United States.

2. **Age.** He must be at least 18 years of age.

3. **Residence.** He must have established and maintain a voting residence in that municipality.

4. **Registration.** He must be registered to vote in that municipality.

5. **Enrollment.** He must be enrolled in a party in that municipality to vote at a caucus, convention or primary election, unless otherwise permitted by a political party pursuant to section 340.

§ 112. Residence for voting purposes

Voting residence is governed by the following provisions.

1. **Residence.** The residence of a person is that place in which his habitation is fixed, and to which, whenever he is absent, he has the intention to return.

2. **Change.** A change of residence is made only by the act of removal, joined with the intent to remain in another place. A person can have only one residence at any given time.

3. Residence retained. A person does not lose his residence if he temporarily leaves his home and goes to another country, state or place in this State with the intent of returning.

4. Separate residence. The place where a person's family resides is presumed to be his place of residence, but a person may acquire a separate residence if he takes another abode with the intention of remaining there.

5. Spouse may have separate residence. A married person may be considered to have a residence separate from that of his spouse for the purposes of voting or holding office. For those purposes, residence is determined as if the person were single.

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

7. Armed service personnel, students, institutional patients, Indians. A person does not gain or lose a residence solely because of his presence or absence while employed in the service of the United States or of this State, while a student in any institution of learning, while kept in any institution at public expense, while confined in any penal institution or while residing upon any Indian or military reservations.

8. Voting residence retained. A person who has gained a voting residence in a municipality retains it, if he so desires, when he becomes a patient at a federal institution or an employee of a federal agency where he is required to reside on land ceded to the Federal Government by the State. This subsection applies to a member of the Armed Forces or the National Guard who is required to be in a place other than that in which he has gained a voting residence.

9. Federal property. A person residing on federal property, except as stated in subsection 5, is eligible to register and vote in the voting district in which the federal property is located.

10. Becoming 18 on federal property. A person who becomes 18 years of age while residing on federal property as a patient at a federal institution or an employee of a federal agency, or while in the Armed Forces, is considered to have gained a voting residence in the municipality in which he resided at the time he became such a patient, employee or member of the Armed Forces.

11. Spouse of member of Armed Forces. A spouse of a member of the Armed Forces on active duty may have the same voting residence as his or her spouse. A member of the Armed Forces on active duty, whose spouse has a place of residence in this State, may establish a residence in the place of residence of the spouse by filing an affidavit with the registrar declaring an intention to reside in that place upon severance from the Armed Forces.

12. (REPEALED)

13. (REPEALED)

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

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

§ 113. Right survives change of residence

A registered voter who moves to another state within 30 days before a presidential election must not be removed from the voting list. He may vote at that presidential election in person or by absentee ballot.

§ 114. Division of municipality, effect

When any territory is set off from one municipality and annexed to another, the act establishing the new boundaries must indicate where and for which offices the voters in the territory may vote. If this provision is omitted from the act, the voters may vote for all offices in the municipality to which the territory is annexed.

§ 115. Restrictions

1. Certain persons may not register or vote. A person under guardianship because of mental illness may not register or vote in any election, as provided in the Constitution of Maine, Article II, Section 1.

2. Voting restricted to district. In a municipality which has voting districts, a voter may, except as provided in section 630, vote only in the district in which he resides on election day.

3. Correct name and address on voting list. A person whose name, or street address in a municipality which has voting districts, does not appear correctly on the voting list on election day may not vote at any election until it is corrected as provided in section 661.

**SUBCHAPTER III
REGISTRATION AND ENROLLMENT**

**Article I
REGISTRATION**

§ 121. Exclusive power of registrar

The registrar has the exclusive power, subject to section 163, to determine whether a person who applies for registration as a voter meets the qualifications prescribed by this Title.

1. Oath may be required. In making this determination, the registrar may require any person who testifies before him concerning his qualifications or those of another to swear to the truth of his statements.

2. Political party not a qualification. The registrar shall be impartial as to the political party of the applicant in determining the applicant's voting qualifications.

§ 122. Registration procedure

A person may register as a voter by appearing before the registrar, proving that he is qualified under section 111, subsections 1 to 3, and filing an application provided by the registrar containing the information required by section 171. Township residents may register as provided in section 156.

1. Placement on voting list. The registrar shall place the name of the applicant on the voting list as soon as he has qualified. 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.

2. Failure to qualify. If an applicant fails to qualify, the registrar shall, on request of the applicant, notify him in writing of the reason for the failure.

3. Notice of new registration. When an applicant states in his application that he last voted in another municipality in this State or any other state, the registrar shall immediately send a notice of the applicant's new registration to the registrar of that municipality. The notice shall contain the following:

- A. The voter's name;
- B. The name under which registered, if changed;
- C. Date of birth; and

D. Former street and mailing address.

The registrar who receives the notice shall remove the name from the voting list if he is satisfied as to the identity of the person and he need not send the notice required by section 162.

4. Election day registration. The registrar shall accept registrations of applicants who appear in person on election day. The registrar shall issue to each of these applicants a certificate entitling the applicant to be placed on the voting list at the voting place. Only one certificate may be issued to any person.

5. Alternative registration schedule for absentee voters. The registrar shall accept registrations under section 152 at any time, including election day, provided that the applicant otherwise qualifies as an absentee voter. The receipt of a completed absentee ballot application by the clerk establishes a presumption of qualification under this subsection.

6. Names to be placed on voting list. Except as provided in paragraph A, the registrar shall accept registrations on any business day or other day that the clerk's office is open. The names of any person registering shall be placed on the voting list.

A. The registrar shall accept only the registrations of applicants who appear in person as follows:

(1) In a municipality with a population of 2,500 or less, on the last business day before election day;

(2) In a municipality with a population of more than 2,500 on the last 5 business days before election day, from 1 p.m. to 5 p.m. and 7 p.m. to 9 p.m. on at least 3 of these days; and

(3) The names of voters registering during these periods shall be recorded as provided under subsection 7.

7. Record of names. The names of voters who register by appearing in person before the registrar during the business days before election day under subsection 6 shall be recorded as provided in either paragraph A or B, as the municipal officers direct:

A. The registrar shall, after finding an applicant qualified, issue a certificate entitling the voter to be placed on the voting list at the voting place on election day. Only one certificate may be issued to any person; or

B. The registrar shall, after finding the applicant qualified, place the names of those voters on a supplemental voting list. Before the polls are opened, the registrar shall deliver the supplemental list or lists to the clerk or ward clerk at each voting place. The inclusion of a person's name on that list will entitle the applicant to vote on election day. All references in this Title to the use of the voting list before, during and after election day are considered to include the supplemental voting list as provided in this paragraph.

8. Change of schedule. The hourly schedule established by this section may be changed by the municipal officers according to the needs of the municipality.

9. Regulation of registration monitors. Anyone who wishes to monitor the names and addresses of persons who are registering at the registrar's office or the clerk's office shall inform the registrar or clerk of their intent. The registrar or clerk may designate a place where a person monitoring registrations may stand. The registrar or clerk shall then announce the name and address of individuals registering to vote in a loud and clear voice. A person monitoring registrations shall direct any questions the person has to the registrar or clerk. These questions must be limited to information pertinent to the qualifications of an individual to register. A person monitoring registrations may not ask questions of individuals waiting to register concerning their eligibility to vote. A registrar or clerk may require a person monitoring registrations who violates the provisions of this subsection to leave the building.

§ 123. Schedule; regular election (REPEALED)

§ 124. Schedule; special elections (REPEALED)

§ 125. Notice of schedule

The registrar shall publish the time and hourly schedules established under section 122, or as changed by the municipal officers, in a newspaper having general circulation in the municipality at least 7 days before the schedule becomes effective, except that, in municipalities with a population of 2,500 or less, the publication of the time schedule by the registrar is discretionary rather than compulsory.

§ 126. Combined regular and special elections (REPEALED)

§ 127. Persons present at time for closing registrations

The registrar shall allow all persons to register who are present at the registrar's office at closing time.

§ 128. Registrar to check records

Before the close of the period for accepting the registrations of voters to be placed on the voting list prior to any election, the registrar shall update the voting list as follows:

1. **Registrar shall review records.** The registrar shall review the records of marriage, death, change of name and change of address in the office of the clerk or the assessors, and shall correct the voting list accordingly; or

2. **Clerk provides list.** The clerk may provide the registrar with a list, certified by the clerk to be true, of the marriages, deaths and changes which took place during the 2 years preceding the close of the period for accepting the registrations of voters to be placed on the voting list. The registrar shall use this list to update the voting list accordingly.

3. Marriage; notice of inquiry. If the registrar determines that a voter has married, the registrar shall not for that reason alone remove the voter's name from the voting list. The registrar may send a notice inquiring whether, as a result of marriage, that voter's name or address has been changed. Nothing in this subsection relieves a voter of the duty to give the registrar written notice of a change of name or address in accordance with section 129.

§ 129. Change of name or address

When a voter's name is changed by marriage or other process of law, or when he moves within a municipality, the following provisions apply.

1. Notice. The voter must give written notice to the registrar of his new and former names or addresses before the close of registrations prior to election day.

2. Correction of name or address. The registrar shall correct the voter's name or address on the voting list, and he may then vote under his new name or in his new district on election day.

A. In a municipality which has more than one voting district, if a voter has changed his address and votes absentee after the close of registration, he must send a written notice of his new address along with his absentee application notifying the board of registration of his new address. A certificate containing his name and new address shall be directed to the warden of his new voting place to be attached to the incoming voting list on election day.

3. Failure to notify. If a voter fails to notify the registrar of his change of name or address before the close of registrations, he must appear before the registrar on election day and follow the procedure outlined in section 661, if he wishes to vote, unless the registrar has already made the correction in following the procedure prescribed by section 128.

4. Publication of substance. The registrar shall publish the substance of this section along with the notice required by section 125.

§ 130. Applications for voter registration

A person who completes an application for registration to vote, as provided in section 152, may mail the application or have the application delivered to the registrar before the closed period for the acceptance of registrations in the person's municipality, to be placed on the voting list prior to the next election; except that applications completed under section 122, subsection 5, may be delivered during the closed period for immediate placement on the voting list.

**Article II
ENROLLMENT**

§ 141. Enrollment

When a person registers, the registrar shall ask whether or not the person wishes to enroll in a political party. If the answer is in the affirmative, the registrar shall ask in which party the person wishes to enroll. If the answer is in the negative, the registrar shall note on the enrollment portion of the application that the person chose not to enroll in a political party. Nothing in this section may be construed to require a person to enroll in a political party.

1. Influence prohibited. The registrar shall not attempt to influence an applicant in any aspect of the enrollment procedure and shall not allow anyone else present to do so.

§ 142. Enrollment procedure

A voter who had initially chosen not to enroll in a particular party may later enroll in a party by filing an application with the registrar personally, by mail or otherwise, at any time, except that on election day a voter must enroll in person.

§ 143. Permitted at any election

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 he may vote. If the applicant votes by absentee ballot because of physical incapacity, he may file the application with his absentee ballot.

1. Application delivered to warden. The election clerk who receives the completed application shall initial it and deliver it to the warden, who shall have it delivered to the registrar after the polls are closed.

2. Party designation on voting list. On receipt of the application, the registrar shall place the party designation of the applicant beside his name on the voting list and file the application.

3. Applications furnished by registrar. The registrar shall furnish a reasonable number of enrollment applications to the warden at each voting place. If there are not enough applications at the voting place, the applicant may write the information required by section 142 on a blank piece of paper.

§ 144. Change of enrollment

A voter may change his enrollment by filing an application with the registrar personally, by mail or otherwise.

1. Content of application. The application must contain the following information: Name of applicant, street address, voting district, name of party in which enrolled, name of party in which enrollment is requested, signature of the applicant and the date of application.

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, or to file a

petition as a candidate for nomination by primary election, for 3 months. Three months after he receives the application, the registrar shall enroll the applicant in the party requested.

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

3. Restrictions during change of enrollment. A voter may not vote at a caucus, convention or primary election, or file a petition as a candidate for nomination by primary election within 3 months after filing an application to change his enrollment, except as provided in subsection 4.

4. Change of residence. When a voter changes his residence from one municipality to another and establishes a new voting residence there, he may enroll in any party and vote at a caucus, convention or primary election, or file a petition as a candidate for nomination by primary election, regardless of his previous enrollment.

§ 145. Withdrawal of enrollment

A voter may withdraw his enrollment anytime after 3 months from the date on which he enrolled by filing a written request with the registrar.

1. Candidates for nomination by nomination petition. If enrolled, candidates for nomination by nomination petition must withdraw their enrollment at least 3 months before the required date for filing of the nomination petition.

Article III
PROVISIONS COMMON
TO REGISTRATION AND
ENROLLMENT PROCEDURES

§ 151. Same form

An individual shall register to vote and indicate enrollment status at the same time and on the same form. If an individual chooses to enroll in a political party, the registrar shall indicate the party chosen on the registration form. The registrar shall indicate on the registration form if an individual chooses not to enroll in a political party.

§ 152. Registration and enrollment procedure

1. Application. In addition to the procedure provided by section 122, a person may register to vote or enroll in a political party, or both, by completing an application that is designed by the Secretary of State and contains the following information:

- A. First name, middle name or initial and last name, or first name or initial, middle name and last name;
- B. Residence address, including street, street number, apartment number, town and zip code;
- C. Mailing address;
- D. Date of birth;
- E. Sex;
- F. Most recent prior residence where registered to vote, including the name under which registered, if changed, legal address and mailing address;
- G. Whether a citizen by birth or naturalization;

H. Notification that failure to complete the entire application may prevent registration;

I. Sworn statement that all information is correct;

J. Date of registration;

K. Signature of applicant; and

L. Choice of political party if the applicant desires to enroll in a political party or an indication that the applicant chose not to enroll in a party.

2. Placement on voting list. Upon receipt of the application by the registrar of voters or the board of registration when in open session, the applicant's name shall be entered on the voting lists of the municipality.

3. Failure to qualify. The registrar of voters or the board of registration may investigate any application and remove the voter's name from the list for failure to meet a voting requirement under this Title.

4. Persons born United States citizens in foreign countries. Any person born a United States citizen in a foreign country may register under this section in the same manner as a person who was born a United States citizen within the territory of the United States.

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

§ 153. Registration and enrollment of disabled person

A person who is physically unable to appear before the registrar and who lives within 20 miles of the office of the registrar may be registered as a voter and enrolled in a party as follows.

1. Request and statement. The applicant must make a written request to the registrar certifying the applicant's physical inability to appear.

2. Procedure. On receipt of the request and statement, the registrar shall visit the applicant and shall register and, if desired, enroll the applicant in accordance with this chapter. This section is subject to the restrictions found in section 122.

The municipality shall pay the registrar travel expenses at the same rate as paid other municipal employees.

§ 154. Registration and enrollment for citizens outside the United States

1. Application. A person qualified to register under section 111, subsections 1 and 2 and section 751, subsection 8, who is outside the United States may register and enroll by filing a federal postcard application or an application designed by the Secretary of State and provided by the registrar containing the following information:

- A. First name, middle name or initial and last name, or first name or initial, middle name and last name;
- B. Residence address, including street, street number, apartment number, town and zip code;
- C. Mailing address;
- D. Date of birth;
- E. Last domicile immediately before departure from the United States;
- F. Voting district of the last domicile within the United States;
- G. Whether a citizen by birth or naturalization;

H. Notification that failure to complete the entire application may prevent registration;

I. Passport or identity card registration number;

J. Signature;

K. Sworn statement that all information is correct;

L. Date of application;

M. Date of registration; and

N. Choice of political party if the registrant wishes to enroll in a political party or an indication that the applicant chose not to enroll in a party.

§ 155. Advance registration and enrollment

The registrar shall conditionally accept the registration and enrollment of any person who is between 17 years and 18 years of age, and who is otherwise qualified to be a voter. The registrar shall maintain a separate list of these persons, with a notation of their birthdates, and shall place their names on the voting list as soon as they have attained 18 years of age.

A person who has registered under this section and who has not attained 18 years of age may vote by absentee ballot at any election if that person attains 18 years of age on or before the date of the election and is otherwise eligible to vote by absentee ballot.

§ 156. Special provisions for township residents

In addition to section 632, registration, enrollment and voting by the resident of a township are governed by the following provisions.

1. Registration and enrollment. A township resident may register and enroll in any town within his representative district

or, if he lives in a portion of a township not easily accessible to a town within his representative district, he may register and enroll in a more convenient town within or outside the county. He may register and enroll on election day. The registrar shall place the letter "T" beside the voter's name on the voting list and on the general register.

2. Voting. He may vote in the town in which he is registered in any election for offices of or questions concerning the unorganized territory in which he resides. He may not vote at a municipal election or on a liquor option question. If he registers in a town outside his representative district, state senatorial district, county commissioner district or county, he 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.

§ 157. Acceptance of applications by clerk

The clerk shall accept applications for registration and enrollment when the registrar of voters is unavailable or the board is not in session.

1. Applicant must qualify before clerk. The clerk shall require an applicant for registration to qualify under section 122. If the applicant qualifies, the clerk shall write "OK" and initial the application and file it with the board. If the applicant fails to qualify or if his qualifications are in doubt, the clerk shall refuse to accept his application and direct him to appear before the board.

2. Final action by board. Final action for acceptance of a registration or enrollment must be taken by the board. If the board rejects an application accepted by the clerk, it shall immediately notify the applicant by first class mail of the rejection and the reason for it.

§ 158. Municipal caucus

The registrar or board of registration shall meet in session on the day of official party caucuses at times designated by the municipal officers to accept registrations and enrollments and all persons so registered and enrolled may participate in their party caucus.

§ 159. Violations and penalties

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

2. **Dual registration.** A person who, having registered in one voting district or municipality within this State, or in another state, knowingly registers in another voting district or municipality within this State without revealing his prior registration to the registrar is guilty of a Class D crime.

**SUBCHAPTER IV
VOTING LIST**

§ 161. Powers and duties of registrar

The registrar has the exclusive power to prepare and revise the voting list.

1. **List prepared.** The registrar shall prepare a printed or typewritten list of all the voters of the municipality, arranged alphabetically by last name. He shall add the street address of each voter beside the voter's name, mailing address and zip code number. In a municipality covered by only one zip code, he may print or type the zip code at the top of each page of the voting list. In a municipality which has voting districts, he shall make a separate list for each district.

A. Except as provided in subparagraph (1), the registrar shall note the enrollment status of each voter using none other than the following: "D" for Democrat, "R" for Republican and "U" for unenrolled.

(1) The Secretary of State may authorize the use of other symbols to indicate enrollment in other parties formed or forming under chapter 5, subchapter I.

2. **List current.** The registrar shall keep a list current at all times by adding the names of new voters and by removing the names of those who have died, moved from the municipality with an apparent intention of abandoning their residence in the municipality or become disqualified to vote. When the registrar employs the facilities of the United States Postal Service to determine which voters have moved from the municipality and when the United States Postal Service reports to the registrar that a voter has moved from the address shown on the voting list without having notified the United States Postal Service of a forwarding address, the registrar shall remove the name of the voter from the voting list and is not required to send, or to attempt to send, a notice to the voter in accordance with section 162. The registrar may not remove the name of a registered voter from the voter list solely for not voting in previous elections.

3. **List of deceased residents.** The clerk shall, upon request of the registrar, furnish the registrar with a list of the deceased in the municipality.

4. **Proof of qualification shall be requested.** If the registrar is in doubt as to the qualifications of any person to vote, he shall request that person's appearance at a reasonable time and place to offer proof. If the person fails to appear, the registrar shall remove his name from the voting list and send him a notice in accordance with section 162.

5. Record of names added and removed. The registrar shall keep a record of the names added to or removed from the voting list and the date when the action was taken.

§ 162. Notice of removal from list

Except as provided under section 122, subsection 3, and section 161, subsection 2, the registrar shall mail a notice to the last known place of residence of each person whose name the registrar has removed from the voting list. Upon receipt of that notification, the person must reply to the registrar within 30 days using a postal card mailed with the notice and must state the reasons why his name should not be removed from the voting list. If the notification is returned unclaimed, that return is sufficient notice to confirm the removal of the name. The returned notices and replies by the voter shall be kept on file by the registrar and available for inspection for 2 years.

1. Content of notice. The notice must contain the following message:

Dear.....:
(Name of voter)

This is to advise you that your name has been removed from the voting list of (name of municipality) for the following reasons: (Here state reason for removal). Your failure to reply within 30 days will be deemed to indicate your agreement with this action.

.....

(Name of registrar)

Registrar of voters

(Name of Municipality)

2. Content of reply. The postal card must contain the following message:

Dear Registrar:

I respectfully request that my name be replaced on the voting list of (name of municipality) for the following reason: (Here allow space for reason to be stated). I swear that the reason stated above is true.

Signature

Address

3. Restoration to list. If the registrar is satisfied from the reply that the name should be restored to the voting list, he shall do so. If not, the registrar shall notify the person within 14 days that the reason given appears to be insufficient and that the person's name has not been restored to the voting list.

§ 163. Appeal

If any person is aggrieved by the decision of the registrar of voters to remove a name from the voting list or to refuse to place it on the voting list, he may appeal in writing to the municipal officers of a municipality by filing a complaint. The municipal officers shall immediately fix a time and place for a prompt hearing. 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 District Court in accordance with the Rules of Civil Procedure.

§ 164. Enrollment records

The registrar shall record enrollments by adding the party designation of the voter beside the voter's name on the voting list, using the symbols prescribed by section 161, subsection 1, paragraph A.

1. **Records current.** He shall keep the records current at all times by adding new enrollments and by changing or withdrawing the enrollments of those who have requested it.

2. **Record of names added and removed.** He shall keep a record of the enrollments added, changed or withdrawn and the date when the action was taken.

§ 165. Copies of list available

The registrar may require a deposit but shall furnish a certified copy of the voting list to any person within 10 business days after a request and the payment of a reasonable price determined by the municipal officers. The fee charged accrues to the registrar unless the legislative body of the municipality votes otherwise. This copy of the voting list may be in a computer readable form, such as tapes or discs, if requested and technically feasible to produce. The registrar shall furnish a certified copy of the voting list to the clerk at no charge within 10 days after it is completed.

§ 166. Updated voting lists furnished to candidates

Any candidate in a primary or general election for a state or federal office who has purchased a municipal voting list from a municipality, which retains that voting list on an electronic computer and which regularly and periodically updates that list at least every 3 months, is entitled to a list of all additions, deletions and changes to the purchased list for the following periods of time.

1. **Candidate in primary election.** If the candidate is a candidate in a primary election, he is entitled to the additions, deletions and changes from the time he is a declared candidate in that primary election until the day of the primary election. But if he is nominated in that primary election to be a candidate in the general election, he is entitled to those additions, deletions and changes until the day of the general election.

2. **Candidate in general election.** If the candidate is a candidate in a general election, he is entitled to the additions,

deletions and changes from the time he is a declared candidate in that general election until the day of the general election.

A municipal registrar shall furnish lists of the additions, deletions and changes in a purchased voting list to a candidate entitled to them under this section. These corrections shall be provided periodically as updates to the municipal voting list become available and shall be at no additional cost to the candidates.

§ 167. Violation and penalty

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

**SUBCHAPTER V
REGISTER OF VOTERS**

§ 171. Preparation and contents

The registrar shall prepare and keep a general register of voters.

1. **Content of general register.** The general register must contain the following information concerning each person on the voting list on index cards filed alphabetically by last name:

- A. First name, middle name or initial and last name or first name or initial, middle name and last name;
- B. Residence address, including street, street number, apartment number, town and zip code;
- C. Mailing address;
- D. Date of birth;
- E. Sex;

F. Most recent prior residence where registered to vote, including the name under which registered, if changed, legal address and mailing address;

G. Whether a citizen by birth or naturalization;

H. Remarks concerning registration;

I. Date of registration;

J. Signature of registrant; and

K. Political party designation or indication that the voter wishes unenrolled status.

2. **Reference file.** When the name of a voter is removed from the voting list, the registrar shall remove his card from the general register and retain it in a reference file for 10 years.

CHAPTER 5 NOMINATIONS

SUBCHAPTER I BY POLITICAL PARTIES

Article I PARTY QUALIFICATION

§ 301. Qualified parties

1. **Primary election.** A party qualifies to participate in a primary election if its designation was listed on the general election ballot in the last preceding gubernatorial or presidential election and if:

A. The party held municipal caucuses as prescribed by Article II in at least one municipality in each county in the State during that election year and fulfills this same requirement during the year of the primary election;

B. The party held a state convention as prescribed by Article III during that election year;

C. Its candidate for Governor or for President polled at least 5% of the total vote cast in the State for Governor or President in the last preceding gubernatorial or presidential election; and

D. Each state party committee must file a statement with the Secretary of State on or before April 4th certifying that the party has held the municipal caucuses required by paragraph A. The statement must be signed by the party chairman or his designated agent.

2. **General election.** A party which qualifies under subsection 1 to participate in a primary election must, in that same year, hold a state convention as prescribed by Article III in order to have the party designation of its candidates printed on the ballot in the general election of that year.

§ 302. Formation of new party; organization about a candidate

A party whose designation was not listed on the general election ballot in the last preceding gubernatorial or presidential election qualifies to participate in a primary election, if it meets the requirements of subsections 1, 2 and 3.

1. **Declaration of intent.** A voter or a group of voters who are not enrolled in a party qualified under section 301 must file a declaration of intent to form a party with the Secretary of State before 5 p.m. on the 180th day preceding a primary election. The declaration of intent must be on a form designed by the Secretary of State and must include:

A. The designation of the proposed party;

B. The name of a candidate for Governor or for President in the last preceding gubernatorial or presidential election who

was nominated by petition under subchapter II and who received 5% or more of the total vote cast in the State for Governor or for President in that election;

C. The signed consent of that candidate; and

D. The name and address of the voter or one of the group of voters who file the declaration of intent.

2. Enrollment of voters. After filing the declaration described in subsection 1, the voter or voters proposing to form the party may then enroll voters in the proposed party under sections 141 to 145.

3. Municipal caucuses. The proposed party must conduct municipal caucuses in at least one municipality in each of the 16 counties during that election year as prescribed in Article II. The chairman of the municipal committee or a resident voter in the municipality must file a copy of the notice required by section 311, subsection 3, with the Secretary of State before 5 p.m. on April 15th.

4. Convention. A party which has qualified under subsections 1, 2 and 3 to participate in a primary election must, in that same year, hold a state convention, as prescribed by Article III, in order to have the party designation of its candidates printed on the ballot in the general election of that year. The voter or group of voters who file the declaration of intent may perform the duties of the state committee under section 321, subsection 1, for the party's initial convention.

§ 303. Formation of new party; organization by petition

In addition to the procedure under section 302, a party whose designation was not listed on the general election ballot in the last preceding gubernatorial or presidential election qualifies to participate in a primary election, if it meets the requirements of subsections 1, 2, 3 and 4.

1. Declaration of intent. Ten or more voters who are not enrolled in a party qualified under section 301 must file a declaration of intent to form a party with the Secretary of State. The declaration of intent must be on a form designed by the Secretary of State and must include:

A. The designation of the proposed party; and

B. The names, addresses and telephone numbers of the voters who file the declaration of intent.

2. Enrollment of voters. After filing the declaration of intent required in subsection 1, the voter or voters proposing to form the party may then enroll voters in the proposed party under sections 141 to 145.

3. Petition. After filing the declaration described in subsection 1, the voter or a group of voters may then circulate petitions. These petitions must be signed in the same manner as primary petitions under section 335, subsections 3 and 4. The circulator of the petition must certify the belief that the signatures on it are genuine and that the signers are registered voters. 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 Secretary of State shall prepare forms for these petitions. 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 the last preceding gubernatorial election.

4. Municipal caucuses. The proposed party must conduct municipal caucuses in at least one municipality in each of the 16 counties during that election year as prescribed in Article II. The chairman of the municipal committee or a resident voter in the municipality must file a copy of the notice required by section 311, subsection 3 with the Secretary of State, before 5 p.m. on April 15th.

5. Convention. A party which has qualified under subsections 1, 2, 3 and 4 to participate in a primary election must, in that same year, hold a state convention as prescribed by Article III, in order to have the party designation of its candidates printed on the ballot in the general election of that year. The voter or group of voters who file the declaration of intent may perform the duties of the state committee under section 321, subsection 1, for the party's initial convention.

§ 304. Disqualification of parties

A party which qualified under section 302 or 303 to participate in the last preceding primary and general elections is not qualified to participate in a subsequent primary election unless it meets the requirements of section 301.

§ 305. Secretary of State

The Secretary of State shall determine whether or not a party has met the requirements of sections 301, 302 and 303.

§ 306. Enrolled voters

A voter who is enrolled in a party which failed to meet the requirements of section 302 or 303, or which is disqualified under section 304, is considered an unenrolled voter for all purposes.

§ 307. Party designation

A voter or group of voters seeking to participate as a party in a primary election under section 302 or 303 must choose a party designation that does not:

- 1. Length.** Exceed 3 words in length;
- 2. Use state name.** Incorporate the name or an abbreviation of the name of the State; and

3. Use established party's designation. Incorporate the designation or an abbreviation of the designation of a party which is qualified to participate in a primary or general election under section 301.

Article II

BIENNIAL MUNICIPAL CAUCUS

§ 311. Rules governing

A biennial municipal caucus is governed by the following provisions.

1. Call. The caucus may be called by the chairman or a majority of the members of the municipal committee of a political party. At the request of that committee municipal officers shall provide available space in a public building for a caucus.

2. Time. A municipal caucus of the Democratic 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 April 1st.

3. Notice. The secretary of the committee must have a notice of the caucus published in a newspaper having general circulation in the municipality at least 3 and not more than 7 days before it is to be held, or must post a notice in a conspicuous, public place in each voting district in the municipality at least 7 days before the caucus. The notice must contain the name of the party, the time and place of the caucus and the name of the person calling it.

A. If the notice is not published as required by this subsection, the caucus is void.

B. The secretary of the committee must file a copy of the notice with the clerk who shall record it.

4. Procedure. The chairman of the municipal committee shall open the caucus. In his absence, the secretary or any resident voter enrolled in the party may open the caucus. The caucus shall elect a secretary and a chairman in that order. The chairman of the caucus shall then preside over the caucus and the secretary shall record the proceeding of the caucus. The caucus shall determine its own parliamentary procedure.

5. If no municipal committee. If there is no municipal committee, any resident voter enrolled in the party may call a caucus for the purpose of electing the committee. He must follow the notice procedure of subsection 3.

§ 312. Voting list

If the person or persons calling the biennial municipal caucus request a voting list at least 5 business days before the caucus, the registrar shall prepare, at the municipality's expense, a certified copy of the voting list for use at the caucus. The secretary of the municipal committee shall obtain the copy from the registrar and that copy shall be retained by the municipal committee.

§ 313. Voting procedure

The following provisions apply to voting at a municipal caucus.

1. Vote by list. The caucus may order voting to be done by checking each voter's name on the voting list.

2. Secret ballot. The caucus may order voting to be done by secret ballot which may be printed, or written on plain paper.

§ 314. Challenges

An enrolled voter of a municipality may challenge the right of another to vote at a municipal caucus. The person challenged may

vote at the caucus after he has taken the following oath administered by the chairman of the caucus.

1. **Oath.** "I, (name of challenged person), swear that I am a registered and enrolled voter in this voting district, that I am a member of the party holding this caucus, and that I have not been enrolled in any other party in this municipality within the last 3 months."

2. **Oath recorded and copy sent to registrar.** The secretary of the caucus shall record the administration of the oath and shall send a copy of the record to the registrar.

3. **Registrar to compare records.** On receipt of the copy of the record, the registrar shall compare it with the voting and enrollment records. If the oath is false, the person who swore to it is guilty of a Class E crime.

§ 315. Party members to govern political committees

The members of a party within a municipality shall determine the method of election, the terms of office and the duties of their political committees.

Article III CONVENTIONS

§ 321. Time and place; procedure

Each party shall hold a state convention between March 1st and August 1st biennially during general election year.

1. **Time, place and representation.** The party's state committee shall determine the time, place and basis of representation for the convention.

2. **Proceedings at convention.** The convention shall do the following:

- A. Elect a secretary and a chairman of the convention in that order;
- B. Adopt a platform for the next general election;
- C. Nominate the number of presidential electors to which the State is entitled;
- D. Determine the size of the state, district and county committees and the method of their election.
- E. Elect a district committee for each congressional district; and
- F. Elect a county committee for each county from persons nominated at municipal caucuses held in the county. If a municipality entitled to nominate a person for election to the county committee fails to do so, the convention may elect any resident of that municipality to the county committee.

§ 322. Committee functions

Committees elected at the convention are governed by the following provisions.

1. Committees to organize and report. The committees elected at the convention shall organize within 30 days after the convention. The secretary of each committee shall notify the state committee of the name and residence of its chairman and secretary within 10 days after their election.

2. State committee to report organization. The chairman and the secretary of the state committee shall certify to the Secretary of State the platform adopted and the names of the presidential electors within 60 days after the convention. The chairman and the secretary of the state committee shall certify to the Secretary of State the name and residence of the chairman and secretary of each committee and of each committee member within 20 days after their election.

3. Term of office and duties of committees. The committees and their officers shall hold office as prescribed in their bylaws and shall perform the duties imposed upon them by the convention and their bylaws.

4. Certain officers of state committee. The chairman, vice-chairman, treasurer and finance chairman of the state committee may be chosen from outside the membership of the state committee.

Article IV NOMINATION BY PRIMARY ELECTION

§ 331. Primary required

1. Nomination by primary election. A party's nomination of a candidate for any federal, state or county office shall be made by primary election, as provided in this Article.

2. Exceptions. This Article does not apply to:

- A. Nominations for presidential electors;
- B. Nominations to fill vacancies under subchapter III; and
- C. Nominations by petition under subchapter II.

3. Limitations to candidacy. The following limitations apply to all candidates for nominations.

A. A person may not file, whether by primary election or nomination petition, as a candidate for more than one federal, state or county office at any election, except for a candidate for membership in a county charter commission under section 351, subsection 3.

B. A person may file as a candidate for any federal, state or county office either by primary election or nomination petition but not by both, except for a candidate for

membership in a county charter commission under section 351, subsection 3.

§ 332. When nomination vacated

When a person already nominated for any federal, state or county office accepts nomination to fill a vacancy, the first nomination is vacated by that acceptance.

§ 333. Qualification for county office

A candidate for any county office must be a resident of and a voter in the electoral division he seeks to represent on the date established for filing primary petitions in the year he seeks election. He must maintain a voting residence in that electoral division during his term of office.

§ 334. Qualification of candidate for primary nomination

A candidate for nomination by primary election must file a primary petition and consent under sections 335 and 336. He must be enrolled, on or before April 1st, in the party named in the petition and must be eligible to file a petition as a candidate for nomination by primary election under section 144, subsection 3. The registrar in the candidate's municipality of residence must certify to that fact upon the petition.

§ 335. Petition requirements

A primary petition shall be on a form provided by the Secretary of State and is governed by the following provisions.

1. Content. A primary petition must contain the name of only one candidate, his place of residence, his party, the office sought and electoral division. A primary petition may contain as many separate papers as necessary and may contain the candidate's consent required by section 336.

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

2. **By whom signed.** A primary petition may be signed only by voters of the electoral division which is to make the nomination and who are enrolled in the party named in the petition. Other signatures are void.

3. **How signed.** The voter must personally sign his name in such a manner as to satisfy the registrar of his municipality that he is a registered voter and enrolled in the party named on the petition. Either the voter or the circulator of the petition must print the voter's name.

4. **Residence.** The voter or the circulator of the petition must write or print the voter's street address and municipality of registration. Ditto marks are permitted for municipality of registration only.

5. **Number of signatures required.** Petitions must be signed by the following numbers of voters:

A. For candidate for Governor, at least 2,000 and not more than 3,000 voters;

B. For a candidate for United States Senator, at least 2,000 and not more than 3,000 voters;

B-1. For a candidate for the office of President of the United States, at least 2,000 and not more than 3,000 voters;

C. For a candidate for Representative to Congress, at least 1,000 and not more than 1,500 voters;

D. For a candidate for county office other than county commissioner, at least 150 and not more than 200 voters;

E. For a candidate for county commissioner, at least 50 and not more than 75 voters;

F. For a candidate for State Senator, at least 100 and not more than 150 voters; and

G. For a candidate for State Representative, at least 25 and not more than 40 voters.

6. **When signed.** A petition may not be signed before January 1st of the election year in which it is to be used.

7. **Certification of petition.** A primary petition shall be verified and certified as follows.

A. The circulator of a primary petition shall verify by oath or affirmation before a notary public or other person authorized by law to administer oaths or affirmations that all of the signatures to the petition were made in his presence and that to the best of his knowledge and belief each signature is the signature of the person whose name it purports to be and each person is enrolled in the party named in the petition and is a resident of the electoral division named in the petition.

B. The registrar of each municipality concerned shall certify which names on a petition appear on the voting list of that municipality as registered and enrolled voters and shall strike out any names which do not satisfy subsection 3.

8. **When filed.** A primary petition must be filed in the office of the Secretary of State before 5 p.m. on April 1st of the election year in which it is to be used.

9. **Petition or names void.** A primary petition which does not meet the requirements of this section is void. If a voter or a circulator fails to comply with this section in signing or printing the voter's name and address, that voter's name may not be counted, but the petition is otherwise valid.

§ 336. Consent of candidate to be filed

The written consent of each candidate must be filed with his primary petition.

1. **Consent.** The consent must contain a statement signed by the candidate that he will accept the nomination of the primary election. The statement may be printed as a part of the primary petition.

2. **Single filing sufficient.** A candidate need file only one consent. This consent is valid even though it may be part of a primary petition which is void.

3. **Residence and party declared.** The consent must contain a declaration of the candidate's place of residence and party designation which the candidate must verify by oath or affirmation before a notary public or other person authorized by law to administer oaths or affirmations that the declaration is true. If any part of the declaration is found to be false by the Secretary of State prior to the date of the general election, the consent and the primary petition are void, pursuant to challenge procedures in section 337.

§ 337. Review and challenge of petitions

1. **Review.** When presented with a primary petition, the Secretary of State shall review it and, if the petition contains the required number of certified names and is properly completed, shall accept and file it.

2. **Challenges.** The procedure for challenging the validity of a primary petition or of names upon a petition is as follows.

A. Only a registered voter residing in the electoral division of the candidate concerned may file a challenge. The challenge must be in writing and must set forth the reasons for the challenge. The challenge must be filed in the office of the Secretary of State before 5 p.m. on the 5th business day after

the final date for filing petitions under section 335, subsection 8.

B. Within 7 days after the final date for filing challenges and after due notice of the hearing to the candidate and to the challenger, the Secretary of State shall hold a public hearing on any challenge properly filed. The challenger has the burden of providing sufficient evidence to invalidate the petitions or any names upon the petitions.

C. The Secretary of State shall rule on the validity of any challenge within 5 days after the completion of the hearing described in paragraph B.

D. A challenger or a candidate may appeal the decision of the Secretary of State by commencing an action in the Superior Court. This action shall be conducted in accordance with the Maine Rules of Civil Procedure, Rule 80B, except as modified by this section. This action must be commenced within 5 days of the date of the decision of the Secretary of State and shall be tried, without a jury, within 10 days of the date of that decision. Upon timely application, anyone may intervene in this action when the applicant claims an interest relating to the subject matter of the petitions, unless the applicant's interest is adequately represented by existing parties. The court shall issue a written decision containing its findings of fact and conclusions of law and setting forth the reasons for its decision within 20 days of the date of the decision of the Secretary of State.

E. Any aggrieved party may appeal the decision of the Superior Court, on questions of law, by filing a notice of appeal within 3 days of that decision. The record on appeal must be transmitted to the Law Court within 3 days after notice of appeal is filed. After filing notice of appeal, the parties have 4 days to file briefs and appendices with the clerk of courts. As soon as the record and briefs have been filed, the court shall immediately consider the case. The court shall

issue its decision within 14 days of the date of the decision of the Superior Court.

§ 338. Write-in candidates

A person whose name will not appear on the printed primary ballot because he did not file 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 as a write-in candidate in accordance with section 723, subsection 1.

§ 339. Time and nature of election

The primary election shall be held on the 2nd Tuesday of June of each general election year and is considered to be a separate election for each party which takes part in it. This includes the duties of public officials in announcing the election, providing forms and ballots, keeping records and any other matter necessary to effect the purpose of a primary election. A primary election shall be conducted the same as the general election, as nearly as practicable, for each party.

§ 340. Notice of parties of qualified primary voters

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

2. Notice to municipal clerks. The Secretary of State shall inform all municipal clerks of the qualifications necessary for voters to participate in each party's primary. The clerks shall establish procedures to ensure that all qualified primary voters are offered ballots for each party in which primary election the voters are qualified to vote.

SUBCHAPTER II BY PETITION

§ 351. Nomination authorized

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

1. Limited to one office. A person may not file, whether by primary election or nomination petition, as a candidate for more than one federal, state or county office at any election, except as provided in subsection 3.

2. Limited to one method. A person may file as a candidate for any federal, state or county office either by primary election or nomination petition, except as provided in subsection 3, but not by both methods.

3. Exception for candidates for county charter commission. A candidate for membership in a county charter commission must be nominated by petition, and may file as a candidate for one additional federal, state or county office at that same election.

§ 352. Qualification for presidential elector and county office

A candidate for the office of presidential elector or any county office must be a resident of and a voter in the electoral division he seeks to represent on the date established for filing nomination petitions in the year he seeks election. He must maintain a voting residence in that electoral division during his term of office.

§ 353. Qualification of candidate for nomination by petition

A person who seeks nomination by petition qualifies by filing a nomination petition and consent as provided in sections 354 and

355. If enrolled, the person must also withdraw his enrollment in a party, as provided in section 145, at least 3 months before the filing date for the nomination petition.

§ 354. Petition requirements

A nomination petition shall be on a form provided by the Secretary of State and is governed by the following provisions.

1. Content. A nomination petition must contain the name of only one candidate, his 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, which may not exceed 3 words in length, and may not incorporate the candidate's name, or the designation or an abbreviation of the designation of a party which is qualified to nominate candidates by primary election.

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.

2. By whom signed. A nomination petition may be signed only by voters of the electoral division which is to make the nomination, except that nomination petitions for presidential electors may be signed by any Maine voter. Other signatures are void.

3. How signed. The voter must personally sign his name in such a manner as to satisfy the registrar of his municipality that he is a registered voter. Either the voter or the circulator of the petition must print the voter's name.

4. Residence. The voter or the circulator of the petition must write or print the voter's street address and municipality of registration. Ditto marks are permitted for municipality or registration only.

5. Number of signatures required. Nomination petitions must be signed by the following numbers of voters:

A. For a slate of candidates for the office of presidential elector, at least 4,000 and not more than 6,000 voters;

B. For a candidate for Governor, at least 4,000 and not more than 6,000 voters;

C. For a candidate for United States Senator, at least 4,000 and not more than 6,000 voters;

D. For a candidate for United States Representative, at least 2,000 and not more than 3,000 voters;

E. For a candidate for county office other than county commissioner or county charter commission member, at least 300 and not more than 400 voters;

E-1. For a candidate for county commissioner, at least 100 and not more than 150 voters;

F. For a candidate for State Senator, at least 200 and not more than 300 voters;

G. For a candidate for State Representative, at least 50 and not more than 80 voters; and

H. For a candidate for county charter commission member, at least 50 and not more than 80 voters.

6. When signed. A nomination petition may not be signed before January 1st of the election year in which it is to be used.

7. Certification of petitions. A nomination petition shall be verified and certified as follows.

A. The circulator of a nomination petition shall verify by oath or affirmation before a notary public or other person authorized by law to administer oaths that all of the signatures to the petition were made in his presence and that to the best of his knowledge and belief each signature is the signature of the person whose name it purports to be and each person is a resident of the electoral division named in the petition.

B. Petitions must be delivered to the registrar for certification at least 5 business days before the date of the primary election.

C. The registrar of each municipality concerned shall certify which names on a petition appear on the voting list of the municipality as registered voters and shall strike out any names which do not satisfy subsection 3.

8. Filed with the Secretary of State (REPEALED).

8-A. Filed with the Secretary of State. A nomination petition must be filed in the office of the Secretary of State by 5 p.m. on the date of the primary election in the election year in which it is to be used.

9. Petition void. A nomination petition which does not meet the requirements of this section is void. If a voter or circulator fails to comply with this section in signing or printing the voter's name and address, that voter's name may not be counted, but the petition is otherwise valid.

§ 355. Consent of candidate to be filed

The written consent of each candidate must be filed with his nomination petition.

1. **Consent.** The consent must contain a statement signed by the candidate that he will accept the nomination. The statement may be printed as a part of the nomination petition.

2. **Single filing sufficient.** A candidate need file only one consent. The consent is valid even though it may be part of a nomination petition which is void.

3. **Residence declared.** The consent must contain a declaration of the candidate's place of residence and the fact that the candidate has not been enrolled in a party for 3 months prior to the filing date for the nomination petition. The candidate must verify by oath or affirmation before a notary public or other person authorized by law to administer oaths or affirmations that the declaration is true. If any part of the declaration is found to be false by the Secretary of State before the general election, the consent and the nomination petition are void, pursuant to challenge procedures in section 356.

A. Candidates for the office of county charter commission need not verify by oath or affirmation that they are not enrolled in a party.

§ 356. Review and challenge of petitions

1. **Review.** When presented with a nomination petition, the Secretary of State shall review it and, if the petition contains the required number of certified names and is properly completed, shall accept and file it.

2. **Challenges.** The procedure for challenging the validity of a nomination petition or of names upon a petition is as follows.

A. Only a registered voter residing in the electoral division of the candidate concerned may file a challenge. The challenge must be in writing and must set forth the reasons for the challenge. The challenge must be filed in the office of the Secretary of State by 5 p.m. on the 5th business day after the

final date for filing petitions under section 354, subsection 8-A.

B. Within 7 days after the final date for filing challenges and after due notice of the hearing to the candidate and to the challenger, the Secretary of State shall hold a public hearing on any challenge properly filed. The challenger has the burden of providing evidence to invalidate the petitions or any names upon the petitions.

C. The Secretary of State shall rule on a challenge within 5 days after the completion of the hearing described in paragraph B.

D. A challenger or a candidate may appeal the decision of the Secretary of State by commencing an action in the Superior Court. This action shall be conducted in accordance with the Maine Rules of Civil Procedure, Rule 80B, except as modified by this section. This action must be commenced within 5 days of the date of the decision of the Secretary of State and shall be tried, without a jury, within 10 days of the date of that decision. Upon timely application, anyone may intervene in this action when the applicant claims an interest relating to the subject matter of the petition, unless the applicant's interest is adequately represented by existing parties. The court shall issue its written decision containing its findings of fact and conclusions of law and setting forth the reasons for its decision within 20 days of the date of the decision of the Secretary of State.

E. Any aggrieved party may appeal the decision of the Superior Court, on questions of law, by filing a notice of appeal within 3 days of that decision. The record on appeal must be transmitted to the Law Court within 3 days after notice of appeal is filed. After filing notice of appeal, the parties have 4 days to file briefs and appendices with the clerk of courts. As soon as the record and briefs have been filed, the court shall immediately consider the case. The court shall

issue its decision within 14 days of the date of the decision of the Superior Court.

F. Only a voter of the county establishing a charter commission may challenge the nomination petition for county charter commission member. The challenge must be in writing and must set forth the reasons for the challenge. The challenge must be filed in the office of the Secretary of State before 5 p.m. on the 55th day following the order of the county officers under Title 30-A, section 1321, subsection 1, or the receipt of a certificate of sufficiency under Title 30-A, section 1321, subsection 4.

§ 357. Candidates certified by the Secretary of State

The Secretary of State shall immediately certify by mail the nomination of each person nominated by petition.

**SUBCHAPTER III
VACANCIES**

**Article I
GENERAL PROVISIONS**

§ 361. Vacancy defined

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

1. **Filled for unexpired term.** A vacancy in any office shall be filled for an unexpired term, except where it is specifically provided to the contrary.

§ 362. Governor's proclamation for political committee meetings

When required by this subchapter, the Governor shall issue a proclamation declaring the vacancy, ordering the appropriate political committee to fill it and setting a time and place for the committee to meet.

§ 363. Political committee; choosing candidates and nominees

The meeting of a political committee as required by sections 371, 373, 374, 381, 382 and 393 is governed by the following provisions.

1. Time and place of meeting. The committee shall meet at the time and place prescribed in the Governor's proclamation.

2. Duties of committee. The committee shall choose a qualified person to fill the vacancy. The secretary of the committee shall immediately deliver a certificate to the Secretary of State containing the name of the person chosen, his residence, his political party, title of the office sought, and the method by which he was chosen. The certificate must be signed by the chairman of the committee and attested to by the secretary.

A. In an electoral division consisting of more than one municipality, the municipal committee of each municipality shall meet jointly, elect a secretary and a chairman for the meeting and then fill the vacancy.

3. Acceptance filed. A person chosen under this section must file his written acceptance with the Secretary of State.

4. Changes in ballot. The Secretary of State shall make the necessary changes in the ballot.

§ 364. Candidacy by nomination petition

The nomination of a candidate or nominee, other than by party, to fill a vacancy must be made by nomination petition. The nomination process shall be in the same manner as provided by subchapter II, except that all petitions must be filed by 5 p.m. on the latest date established in the Governor's proclamation for the meeting of the appropriate political committees to fill the vacancy or, where a special election is to be held, by 5 p.m. of the date specified in the proclamation for filing by party candidates for the special election.

§ 365. Jurisdiction

The political committee which has jurisdiction over the choice of a candidate for nomination or a nominee to fill a vacancy under sections 371, 373, 374, 381 and 382 is as follows.

1. **Municipal committee.** Choices for Representative to the Legislature must be made by a municipal committee when a representative district consists of one municipality, by a joint meeting of municipal committees when a representative district consists of 2 or more municipalities or by members of a municipal committee or committees residing within a representative district when the representative district includes a part of a municipality or parts of different municipalities.

2. **County committee.** A county committee makes choices for all county offices and committee members residing within senatorial districts make choices for State Senator.

3. **District committee.** A district committee makes choices for Representative to Congress.

4. **State committee.** A state committee makes choices for Governor, United States Senator and presidential elector.

§ 366. Special elections

The proclamation of a special election must specify the time and place it must be held as well as any necessary filing, posting, publishing and reporting dates. A special election must be publicized and conducted like its regular counterpart, as nearly as practicable.

§ 367. Candidate withdrawal

A candidate who wishes to withdraw from an elective race shall notify the Secretary of State in writing of the candidate's intent to withdraw and the reason for withdrawal. This notice must be signed by the candidate.

Article II CANDIDATES AND NOMINEES

§ 371. Candidates for nomination

If a candidate for nomination dies, withdraws or becomes disqualified after having filed his primary petition, so that a party has fewer candidates than there are offices to be filled, the vacancy may be filled as follows.

1. **Primary petition if time.** If there is sufficient time to circulate a primary petition before the primary election, as determined by the Secretary of State, the new candidate must be chosen in that manner. The Secretary of State shall set a time for filing the new petition and the consent described in section 336.

2. **Chosen by committee if not time.** If there is not sufficient time to circulate a primary petition, the Secretary of State shall notify the Governor who shall issue a proclamation under section 362.

§ 372. Nominees; 60 days or more before election

If a person nominated for United States Senator, Representative to Congress or Governor at a primary election dies, withdraws or becomes disqualified at least 60 days before the general election, the Governor shall issue a proclamation declaring the vacancy and ordering a special primary election under section 366.

§ 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 shall issue a proclamation under section 362.

§ 374. Certain nominees at any time (REPEALED)

§ 374-A. Withdrawal of candidates for certain state offices

1. **Withdrawal and replacement of nominees; Governor's proclamation.** The Governor shall issue a proclamation as provided in section 362 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 first Monday in August 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.

2. Deadline for replacement of nominee. A political committee may make a replacement nomination:

A. No later than 5 p.m. of the 3rd Monday in August preceding the general election for a candidate who has withdrawn in accordance with subsection 1, paragraph A; or

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

§ 375. Presidential and vice-presidential candidates chosen by petition

1. Candidate for President; death; withdrawal; disqualification. If a candidate for President who has been nominated by petition under section 354, subsection 1, paragraph B, dies, withdraws or becomes disqualified, the nomination of the presidential, vice-presidential and presidential electoral candidates is terminated.

2. Candidate for Vice President; death; withdrawal; disqualification. If a candidate for Vice President who has been nominated by petition under section 354, subsection 1, paragraph B, dies, withdraws or becomes disqualified, the vacancy may be filled by a new vice-presidential candidate, if the following conditions are met:

A. Written resignation is filed with the Secretary of State by the previous vice-presidential candidate, if the mental and physical condition of the candidate allows;

B. Written consent is filed with the Secretary of State by the new vice-presidential candidate;

C. Written acceptance of the new vice-presidential candidate is filed with the Secretary of State by the presidential candidate; and

D. Written acceptance of the new vice-presidential candidate is filed with the Secretary of State by each of the presidential electors.

3. Candidate for presidential elector; death; withdrawal; disqualification. If a presidential elector, who has been nominated by petition under section 354, subsection 1, paragraph B, dies, withdraws or becomes disqualified, the vacancy may be filled by a new presidential elector, if the following conditions are met:

A. Written resignation is filed with the Secretary of State by the previous presidential elector, if the mental and physical condition of the elector allows;

B. Written consent is filed with the Secretary of State by the new presidential elector; and

C. Written acceptance of the new presidential elector is filed with the Secretary of State by the presidential candidate.

This subsection does not apply to a vacancy as described in section 804.

§ 376. Production of new ballots

1. Federal or gubernatorial office. If a candidate or nominee for a federal or gubernatorial office withdraws less than 45 days before any election, the Secretary of State is not required to produce new ballots.

2. Certain state offices. The Secretary of State is required to produce new ballots only if a candidate for an office, other than United States Senator, Representative to Congress or Governor, withdraws in accordance with section 374-A,

subsection 1, paragraph A, B or C, a replacement candidate is nominated and a notification is filed with the Secretary of State by the appropriate committee of the political party making the nomination no later than 45 days before the election.

3. List of candidates. Immediately after the last day for withdrawal, the Secretary of State shall list all names to be placed on the ballot for the general election.

4. Last day for withdrawal (REPEALED).

Article III

LOCAL AND STATE OFFICIALS

§ 381. State Senators

When there is a vacancy in the office of State Senator, the Governor shall issue a proclamation declaring the vacancy and ordering a special election under section 366.

1. Nominees chosen. He shall order the appropriate political committee members to choose nominees and shall set a time and place for them to meet. The committee members shall follow the procedure outlined in section 363.

§ 382. Representative to Legislature

When there is a vacancy in the office of Representative to the Legislature, the municipal officers of any municipality affected by the vacancy may inform the Governor if there is a need to fill the vacancy before the next general election, and the Governor shall issue a proclamation declaring the vacancy and ordering a special election under section 366.

1. Nominees chosen. He shall order the appropriate political committees to chose nominees and shall set a time and place for them to meet. The committees shall follow the procedure outlined in section 363.

§ 383. Political committees

A political committee shall fill a vacancy in its membership.

1. **Secretary of State notified.** The secretary of a state, district or county committee shall inform the Secretary of State of the name and residence of each person chosen to fill a vacancy.

§ 384. Election officials

The municipal officers shall appoint a qualified person to fill a vacancy in the office of any election official.

1. **Limitation.** An election clerk appointed to fill a vacancy must be enrolled in the same party as the former incumbent and must be nominated as provided in section 503.

**Article IV
FEDERAL OFFICIALS**

§ 391. United States Senators

A vacancy in the office of United States Senator is governed by the following provisions.

1. **Interim appointment.** Within a reasonable time after the vacancy occurs, the Governor shall appoint a qualified person to fill the vacancy until his successor is elected and qualified.

2. **Vacancy 60 days before primary.** If the vacancy occurs 60 days or more before a regular primary election, nominees must be chosen at the primary and a successor elected for the remainder of the term at the general election.

3. **Vacancy less than 60 days before primary.** If the vacancy occurs less than 60 days before a regular primary election, nominees must be chosen at the next regular primary following the

one in question, and a successor elected for the remainder of the term at the general election.

§ 392. Representatives to Congress

When there is a vacancy in the office of Representative to Congress, the Governor shall issue a proclamation declaring the vacancy and ordering a special primary election followed by a special election to fill the vacancy as provided in section 366.

1. Congress in session. If Congress is in session, the elections must be held as soon as reasonably possible. If Congress is not in session, the elections must be held before the next regular or called session.

§ 393. Presidential electors

Except as provided in section 804, when there is a vacancy in the office of presidential elector, the Governor shall issue a proclamation under section 362 ordering the appropriate state committee to choose a qualified person to fill the vacancy. The procedure outlined in section 363 shall be followed.

SUBCHAPTER IV PRESIDENTIAL PRIMARY ELECTIONS

§ 401. Determination and date of primary

1. Determination of primary. Whenever the state committee of a political party certifies that there is a contest among candidates for nomination as the presidential candidate of the party and that the committee has voted to conduct a presidential primary election, the State shall hold a presidential primary election. The election shall not be held earlier than January 1st of the year that the presidential election is held.

2. Date of primary. The date of the presidential primary shall be chosen in the following manner.

A. If a determination is made pursuant to subsection 1 for one party and that party chooses a date, the State shall hold the presidential primary election on that date. The party shall deliver to the Secretary of State notification of the chosen date by December 1st of the year prior to the election.

B. If a determination is made pursuant to subsection 1 for more than one party and those parties agree to one date by November 1st of the year prior to the election, the State shall hold the presidential primary election on that date.

C. If a party does not choose a date pursuant to paragraph A or there is no agreement on a date pursuant to paragraph B, then the State shall hold the presidential primary election on the first Tuesday in March, or on the same date as the presidential primary election for the state of New Hampshire, whichever is earlier, provided that the election is held in the presidential election year.

§ 402. Party certification

The state committee shall file the certification with the Secretary of State by December 1st of the year prior to the election. This certification shall contain the following:

1. **Statement of contest.** A statement that there is a contest among candidates for nomination as the presidential candidate of the party;

2. **Identification of contestants.** Identification of at least 2 candidates that have declared as contestants for nomination as the presidential candidate of the party; and

3. **Statement of committee vote.** A statement that the state committee has voted to conduct a presidential primary election.

§ 403. Petitions

On or before July 1st of the year preceding each presidential election year, the Secretary of State shall prepare and make available petitions for circulation by persons desiring to be contestants in the Maine presidential primary of any party. These petitions must be completed and filed 45 days before the primary election in the manner provided in sections 335 and 336.

§ 404. Ballot preparation

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

§ 405. Candidate eligibility

1. Petitions. The ballots shall include the name of any person who files with the Secretary of State a petition obtained under section 403 and completed in accordance with sections 335 and 336. The Secretary of State shall determine if a petition meets the requirements of those sections, subject to challenge and appeal under section 337.

2. Secretary of State determination. The following provisions govern the Secretary of State's selection of presidential candidates to appear on the ballot.

A. The ballots shall include the name of any person who is a member of a political party which has qualified under subchapter I and who has been determined by the Secretary of State, in the Secretary of State's sole discretion, to be generally advocated or recognized as a presidential candidate of nationwide stature in the national news media throughout the United States. This subsection shall not be construed to include so-called "favorite son" candidates whose candidacy may be limited to one state.

B. The Secretary of State shall determine the persons who will be placed on the ballot under this subsection at least 30 days before the ballots are prepared. The Secretary of State shall promptly notify those persons that their names will

appear on the ballot and shall also advise those persons of the steps which they must take if they do not wish their names to appear on the ballot.

C. Any persons who the Secretary of State determines should be placed on the ballot under this subsection may have their names withdrawn from the ballot by filing affidavits with the Secretary of State in which the persons designated swear under oath that they request that their names be omitted from the ballot.

In order to remove a person's name from the ballot, the affidavit must be received by the Secretary of State at least 45 days before the date designated for the presidential primary election.

§ 406. Selection of delegates

If a party chooses to participate in a presidential primary election under this chapter, delegates to national presidential nominating conventions shall be selected by the state parties meeting in convention under subchapter I, article II, at any time after the presidential primary.

The methods and procedures for selection of delegates shall be according to reasonable procedures established at the state party convention. In the absence of any procedures established by state or national party rules, the allocation shall be as follows.

1. Proportional allocation. Delegates to the national convention must be allocated proportionately among the candidate votes and the uncommitted votes cast in the presidential primary of the party.

A. All candidates receiving 10% or more of the total votes for candidates or uncommitted must be allocated a share of delegates which approaches, as closely as possible, their respective shares of the total vote.

B. The percentages of votes attributable to candidates receiving less than 10% of the total vote shall be added to the total percentage of uncommitted votes for the purpose of allocating delegates.

2. **Uncommitted delegates.** A delegate elected as an uncommitted delegate may support any presidential candidate at any time and may change support for this candidate in the delegate's sole discretion.

3. **Committed delegates.** A delegate elected for a particular presidential candidate according to the proportional allocation specified by this section shall vote for that candidate on the first ballot at the national nominating convention, unless the state committee of the party affirmatively votes to follow another procedure or if, prior to the filing of the certification under sections 401 and 402, the candidate for whom a particular delegate is elected specifically withdraws, as verified by the chairman of the national party, from consideration for the presidential nomination at any time before the first ballot at the national nominating convention.

§ 407. Cost

Whenever a municipality complies with the provisions of this subchapter, the State shall bear the cost incurred.

CHAPTER 7 ELECTION OFFICIALS

§ 501. Wardens and ward clerks

1. **In a city.** In a city, the selection, term of office, compensation and partial duties of wardens and ward clerks are determined by the city charter. Additional duties are prescribed by this Title.

2. **In a town.** In a town, unless otherwise determined by charter, the clerk of the municipality shall be the supervisor of all elections. With the approval of the municipal officers, he shall

appoint a warden and may appoint one or more deputy wardens to assist in the duties on election day. The clerk may designate himself as warden or deputy warden. The municipal clerk, warden and deputy warden shall be paid a reasonable compensation as determined by the municipal officers.

3. Provisions applicable to both towns and cities. Neither the warden nor any deputy warden may be an officer of a municipal committee of a political party. Deputy wardens shall perform the duties of the warden when necessary and may not replace election clerks prescribed by this Title. The warden and deputy wardens must be registered voters of the municipality.

§ 502. Duties and vacancies – ward clerk

In the absence or incapacity of the warden, the ward clerk may perform the duties of the warden. A vacancy in the office of ward clerk shall be filled by an election clerk appointed by the warden. This election clerk must be enrolled in the same political party as the ward clerk and shall serve as ward clerk pro tem.

§ 503. Election clerks

Elections clerks are governed by the following provisions.

1. Appointment. The municipal officers of each municipality must appoint election clerks no later than May 1st of each general election year. They shall appoint persons nominated by the municipal committees of the major parties to serve as election clerks for each voting place and post a public listing of those nominated and appointed. They must designate an equal number of election clerks from each major party. At the request of the municipal committee of any minor party represented on the last general election ballot, the municipal officers shall appoint one election clerk nominated by that committee for each voting place.

1-A. Student election clerks. In addition to the election clerks appointed under subsection 1, the municipal officers may appoint persons who are 17 years of age to serve as student election

clerks for a specific election. The student election clerks must be appointed in the same manner as election clerks under subsection 1. A student election clerk may not assist a voter unless the voter specifically requests assistance from the student election clerk.

2. Number appointed. The municipal officers shall appoint 2 election clerks, who must be residents of the municipality, for each voting place in each municipality.

A. They may appoint additional election clerks, if necessary, who are nominated as provided in subsection 1.

B. They shall appoint alternate election clerks who are nominated as provided in subsection 1 and who may be called into service by the warden, as needed, to fill a vacancy on election day.

C. The municipal clerk may appoint a sufficient number of election clerks, an equal number from each political party, who are nominated as provided in subsection 1, to serve as counters when the polls close. Counters shall be paid a reasonable compensation as determined by the municipal officers.

If the municipal committee fails to nominate a sufficient number of election clerks, the municipal clerk or municipal officers shall appoint the necessary number to fill the vacancy on election day.

3. Sworn to office. Before assuming the duties of office, an election clerk must be sworn by the warden or clerk, and the fact of his having been sworn shall be recorded by the clerk.

4. Term of office. An election clerk holds office for 2 years from the date of his appointment, and until his successor is appointed and qualified, except that an election clerk who is appointed to represent a minor party holds office only 2 years from the date of his appointment.

5. **Duties.** Election clerks shall attend the voting places for which they are appointed, at each election. They shall assist the warden as requested by him. They shall be in attendance during voting hours on election day.

6. **Compensation.** Election clerks shall be paid a reasonable compensation as determined by the municipal officers.

7. **Application of city charter.** A city charter which provides for the election of 2 persons to assist the warden in receiving, sorting and counting ballots is not affected by this section. The persons elected under authority of the charter are considered to be election clerks and each must represent a different major party.

§ 504. Persons ineligible to serve

The following may not serve as election officials:

1. **Certain employees.** An employee of a party or candidate;

2. **Direct pecuniary interest.** A person having a direct pecuniary interest in the result of a referendum question; or

3. **Candidate and certain relatives.** A candidate or member of his immediate family, in the electoral division from which the candidate seeks election.

A. This subsection does not apply to a candidate for warden or ward clerk or his spouse, parents, children, sister or brother.

B. This subsection does not apply to municipalities with a population of less than 500.

**CHAPTER 9
CONDUCT OF ELECTIONS**

**SUBCHAPTER I
PREELECTION PROCEDURE**

**Article I
SECRETARY OF STATE'S
RESPONSIBILITIES**

§ 601. Primary ballot

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

1. **Arrangement.** The ballot must be arranged in one column.

2. **Content.** The ballot must contain the things listed in this section. It may contain no others.

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

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 name of each candidate may be printed on the ballot in only one space.

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

D. At the end of the list of candidates for nomination to each office, there must be left as many blank spaces as there are vacancies to be filled. These spaces may be used by a voter to write or paste in the name and municipality of residence of any person for whom he desires to vote, as provided in section 691, subsection 2.

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. A square must be printed at the left of and close to the name of each candidate or write-in space, so that a voter may designate his choice clearly by a cross (X) or a check mark (✓).

G. On the front and back of the folded ballot must be printed "Official (name of political party) Primary Ballot for (name of voting place for which ballot was prepared)", the date of the election, and a facsimile of the state seal.

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.

3. Order of offices. The order of offices on the ballot is as follows: 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 political party on paper of a distinctive color: White for the party which cast the greatest number of votes for

Governor at the last gubernatorial election; yellow for the 2nd highest; blue for the 3rd highest; and green for the 4th highest. For municipalities which include more than one single member district of the House of Representatives, or parts of more than one single member district, the Secretary of State may prepare primary election ballots of one or more distinctive colors for each single member district or part thereof within the municipality.

§ 601-A. Presidential primary ballot

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

1. **Arrangement.** The ballot must be arranged in one column.

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

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

IF YOU WISH TO VOTE FOR UNCOMMITTED, MAKE A CROSS (X) OR A CHECK MARK (✓) IN THE SQUARE AT THE LEFT OF THE WORD 'UNCOMMITTED.' MARK ONLY ONE SQUARE."

B. The ballot must contain the name, without any title, of each candidate arranged alphabetically with the last name first in block capital letters, followed by the first name and middle

name or initial, or followed by the first name or first initial and the middle name. The name of each candidate may be printed on the ballot in only one space.

C. The ballot must contain the word "uncommitted" following the list of candidates.

D. A square shall be printed at the left side of and close to the name of each candidate and uncommitted space, so that a voter may designate any choice clearly by a cross (X) or a check mark (✓).

E. On the front and back of the folded ballot must be printed "Official (name of political party) Presidential Primary Ballot," the date of the election and a facsimile of the signature of the Secretary of State.

3. **Distinctively colored.** The ballots must be printed separately for each political party on paper of a distinctive color: White for the party which cast the greatest number of votes for Governor at the last gubernatorial election; yellow for the 2nd highest; blue for the 3rd highest; and green for the 4th highest. The Secretary of State shall choose a distinctive color for ballots for any other political party.

§ 602. General election ballot

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

1. **Arrangement.** The ballot must contain the name, without any title, and municipality of residence of each nominee, arranged alphabetically with the last name first, under the proper office designation, except that the names of Presidential Electors shall not appear on the ballot.

2. **Content.** The ballot must contain the things listed in this section. It may contain no others.

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

B. The designation of the party which the nominee represents must be printed to the right of each nominee's name, properly separated from but still in line with the name of the nominee. The party designation may be abbreviated.

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

D. When 2 United States Senators or 2 county commissioners are to be elected, the term of office sought by each nominee must be specified on the ballot.

E. At the end of the list of nominees 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 the name and municipality of residence of any person for whom he desires to vote, as provided in section 692, subsection 2.

F. 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.

G. A square must be printed at the left of and close to the name of each nominee or write-in space, so that a voter may designate his choice clearly by a cross or a check mark in it.

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 first initial and the middle name.

3. **Printed on outside.** On the front and back of the folded ballot must be printed "Official Ballot for (name of voting district)," the date of the election, and a facsimile of the state seal.

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

5. **Distinctively colored.** Election ballots must be printed on white paper. For municipalities which include more than one single member district of the House of Representatives, or parts of more than one single member district, the Secretary of State may prepare general election ballots of one or more distinctive colors for each single member district or part thereof within the municipality.

6. **Size.** The Secretary of State shall determine the size of the ballots.

7. **Contents concealed.** The ballots must be folded uniformly so that the interior contents are concealed.

§ 603. Specimens

Specimen ballots are governed by the following provisions.

1. Secretary of State to prepare. The Secretary of State shall prepare the specimen ballots.

A. The words "SPECIMEN 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 signature of the Secretary of State must 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.

B. The ballot must be printed on paper of a distinctive color.

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

3. Secretary of State to publish. A reasonable time before the election the Secretary of State shall make specimen ballots available for publication in all newspapers having general circulation in the area to which the ballots pertain. A single specimen ballot so published may carry the name of each candidate for State Senator and Representative to the Legislature in the area covered by the circulation of the newspaper. The name of the voting district need not be printed on the published specimen ballot.

4. Candidate or nominee to fill vacancy. When a candidate for nomination or a nominee is chosen to fill a vacancy, the Secretary of State and the clerk of each interested municipality shall perform the duties required by this section as promptly as possible.

5. Specimen ballot instructions printed in the French language. The Secretary of State shall prepare ballot instructions in the French language, to be printed on a separate sheet of paper which may conveniently be attached to specimen ballots. The Secretary of State shall furnish these ballot instruction sheets upon request by the clerk of a municipality. The number of specimen

ballot instruction sheets to be furnished to a municipality, when added to the number of specimen ballots and instruction posters in the English language to be furnished to that municipality, may not be greater than the total number of specimen ballots and instruction posters to be furnished that municipality, if specimen ballot sheets printed in the French language had not been requested.

6. Violation; unofficial specimen ballot (REPEALED).

§ 604. Emergency ballot procedure

In an emergency as described in subsection 2, the Secretary of State may prepare new ballots, amend those already printed or procure ballots from another municipality or voting district. He may authorize any clerk to do the same.

1. Ballots amended. Ballots already printed may be amended by having corrective stickers added, as directed by the Secretary of State.

2. Emergency described. An emergency may exist as follows:

- A.** If there is a shortage of ballots;
- B.** If the ballots are not delivered in time for the election;
- C.** If the ballots are missing, defaced or destroyed; or
- D.** If replacement of a vacancy or the correction of an error in the ballot requires its amendment.

§ 604-A. Flexibility for combining election ballots

Notwithstanding any other provision of this Title, the Secretary of State may make suitable arrangement for the printing of candidate, referendum and municipal election ballots on a single paper ballot or ballot card used in conjunction with electronic voting systems. The Secretary of State may only allow such a combination

if he finds that it is in the interest of the election process and that it will not contribute to voter confusion or unreasonable administrative difficulties.

§ 605. Instructions

1. **For election officials.** The Secretary of State shall provide the clerk, registrar and election officials of each municipality with printed instructions and information to assist them in performing the requirements of this Title.

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

§ 606. Materials furnished

Within a reasonable time before any election, the Secretary of State shall furnish each municipality with ballots, specimen ballots, test ballots for electronic voting systems if applicable, instruction posters, election return forms, posters of specimen ballots 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 furnish each voting place with at least 75 ballots for every 50 votes cast at that voting place at the last election of that type. 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 the number of each kind of material enclosed and the name of the voting place for which it is intended.

2-A. Sample ballots for special, primary and general elections. The Secretary of State shall affix a sealed envelope containing samples of each type of candidate ballot packed inside to the outside of every package or box of ballots prepared for a special, primary or general election and sent to a voting place. The Secretary of State shall authorize preparation of the sample candidate ballots for special, primary or general elections. These sample ballots shall be printed concurrently with the regular ballots. A sample ballot must be substantially the same as the type of ballot it exemplifies, except that:

- A. The words "SAMPLE BALLOT" in bold type and the name of the voting district must be printed on each sample ballot;
- B. The facsimile of the signature of the Secretary of State must not be printed on a sample ballot; and
- C. A sample ballot must be incapable of being cast using a voting machine or electronic voting system.

2-B. Test ballots. The Secretary of State shall provide a packet of 50 test ballots for each type of ballot to be counted by each unit of automatic counting equipment used by a counting center as defined in section 808. The Secretary of State shall authorize preparation of the test ballots for special, primary or general elections. These test ballots must be printed concurrently with the regular ballots. These test ballots must be substantially the same as the type of ballot they exemplify, except that:

- A. The words "TEST BALLOT" in bold type and the name of the voting district must be printed on each test ballot; and

- B.** The facsimile of the signature of the Secretary of State may not be printed on a test ballot.

The Secretary of State may adopt rules, in accordance with the Maine Administrative Procedure Act, governing the printing, distribution and use of test ballots.

3. Receipt issued; inspection of sample ballots in primary and general elections. The clerk shall immediately send the Secretary of State a receipt for the ballots the clerk receives. Upon receipt of a package or box containing candidate ballots for a special, primary or general election, the clerk shall, in the presence of one or more witnesses, open the sealed envelope containing sample ballots described in subsection 2-A affixed to that package or box. The clerk shall immediately notify the Secretary of State if a sample ballot differs materially from the appropriate specimen ballot, described in section 603.

3-A. Receipt issued; use of test ballots in primary, special and general elections. The clerk shall immediately send the Secretary of State a receipt for the test ballots the clerk receives. The test ballots must be used to test automatic tabulating equipment under section 854. Upon receipt of a package or box containing test ballots for a special, primary or general election, the clerk, in the presence of one or more witnesses, shall open the packet or box containing the sealed test ballots described in subsection 2-B. The clerk shall immediately notify the Secretary of State if the number of test ballots in each packet is more or less than 50. The clerk shall keep a record of the number of test ballots throughout the preelection and postelection testing of the tabulating equipment.

- A.** The clerk shall notify the chairs of each political party of the municipality, in writing, of the time and place the test ballots will be tested as required in section 854. If the clerk is unable to notify the chair of the municipal political party, the clerk shall notify the chair of the county or state political party.

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.

§ 606-A. Special provisions for out-of-district voters

A voter who registers and votes under section 156 in a municipality outside his representative district, state senatorial district, county commissioner district or county, may vote for the offices of Representative to the Legislature, State Senator or any county office by using a ballot obtained under this section.

1. Clerk to notify. The clerk of a municipality in which voters have registered or enrolled under section 156 shall notify the Secretary of State of those registrations and enrollments at least 60 days before any election.

2. Secretary of State to furnish ballots. The Secretary of State shall provide to the clerk at least 75 ballots for every 50 votes cast at that voting place by persons registered or enrolled under section 156 in the last election of that type. These ballots shall contain the names of the nominees or candidates for offices in the electoral divisions in which the voters registered under section 156 reside.

3. Voter to use proper ballot. The election clerk in charge of the ballots at each voting place shall insure that each voter, registered in that municipality under section 156, who resides in a different electoral division obtains and uses the proper ballot provided under this section.

4. How furnished. Ballots provided under this section shall be furnished to voting places in accordance with section 606.

5. County commissioner districts; county referendum. If a township resident registers under section 156 in a municipality outside his county commissioner district, or outside his county in the case of a county referendum, the commissioners of his county shall perform the duties of the Secretary of State under this section

and section 752, subsection 1, paragraph B. The clerk of a municipality in which these voters have registered or enrolled under section 156 shall notify the county commissioners of those registrations and enrollments at least 120 days before any election for county commissioner or for the determination of a county referendum question.

§ 607. Official ballot box

An official ballot box is governed by the following provisions.

1. Furnished by Secretary of State. The Secretary of State shall furnish an official ballot box for each voting district.

2. Described. The boxes must be of uniform design. Each box must be equipped with a suitable lock and key. In the top of the box there must be an opening large enough to allow a single, folded ballot to be inserted, and no larger, with a slide device by which the opening may be covered or uncovered. The box must be large enough to receive the ballots deposited in it at any election.

3. Municipality may provide. A municipality may provide ballot boxes at its own expense. Each box may contain a mechanical device for counting and endorsing the ballots deposited in it but it may not be equipped to record any distinguishing mark or number on a ballot. Each box must meet the requirements of this section. Once approved by the Secretary of State, each box becomes an official ballot box.

4. Official ballot box required. Only an official ballot box may be used to receive official ballots cast at any election.

5. Separate ballot box for constitutional amendments and referenda. A municipality having 5,000 or more inhabitants, except where the municipality uses voting machines or electronic voting systems, shall, and a municipality with fewer inhabitants may, by vote of its municipal officers, use separate ballot boxes at elections for the deposit of votes on constitutional amendments and referenda. The municipal officers must notify the Secretary of State

of this action at least 60 days before the date of the election at which the separate ballot boxes are to be used. These ballot boxes are subject to all the provisions relating to official ballot boxes under this section. They may be furnished by the Secretary of State at the expense of the municipality.

§ 608. Field examiner

The Secretary of State may appoint a field examiner who shall instruct and assist municipal election officials in their administration of this Title.

**Article II
LOCAL OFFICIALS' RESPONSIBILITIES**

§ 621. Announcing an election

The Secretary of State shall send the warrants to the municipal clerk, who shall present them to the municipal officers. The municipal officers of each municipality shall announce an election as follows.

1. Warrant issued. They shall issue a warrant signed by a majority of the municipal officers and directed personally to a constable or any resident ordering him to announce the election.

2. Warrant posted and return made. The person to whom the warrant is directed shall post an attested copy of it in a conspicuous, public place in each voting district in the municipality at least 7 days immediately before election day. He shall make a return on the warrant stating the manner of announcement and the time it was given and return the warrant to the municipal officers.

3. Warrant recorded. The municipal officers shall then deliver the warrant to the clerk who shall record it.

§ 622. Warrant

The warrant for announcing an election must read substantially as follows.

(Title of election) ELECTION WARRANT

(Name of county), ss. State of Maine

To (name of constable or resident), a constable (or resident) of (name of municipality): You are hereby required in the name of the State of Maine to notify the voters of this municipality of the election described in this warrant.

To the voters of (name of municipality and voting district, if any):

You are hereby notified that an election will be held at (name of voting place) on (day and date of election) for the purpose of (nomination or election) to the following offices: (list of offices); and determining the following referendum questions: (list of questions).

The polls shall be opened at ____ .m. and closed at ____ p.m.

The registrar of voters or board of registration will hold office hours while the polls are open to correct any error in or change a name or address on the voting list; to accept the registration of any person eligible to vote and to accept new enrollments.

A person who is not registered as a voter may not vote in any election. A voter who is not enrolled in a political party may not vote in a primary election.

Dated at (name of municipality),

(date signed).

Majority of municipal officers
of (name of municipality)

§ 623. Officer's return on warrant

The officer's return must appear on the back of the warrant substantially as follows.

OFFICER'S RETURN

(Name of county), ss. State of Maine

I certify that I have notified the voters of (name of municipality and voting district, if any) of the time and place of the (title of election) election by posting an attested copy of the within warrant at (place of posting) on (date of posting) which is at least 7 days next prior to election day.

Dated at (name of municipality), (date signed).

(Signature of Officer)

Constable (or resident) of

(name of municipality)

§ 624. Voting lists

1. **Posting of.** The registrar shall post a certified copy of the voting list for each voting district at the usual voting place in that district before the polls are opened on election day. He need not post the list before a special election.

2. **Delivery of.** The registrar shall deliver the necessary number of certified copies of the voting list to the clerk by 5 p.m. on the last business day before election day. The clerk shall give the registrar a receipt for the copies.

§ 625. Posting of specimen ballots

At least 7 days before an election, the clerk shall post a specimen ballot, furnished to him under section 603, in a conspicuous, public place in each voting district.

§ 626. Polling times

The following provisions apply to polling times at any election.

1. **Opening time flexible.** Except in municipalities of population less than 100, the polls must be opened no earlier than 6 a.m. and no later than 9 a.m. on election day; except that in municipalities with a population of less than 4,000, the polls must be opened no later than 10:00 a.m. on election day. The municipal officers of each municipality shall determine the time of opening the polls within these limits.

2. **Closing time fixed.** The polls must be closed at 8 p.m. on election day, except in municipalities of population less than 100 which may close the polls after all registered voters have voted.

A. The warden shall give all voters present at the voting place at closing time the opportunity to vote. Any person who

arrives at the voting place after the time for closing the polls has passed may not vote.

3. Polling times in warrant. The municipal officers shall state the times of opening and closing the polls in the warrant announcing the election.

§ 627. Arrangement of voting place

The arrangement of a voting place is governed by the following provisions.

1. General layout. The voting place must be arranged so that the ballot box is within view of persons present. Each voting booth must be arranged so that those outside the guardrail enclosure can see who enters and leaves it.

2. Guardrail. A guardrail must be constructed so that only those inside its enclosure can approach within 6 feet of the ballot box and the voting booths.

3. Flag displayed. An American flag must be displayed in each voting place at any election.

4. Size. 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. If the chairman of any party's state committee submits a written complaint to the Secretary of State at least 30 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, he 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.

§ 628. Care and custody of ballot box

The care and custody of an official ballot box are governed by the following provisions.

1. Custody during election. The ballot box is in the custody of the warden of each voting place during an election. He is responsible for requiring that it is attended constantly. He shall return it to the clerk at the close of the election.

2. Custody at other times. At other times, the ballot box is in the custody of the clerk. He shall keep it in good repair and shall provide safe storage for it at the expense of the municipality, subject to the supervision of the Secretary of State.

3. Defective, lost or destroyed. If a ballot box becomes defective, lost or destroyed, the clerk must apply in writing to the Secretary of State for another. The Secretary of State shall supply a replacement at the expense of the municipality.

§ 629. Voting booths

Voting booths are governed by the following provisions.

1. Provided by municipality. The municipal officers of each municipality shall provide a sufficient number of voting booths for each election. Those municipalities using voting machines must comply with section 811, subsection 4. Those municipalities using voting devices must comply with section 842, subsection 4.

A. In a general election, the municipal officers in each municipality of 4,000 or more population must provide at least one voting booth for each 150, or fraction exceeding 1/2 of that number, of the voters qualified to vote at each voting place. In a municipality of less than 4,000 population, the municipal officers must provide at least one voting booth for each 200, or fraction exceeding 1/2 of that number, of the voters qualified to vote in each voting place.

B. In other than a general election, the municipal officers may provide fewer voting booths than required by paragraph A when circumstances indicate that fewer booths will be adequate to provide for an orderly flow of voters on election day.

C. In any election, the municipal officers may provide more than the number of voting booths required by paragraph A.

D. A reasonable time before a general election, the Secretary of State shall notify the clerk of each municipality of the requirements of this subsection. The clerk shall calculate the number of voting booths required at each voting place based on the number of voters registered at that time. Within 10 days after receiving the notice, the clerk shall certify in writing to the Secretary of State the number of voters registered at each voting place and the number of voting booths the municipality will provide at each voting place for the election.

E. The Secretary of State may arrange for inspections to ensure that municipalities comply with this subsection.

2. Voting machines. In municipalities which have voting machines, the municipal officers must also provide sufficient voting booths and paper ballots to ensure adequate voting facilities.

3. Described. Each booth must have within it a pencil and a shelf on which a voter may mark his ballot conveniently. An instruction poster provided under section 605 must be securely placed above the shelf to assist the voter. Each booth must have a wooden swinging door or a drop curtain arranged so that the top of it is not less than 6 feet from the floor and the bottom is at least 2 1/2 feet from the floor, so that the voter is screened from the observation of others. The entrance to the booth must be closed while the voter is inside.

§ 630. Alternative accessible voting places for the physically handicapped

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

A. "Accessible voting place" means a voting place in a building in which the part of the building set aside for voting meets the requirements for accessible routes of the 1981 standards of construction described in Title 25, chapter 331.

B. "Physical handicap" means an impairment which confines an individual to a wheelchair; causes an individual to walk with difficulty; affects the sight or hearing to the extent that an individual functioning in public areas is insecure or exposed to danger; or causes faulty coordination or reduces mobility, flexibility, coordination and perceptiveness to the extent that special facilities are needed to provide for the safety of that individual.

2. Voting places. Before July 1, 1985, each municipality shall provide at least one voting place which is in a building which is accessible as defined in subsection 1.

A. The Secretary of State shall grant a waiver from the requirements of this subsection to any municipality which satisfactorily demonstrates that those requirements ought not to apply or would create an extreme hardship. Factors which the Secretary of State may consider in making that determination include, but are not limited to, the following: The municipality has no handicapped voters and the physical limitations of a voting place make it impractical to provide an accessible voting place as described in subsection 1. The Secretary of State shall promulgate in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, rules governing the circumstances and procedures for granting a waiver under this paragraph.

B. In municipalities in which one or more voting places are inaccessible to handicapped voters and in which the office of the clerk is in a building which is accessible as defined in subsection 1, paragraph A, the municipal officers shall designate the office of the clerk as an alternative voting place for physically handicapped voters who reside in voting districts which do not have accessible voting places. In municipalities in which one or more voting places and the office of the clerk are inaccessible to physically handicapped voters and in which one or more voting place is accessible to these voters, the municipal officers shall designate one of these accessible voting places, as centrally located as possible, as the alternative voting place for physically handicapped voters who reside in voting districts which do not have accessible voting places. A physically handicapped voter who wishes to vote at an alternative voting place must notify the clerk of the municipality at least 48 hours before the date of any election. This notice may be waived if an emergency exists. The clerk shall keep a list of the persons who give this notice.

Not later than 10 days before the date of any election, the clerk shall issue a public notice designating the location of the alternative accessible voting place. This notice is not required in any municipality in which all or no voting places are accessible to these persons.

When a physically handicapped voter votes at the office of the clerk or at an alternative voting place, that voter shall vote by absentee ballot and the method of voting shall be the same as in section 754-A. If an alternative voting place has been designated, the clerk shall furnish a reasonable number of absentee ballots and return envelopes to the warden. When the clerk or the warden receives such a ballot, the clerk or warden shall follow, as far as applicable, the same procedure prescribed in subchapter IV for the clerk to follow in handling absentee ballots.

3. Alternative paper ballots. At all voting places which are equipped with voting machines, paper ballots must be provided

for use by voters who are physically unable to operate a voting machine.

§ 631. Voting districts

A municipality may be divided into voting districts as follows.

1. **Procedure.** The municipal officers may divide a town or ward into convenient voting districts after public notice and hearing held at least 60 days before any election. After the hearing, the municipal officers must prepare a certificate defining the limits of each district. They must file the certificate with the clerk who shall record it. 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. The clerk shall file an attested copy of the certificate with the Secretary of State. 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 which 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 which is as close as possible to the voting district and as convenient as possible to the voters of the voting district.

2. **Division terminates office.** The division of a town or ward terminates the office of election officials previously elected or appointed from it.

3. **Appointment of wardens and ward clerks.** At least 10 days before the election, the municipal officers shall appoint a warden, a ward clerk in a city and at least 2 election clerks for each voting place created by the division. Election clerks must be nominated as provided in section 503.

4. Officials sworn. Before assuming the duties of office, the officials appointed under this section must be sworn by the clerk who shall record the fact of their having been sworn.

5. Term and duties. The appointed election officials shall perform the same duties at elections as those regularly chosen and shall hold office for the same term.

§ 632. Separate voting places; reimbursement of election expense

1. Voting places in unorganized townships. The procedure for establishing a voting place in unorganized townships is as follows.

A. The commissioners of each county may provide or contract with a municipality to provide a voting place in any unorganized township in their county, for all state and national elections, including primary elections, where all residents of unorganized places entitled to vote in municipalities near the township, under section 156, may cast their ballots under conditions provided in this section.

B. The commissioner or the municipal officers of the contracting municipality shall prepare a separate list of these voters and shall select at least 2 ballot clerks from the inhabitants of the township, representing the respective major political parties and shall select a warden who may be a resident of the township.

C. The conduct of elections at that voting place shall be the same as in municipalities and all provisions of the Revised Statutes with respect to voting districts are applicable to that voting place. The powers and duties of the municipal officers in such case are conferred upon the commissioners or the municipal officers of the contracting municipality.

D. Upon receipt of a petition signed by at least 10 persons qualified to vote under section 156, the commissioners

shall provide or contract with a municipality to provide a voting place in the unorganized township provided in the petition.

2. Reimbursement of election expense. The county commissioners shall reimburse the municipality for those expenses incurred in the conduct of elections held under this section.

3. Notice to Secretary of State. The county commissioners shall notify the Secretary of State of all unorganized territories for which voting places are contracted or provided. They shall also notify the Secretary of State of those unorganized territories for which provision of voting places has been discontinued. Notification must be made at least 120 days before the election in which it will be effective.

§ 633. Election expenses

Except for the added expenses incurred by a municipality under section 632, each municipality shall pay for the expense it incurs in calling, holding and reporting the results of an election. The State shall pay for other election expenses incurred as a result of the performance by state officials of their duties under this Title.

**SUBCHAPTER II
ELECTION PROCEDURE**

**Article I
MATERIALS**

§ 651. Furnishing and distribution

The following procedure shall be observed on election day.

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.

A. In a municipality which 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.

2. Election materials distributed and posted. At any time after the materials are received and before the polls are open, the clerk may open the packages or boxes of election materials, break the seals on the packages not marked "ballots," and use the materials for instructional purposes. Then the clerk or the clerk's designated agents shall post an adequate number of instruction posters, posters of specimen ballots for constitutional resolutions and statewide referenda, including the Attorney General's explanatory statements prepared under Title 1, section 353, materials setting out the full text of constitutional resolutions and statewide referenda, and specimen ballots in the voting room outside the guardrail enclosure.

2-A. Testing electronic voting systems. The clerk may break the seals on packages marked test ballots before election day in accordance with the provisions in section 606, subsection 3-A and use them to meet the requirements of section 854.

2-B. Opening of ballot packages. When the polls are opened, or no more than 1/2 hour before the opening of the polls, the warden shall break the seals on the packages containing the ballots and distribute the ballots to the election clerks in charge of them. The breaking of the seals on the packages containing the ballots is a public proceeding and any member of the public may be present.

3. Ballot box examined. The warden shall then open the official ballot box, examine it and show publicly that it is empty. Immediately after examination, he shall lock the box and deliver the key to the ward clerk who shall keep it until the polls are closed. After the box has been locked, it may not be moved until the polls are closed.

4. Voting starts. As soon as the duties required by subsections 1 to 3 have been performed, the warden shall permit voting to start.

§ 652. Certified voting list and official ballot box

The certified copies of the voting list provided by the registrar and official ballot boxes shall be used exclusively at each voting place. If it becomes impossible to use the official ballot box, the warden shall direct the method by which voting is to proceed. The ward clerk shall record the reason why the ballot box was not used and shall place an attested copy of this record in the package with the ballots cast.

**Article II
POWERS AND DUTIES OF OFFICIALS**

§ 661. Registrar

The registrar shall hold office hours as long as the polls are open on any election day for the following purposes.

1. Error in voting list. The registrar shall correct any error in the voting list which might otherwise deprive a voter of his franchise.

A. A voter who is prevented from voting because his name or address does not appear correctly on the voting list may request the registrar to correct it.

B. If the name or address of the voter was omitted by error from or placed incorrectly on the voting list, the registrar shall issue a certificate to him containing his correct name and address and directed to the warden of his voting place. The registrar shall correct the name and address on the voting list.

C. On receipt of the certificate, the warden shall allow the person named in it to vote, check his name on the

certificate as having voted and attach the certificate securely to the incoming voting list.

2. Change of name or address. The registrar shall change a name or address on the voting list.

A. A voter whose name or address has changed as provided in section 129 may request the registrar to change it on the voting list.

B. The registrar shall issue a certificate to him and he may vote as provided in subsection 1.

3. Registration and enrollment. The registrar shall accept registrations under section 122. He shall accept the enrollment of any voter under section 143.

§ 662. Warden

A warden has the following powers and duties.

1. Enforcement of election law. He shall enforce the law governing voting and counting procedures at the voting place over which he has jurisdiction on election day.

2. Order at voting place. He shall keep order at all times in and around the voting place. He shall direct that any person who creates a disturbance or otherwise violates the law at the voting place be removed from it and, if necessary, confined until the polls are closed.

A. On request of the warden, a peace officer shall remove, confine or arrest a person who creates a disturbance or otherwise violates the law at a voting place.

3. Control of election clerk. The election clerks at the voting place are under the supervision and control of the warden. He may assign their duties for convenience and efficiency and may delegate his ministerial duties to them.

4. Collection of signatures. The warden may select and designate a specific location at the voting place, accessible and observable by the voters, where the collection of signatures may take place. The warden may limit the number of persons collecting signatures to one for each specific question, candidate or issue. Persons collecting signatures may not solicit a voter's signature until the voter has completed voting. The warden may direct the removal, under subsection 2, paragraph A, of any person collecting signatures who does not comply with the requirements of this subsection.

Article III VOTING AND CHALLENGES

§ 671. Voting procedure

The voting procedure is as follows.

1. Name announced. A voter who wishes to vote must state his name and, upon request, street address to an election clerk who shall announce the name in a loud, clear voice.

2. Enters guardrail enclosure. The election clerk in charge of the incoming voting list shall place a check mark on the list beside the voter's name and allow him to enter the area enclosed by the guardrail.

3. Ballot issued. The election clerk in charge of the ballots shall give the voter one ballot of each kind to which he is entitled.

4. Retires to voting booth. After receiving his ballot, the voter shall retire to a voting booth, mark his ballot without delay, fold it the same as it was when he received it and leave the voting booth. No ballot, marked or unmarked, may be left in the voting booth by the voter.

5. Ballot deposited. When he 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. He may not leave the guardrail enclosure until he has deposited his ballot.

A. If, by vote of the municipal officials, a municipality has required the use of a outgoing voting list, the voter must announce his name and, upon request, street address to the election clerk in charge of that list before depositing the ballots in the ballot box.

6. **Reentry prohibited.** A voter who has once left the area enclosed by the guardrail may not reenter.

7. **Ballot box opening covered.** The election clerk in charge of the ballot box shall keep the opening covered except when receiving a ballot.

§ 672. Assistance

A voter who is unable to read or mark his 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 or marking the ballot.

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.

§ 673. Challenges

A voter of any municipality may challenge the right of another to vote at any election in that municipality.

1. How made. The challenge must be made to the warden. The challenger must state the challenger's name, the name of the voter challenged and the reason for the challenge.

A. 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 is not:
 - (a) At least 18 years of age;
 - (b) A citizen of the United States; or
 - (c) A resident of the municipality or appropriate electoral district within the municipality;
- (4) Did not properly apply for an absentee ballot;
- (5) Is not a qualified absentee voter as prescribed by section 751;
- (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; or

(11) Committed any other specified violation of this Title.

2. **Voting list marked.** As soon as the challenge has been made, the election clerk in charge of the incoming voting list shall write "Challenged" beside the voter's name on the list, and give a ballot to the warden.

3. **Ballot marked.** The warden shall write a number on the outside of the ballot. The warden shall also complete a certificate on which appears the word "Challenged," the name of the voter challenged and the reason for the challenge over his signature. The challenger shall also sign the certificate. After the challenger has signed the certificate, the warden shall place the number which was written on the ballot in a conspicuous place on the certificate. No one other than the warden may know the ballot number. The warden shall place the challenge certificate in an envelope marked "Challenge Certificate # (certificate number)" and shall retain the envelope until it is sealed with the ballot materials pursuant to section 698.

4. **Proceed to vote.** The challenged voter shall then proceed to vote in the usual way using the marked ballot.

§ 674. Violations and penalties

1. **Class E crimes.** The commission of any act described as follows in this subsection is a Class E crime:

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

B. A person who assists another in voting knowing that that other person is not eligible to vote;

C. A person who solicits votes from another knowing that that other person is under guardianship because of mental illness;

D. A person who interferes with a voter attempting to cast his vote or who interferes with or attempts to influence a voter in marking his ballot;

E. A person who assists or offers to assist another at the voting place in marking his ballot unless he has been requested to do so by the warden or ward clerk; or

F. A person who shows his marked ballot to another with the intent to reveal how he voted.

2. Class D crimes. The commission of any act described as follows in this subsection is a Class D crime:

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

B. A person who tampers with ballots or voting lists or who breaks a seal or opens any sealed box or package of ballots or voting lists, except as permitted by this Title;

C. A person who votes or attempts to vote knowing that he is not eligible to do so, or who having once voted either within or outside this State, again votes or attempts to vote at the same election; or

D. A person who votes or attempts to vote by using the name of another.

Article IV RESTRICTIONS

§ 681. Positions at polling place

The guardrail area is governed by the following provisions.

1. **Within the guardrail enclosure.** The clerk, election officials and not more than 2 voters in excess of the number of voting booths may be within the guardrail enclosure. The warden may permit peace officers to be within the enclosure to enforce the law. All other persons must remain outside of the enclosure.

2. **Limited time within guardrail enclosure or voting machine.** A voter may not remain within the guardrail enclosure for more than 10 minutes and may not occupy a voting booth or voting machine for more than 5 minutes.

3. **Voting booth.** Except as provided in paragraphs A and B, no one may enter a voting booth with a voter.

A. If the voter requests assistance under section 672, a proper election official or aide may enter the voting booth with the voter.

B. If a voter is accompanied by a child of 6 years of age or younger, the child may enter the voting booth with the voter.

4. **Outside the guardrail enclosure.** Party workers and others 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 person attempts to influence voters or interfere with their free passage, the warden shall have him removed from the voting place.

§ 682. Political activities

Certain activity is prohibited on election day.

1. **Instruction limited.** Within the voting place, no person may instruct another in the method of marking his ballot, except as provided in section 672.

2. **Influence prohibited.** Within the voting place, no person may influence or attempt to influence another person's choice of candidates. This limitation does not prohibit a candidate from attending the voting place and orally communicating with voters, as long as he does not attempt to influence their vote.

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

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

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

Article V

MARKING, COUNTING AND HANDLING OF BALLOTS

§ 691. Marking ballots; primary election

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

1. Individual square method. He must place the mark in the square at the left of and close to the name of each candidate for nomination for whom he wishes to vote.

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

§ 692. General election

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

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

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

3. Referendum question. In voting on a referendum question, he shall place the mark in the square of his choice at the left of the question.

§ 693. Spoiled ballots

If a voter spoils his ballot, he may obtain a replacement, not more than twice, by returning the spoiled ballot to the election clerk

in charge of issuing ballots. The warden or ward clerk shall mark "Spoiled by voter" on the outside of the spoiled ballot, sign it and keep it segregated from the other ballots. If a replacement ballot is issued to the voter, the warden or ward clerk must indicate that fact on the outside of the spoiled ballot.

§ 694. Voting list signed

As soon as the polls have closed, the warden and one election clerk from each party shall sign the incoming voting list.

§ 695. Counting of ballots

The election officials shall count the ballots under the supervision of the warden as soon as the polls are closed, except that if, in the opinion of the municipal clerk the public interests will best be served, referendum ballots may be counted on the day immediately following the election, provided that the count is completed within 24 hours after the polls are closed. If referendum ballots are counted under this exception, the municipal clerk is responsible for the security and safekeeping of the ballots until the count has been completed.

1. Counted in public. The ballots must be counted publicly so that those present may observe the proceedings.

2. Separated into lots. In counting the ballots, the election clerks shall separate them into distinct lots. Each of these lots must consist of 50 ballots, except for one lot, which may have less than 50 ballots. They shall place with each lot a statement of the count in that lot and the names of the election clerks who made the count. They shall wrap the statement of the count around the outside of each lot of ballots.

3. Results declared. As soon as the ballots are counted, the warden shall declare the results publicly at the voting place.

4. Instructions. The Secretary of State may issue to each warden instructions on opening the ballot boxes, separating

various types of ballots and giving priority in counting various types of ballots.

5. Uniformity. The Secretary of State shall design and print uniform tabulation sheets to be used by the workers at the polls. The Secretary of State shall write, print and distribute to wardens instructions on the use of that material and require the use of a uniform system of counting and tabulation.

§ 696. Challenged, defective or void ballots

The counting of ballots is governed by the following provisions.

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

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

2. Defective ballot. A ballot held to be defective by the warden or ward clerk shall not be counted for the office, candidate or question affected by the defect, as follows.

A. If a voter marks more names for an office than there are vacancies to be filled, his vote for that office shall not be counted.

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

C. If a voter marks a write-in square for an office, but does not write in a name and municipality of residence in the blank space provided to the right of the write-in square, that vote for that office shall not be counted.

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

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

F. The warden or ward clerk shall mark "Defective" on the outside of the defective ballot, the reason for the ballot to have been held defective, the office, candidate or question for which it is defective and shall replace the ballot with the other ballots, to be counted for other offices or questions.

3. Void ballots. A ballot held to be void by the warden or ward clerk shall not be counted.

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

B. The warden or ward clerk shall mark "void" on the outside of the void ballot, the reason for the ballot to have been voided and shall keep it segregated from the other ballots.

4. Determination of choice possible. If a voter marks his ballot in a manner which differs from the instructions at the top of the ballot but in such a manner that it is possible to determine the voter's choice, then the vote for the office or question concerned shall be counted. A mark made on or in the square which differs from the instructions at the top of the ballot but which clearly indicates the voter's choice is not a distinguishing mark.

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

§ 697. Disqualification of ballots

Any person engaged at any election as a ballot clerk, assistant ballot clerk or any person employed as a counter of ballots must use pens or pencils containing only red ink or red lead.

§ 698. Packaging and return of ballots and lists

As soon as the election return has been prepared, the election officials shall perform the following duties.

1. Ballots packed. The election clerks shall pack each lot of used ballots and the tabulation of the count in that lot in a sealed package. Referendum ballots must be packaged separately.

A. Each package must be marked substantially as follows: "This package contains ballots cast at the (title of election) election held in (name of voting district and municipality) on (date of election). These ballots were counted, declared, recorded and packaged publicly in accordance with the Maine Revised Statutes, Title 21-A, section 698." This statement must be signed by the warden and the ward clerk.

2. Ballots replaced in containers. The election clerks shall place the sealed packages of used ballots, envelopes containing challenge certificates, unused ballots, spoiled ballots, defective ballots, void ballots, used and unused absentee ballots, used absentee envelopes and used absentee applications in the containers in which the regular ballots were delivered, except that referendum ballots may be sealed in separate containers. They shall then seal the containers publicly. The total number of used ballots, unused ballots, spoiled ballots, defective ballots and absentee ballots must equal the number of ballots furnished by the Secretary of State to

the municipal clerk, less the number of absentee ballots issued to voters and not returned.

3. Lists packed separately. The election clerks shall seal the copies of the incoming voting list in a separate package outside the containers of ballots.

4. Ballots and lists returned. The warden shall deliver the ballots and lists to the clerk within 24 hours after the polls have closed.

5. Two or more voting districts. In municipalities having 2 or more voting districts where absentee ballots are counted at a place other than the voting district, all absentee ballots, applications and envelopes may be packed together in the same container, which shall then be sealed publicly.

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

6. Ballot security. The municipal clerk shall take appropriate security measures to ensure the safety and protection of all ballots.

§ 699. Sealing of ballot container

When a container is required to be sealed, it shall be done so that the seal on the container must be broken before its contents can be examined.

Article VI RETURNS

§ 711. Preparation of returns

As soon as the results of the election have been declared, the election return must be prepared.

1. Town. In a town which has one voting district, the clerk shall fill out in duplicate the election return form provided by the Secretary of State, showing the number of votes cast for each candidate or question. He must sign the return, have it attested by the warden and immediately send the duplicate copy to the Secretary of State.

2. City or multi-district town. In a city, or in a town that has more than one voting district, the ward clerk 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 ward clerk must sign the return, have it attested by the warden and immediately deliver it to the municipal clerk. The municipal clerk shall tabulate the returns in duplicate on the election return provided by the Secretary of State. The clerk shall sign the return and immediately send the duplicate copy to the Secretary of State.

3. Clerk to record. The clerk shall record the original election return within 3 days after election day.

§ 712. Lost or not delivered

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

SUBCHAPTER III POST ELECTION PROCEDURE

Article I TABULATION AND RESULTS

§ 721. Reports of registration and enrollment

Within 20 days after a general election, the registrar shall send a report to the Secretary of State, stating the number of voters in each voting district of the municipality at the close of the polls on election day. Within 20 days after a primary election, the registrar shall report the total number of voters in each voting district of the municipality and the number of voters enrolled in each political party in each voting district of the municipality at the close of the polls on election day.

§ 722. Secretary of State to tabulate and print results

Within 20 days after an election, the Secretary of State shall tabulate the election returns and submit the tabulation to the Governor.

1. How tabulated. The Secretary of State shall tabulate all votes which appear by an election return to have been cast for a candidate, even though the candidate's name is misspelled, written with his initials, with wrong initials, or otherwise, on the return. All candidates receiving less than .1 % of the total vote cast shall be titled "others" when the tabulation is processed.

2. Correction of return. If it appears that an election return does not agree with the record of the vote at any voting place, the Secretary of State shall correct the tabulation by obtaining a certified copy of the record from the clerk.

3. Tabulation printed. The Secretary of State shall have copies of the tabulation printed and made available to the public.

§ 723. Determination of election

The determination of an election or referendum question is governed by the following provisions.

1. Primary election. In a primary election, the person who receives a plurality of the votes cast for nomination to any office is nominated for that office, except for write-in candidates under paragraph A.

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.

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

2. Other elections. In any other election, the person who receives a plurality of the votes cast for election to any office is elected to that office.

3. More than one vacancy. In any election, if there is more than one vacancy in an office, as many persons are nominated or elected as there are vacancies to be filled in decreasing order of the plurality of votes received by them.

4. Referendum question. A referendum question is determined by majority vote.

§ 724. Election certificate issued

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

1. Ineligible person. The Governor shall not issue an election certificate to a person who is ineligible for the office.

§ 724-A. Written notice to Legislature

At the time the Governor publicly proclaims the result of the vote on any measure referred to the people for approval under the Constitution of Maine, Article IV, Part Third, Section 17 or 18, he shall also provide written notice of the result of that vote to the President of the Senate, the Speaker of the House and the Revisor of Statutes.

§ 725. Commencement of term of office

County officials elected at the general election take office on January 1st directly following election day. The terms of other officials commence on the day provided in the Constitution of the State of Maine or the Constitution of the United States.

**Article II
TIE VOTES**

§ 731. Tie defined

There is a tie vote when 2 or more persons receive an equal number of votes, which number would entitle each one to nomination or election, except for the tie. There is a tie vote in a referendum, when a question receives an equal number of affirmative and negative votes.

§ 732. Procedure

When there is a tie vote, the following provisions apply.

1. **Primary election.** In a primary election, the Secretary of State shall notify each person involved in the tie to be present at his office at a certain time. At that time, the Secretary of State shall select the nominee publicly by lot.

2. **Other elections.** In any other election, the Governor shall issue a proclamation under section 366 declaring the tie and ordering a special election between the persons tied.

A. If there is a tie vote for presidential electors, the Governor shall convene the Legislature by proclamation. The Legislature by joint ballot of the members assembled in convention shall determine which are elected.

B. This subsection does not apply to the election of the following offices which are governed by the Constitution of

the State of Maine or the Constitution of the United States: United States Senator, Representative to Congress, Governor and members of the Legislature.

C. If there is a tie vote for State Senator or Representative to the Legislature as finally determined by the proper House under the Constitution of Maine, Article IV, Part Third, Section 3, the Governor shall issue a proclamation under section 366 declaring the tie and ordering a special election between the persons tied.

3. **Referendum.** In a referendum, other than on a liquor local option question, the negative vote prevails.

Article III INSPECTION AND RECOUNT

§ 736. Candidate's inspection of ballots and incoming voting list

If a candidate in any election applies in writing within 7 days after election day, the clerk shall permit him or his counsel, after payment of any deposit required under subsections 1-A and 1-B, to inspect the ballots and incoming voting lists, under proper protective regulations. The purpose of this inspection must be to provide factual basis for a request for recount. The inspection must be of reasonable duration and may not be used for harassment, assessment of ballot splitting or any other purpose not related to determining whether ballots were counted in a proper and lawful manner.

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

1. **Notice of inspection.** When the application is received, the clerk shall send written notice of the inspection to the candidates for the office in question, stating the time and place of inspection.

1-A. Percentage difference. For purposes of this section, "percentage difference" means the percentage of the total vote for an office represented by the difference between the votes received by the candidate requesting a ballot inspection and the votes received by the nearest winning candidate.

1-B. When deposit is required. A deposit is not required if the percentage difference shown by the official tabulation is:

A. Ten percent or less if the combined vote for the 2 candidates is 1,000 or less, otherwise a deposit of \$150 is required;

B. Five percent or less if the combined vote for the 2 candidates is 1,001 to 5,000, otherwise a deposit of \$200 is required;

C. Four percent or less if the combined vote for the 2 candidates is 5,001 to 10,000, otherwise a deposit of \$250 is required;

D. Three percent or less if the combined vote for the 2 candidates is 10,001 to 50,000, otherwise a deposit of \$300 is required;

E. One percent or less if the combined vote received by the 2 candidates is 50,001 to 100,000, otherwise a deposit of \$500 is required; or

F. Half of one percent or less if the combined vote received by the 2 candidates is 100,001 or over, otherwise a deposit of \$1,000 is required.

All deposits required by this section must be made with the municipal clerk when the ballot inspection is requested. This deposit, made by the candidate requesting the ballot inspection, is forfeited to the municipality if the ballot inspection has begun and it fails to result in a recount which changes the result of the election. If a recount following the ballot inspection reverses the

election, the deposit shall be returned to the candidate requesting the ballot inspection.

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

3. Packages resealed and marked. After the inspection, the clerk shall reseat the packages of ballots and the incoming voting lists, and shall note the fact and date of inspection on them.

§ 737. Recount

If a losing candidate in any election applies in writing within 10 days after the tabulation of the vote is submitted to the Governor, the Secretary of State shall permit him or his counsel to recount the ballots under proper protective regulations, subject to the following provisions.

1. Percentage difference. For purposes of this section, "percentage difference" means the percentage of the total vote for an office represented by the difference between the votes received by the candidate requesting a recount and the votes received by the nearest winning candidate.

2. When deposit is required. A deposit is not required if the percentage difference shown by the official tabulation is:

A. 10% or less if the combined vote for the 2 candidates is 1,000 or less, otherwise a deposit of \$150 is required;

B. 5% or less if the combined vote for the 2 candidates is 1,001 to 5,000, otherwise a deposit of \$200 is required;

C. 4% or less if the combined vote for the 2 candidates is 5,001 to 10,000, otherwise a deposit of \$250 is required;

D. 3% or less if the combined vote for the 2 candidates is 10,001 to 50,000, otherwise a deposit of \$300 is required;

E. 1% or less if the combined vote received by the 2 candidates is 50,001 to 100,000, otherwise a deposit of \$500 is required; or

F. 1/2 of 1% or less if the combined vote received by the 2 candidates is 100,001 or over, otherwise a deposit of \$1,000 is required.

All deposits required by this section must be made with the Secretary of State when the recount is requested. This deposit, made by the candidate requesting the recount, is forfeited to the State if the recount has begun and it fails to change the result of the election. If the recount reverses the election, the deposit shall be returned to the candidate requesting the recount. All deposits required under this section are in addition to any deposit required for a ballot inspection.

3. Ballots and incoming voting lists recalled. When the application is received, the Secretary of State shall recall all the ballots and incoming voting lists from the clerk of each municipality concerned. The clerk shall return or release them to him as soon as any pending ballot inspection has been made.

3-A. Recount request. If a ballot contains state and local candidates or questions, the Secretary of State shall set priorities on which requests for recount shall be honored first if more than one request is presented.

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

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

6. Disputed ballots segregated. At the recount, the Secretary of State shall segregate any disputed ballots.

A. In the case of a recount requested by a write-in candidate who fails to receive the minimum number of votes required and who is the only candidate to appear at the recount, all ballots shall be considered "disputed" if the candidate concludes that he has received a sufficient number of votes for election.

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

8. **Appeal to Commission on Governmental Ethics and Election Practices.** If there are enough challenged or disputed ballots to affect the result of an election, a candidate for that office may appeal to the Commission on Governmental Ethics and Election Practices, as provided in Article IV, for a determination of the election. A written notice of the candidate's intent to appeal as provided in section 742, subsection 1 must be submitted to the Secretary of State at the close of the recount.

9. **Package resealed and marked.** After the recount, the Secretary of State shall reseat the packages of ballots and the incoming voting lists, and shall note the fact and date of the recount on them. If there is an appeal to determine the validity of the disputed ballots, the Secretary of State shall keep them until needed by the Commission on Governmental Ethics and Election Practices.

10. **Withdrawal from recount.** A losing candidate who requests and receives a recount may withdraw from the recount at any time while the recount shows him to be the loser. If, during the recount, the losing candidate overtakes and passes the winning candidate, the losing candidate may not withdraw and the recount shall be completed.

§ 738. Statewide referendum ballots

On petition signed by 100 or more affected voters, an inspection and recount may be held on any referendum question by applying to the Secretary of State within the deadlines provided in

sections 736 and 737. A deposit shall be required if the percentage difference between the yes and no votes falls within the requirements of section 737, subsection 2. Appeal of disputed ballots must be to the Commission on Governmental Ethics and Election Practices as provided under Article IV.

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

§ 739. Ballots and incoming voting lists available for inspection

On request, a municipal clerk or the Secretary of State, or both, shall produce any ballots or incoming voting lists in his custody before the Governor, the Commission on Governmental Ethics and Election Practices, either branch of the Legislature, any legislative committee or any court of competent jurisdiction. After the time for completion of recounts following any election has elapsed, and on request of any person, the clerk of any municipality or the Secretary of State, or both, shall produce any incoming voting lists in his custody.

**Article IV
DETERMINATION OF
DISPUTED ELECTIONS**

§ 741. Jurisdiction

The Commission on Governmental Ethics and Election Practices, established under Title 1, section 1002 and referred to in this chapter as the "commission," shall make findings of fact and opinion on the final determination of election results in primary, general and special elections for county, state or federal offices that are appealed.

§ 742. Appeal to commission

1. By candidate; election. If, after the recount proceeding provided under this Title, there are challenged or disputed ballots, or both, which affect the result of a primary, general or special election involving county, state or federal office, the commission shall make findings of fact and opinion on the validity of those ballots. Any candidate for county, state or federal office may appeal to the commission, in writing, not more than 5 days after the recount proceedings are completed. This written appeal must set forth in detail the grounds for the appeal.

2. By resident; referendum. Any resident of the State affected by the results of a statewide referendum may request an appeal in the same manner as a candidate under subsection 1.

§ 743. Investigations

1. Investigations. The commission may investigate and make findings of fact and issue an opinion on the final determination of the results, within the limits of the Constitution of Maine and the Constitution of the United States, of any contested county, state or federal election within the State. For this purpose, the commission may subpoena witnesses and records and take evidence under oath. A person who fails to obey the lawful subpoena of the commission or to testify before it under oath shall be punished by the Superior Court for contempt on application of the Attorney General on behalf of the commission.

2. Investigation requested. Not more than 5 days after the recount proceedings are completed, any candidate in a contested election may apply in writing to the commission, requesting an investigation and stating the reasons for the request. The commission shall review the application and shall make the investigation, if the reasons stated show sufficient grounds for believing that a violation of law affecting the outcome of the election has occurred.

3. State Auditor; Secretary of State. The State Auditor and the Secretary of State shall assist the commission in making investigations and in other phases of the commission's duties under this chapter and shall have all necessary powers to carry out these responsibilities.

4. Attorney General. The Attorney General is counsel for the commission and may examine any witnesses before the commission.

§ 744. Procedure

The following procedures apply.

1. Notice of hearing. When a written appeal or application requesting an investigation is received, the commission shall notify the opposing candidate and shall set a time, date and place for a hearing on the matter. This hearing must be held within 15 days after the commission receives the appeal or application.

2. Review; findings. The commission shall review the matter, including a review of the contested ballots, and hold any necessary hearings. When the review and hearings are completed, the commission shall make findings of fact and issue an opinion on the final determination of the election.

3. Reports. In the following instances, the commission shall send copies of the findings of fact and opinions.

A. In cases involving elections where the Constitution of the State of Maine or the Constitution of the United States provides for the final determination of the election of a candidate, the commission shall send a copy of the findings of fact and opinion to the body vested with final determination powers.

B. In cases involving general and special elections for county office, the commission shall send a copy of the findings of fact and opinion to the Secretary of State for

preparation and delivery to the Governor, and to each candidate, and shall make its findings available to the public. The Governor shall make the final determination in these cases, subject to the right of appeal under section 746.

C. In all other cases involving primary; general and special elections, the commission shall send a copy of the findings of fact and opinion to the Secretary of State for preparation and delivery to the Governor, and to each candidate, and shall make its findings available to the public. The Governor shall make the final determination in these other cases.

D. The commission shall send copies of its findings of fact and opinion on election contests to all parties to the appeal of the election before the commission. These findings shall be mailed to the parties by certified mail within 3 days after the commission adopts the findings.

4. **Record.** The commission shall keep a public record of its proceedings under this subchapter.

§ 745. Questions of law

1. **Appeals.** An appeal from a final decision by the body with final determinative powers under section 744 may be taken to the Supreme Judicial Court on questions of law, if taken within 3 days of the final determination, in accordance with the procedure described in subsection 2.

2. **Procedure.** The appellant must file the required number of copies of the record of the findings of fact and opinions and any decision issued pursuant to the final determination made by the appropriate body with the clerk of courts within 5 days after filing notice of appeal. After notice of appeal is filed, the parties have 10 days to file briefs with the clerk of courts. As soon as the record and briefs have been filed, the court shall immediately consider the case. The court shall not recount the ballots, but shall determine questions of law. The court must issue its decision as

soon as reasonably possible. The court shall allow costs to the prevailing party as justice may require.

§ 746. Judicial determination of disputed county office

A person who claims to have been elected to any county office may proceed against another who claims title to the office, as follows.

1. Procedure. The person must bring a complaint in the Superior Court within 15 days after the certificate of election is issued. The complaint must allege the facts upon which the person relies in maintaining his action. The action must be brought in the county where the defendant resides. The court shall hear and decide the case as soon as reasonably possible.

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

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

4. Costs. The court shall allow costs to the prevailing party as justice may require.

SUBCHAPTER IV ABSENTEE VOTING

Article I REGULAR ABSENTEE VOTING

§ 751. Proper at any election

Absentee ballots may be cast at any election by a voter who is unable to cast his ballot for one of the following reasons:

- 1. Absence.** Absence from the municipality during the time the polls are open on election day;
- 2. Incapacity.** Physical incapacity;
- 3. Religious belief.** Religious belief which prohibits his doing so;
- 4. Confinement.** Confinement in a penal institution;
- 5. Distance from polls.** Unreasonable distance from the polls, if he is a resident of a township or a coastal island ward or district;
- 6. At registrar's office.**
- 6-A. Working when polls are open.** Working during the entire time the polls in his municipality are open;
- 7. Resident of certain facilities.** Resident of a licensed nursing home, as defined in Title 22, chapter 405, licensed boarding home, as defined in Title 22, chapter 1665, or certified congregate housing unit, as defined in Title 22, chapter 1457-A, when the clerk is present;
- 8. Citizens outside the United States.** If a citizen residing outside the United States does not have a place of abode or other address in the State, or if the citizen's intent to return to this

State is uncertain, the citizen may vote by absentee ballot in elections in the State, as long as the following qualifications are met:

A. The citizen must have been domiciled in the State immediately before the citizen's departure from the United States;

B. The citizen must not maintain a domicile, not be registered to vote, and not be voting in any other state or territory or in any territory or possession of the United States;

C. The citizen must maintain citizenship in the United States; and

D. The citizen has registered to vote under section 154; or

9. **Marginal literacy.** Marginal literacy, which relates to the inability of an individual to read, write or compute well enough to perform common tasks.

§ 752. Materials furnished

At least 3 months before any election, the Secretary of State shall furnish each municipality with a reasonable number of dated absentee ballot applications. A reasonable time, not less than 30 days unless an emergency exists, before any election, the Secretary of State shall furnish each municipality with a reasonable number of absentee ballots and return envelopes.

1. **Absentee ballots to be identical.** Absentee ballots must be identical to the regular ballots used at an election, except as provided in paragraph A for members of the Armed Forces of citizens outside the United States.

A. At least 90 days before the election to which they pertain, the Secretary of State shall furnish each municipality with a reasonable number of blank absentee ballots for use by

members of the Armed Forces and citizens outside the United States who have met the qualifications in section 751. These ballots must be similar to regular ballots, except that no candidate names may be printed. The Secretary of State shall prepare a ballot listing all offices to be selected with a space after each office to write in the voter's preference. The following instructions must be printed in bold type at the top of the ballot: **YOU MAY VOTE FOR A PERSON BY WRITING IN THAT PERSON'S NAME AND MUNICIPALITY OF RESIDENCE IN THE BLANK SPACE UNDER THE PROPER OFFICE.**

B. The Secretary of State shall provide a reasonable number of absentee ballots for township residents who are registered or enrolled in a municipality outside their electoral divisions under section 156. These ballots must contain the names of the nominees or candidates for offices in the electoral divisions in which the voters reside.

2. Content of application. The application must contain a place for the following: Name of applicant, address, address to which ballot is to be sent, title and year of election at which ballot is to be cast, name of party in which the applicant is or desires to be enrolled, date of application and signature of applicant. It must contain a place for the applicant to designate the name of a person to whom the ballot may be delivered and a place for the registrar to certify whether the applicant is registered and the party in which the applicant is or desires to be enrolled. It must contain a conspicuously printed summary warning of the provisions of Title 17-A, section 703.

3. Form of envelope. The return envelope in which the absentee ballot is placed must include on its outside a conspicuously printed summary warning to the voter of the provisions of section 791, subsection 1, paragraph C and Title 17-A, section 703. The envelope must also include an affidavit to be signed by the voter and a certification to be completed and signed by an aide who assists a voter under section 754-A, subsection 3.

4. Delivery of materials; insufficient quantity. The Secretary of State shall send the voting materials to the clerk of each municipality. If the clerk believes that a larger number should be furnished, he must notify the Secretary of State who shall furnish them as promptly as possible.

§ 753. Procedure for obtaining

The following procedure must be observed in obtaining an absentee ballot.

1. Applications available. On request, the clerk shall furnish a reasonable number of ballot applications to any person, except that no application shall be furnished more than 3 months before the election for which the application will be used. Each application must have the date of the election for which it is to be used plainly printed on the face of the application.

2. Applications by voters outside the State. If a voter is temporarily outside the State, a written request for an absentee ballot from the voter, the voter's spouse, a blood relative of the voter or the voter's former guardian is sufficient.

2-A. Request by telephone. The clerk may issue a ballot to a voter without receiving an application by the following procedures.

A. A voter may request a ballot from the clerk by telephone.

B. The clerk shall ask the voter for the information required on the application and shall fill in the application with that information, except the voter's signature and shall write "telephone request" on the application.

C. The clerk shall verify that it is the voter who is requesting the ballot by making the voter confirm the voter's residence and birthdate on the general register of voters.

D. The clerk shall mail the ballot to the voter at the mailing address requested by the voter.

If a municipal election is to be held on the same date as a statewide election, absentee ballots for the municipal and statewide election may be issued in response to the same application.

3. **Application or request received.** On receipt of a completed application or a request for an absentee ballot signed by the applicant, the clerk may immediately send or deliver an absentee ballot and return envelope to the applicant or to a 3rd person designated in the application or request. The clerk may not deliver an absentee ballot to any 3rd person whose name appears on an absentee ballot. The clerk may not deliver to a 3rd person any absentee ballot requested under subsection 2-A. If a municipal election is to be held on the same date as a statewide election, absentee ballots for the municipal and statewide election may be issued in response to the same application. The clerk shall issue to any 3rd person designated in an application or request only enough absentee ballots to insure that that person will not have more than 10 absentee ballots for voters in a municipality at any time. A 3rd person must, unless good cause is shown, return an absentee ballot to the clerk's office within the time limits provided in section 755. The clerk shall include a ballot application to be completed by the person who signed only a written request, unless the written request is sufficient under subsection 2. The clerk shall type or write in ink the name and the legal address of the person for whom the absentee ballot is intended in the upper left hand section of all return envelopes.

A. If the clerk receives a duplicate application from a person from whom the clerk has received a return envelope apparently containing an absentee ballot, the clerk may not furnish another absentee ballot for that person.

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

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

(2) An absentee ballot for the applicant which was furnished to a designated 3rd person is not returned to the clerk's office within 5 business days of the date that ballot was sent or delivered to the 3rd person or of the date that 3rd person was notified by the clerk that the ballot was available, or by 10 a.m. on the day before election day, whichever is earlier. If a ballot for an applicant is not returned to the clerk within 5 days of notification, then the clerk shall mail a ballot to that applicant on the 6th day after notification and shall issue no other ballot to the applicant except for good cause as provided in this subsection. This subparagraph may not be construed to affect the time for delivery of absentee ballots under section 755.

3-A. Alternate method of balloting by residents of licensed nursing homes, licensed boarding homes or certified congregate housing units. The municipal clerk shall designate one or more times during the 30-day period prior to an election during which the municipal clerk must be present in any licensed nursing home, as defined in Title 22, chapter 405; licensed boarding home, as defined in Title 22, chapter 1665; or certified congregate housing unit, as defined in Title 22, chapter 1457-A, for the purpose of absentee balloting by the residents of these homes or units. The clerk shall designate which areas in these facilities constitute the voting place, the voting booth and the guardrail enclosure. Sections 681 and 682 apply to voting in these facilities within the areas designated by the clerk.

4. Assistance to certain voters. A voter who is unable to read or complete his application because of his 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 him in completing the

application. That aide may read the application to the voter or sign it, or both, according to the voter's instructions, or may assist him in signing the application. When an aide assists a voter in this way, the aide must write on the application that he has so assisted the voter in signing the application, the reason the voter was unable to complete or sign the application, or both, and must sign his name.

5. Clerk to list. The clerk shall keep a list of the persons to whom he furnishes absentee ballots until after election day, or the clerk shall file the applications and requests in alphabetical order. The clerk shall keep a list of the persons who vote in the presence of the clerk under subsection 7. The clerk shall submit this list to the registrar for certification before the close of business on the day before election day. The clerk shall keep a list of the 3rd persons, designated in applications or requests, to whom absentee ballots are sent or delivered under subsection 3 and of the number of absentee ballots sent or delivered to these persons. These 3rd persons may not have more than 40 absentee ballots for voters in a municipality at any time.

6. Application checked by registrar. As soon as reasonably possible, the clerk shall deliver the completed application to the registrar. If the applicant is registered and enrolled where necessary, the registrar shall so certify on the application. If the applicant has registered and enrolled where necessary, under section 155, and will attain 18 years of age on or before the date of the election, the registrar shall so certify on the application. If not, the registrar shall write "Not registered" or "Not enrolled" on the face of the application and sign his name. He shall immediately return all applications to the clerk.

7. Absentee voting in presence of clerk. A person who wishes to vote by absentee ballot because he will not be present in the municipality or able to vote in person at the voting place on election day may, without completing an application, vote by absentee ballot in the presence of the clerk. The method of voting shall otherwise be as prescribed in this Article. After the person has voted, the clerk shall determine whether the affidavit on the return envelope is properly completed.

8. Denial of application. Whenever an application for an absentee ballot is denied, the municipal clerk shall immediately notify the applicant in writing of the reason for the denial.

§ 754. Method of voting (REPEALED)

§ 754-A. Method of voting

Except as provided in section 753, subsection 7, the method of voting by absentee ballot is as follows.

1. Ballot delivered by mail and returned by mail. When a voter obtains his ballot from the clerk by mail and returns his ballot to the clerk by mail and he receives no assistance in marking his ballot, the following procedures apply.

A. The voter must mark his ballot according to section 691 or 692 so that it is impossible for anyone present at the time to see how he voted.

B. While the voter is marking the ballot, there may be no communication between the voter and any other individual as to the person or question for which the voter is to vote.

C. After the voter has completed marking his ballot, he must then seal the ballot in its return envelope and complete the affidavit on the envelope. No notary or witness certification is required.

D. The voter must then complete the address on the envelope and mail it to the clerk of the municipality of which he is a resident. He must send a completed application, if necessary, in a separate envelope.

2. Ballot delivered by 3rd person or returned by 3rd person. When a ballot is delivered to the voter by a person other than the clerk, or is returned to the clerk by a person other than the voter and the voter receives no assistance in marking his ballot, the following procedures apply.

A. The voter must mark his ballot in the presence of the following witness or witnesses: One notary public, clerk of a municipality, clerk of courts or 2 other individuals. The voter, before marking his ballot, must show it to the witness or witnesses who must examine it to be certain it is unmarked.

B. While the voter is marking the ballot, there may be no communication between the voter and any other individual as to the person or question for which the voter is to vote.

C. The voter must mark his ballot according to section 691 or 692 so that it is impossible for anyone present at the time to see how he voted. The voter must then seal the ballot in its return envelope and complete the affidavit on the envelope in the presence of the witness or witnesses, who shall sign the witness certification.

D. The voter must then complete the address on the envelope and mail or deliver it personally or by agent to the clerk of the municipality of which he is a resident. He must send a completed application, if necessary, in a separate envelope.

3. Assistance in reading or marking ballot. A voter who is unable to read or mark his ballot because of his physical disability, illiteracy, or religious faith must vote according to the procedures in this subsection instead of the procedures in subsection 1 or 2.

A. A voter who needs assistance 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 or marking the ballot.

B. The voter or the aide must mark the ballot in the presence of one of the following witnesses: Notary public, clerk of a municipality, clerk of courts or another individual.

C. The voter or the aide, before marking the ballot, must show it to the witness who must examine it to be certain it is unmarked.

D. While the voter or the aide is marking the ballot, there may be no communication between the voter and any individual, other than the aide who must mark the ballot as the voter indicates, as to the person or question for which the voter is to vote.

E. The voter or the aide must mark the ballot according to section 691 or 692 so that it is impossible for anyone else present to see how the voter voted, then seal the ballot in its return envelope. The voter, or the aide at the voter's request, shall complete and sign the affidavit in the presence of the witness, who shall sign the witness certification. The aide must complete and sign the certification for aides on the outside of the envelope.

F. The voter or the aide must then complete the address on the envelope and mail or deliver it personally or by agent to the clerk of the municipality of which the voter is a resident. The voter must send a completed application, if necessary, in a separate envelope.

§ 755. Deadline

In order to be valid, an absentee ballot must be delivered to the municipal clerk at any time before the polls are closed.

§ 756. Procedure on receipt

When the clerk receives a return envelope apparently containing an absentee ballot, he shall observe the following procedures.

1. **Time of receipt noted.** He shall note the date and time of delivery on each return envelope. On request, he shall give the person who delivers the ballot a receipt, stating the exact time of delivery.

2. Clerk to examine signatures and affidavit. He shall compare the signature of the voter on the application, where required, with that on the corresponding return envelope. He shall examine the affidavit on the return envelope. If the signatures appear to have been made by the same person and if the affidavit is properly completed, he shall write "OK" and his initials on the return envelope. Otherwise, he shall note any discrepancy on the return envelope.

A. If the signatures do not appear to have been made by the same person, but this discrepancy is apparently the result of the voter's having properly obtained assistance under either section 753, subsection 4, or section 754-A, subsection 3, or both, then the clerk shall note the discrepancy on the return envelope, but shall also write "OK" and his initials on the return envelope.

3. Application attached. The clerk shall attach each application, where required, to the corresponding envelope. He shall not open any return envelope.

4. Lists prepared. The clerk shall prepare, in duplicate, lists by districts of the names and addresses of the voters as shown on the return envelopes. He shall maintain a copy for a period of 2 years as a public record.

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 required, attached and the list required by subsection 4 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.

§ 757. Challenges

An absentee ballot may be challenged the same as a regular ballot under section 673.

§ 758. Personal vote required when possible (REPEALED)

§ 759. Counting procedure

The following counting procedure shall be observed at each voting place.

1. Warden to review notes of clerk. Unless a request to inspect applications and envelopes is made pursuant to subsection 8, the warden shall review the notes of the clerk on each return envelope as soon as the polls are closed and the regular ballots removed from the ballot box.

2. Deposited in ballot box 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, the warden shall deposit the ballot in the ballot box.

3. Rejected if incorrect. The warden shall not open the envelope and shall write "Rejected" on it, the reason why and his initials if he finds that:

A. The signatures do not appear to have been made by the same person and the discrepancy is not the result of the voter's having obtained assistance under section 753, subsection 4 or section 754-A, subsection 3, in cases where an application is required;

B. The affidavit is not properly completed;

C. The person is not registered or enrolled where necessary;

D. The voter has voted in person; or

E. The ballot was received by the clerk after the deadline.

4. Primary election provisions. At a primary election when the warden removes a ballot from its envelope, he 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 shall immediately replace it in its envelope, reseal the envelope and write "Rejected" on it, the reason why and his initials.

5. Rejected ballots separate. The warden shall place the return envelopes containing rejected ballots in a separate lot. He shall not deposit them in the ballot box.

6. Ballots counted. As soon as the absentee ballots have been processed, they shall be removed from the ballot box and counted the same as regular ballots. Rejected ballots shall not be counted.

7. Processing before close of polls. A notice signed by the municipal officers must be posted at least 7 days before election day in the same manner as posting the warrant under section 621, stating that the clerk intends to begin processing absentee ballots after 2:00 p.m. on election day. The warden may review the notes of the clerk on each return envelope and deposit the absentee ballots into the ballot box before the close of the polls. The clerk shall notify the chairs of each political party of the municipality, in

writing, that this procedure is to occur. If the clerk is unable to notify the chair of the municipal political party, the clerk shall notify the chair of the county or state political party.

8. Inspection after polls close. If a candidate notifies the warden before 8:00 p.m. that the candidate wishes to inspect absentee ballot applications and envelopes after the polls close, the warden shall allow the candidate to inspect the applications and envelopes of ballots that have not yet been deposited into the ballot box for 30 minutes after the polls close.

§ 760. Procedures when counting to be by the clerk

The following procedure shall be used when the municipal officers have voted to have the clerk process the absentee ballots.

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

2. Ballot boxes provided. The municipality shall provide a ballot box with a padlock to be used by the clerk in all primary, regular and special state elections. If the same procedure is to be used in municipal elections, the clerk must be provided with a separate ballot box and padlock for each voting district.

3. Incoming voting list to clerk. Except as provided in paragraph A, as soon as the polls are closed, the ward clerk shall fold, wrap and seal the incoming voting list. This package shall be signed on one of the seals holding the package together by the warden and ward clerk. A ballot clerk or counter shall take the incoming voting list to the designated counting place. The clerk shall select these persons before the election so that the total number from the voting districts is as evenly divided as possible between the political parties. Upon receipt of the voting list, the clerk shall unseal the lists and use them in processing the absentee ballots. When the count is completed, the clerk shall sign each copy of the voting list.

A. In a municipality which has an island voting district, the clerk may instead obtain the information required to process the absentee ballots by telephone and notify the island ward clerk of the names of the absentee voters so that the voting list can be marked in accordance with this subchapter.

4. Counting procedure. The clerk shall use the same counting procedure as set forth in sections 759, 761 and 762. The ballots must be counted publicly so that all those present may observe the proceedings.

§ 761. Deceased voter; ballot rejected

If an absentee voter dies before the polls are opened on election day, and this fact comes to the attention of the clerk, registrar or any election official, he shall notify the warden who shall reject the ballot of the dead person. The warden shall write on the unopened envelope "Rejected as deceased," and place it with the other rejected ballots.

§ 762. Irregularities disregarded

An absentee ballot may not be rejected for any immaterial irregularity in completing the application or affidavit on the return envelope. The following information must be on the envelope for the ballot to be accepted:

1. Name and address. The voter's name and legal address typed or written in ink by the clerk in the upper left-hand corner;

2. Signature. The voter's signature; and

3. (REPEALED)

4. Official's signature. The certifying official's signature, when required.

§ 763. Return of election materials

As soon as the ballots have been counted, the applications, where required, absentee ballots, return envelopes, lists required by section 756 and other election materials shall be repacked, in accordance with section 698, and returned to the clerk. The clerk shall keep them in the clerk's office for the time required by section 23, subsection 7.

§ 764. Applications and envelopes as public records

Absentee ballot applications and absentee ballot return envelopes are public records until the close of voting on election day. After that time, except as provided in section 759, subsection 8, the applications and envelopes are not public records and may be inspected only in accordance with this Title.

**Article II
VOTING BY MEMBERS
OF THE ARMED FORCES**

§ 776. Applicability of provisions

This Article applies to members of the Armed Forces.

§ 777. Methods of registration and enrollment

A member of the Armed Forces may register or enroll at any time as follows.

1. **Federal form.** He may complete and file the federal postcard application form with the registrar.

2. **Municipal application.** He may complete and file with the registrar an application provided by the municipality, stating the information necessary to show his qualifications.

3. Request by relative. A blood relative, former guardian or spouse may complete and file the application described in subsection 2 with the registrar.

§ 778. Duty of registrar

On receipt of an application under section 777, the registrar shall register the applicant, unless it appears that he is not qualified. If he is not qualified, the registrar shall notify him of the reason why.

1. Member specially designated. The registrar shall place the letter "S" on the voting list beside the name of each member of the Armed Forces registered under this section.

§ 779. Name may be added at any time

The registrar may add the name of a member of the Armed Forces to the voting list at any time.

§ 780. Absentee ballots; application

A written request for an absentee ballot from the member of the Armed Forces, his spouse, a blood relative or his former guardian is sufficient. The applicant for the absentee ballot may request the regular absentee ballot specified in section 752, subsection 1, or the special blank ballot specified in section 752, subsection 1, paragraph A. The clerk shall promptly fill requests for absentee ballots made under this section.

§ 781. Absentee ballots; procedure on receipt

The following absentee ballot procedure shall be observed.

1. Delivery of ballot. On receipt of an absentee ballot application, federal postcard application or a written request under section 780, the clerk shall immediately mail the ballot and voting instructions to the member.

2. Special ballots and envelopes. The Secretary of State shall provide a ballot and an envelope which will move free of postage under federal law.

3. Ballot marked and sealed. The member must mark his ballot according to section 691 or 692 so that it is impossible for anyone present at the time to see how he voted. He must then seal the ballot in its return envelope, write his voting residence, including the street address, in the upper left-hand corner of the return envelope and sign a certification as to authenticity on the envelope, in a form to be prescribed by the Secretary of State, which must include a warning of the provisions of Title 17-A, section 453. He must then mail the envelope to the clerk of his municipality.

§ 782. Absentee ballots; procedure on return

On receipt of a return envelope apparently containing an absentee ballot, the clerk shall note the date and time of delivery on it and deliver it to the registrar. The registrar shall certify on the envelope whether the person whose name appears as sender is registered and, in a primary election, enrolled in the municipality. He shall then return the envelope to the clerk.

§ 783. Authority of Secretary of State

The Secretary of State may act administratively to facilitate voting by members of the Armed Forces. He may use federal or other facilities available for this purpose.

**Article III
VIOLATIONS AND PENALTIES**

§ 791. Violations and penalties

1. Class E crime. The commission of any act described as follows in this subsection is a Class E crime:

A. Repealed.

B. A municipal clerk who, when a person has voted by absentee ballot in the clerk's presence under section 753, subsection 7, signs his name to an affidavit on the absentee ballot return envelope when the affidavit is not properly completed; or

C. A 3rd person, designated in an application or request for an absentee ballot, who receives an absentee ballot from the clerk in accordance with that application or request, and who, without good cause, fails to return that absentee ballot to the clerk's office within the time limit provided in section 755.

2. Class D crime. The commission of any act described as follows in this subsection is a Class D crime:

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

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

C. A person who delivers, receives, accepts, notarizes or witnesses an absentee ballot, other than his own absentee ballot, for compensation other than reasonable reimbursement for actual meals and mileage. This paragraph does not apply to a governmental employee handling ballots in the course of his official duties or any person who handles absentee ballots

before the unvoted ballots are delivered to the municipality or after the voted ballots are returned to the clerk.

SUBCHAPTER V PRESIDENTIAL ELECTORS

§ 801. Election

In a presidential election year, the presidential electors shall be chosen at the general election.

1. Vote for presidential candidate construed. A vote for the candidates for President and Vice President is a vote for the presidential electors nominated by the candidates' political party or by petition.

§ 802. Representation

One presidential elector shall be chosen from each congressional district and 2 at large.

§ 803. Duties of Governor

As soon as possible after the presidential electors are chosen, the Governor shall send a certificate of the determination of the electors to the Archivist of the United States under the state seal. The certificate shall state the names of the electors and the number of votes which each received. The Governor shall deliver 6 certificates under the state seal to the electors on or before the first Monday after the 2nd Wednesday of December, following their election.

§ 804. Meeting in convention

The presidential electors shall convene in the Senate Chamber in Augusta at 2 p.m. on the first Monday after the 2nd Wednesday of December following their election. If any electors are not present, the electors present shall fill the vacancy by majority vote.

§ 805. Convention duties

The duties of the presidential electors in convention are as follows.

1. Separate ballots. When convened as required by section 804, the presidential electors shall each cast separate ballots for President and Vice President, at least one of whom must not be a resident of this State.

2. Presidential electors. The presidential electors at large shall cast their ballots for the presidential and vice-presidential candidates who received the largest number of votes in the State. The presidential electors of each congressional district shall cast their ballots for the presidential and vice-presidential candidates who received the largest number of votes in each respective congressional district.

3. Certificate prepared and sent. The presidential electors shall make and subscribe to 6 certificates containing the number of votes cast separately for President and Vice President. They shall attach one of the lists of electors furnished them by the Governor to each certificate. They shall seal each certificate and attached list in an envelope stating that a certificate of the votes of this State for President and Vice President is contained inside.

4. Envelope sent immediately (REPEALED).

4-A. Certificates sent immediately. The presidential electors shall send immediately by registered mail one certificate to the President of the Senate of the United States and 2 certificates to the Archivist of the United States in Washington, D.C. The presidential electors shall deliver 2 certificates to the Secretary of State, who shall hold one of them subject to the order of the President of the Senate of the United States and shall retain the other for public inspection for one year. The presidential electors shall deliver one certificate to the Chief Judge of the United States District Court for the District of Maine.

5. Envelope sent next day (REPEALED).

§ 806. Compensation of electors and employees

The presidential electors shall be paid \$10 a day for each day actually and necessarily employed in the performance of their duties and necessary expenses, including travel expenses, at the same rate as that paid to members of the Legislature. The presidential electors may hire necessary clerical employees who shall be paid a reasonable compensation established by the electors.

**SUBCHAPTER VI
VOTING DEVICES**

§ 808. Definitions

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

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.

2. Ballot or paper ballot. "Ballot" or "paper ballot" means the printed paper ballot on which votes may be recorded in the layout and format required to conform to the electronic voting system in use.

3. Ballot card. "Ballot card" means a tabulating card on which votes may be recorded in the layout and format required to conform with the punch card voting system in use.

4. Ballot labels. "Ballot labels" means the pages, cards or other material containing the names of offices and candidates and the referendum questions to be voted on that are placed on the voting device to conform with the voting system in use.

5. Counting center. "Counting center" means one or more locations selected by the municipal officers for the automatic counting of ballots.

6. Electronic voting system. "Electronic voting 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 automatic tabulating equipment at one or more counting centers. "Electronic voting system" includes all the software and firmware required to program and control the equipment in the respective systems.

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.

8. Mark-sense voting system. "Mark-sense voting system" means a system in which votes are recorded on paper ballots by making marks in special voting response locations using a marking device. The votes on the paper ballots are subsequently counted and tabulated by automatic tabulating equipment at one or more counting centers.

9. Punch card voting system. "Punch card voting system" means a system in which votes are recorded on ballot cards by punching holes in designated voting response locations using a marking device. The votes on the ballot cards are subsequently counted and tabulated by automatic tabulating equipment at one or more counting centers.

10. Voting device. "Voting device" means the voting machine or electronic voting system apparatus that the voters use to record their votes on paper ballots or on a tabulating card and all the automatic tabulating equipment that is integral to the electronic voting system in use.

11. Voting machine. "Voting machine" means an apparatus on which voters cast their votes that records each vote by

means of mechanical counters and furnishes a total of the number of votes cast for each candidate and for and against each referendum measure.

§ 809. Approval of voting devices.

1. Rules. The Secretary of State and the Attorney General together may adopt rules governing approval of voting machines under section 812 and electronic voting systems under section 843. The Secretary of State may adopt rules indicating which approved voting machines and electronic voting systems are recommended for use by municipalities to minimize the cost of producing ballot materials.

2. Use of approved voting machines and systems. Voting devices approved and recommended pursuant to rules adopted under subsection 1 may be used by any municipality in a state election. A municipality may use other approved voting devices that are not recommended, however, if the cost of ballot materials for these devices exceeds the Secretary of State's cost of preparing paper ballots for that municipality, the municipality shall reimburse the State for the difference in that cost.

3. Publication of list. The Secretary of State shall publish, biennially in odd-numbered years, the list of approved voting devices, including the estimated amount a municipality is required to reimburse the State if devices that are not recommended are used.

4. Application. This section applies only to those voting devices in use by the municipality after October 1, 1987.

Article 1 VOTING MACHINES

§ 810. Approval of voting devices (REPEALED)

§ 811. Obtaining and using

A municipality may obtain and use voting machines according to the following provisions.

1. **Purchased or rented.** The municipality may either purchase or rent voting machines.

2. **Use authorized.** The voting machines shall be used at each type of election authorized by the legislative body of the municipality. Once authorization has been given for use of the machines at any type of election, that authorization continues until specifically revoked by the legislative body.

3. **Use in one or more districts.** A municipality which has more than one voting district may use voting machines in one or more of the districts as determined by its legislative body.

4. **Provided by municipality.** In those municipal voting districts using voting machines, the municipal officers of each municipality must provide at least one voting machine for each 450, or fraction exceeding 1/2 of that number, of the voters qualified to vote at each voting place.

§ 812. Requirements for machines

A voting machine purchased by a municipality must meet the following requirements.

1. **Secrecy.** It must be constructed so that each voter may vote in secrecy.

2. **Voting limited.** It must permit a voter to vote once and only once for each candidate and each question for whom or on

which he is entitled to vote. It must prevent a voter from voting for more persons for an office than there are offices to be filled.

3. Write-in vote. It must permit a voter to vote for a write-in candidate.

4. Form of ballot label. The titles of offices may be arranged horizontally with the names of candidates for an office arranged vertically under the title of the office, or the titles of offices may be arranged vertically with the names of candidates for an office arranged horizontally opposite the title of the office, or the titles of offices and the names of candidates for an office may be arranged in any horizontal and vertical combination as may be deemed advisable by the Secretary of State.

5. Voting restricted at primary. It must prevent a voter from voting for the nomination of candidates of more than one party at a primary election.

6. Unauthorized voting prohibited. It must prevent a voter from voting for any office or upon any question for whom or on which he is not entitled to vote.

7. Change of vote permitted. It must permit a voter to change or retract a vote he has attempted to cast for any person, or on any question, before his vote has been completed and registered.

8. Device for printing or photographing candidate or question counters. It may be provided with a device or devices for printing and photographing candidate and question counters which will provide a record before the polls open and after the polls close.

9. Official approval required. It must be of an identical type approved by the Secretary of State and the Attorney General.

§ 813. Regulations of Secretary of State

The Secretary of State may make reasonable rules governing the use of voting machines in accordance with the Maine Administrative Procedure Act.

§ 814. Custody

The municipal clerk has custody of a voting machine used by the municipality.

1. Storage and maintenance. He is responsible for the proper storage and maintenance of each machine.

A. He shall have each machine locked, sealed and stored in a safe, dry building.

B. He shall have each machine kept in proper operating condition.

§ 815. Expense of storage and maintenance

The municipality shall pay reasonable expenses for the storage and maintenance of the machines as authorized by the clerk.

§ 816. Operating instructions

The clerk must hold a meeting before an election whenever it is necessary to instruct election officials in the operation of voting machines.

1. Permission to use machines refused. The clerk may not permit a voting machine to be used at any voting place, unless he is satisfied that the election officials at that voting place know how to operate the machine properly and how to instruct a voter in operating it.

§ 817. Ballot labels

The Secretary of State shall furnish the ballot labels for all except municipal elections.

1. Content of label. The ballot label must contain the names of the candidates or nominees of each political party arranged as nearly as practicable in accordance with the requirements for paper ballots, except that the voting square shall be in the position required by the construction of the machine and subject to section 812, subsection 4.

2. Referendum question. A referendum question must be arranged so that the voter may vote for or against it.

§ 818. Arrangement of voting place

The municipal officers shall arrange each voting place in compliance with section 627, except that voting booths need not be furnished.

§ 819. Secrecy preserved

The warden at each voting place shall not remain or allow any other person to remain where he can see how anyone votes, except that a proper official may remain when his assistance has been requested by a voter.

§ 820. Warden to post specimen ballots or labels

The warden shall post 2 sets of specimen ballots or 2 sets of specimen ballot labels conspicuously at the voting place at the opening of the polls on election day.

§ 821. Delivery

The municipal clerk shall perform the following duties concerning the delivery of voting machines.

1. **Delivery.** He shall have the voting machines delivered to each voting place at least 12 hours before the polls are opened on election day. At the time of delivery, the ballot labels must be in place on each machine.

2. **Arrangements of machines.** The clerk shall arrange each voting machine so that each ballot label, when not in use, and the exterior of the machine are completely visible to the election officials.

3. **Machines locked.** After the voting machines have been placed in the proper position at the voting place, the clerk shall make certain that each machine is ready for use when the polls open and he shall then lock each machine.

4. **Keys to voting machines.** At least 1/2 hour before the polls are opened on election day, the clerk shall deliver the keys to each machine in a sealed envelope to the warden at the voting place.

§ 822. Preparation for voting

When it is time for the polls to open, the warden shall open the envelope containing the keys to the voting machines in the presence of an election clerk from a political party other than that of the warden.

1. **Counters exposed.** If the number on the seal agrees with the number on the envelope, the warden shall open the doors concealing the counters, inspect the machine and sign a certificate provided by the Secretary of State showing that all counters are set at "000," that the number of the protective counter agrees with the number on the envelope and that all parts of the machine and the ballot labels are in proper condition for voting.

A. If the machine is provided with a device or devices for printing or photographing candidate and question counters, it is not necessary to open the door concealing the counters. The warden and the election clerk shall proceed to operate the

mechanism provided to produce one "before election inspection record" showing whether the candidate and question counters register "000" and sign the certificate as prescribed by the Secretary of State.

2. Machine satisfactory. If the machine is in satisfactory condition for voting, the warden shall immediately permit its use, after closing the doors concealing the counters.

§ 823. Directions for voting

A voter must follow the same procedure before voting as if paper ballots were being used. He is entitled to the same assistance in voting by machine as by paper ballot.

§ 824. Challenge of right to vote

A voter who is challenged in a voting precinct where voting machines are used may not use the voting machine for casting his vote, but must use an official paper ballot.

§ 825. Activation of machines

The voting machines shall be activated by the warden or an election clerk designated by him.

1. Primary election. In a primary election, the warden or, in his absence, a designated election clerk must activate each voting machine so that a voter can vote only for the candidates of the political party in which he is enrolled.

§ 826. Procedure for tabulating votes

The following regulations outline the procedure for tabulating votes at an election in which voting machines are used.

1. Counters exposed. As soon as the polls are closed, the warden shall unlock each machine to prevent further voting. He shall then open the counters on each voting machine so that anyone

present can see the totals. If the machine is provided with a device for printing or photographing candidate and question counters, it is not necessary to open the door concealing the counters. The warden and an election clerk from a political party other than that of the warden shall proceed to operate the mechanism provided to produce a record of the votes cast on the candidate and question counters. This record may be considered an official statement or certificate of returns for that machine and may be endorsed, delivered and filed as required by the Secretary of State.

2. Totals announced. The warden shall announce the total for each candidate in the order shown on the ballot label, for each referendum question and for each write-in candidate. As each total is read, it shall be recorded by an election clerk from a political party other than that of the warden.

3. Totals checked. When all the totals for a voting machine have been read and recorded, the election clerk shall check the totals recorded by him with those appearing on the machine. If the totals do not agree, the election clerk shall record the number of the machine at the top of the column of totals recorded from it.

4. Machine locked. After allowing any person to compare the record with the totals shown on the machine, the warden shall close and lock it with the totals remaining on it and proceed to tabulate the next machine in the same manner.

5. Paper ballots counted. After the totals for all voting machines have been recorded and checked, all absentee and other official paper ballots shall be counted.

6. Total announced. As soon as the paper ballots have been counted, the total vote for each candidate and on each referendum question shall be tabulated and the result announced by the warden.

§ 827. Procedure after election

The following procedure shall be observed after an election at which voting machines are used.

1. Keys sealed in envelope. In the presence of an election clerk from a political party other than that of the warden, the warden shall enclose the keys to each voting machine in separate envelopes furnished by the municipal clerk. The warden shall write the number of each machine, the location of the voting place in which it was used, the number on the seal and the numbers registered on the protective counter on the outside of each envelope.

2. Envelopes signed. After sealing each envelope securely, the warden and the election clerk shall sign their names on it and the warden shall have it immediately returned to the municipal clerk.

3. Counter totals preserved. The totals shown on the counters of a voting machine must be retained for 22 months after the election at which the machine is used.

A. If the occurrence of another election requires the removal of the counter totals within 22 months after an election, the municipal clerk must have them photographed in his presence and in the presence of the warden and an election clerk of a party other than that of the warden. The warden must make a statement showing the number and counter totals of each machine as it is photographed. He must sign the statement, have it attested and deliver it to the municipal clerk who shall record it. As soon as the photographs are printed legibly, the municipal clerk shall remove the totals and retain the photographs for the balance of the 22-month period. If the machines were equipped with a device or devices which had produced a printed or photographed record of the vote shown on the candidate and question counters, the municipal clerk shall remove the totals and retain the printed or photographed record for the balance of the 22-month period.

Notwithstanding the requirements of this paragraph, counter totals for municipal elections conducted under this Title, referenda elections or special legislative elections shall be kept for 2 months.

§ 828. Security for keys

The municipal clerk shall keep the keys to each voting machine in a vault or safe which is kept securely locked when the keys are not being removed from or replaced in it. He shall not allow any unauthorized person to have possession of the keys to any voting machine.

1. Keys returned. A person who is authorized to have possession of the keys to a voting machine must return them to the clerk when he no longer needs them for the authorized purpose.

§ 829. Violation and penalty

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

§ 830. Application of provisions to voting by machine

The provisions of this Title which are not inconsistent with this Article apply to all elections where voting machines are used.

**Article II
ELECTRONIC VOTING SYSTEMS**

§ 841. Definitions (REPEALED)

§ 842. Obtaining and using

A municipality may obtain and use electronic voting systems according to the following provisions.

1. **Purchased or rented.** The municipality may either purchase or rent voting devices.

2. **Use authorized.** The voting devices may be used at each type of election authorized by the legislative body of the municipality. Once authorization has been given for use of the devices at any type of election, that authorization continues until specifically revoked by the legislative body.

3. **Use in one or more districts.** A municipality which has more than one voting district may use voting devices in one or more of the districts as determined by its legislative body.

4. **Provided by municipality.** In those municipal voting districts using electronic voting systems, the municipal officers of each municipality must provide at least one voting device for each 250, or fraction exceeding 1/2 of that number, of the voters qualified to vote at each voting place.

§ 843. Requirements for devices

A voting device purchased or rented by a municipality must meet the following requirements.

1. **Secrecy.** It must be used so that each voter may vote in secrecy.

2. **Voting limited.** It must permit each voter to vote at any election for all persons and offices for whom and for which he is entitled to vote; to vote for as many persons for an office as he is entitled to vote for; to vote for or against any question upon which he is entitled to vote; and the automatic tabulating equipment must reject choices recorded on his ballot or ballot card, if the number of choices exceeds the number for which he is entitled to vote for the office or on the measure.

3. **Write-in vote.** It must permit a voter to vote for a write-in candidate.

4. Voting restricted at primary. It must prevent a voter from voting for the nomination of candidates of more than one party at a primary election.

5. Unauthorized voting prohibited. It must prevent a voter from voting for any office or upon any question for whom or on which he is not entitled to vote.

6. Change of vote permitted. It must permit a voter to change or retract a vote he has attempted to cast, in accordance with section 693, before his ballot or ballot card has been deposited in the ballot box.

7. Official approval required. It must be of an identical type approved by the Secretary of State and the Attorney General.

§ 844. Regulations of Secretary of State

The Secretary of State may make reasonable rules governing the use of electronic voting systems in accordance with the Maine Administrative Procedure Act.

§ 845. Custody

The municipal clerk has custody of voting devices used by the municipality.

1. Storage and maintenance. He is responsible for the proper storage and maintenance of each device.

A. He shall have each device sealed and stored in a safe, dry building.

B. He shall have each device kept in proper operating condition.

§ 846. Expense of storage and maintenance

The municipality shall pay reasonable expenses for the storage and maintenance of the devices as authorized by the clerk.

§ 847. Operating instructions

The clerk must hold a meeting before an election whenever it is necessary to instruct election officials in the operation of voting devices.

1. Permission to use devices refused. The clerk may not permit a voting device to be used at any voting place unless he is satisfied that the election officials at that voting place know how to operate the device properly and how to instruct a voter in operating it.

§ 848. Ballot labels

The Secretary of State shall furnish all ballot materials for all except municipal elections.

1. Ballot format. Ballots furnished for elections must have the titles of offices and the names of candidates arranged in vertical columns. The office title with a statement of the number of candidates to be voted for must be printed above the names of the candidates for that office. The names of candidates must be printed in the order provided by law and the party designation of each candidate must be printed following or below his name, in bold type. The number of columns and the length of the ballot may be adjusted as is necessary to accommodate all of the offices, candidates and write-in spaces constituting the total slate for that election.

2. Content of label. The titles of offices and the names of candidates on ballot labels may be arranged in vertical columns or in a series of separate pages. The office title with a statement of the number of candidates to be voted for must be printed above or at the side of the names of the candidates for that office. The

names of candidates must be printed in the order provided by law, and in general elections the party designation of each candidate, which may be abbreviated, must be printed following his name. In case there are more candidates for an office than can be printed in one column or on one ballot page, the ballot label must be clearly marked that the list of candidates is continued on the following column or page, and so far as possible, the same number of names must be printed on each column or page. Arrows may be used to indicate the place to vote for each candidate and on each measure.

3. Ballot labels for separate elections. The different parts of the ballot, such as partisan, nonpartisan and measures, must be prominently indicated on the ballot labels, and, if practicable, each part must be placed on a separate page or pages. If 2 or more elections are held on the same day, the ballot labels must be clearly marked to indicate the ballot for each election, and, if practicable, the ballot labels for each election must be placed upon separate pages and labels of a different color or tint may be used for each election.

4. Referendum question. A referendum question must be arranged so that the voter may vote for or against it.

§ 849. Arrangement of voting place

The municipal officers shall arrange each voting place in compliance with section 627.

§ 850. Secrecy preserved

The warden at each voting place shall not remain or allow any other person to remain where he can see how anyone votes, except that a proper official may remain when his assistance has been requested by a voter.

§ 851. Preparation for elections

The municipal clerk shall perform the following duties in preparing for an election.

1. **Ballots and supplies.** He shall have the voting devices prepared for the election and shall deliver, to the precinct election officials or to the polling place, voting devices, voting booths, ballot boxes, ballots, ballot cards, "write-in" ballots, marking devices and other records and supplies as required to conform with the system in use.

2. **Ballot cards.** Ballot cards must be of the size, design and stock suitable for processing by automatic data processing machines. In primary elections, the ballot cards of each political party must be distinctly marked or must be a different color or tint so that the ballot cards of each political party are readily distinguishable.

3. **Write-in ballots.** A separate write-in ballot must be provided to permit voters to write in the title of the office and the name of the person or persons for whom he wishes to vote.

4. **Voting booths.** Unless the voting device enables the voter to mark his choices in secret, the clerk must provide a sufficient number of voting booths for each voting district or precinct, which must allow the voter to mark his ballot in secret.

§ 852. Procedure at the polling place

The following regulations govern the procedure for the conduct of elections in which an electronic voting system is used.

1. **Preparation for voting.** Before the polls are opened, the election officials shall arrive at the polling place and place the voting devices in position for voting. The officials shall ensure that the devices are in proper working order and shall see that the devices have the correct ballot labels by comparing them with the specimen ballots. They shall open and check the ballots, ballot cards, supplies, records and forms and post the specimen ballots and instructions to voters.

2. **Instruction of voters.** If requested, election officials shall instruct a voter on how to operate the voting device before he

enters the voting booth. If he needs additional instruction after entering the voting booth, election officials may, if necessary, enter the booth and give him additional instructions in accordance with section 672.

3. Depositing ballot card in ballot box. After the voter has marked his ballot card, he must place the ballot card inside the envelope provided for this purpose and deposit the envelope with the enclosed ballot card in the ballot box.

4. Spoiled ballots. Any voter who spoils his ballot card may return it enclosed in the envelope and obtain a replacement not more than twice. The word "Spoiled" must be written across the face of the envelope which shall be placed in the spoiled ballot card container.

5. Closing of the polls. As soon as the polls have closed and the last qualified voter has voted, all unused ballot cards and records and supplies shall be placed in a container and sealed for return to the municipal clerk. The ballot box shall be opened at the polling place and all write-in votes and absentee and other official paper ballots counted and the regular ballot cards separated from the envelopes. The separated ballot cards and envelopes, along with absentee, write-in and other official paper ballots, shall then be delivered to the counting center for the official counting and recording of all ballots cast.

§ 853. Delivery of ballots or ballot cards to the counting center

The precinct election officials shall prepare a report of the number of voters who have voted, as indicated by the incoming voting list, and shall place the original copy of this report in the ballot box or ballot card container for delivery to the counting center. The ballot box or ballot card container must be sealed so that no additional ballots or ballot cards may be deposited or removed. The duplicate copy of the report shall be returned to the municipal clerk with other records. The clerk shall have the voted ballots or ballot cards of designated polling places picked up at the

polling places and delivered to the counting center by authorized election officials or police officers.

§ 854. Test of automatic tabulating equipment; programs and voted ballot cards to be retained under seal

Before counting the ballots, the clerk must have the automatic tabulating equipment tested to ascertain that it will accurately count the votes cast for all offices and on all measures. The test must be conducted by processing a preaudited group of ballots or ballot cards, marked or punched to record a predetermined number of valid votes for each candidate and on each measure. The test must include one or more ballots which have votes for each office in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject those votes. In this test a different number of valid votes must be assigned to each candidate for an office and for and against each measure. If any error is detected, the cause for the error must be ascertained and corrected and an errorless count must be made and certified to by the clerk before the count is started. The tabulating equipment must pass the same test at the conclusion of the count before the election returns are approved as official. The tests provided for in this section must be open to the public.

§ 855. Proceedings at the counting center

All proceedings at the counting center are under the direction of the municipal clerk and shall be conducted in the following manner.

1. **Open to public.** The count must be conducted under the observation of the public, but no persons except those authorized may touch any ballot card or return.

2. **Personnel to be deputized and take oath.** All persons who are engaged in processing and counting the ballots must be deputized and take an oath that they will faithfully perform their assigned duties.

3. Damaged or defective ballots or ballot cards. If it appears that any ballot or ballot card is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, in the case of a paper ballot, it must be tabulated manually and, in the case of a ballot card, a true duplicate copy must be made and substituted for the damaged ballot card or the card may be tabulated manually. All duplicate ballot cards must be clearly labeled "duplicate" and must bear a serial number which shall be recorded on the damaged or defective ballot card.

4. Ballots, ballot cards, program and text materials to be retained. When the count is completed, the programs, test materials, ballots and ballot cards shall be sealed and retained as provided in section 23.

§ 856. Official returns

The official return of each voting district consists of the certified return printed by the automatic tabulating equipment and all certified absentee, write-in and other official paper ballots. The official returns shall be open to the public as soon as the count is completed.

§ 857. Manual counting authorized

If for any reason it becomes impracticable to count all or a part of the ballots or ballot cards with tabulating equipment, the clerk shall have them counted manually following the provisions governing the counting of paper ballots.

§ 858. Absentee votes

Absentee votes may be cast on paper ballots or ballot cards or both methods may be used. These ballots may be counted by automatic tabulating equipment or by deputized personnel at the counting center appointed by and under the direction of the clerk, except that only ballots cast on ballot cards may be counted by automatic tabulating equipment.

§ 859. Recounts

In case of a recount, the ballots or ballot cards shall be recounted in the manner provided by sections 854 to 857, unless the court ordering the recount directs that they be counted manually.

§ 860. Violation and penalty

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

§ 861. Application of provisions to voting by electronic voting system

The provisions of this Title which are not inconsistent with this Article apply to all elections where an electronic voting system is used.

**CHAPTER 11
BALLOT QUESTIONS**

§ 901. Petitions

On a voter's written application, signed in the office of the Secretary of State on a form designed by the Secretary of State, the Secretary of State shall furnish enough petition forms to enable the voter to invoke the initiative procedure or the referendum procedure provided in the Constitution of Maine, Article IV, Part Third. This application must contain the names and addresses of 5 voters who shall receive any notices in proceedings under this chapter.

1. Limitation on referendum petition. An application for a referendum petition must be filed in the office of the Secretary

of State within 10 days after adjournment of the legislative session at which the Act in question was passed.

2. Furnished within 10 days. The Secretary of State shall furnish the forms within 10 days after request and after payment.

3. Forms printed by voters. If a voter wishes to furnish the forms by himself at his own expense, he may do so, but those forms must first be approved by the Secretary of State.

4. Ballot question. The ballot question for initiative and people's veto referenda must be drafted by the Secretary of State in accordance with section 906 and rules adopted in accordance with the Maine Administrative Procedure Act. The question must be conspicuously displayed on the face of the petition.

§ 902. Verification and certification

The verification and certification of the petition as required by the Constitution of Maine, Article IV, Part Third, Section 20, must be worded so that a single verification or certification may cover one or more pages fastened together as a single petition.

§ 903. Instructions to be printed on

The Secretary of State shall prepare complete instructions to inform the clerk and the signer or circulator of a petition of the statutory and constitutional requirements. The instructions must specify the conditions which have been held to invalidate either individual signatures or complete petitions. The instructions must be printed in bold type or capital letters on the petition.

§ 903-A. Circulation

Petitions issued under this chapter may be circulated by any registered voter.

§ 904. Violations and penalties

The commission of any of the following acts is a Class E crime:

1. **False statement.** A circulator of an initiative or referendum petition who willfully swears that one or more signatures to the petition were made in his presence when those signatures were not made in his presence or that one or more signatures are those of the persons whose names they purport to be when he knows that the signature or signatures are not those of such persons;

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

3. **Unauthorized signature.** A person who knowingly signs an initiative or referendum petition with any name other than his own; or

4. **Duplicate signature.** A person who knowingly signs his name more than once on initiative or referendum petitions for the same measure.

§ 905. Review of initiative and referendum petitions

1. **Secretary of State.** The Secretary of State shall review all petitions filed in his office for a referendum under the Constitution of Maine, Article IV, Part Third, Section 17, or for an initiative under the Constitution of Maine, Article IV, Part Third, Section 18. The Secretary of State shall determine the validity of these petitions and shall issue a written decision stating the reasons for his decision within 25 days after the final date for filing the petitions in his office under the Constitution of Maine, Article IV, Part Third, Section 17 or 18.

2. Superior Court. Any voter named in the application under section 901, or any person who has validly signed the petitions, if these petitions are determined to be invalid, or any other voter, if these petitions are determined to be valid, may appeal the decision of the Secretary of State by commencing an action in the Superior Court. This action shall be conducted in accordance with the Maine Rules of Civil Procedure, Rule 80C, except as modified by this section. In reviewing the decision of the Secretary of State, the court shall determine whether the description of the subject matter is understandable to a reasonable voter reading the question for the first time and will not mislead a reasonable voter who understands the proposed legislation into voting contrary to his wishes. This action must be commenced within 5 days of the date of the decision of the Secretary of State and shall be tried, without a jury, within 15 days of the date of that decision. Upon timely application, anyone may intervene in this action when the applicant claims an interest relating to the subject matter of the petitions, unless the applicant's interest is adequately represented by existing parties. The court shall issue its written decision containing its findings of fact and stating the reasons for its decision within 30 days of the commencement of the trial or within 45 days of the date of the decision of the Secretary of State, if there is no trial.

3. Supreme Judicial Court. Any aggrieved party may appeal the decision of the Superior Court, on questions of law, by filing a notice of appeal within 3 days of that decision. The appellant must file the required number of copies of the record with the clerk within 3 days after filing notice of appeal. After a notice of appeal is filed, the parties have 10 days to file briefs with the clerk of courts. As soon as the record and briefs have been filed, the court shall immediately consider the case. The standard of review shall be the same as for the Superior Court. The court shall issue its decision within 30 days of the date of the decision of the Superior Court.

§ 906. Form of ballot

The Secretary of State shall prepare the ballots for referendum questions according to the following provisions, subject to the authority contained in section 604-A.

1. Referendum questions on separate ballot. Referendum questions must be printed on a ballot separate from the general election ballots. Two squares must be printed at the left of any referendum question submitted, with "Yes" above one and "No" above the other, so that a voter may designate his choice clearly by a cross or a check mark.

2. Bond issues; total interest. Whenever ratification by the electors is essential to the validity of bonds issued on behalf of the State, the ballot must contain the total interest necessary for the retirement of the bonds outstanding and unpaid.

3. Distinctively colored. Referendum ballots must be printed on paper of a distinctive color selected by the Secretary of State.

4. Size. The Secretary of State shall determine the size of the ballots.

5. Contents concealed. The ballots must be folded uniformly so that the interior contents are concealed.

6. Wording of ballots for people's veto and initiative referenda. Ballots for a statewide vote on people's veto and initiative questions shall set out the question to be voted on as set forth in this subsection.

A. With respect to people's veto referenda, the question shall be presented to the voters in substantially the following form:

"Do you favor repealing the change in Maine law concerning (the subject matter of the law enacted) enacted by

the Legislature in (the year of enactment) as (type of law and chapter number)?"

B. With respect to initiative referenda, the question shall be presented to the voters in substantially the following form:

"Do you favor the changes in Maine law concerning (the subject matter of the law) proposed by citizen petition?"

C. In the event that the Legislature adopts a competing measure to initiated legislation, the Secretary of State shall pose the question in substantially the following form:

"Do you favor one of the 2 measures concerning (the subject matter of the law), 'A' proposed by citizen petition, or 'B' adopted by the Legislature, or should both be rejected as provided in 'C'?"

D. In each case, the Secretary of State shall select language to describe the subject matter of the law that would be affected by approval of the referendum and shall complete the question factually as may be necessary.

E. In the event that several initiative referenda relating to the same general subject matter are to be submitted to the voters, the Secretary of State shall distinguish each question from the others in describing the subject matter.

7. **Order of questions on the ballot.** The Secretary of State shall arrange questions on the ballot in the following order: People's veto questions; initiated measures; bond issues; constitutional amendments; and other legislatively proposed referenda. Within each group, questions must be arranged in a random order determined by a selection process conducted in public. All ballot questions must be numbered sequentially.

CHAPTER 13 CAMPAIGN REPORTS AND FINANCES

SUBCHAPTER I GENERAL PROVISIONS

§ 1001. Definitions

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

1. **Commission.** "Commission" means the Commission on Governmental Ethics and Election Practices established under Title 1, section 1002.

2. **Election.** "Election" means any primary, general or special election for state or county offices.

3. **Person.** "Person" means an individual, committee, firm, partnership, corporation, association, group or organization.

§ 1002. Meetings of commission

The commission shall meet in Augusta for the purposes of this chapter at least 4 times during any year in which primary and general elections are held. The commission shall meet at other times on the call of the Secretary of State, the Speaker of the House, the President of the Senate, the chairman or a majority of the members of the commission, provided that all members are notified of the time, place and purpose of the meeting at least 24 hours in advance.

§ 1003. Investigations by commission

1. **Investigations.** The commission may investigate to determine the facts concerning the registration of a candidate, treasurer, political committee or political action committee and contributions by or to and expenditures by a person, candidate, treasurer, political committee or political action committee. For this

purpose, the commission may subpoena witnesses and records and take evidence under oath. A person or political action committee that fails to obey the lawful subpoena of the commission or to testify before it under oath must be punished by the Superior Court for contempt upon application by the Attorney General on behalf of the commission.

2. Investigations requested. A person may apply in writing to the commission requesting an investigation concerning the registration of a candidate, treasurer, political committee or political action committee and contributions by or to and expenditures by a person, candidate, treasurer, political committee or political action committee. The commission shall review the application and shall make the investigation if the reasons stated for the request show sufficient grounds for believing that a violation may have occurred.

3. State Auditor; Secretary of State. The State Auditor and the Secretary of State shall assist the commission in making investigations and in other phases of the commission's duties under this chapter, as requested by the commission, and shall have all necessary powers to carry out these responsibilities.

4. Attorney General. The Attorney General is the counsel for the commission and may examine any witnesses before the commission. The commission shall refer any apparent violations of this chapter to the Attorney General for prosecution.

§ 1004. Violations

The violation of any of the following subsections is a Class E crime.

1. Contributions and expenditures. A person, candidate, treasurer, political committee or political action committee may not knowingly make or accept any contribution or make any expenditure in violation of this chapter.

2. **False statements.** No person, candidate, treasurer or political action committee may make a false statement in any report required by this chapter.

3. **Contributions in another's name.** No person may make a contribution in the name of another person or knowingly permit his name to be used to accomplish such a contribution, and no person may knowingly accept a contribution made by one person in the name of another person.

4. **Registration; political action committees.** No political action committee required to be registered under section 1053 may operate in this State unless it is so registered.

SUBCHAPTER II REPORTS ON CAMPAIGNS FOR OFFICE

§ 1011. Application

This subchapter applies to candidates for all state and county offices and to campaigns for their nomination and election. This subchapter also applies to candidates for federal offices for the purposes of section 1017, subsection 1.

§ 1012. Definitions

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

1. **Clearly identified.** "Clearly identified," with respect to a candidate, means that:

- A. The name of the candidate appears;
- B. A photograph or drawing of the candidate appears; or
- C. The identity of the candidate is apparent by unambiguous reference.

2. Contribution. The term "contribution:"

A. Includes:

(1) A gift, subscription, loan, advance or deposit of money or anything of value made for the purpose of influencing the nomination or election of any person to state or county office or for the purpose of liquidating any campaign deficit of a candidate, except that a loan of money to a candidate by a financial institution in this State made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;

(2) A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make a contribution for such purposes;

(3) Funds received by a candidate or a political committee which are transferred to the candidate or committee from another political committee or other source; and

(4) The payment, by any person other than a candidate or a political committee, of compensation for the personal services of other persons which are provided to the candidate or political committee without charge for any such purpose; and

B. Does not include:

(1) The value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee;

(2) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by an individual to a candidate in rendering

voluntary personal services for candidate-related activities, if the cumulative value of these activities by the individual on behalf of any candidate does not exceed \$50 with respect to any election;

(3) The sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if the charge to the candidate is at least equal to the cost of the food or beverages to the vendor and if the cumulative value of the food or beverages does not exceed \$50 with respect to any election;

(4) Any unreimbursed travel expenses incurred and paid for by an individual who volunteers his personal services to a candidate, if the cumulative amount of these expenses does not exceed \$50 with respect to any election; or

(5) The payment by a party's state, district, county or municipal committee of the costs of preparation, display or mailing or other distribution incurred by the committee with respect to a printed slate card, sample ballot or other printed listing of 3 or more candidates for any political office.

3. Expenditure. The term "expenditure:"

A. Includes:

(1) A purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made for the purpose of influencing the nomination or election of any person to political office, except that a loan of money to a candidate by a financial institution in this State made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;

(2) A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make any expenditure; or

(3) The transfer of funds by a candidate or a political committee to another candidate or political committee; and

B. Does not include:

(1) Any news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine or other periodical publication, unless the facilities are owned or controlled by any political party, political committee or candidate;

(2) Nonpartisan activity designed to encourage individuals to register to vote or to vote;

(3) Any communication by any membership organization or corporation to its members or stockholders, if that membership organization or corporation is not organized primarily for the purpose of influencing the nomination or election of any person to state or county office;

(4) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services for candidate-related activities, if the cumulative value of these activities does not exceed \$50 with respect to any election;

(5) Any unreimbursed travel expenses incurred and paid for by an individual who volunteers his personal services to a candidate, if the cumulative amount of these expenses does not exceed \$50 with respect to any election;

(6) Any communication by any person which is not made for the purpose of influencing the nomination for election, or election, of any person to state or county office;

(7) The payment by a party's state, district, county or municipal committee of the costs of preparation, display or mailing or other distribution incurred by the committee with respect to a printed slate card or sample ballot, or other printed listing, of 3 or more candidates for any political office for which an election is held; or

(8) The use or distribution of any communication, as described in section 1014, prepared for a previous election and fully paid for during that election campaign which was not used or distributed in that previous election.

4. Exploratory committee (REPEALED)

§ 1013. Treasurer; political committees (REPEALED)

§ 1013-A. Registration

1. Candidates, their treasurers and political committees. A candidate shall register the candidate's name and the name of a treasurer with the commission at least once in each legislative biennium, as provided in this section. A candidate may have only one treasurer, who must be appointed pursuant to paragraph A or B. For purposes of this section, "legislative biennium" means the term of office a person is elected to serve in the Legislature.

A. No later than 10 days after becoming a candidate, and before accepting contributions, making expenditures or incurring obligations, a candidate for state or county office shall appoint a treasurer. The candidate may serve as treasurer. The candidate may have only one treasurer, who is

responsible for the filing of campaign finance reports under this chapter. A candidate shall register the candidate's name and address and the name and address of the treasurer appointed under this section no later than 10 days after the appointment of the treasurer. A candidate may accept contributions personally or make or authorize expenditures personally, as long as the candidate reports all contributions and expenditures to the treasurer. The treasurer shall make a consolidated report of all income and expenditures and provide this report to the commission.

- (1) A candidate may appoint a deputy treasurer to act in the absence of the treasurer. The deputy treasurer, when acting in the absence of the treasurer, has the same powers and responsibilities as the treasurer. When a treasurer dies or resigns, the deputy treasurer may not assume the position of treasurer unless the candidate appoints the deputy treasurer to the position of treasurer. The candidate shall report the name and address of the deputy treasurer to the commission no later than 10 days after the deputy treasurer has been appointed.

B. A candidate may authorize one political committee to promote the candidate's election. No later than 10 days after appointing a political committee, and before accepting contributions, making expenditures or incurring obligations, a candidate for state or county office shall appoint a treasurer of the political committee. The treasurer of the political committee is responsible for filing campaign finance reports under this chapter. No later than 10 days after appointing a political committee, the candidate shall register with the commission the following information regarding the political committee:

- (1) The name of the committee;
- (2) The name and address of the committee's treasurer;

(3) The name of the candidate who authorized the committee; and

(4) The names and addresses of the committee's officers.

2. Authorized political committees (REPEALED)

3. Party committees. The state, district, county and municipal committees of parties shall submit to the commission the names and addresses of all their officers and of their treasurers and the name and address of the principal paid employee, if any, within 30 days after the appointment, election or hiring of these persons. District, county and municipal committees which provide their state party committees with the information required by this subsection to be submitted to the commission shall be deemed to have submitted that information to the commission. No later than the 2nd Monday in April of each year in which a general election is scheduled, the state committee of a party shall submit a consolidated report, including the information required under this subsection for the district, county and municipal committees of that party.

4. Reporting by registered treasurers. Any contribution accepted and any expenditure made or authorized by or on behalf of a candidate registered under this section or qualified under sections 335 and 336 or sections 354 and 355 must be recorded and reported as provided in sections 1016 and 1017.

5. Changes in registration information. Every change in information required by this section to be reported to the commission shall be reported within 10 days of the date of the change.

§ 1013-B. Removal of treasurer; filling vacancy of treasurer; substantiation of records of treasurer; notification to commission

A candidate may remove any treasurer that the candidate has appointed. In case of a vacancy in the position of treasurer of a

candidate or treasurer of a political committee before the obligations of the treasurer have been performed, the candidate shall serve as treasurer from the date of the vacancy until the candidate appoints a successor and reports the name and address of the successor to the commission. The candidate shall file a written statement of resignation of a treasurer of a candidate or a treasurer of a political committee and until that statement has been filed, the resignation is not effective. An individual who vacates the position of treasurer by reason of removal or resignation shall certify the accuracy of the treasurer's records to the succeeding treasurer. A succeeding treasurer may not be held responsible for the accuracy of the predecessor's records.

§ 1014. Publication or distribution of political statements

1. Authorized by candidate. Whenever a person makes an expenditure to finance a communication expressly advocating the election or defeat of a clearly identified candidate through broadcasting stations, newspapers, magazines, outdoor advertising facilities, direct mails or other similar types of general public political advertising or through flyers, handbills, bumper stickers and other nonperiodical publications, the communication, if authorized by a candidate, a candidate's authorized political committee or their agents, must clearly and conspicuously state that the communication has been so authorized and must clearly state the name and address of the person who made or financed the expenditure for the communication. The following forms of political communication do not require the name and address of the person who made or authorized the expenditure for the communication because the name or address would be so small as to be illegible or infeasible: ashtrays, badges and badge holders, balloons, campaign buttons, clothing, coasters, combs, emery boards, envelopes, erasers, glasses, key rings, letter openers, matchbooks, nail files, noisemakers, paper and plastic cups, pencils, pens, plastic tableware, 12-inch or shorter rulers, swizzle sticks, tickets to fund-raisers and similar items determined by the commission to be too small and unnecessary for the disclosures required by this section.

2. Not authorized by candidate. If the communication described in subsection 1 is not authorized by a candidate, a candidate's authorized political committee or their agents, the communication must clearly and conspicuously state that the communication is not authorized by any candidate and state the name and address of the person who made or financed the expenditure for the communication.

3. Broadcasting prohibited without disclosure. No person operating a broadcasting station within this State may broadcast any communication, as described in subsections 1 and 2, without an oral or written visual announcement of the name of the person who made or financed the expenditure for the communication.

3-A. In-kind contributions of printed materials. A candidate, political committee or political action committee shall report on the campaign finance report as a contribution to the candidate, political committee or political action committee any contributions of in-kind printed materials to be used in the support of a candidate or in the support or defeat of a cause to be voted upon at referendum. Any in-kind contributions of printed materials used or distributed by a candidate, political committee or political action committee must include the name or title of that candidate, political committee or political action committee as the authorizing agent for the printing and distribution of the in-kind contribution.

The use or distribution of in-kind printed materials contributed to a candidate, political committee or political action committee must be reported as an expenditure on the campaign finance report of that candidate, political committee or political action committee.

4. Enforcement. An expenditure, communication or broadcast made within 10 days before the election to which it relates that results in a violation of this section may result in a civil forfeiture of no more than \$200. An expenditure, communication or broadcast made more than 10 days before the election that results in a violation of this section may result in a civil forfeiture of no more than \$100 if the violation is not corrected within 10 days after

the candidate or other person who committed the violation receives notification of the violation from the commission. Enforcement and collection procedures must be in accordance with section 1020.

§ 1015. Limitations on contributions and expenditures

1. Individuals. No individual may make contributions to a candidate in support of the candidacy of one person, aggregating more than \$1,000 in any election. This limitation does not apply to contributions in support of a candidate by that candidate or his spouse.

2. Committees; corporations; associations. No political committee, other committee, corporation or association may make contributions to a candidate, in support of the candidacy of one person, aggregating more than \$5,000 in any election.

3. Aggregate contributions. No individual may make contributions to candidates aggregating more than \$25,000 in any calendar year. This limitation does not apply to contributions in support of a candidate by that candidate or his spouse.

4. Political committees; intermediaries. For the purpose of the limitations imposed by this section, contributions made to any political committee authorized by a candidate to accept contributions on the candidate's behalf are considered to be contributions made to that candidate.

For the purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to the candidate, are considered to be contributions from that person to the candidate. The intermediary or conduit shall report the original source and the intended recipient of the contribution to the commission and to the intended recipient.

5. Other contributions and expenditures. Any expenditure made by any person in cooperation, consultation or

concert with, or at the request or suggestion of, a candidate, a candidate's political committee or their agents is considered to be a contribution to that candidate.

The financing by any person of the dissemination, distribution or republication, in whole or in part, of any broadcast or any written or other campaign materials prepared by the candidate, the candidate's political committee or committees or their authorized agents is considered to be a contribution to that candidate.

6. Prohibited expenditures. A candidate, a treasurer, a political committee, a party or party committee, a person required to file a report under this subchapter or their authorized agents may not make any expenditures for liquor to be distributed to or consumed by voters while the polls are open on election day.

§ 1015-A. Corporate contributions

Contributions made by a for-profit or a nonprofit corporation including a parent, subsidiary, branch, division, department or local unit of a corporation, and contributions made by a political committee or political action committee whose contribution or expenditure are financed, maintained or controlled by a corporation are considered to be made by that corporation, political committee or political action committee.

1. Single entities. Two or more entities are treated as a single entity if the entities:

- A. Share the majority of members of their boards of directors;
- B. Share 2 or more officers;
- C. Are owned or controlled by the same majority shareholder or shareholders; or
- D. Are in a parent-subsidiary relationship.

§ 1016. Records

Each treasurer shall keep detailed records of all contributions received and of each expenditure that the treasurer or candidate makes or authorizes, as provided in this section. When reporting contributions and expenditures to the commission as required by section 1017, the treasurer shall certify the completeness and accuracy of the information reported by that treasurer.

1. Segregated funds. All funds of a political committee and campaign funds of a candidate must be segregated from, and may not be commingled with, any personal funds of the candidate, treasurer or other officers, members or associates of the committee. Personal funds of the candidate used to support the candidacy must be recorded and reported to the treasurer as contributions to the political committee, or the candidate if the candidate has not authorized a political committee.

2. Report of contributions and expenditures. A person who receives a contribution or makes an expenditure for a candidate or political committee shall report the contribution or expenditure to the treasurer within 5 days of the receipt of the contribution or the making of the expenditure. A person who receives a contribution in excess of \$10 for a candidate or a political committee shall report to the treasurer the amount of the contribution, the name and address of the person making the contribution and the date on which the contribution was received.

3. Record keeping. A treasurer shall keep a detailed and exact account of:

A. All contributions made to or for the candidate or committee, including any contributions by the candidate;

B. The name and address of every person making a contribution in excess of \$10, the date and amount of that contribution and, if a person's contributions in any report filing period aggregate more than \$50, the account must include the contributor's occupation and his principal place of

business, if any. If the contributor is the candidate or a member of the candidate's immediate family, the account must also state the relationship. For purposes of this paragraph, "filing period" is as provided in section 1017, subsections 2 and 3-A;

C. All expenditures made by or on behalf of the committee or candidate; and

D. The name and address of every person to whom any expenditure is made and the date and amount of the expenditure.

4. **Receipts preservation.** A treasurer shall obtain and keep a receipted bill, stating the particulars, for every expenditure in excess of \$50 made by or on behalf of a political committee or a candidate and for any such expenditure in a lesser amount if the aggregate amount of those expenditures to the same person in any election exceeds \$50. The treasurer shall preserve all receipted bills and accounts required to be kept by this section for 2 years following the final report required to be filed for the election to which they pertain, unless otherwise ordered by the commission or a court.

§ 1017. Reports by candidates

1. **Federal candidates.** The treasurer of the campaign committee of each candidate for federal office shall file with the commission a copy of the complete report required of them under federal law on the same date that those reports are required to be filed under federal law.

2. **Gubernatorial candidates.** A treasurer of a candidate for the office of Governor shall file reports with the commission as follows. Once the first required report has been filed, each subsequent report must cover the period from the completion date of the prior report filed.

A. In any calendar year, other than a gubernatorial election year, in which the candidate or the candidate's political committee has received contributions in excess of \$1,000 or made or authorized expenditures in excess of \$1,000, reports must be filed no later than 5 p.m. on July 15th of that year and January 15th of the following calendar year. These reports must include all contributions made to and all expenditures made or authorized by or on behalf of the candidate or the candidate's treasurer as of the end of the preceding month, except those covered by a previous report.

B. Reports must be filed no later than 5 p.m. on the 42nd day before the date on which an election is held and must be complete as of the 49th day before that date. If a report was not filed under paragraph A, the report required under this paragraph must cover all contributions and expenditures through the completion date.

C. Reports must be filed no later than 5 p.m. on the 6th day before the date on which an election is held and must be complete as of the 12th day before that date.

D. Contributions aggregating \$1,000 or more from any one contributor or single expenditures of \$1,000 or more, made after the 12th day before the election, and more than 48 hours before 5 p.m. on the day of the election, must be reported within 48 hours of those contributions or expenditures or by noon of the first business day after the contributions or expenditures, whichever is later.

E. Reports must be filed no later than 5 p.m. on the 42nd day after the date on which an election is held and must be complete for the filing period as of the 35th day after that date.

F. Unless further reports will be filed in relation to a later election in the same calendar year, the disposition of any surplus or deficit in excess of \$50 shown in the reports described in paragraph E must be reported as provided in this

paragraph. The treasurer of a candidate or political committee with a surplus or deficit in excess of \$50 shall file reports semiannually with the commission within 15 days following the end of the 2nd and 4th quarters of the State's fiscal year, complete as of the last day of the quarter, until the surplus is disposed of or the deficit is liquidated. The first report under this paragraph is not required until the 15th day of the period beginning at least 90 days from the date of the election. The reports may either be filed in person with the commission on that date or postmarked on that date. The reports must set forth any contributions for the purpose of liquidating the deficit, in the same manner as contributions are set forth in other reports required in this section.

G. Unless otherwise specified in this subsection, reports must be complete back to the completion date of the previous report. The reports described in paragraph E, if filed with respect to a primary election, are considered previous reports in relation to reports concerning a general election.

H. Reports with respect to a candidate who seeks nomination by petition for the office of Governor must be filed on the same dates that reports must be filed with respect to a candidate who seeks that nomination by primary election.

3. Other candidates (REPEALED).

3-A. Other candidates. A treasurer of a candidate for state or county office other than the office of Governor shall file reports with the commission as follows. Once the first required report has been filed, each subsequent report must cover the period from the completion date of the prior report filed.

A. In any calendar year in which an election for the candidate's particular office is not scheduled, when any candidate or candidate's political committee has received contributions in excess of \$500 or made or authorized expenditures in excess of \$500, reports must be filed no later than 5 p.m. on July 15th of that year and January 15th of the

following calendar year. These reports must include all contributions made to and all expenditures made or authorized by or on behalf of the candidate or the treasurer of the candidate as of the end of the preceding month, except those covered by a previous report.

B. Reports must be filed no later than 5 p.m. on the 6th day before the date on which an election is held and must be complete as of the 12th day before that date. If a report was not filed under paragraph A, the report required under this paragraph must cover all contributions and expenditures through the completion date.

C. Contributions aggregating \$1,000 or more from any one contributor or single expenditures of \$1,000 or more made after the 12th day before any election and more than 48 hours before 5 p.m. on the day of any election must be reported within 48 hours of those contributions or expenditures, or by noon of the first business day after the contributions or expenditures, whichever is later.

D. Reports must be filed no later than 5 p.m. on the 42nd day after the date on which an election is held and must be complete for the filing period as of the 35th day after that date.

E. Unless further reports will be filed in relation to a later election in the same calendar year, the disposition of any surplus or deficit in excess of \$50 shown in the reports described in paragraph D must be reported as provided by this paragraph. The treasurer of a candidate with a surplus or deficit in excess of \$50 shall file reports semiannually with the commission within 15 days following the end of the 2nd and 4th quarters of the State's fiscal year, complete as of the last day of the quarter, until the surplus is disposed of or the deficit is liquidated. The first report under this paragraph is not required until the 15th day of the period beginning at least 90 days from the date of the election. The reports may either be filed in person with the commission on that date or

postmarked on that date. The reports must set forth any contributions for the purpose of liquidating the deficit, in the same manner as contributions are set forth in other reports required in this section.

F. Reports with respect to a candidate who seeks nomination by petition must be filed on the same dates that reports must be filed by a candidate for the same office who seeks that nomination by primary election.

4. **New candidate or nominee.** A candidate for nomination or a nominee chosen to fill a vacancy under chapter 5, subchapter III is subject to section 1013-A, subsection 1, except that the candidate shall register the name of a treasurer or political committee and all other information required in section 1013-A, subsection 1, paragraphs A and B within 7 days after the candidate's appointment or at least 6 days before the election, whichever is earlier. The person required to file a report under section 1013-A, subsection shall file a campaign report under this section 15 days after the candidate's appointment or 6 days before the election, whichever is earlier. The report must include all contributions received and expenditures made through the completion date. The report must be complete as of 4 days before the report is due. Subsequent reports must be filed on the schedule set forth in this section. The commission shall send notification of this requirement and registration and report forms to the candidate and the candidate's treasurer immediately upon notice of the candidate's and treasurer's appointments.

5. **Content.** A report required under this section must contain the itemized accounts of contributions received during that report filing period, including the date a contribution was received, and the name, address, occupation, principal place of business, if any, and the amount of the contribution of each person who has made a contribution or contributions aggregating in excess of \$50. The report must contain the itemized expenditures made or authorized during the report filing period, the date and purpose of each expenditure and the name of each payee and creditor. Total contributions with respect to an election of less than \$500 and total

expenditures of less than \$500 need not be itemized. The report must contain a statement of any loan to a candidate by a financial institution in connection with that candidate's candidacy that is made during the period covered by the report, whether or not the loan is defined as a contribution under section 1012, subsection 2, paragraph A. Until December 31, 1992, the candidate is responsible for the timely and accurate filing of each required report. Beginning January 1, 1993, the candidate and the treasurer are jointly responsible for the timely and accurate filing of each required report.

5-A. Valuation of contributions sold at auction. Any contribution received by a candidate that is later sold at auction shall be reported in the following manner.

A. If the contribution is sold at auction before the commencement of the appropriate reporting period specified in subsections 1 to 4, or during that period, the value of the contribution is deemed to be the amount of the purchase price paid at auction.

B. If the contribution is sold after the termination of the appropriate reporting period specified in subsections 1 to 4, the value of the contribution is the difference between the value of the contribution as originally reported by the treasurer and the amount of the purchase price paid at auction. Unless further reports are filed in relation to a later election in the same calendar year, the disposition of any net surplus or deficit in excess of \$50 resulting from the difference between the auction price and the original contribution value must be reported in the same manner as provided in subsection 2, paragraph F or subsection 3-A, paragraph E, as appropriate.

6. Forms. Reports required by this section must be on forms prescribed, prepared and sent by the commission to the treasurer of each registered candidate at least 7 days before the filing date for the report. Persons filing reports may use additional pages if necessary, but the pages must be the same size as the pages of the form. Although the commission mails the forms for required

reports, failure to receive forms by mail does not excuse treasurers, committees and other persons who must file reports from otherwise obtaining the forms.

7. Reporting exemption (REPEALED).

8. Disposition of surplus. A treasurer of a candidate registered under section 1013-A or qualified under sections 335 and 336 or sections 354 and 355 may dispose of a surplus exceeding \$50 by:

A. Pro rata distribution to the candidate's or candidate's authorized political committee's contributors;

B. A gift to a qualified political party within the State, including any county or municipal subdivision of such a party;

C. An unrestricted gift to the State;

D. Carrying forward the surplus balance to a political committee established to promote the same candidate for a subsequent election;

D-1. Carrying forward the surplus balance for use by the candidate for a subsequent election;

E. Transferring the surplus balance to one or more other candidates registered under section 1013-A or qualified under sections 335 and 336 or sections 354 and 355, or to political committees established to promote the election of those candidates, provided that the amount transferred does not exceed the contribution limits established by section 1015;

F. Repaying any loans or retiring any other debts incurred to defray campaign expenses of the candidate; and

G. Paying for any expense incurred in the proper performance of the office to which the candidate is elected, as long as each expenditure is itemized on expenditure reports.

The choice must be made by the candidate for whose benefit the contributions were made and distribution of the entire surplus by one or more of the methods prescribed in this subsection must be completed within 4 years of the election for which the contributions were received.

9. Campaign termination report forms. The commission shall provide each candidate required to report campaign contributions and expenditures with a campaign termination report form. A candidate shall file the campaign termination report with the commission as required in this subsection. The campaign termination report must be complete as of June 30th of the year following the campaign of the previous year. This form must show any deficits or surpluses to be carried over to the next campaign. Funds not carried forward to the next campaign must be disposed of as provided in section 1017, subsection 8. Campaign reporting is as follows.

A. Candidates with surplus campaign funds following an election shall file termination reports no later than July 15th of the year following the campaign of the previous year.

B. Candidates with a campaign deficit following an election shall file termination reports no later than July 15th of the year following the campaign of the previous year.

C. Candidates with a deficit who will not participate in the next election for the same office shall file semiannual reports until the deficit is liquidated.

D. Candidates who collect funds subsequent to an election for purposes other than retiring campaign debt shall register with the commission pursuant to section 1013-A.

§ 1017-A. Reports of contributions and expenditures by party committees.

1. Contributions. A party committee shall report all contributions in cash or in kind from an individual contributor that

in the aggregate in a campaign total \$250 or more. The party committee shall report the name, mailing address, occupation and place of business of each contributor. Contributions of less than \$250 must be reported, and these contributions may be reported as a lump sum.

2. Expenditures on behalf of candidates, others. A party committee shall report all expenditures in cash or in kind of the committee made on behalf of a candidate, political committee, political action committee or party committee registered under this chapter. The party committee shall report:

- A. The name and address of each candidate and the identity and address of a campaign or committee;
- B. The office sought by a candidate and the district that the candidate seeks to represent; and
- C. The date of each expenditure.

3. Other expenditures. Operational expenses and other expenditures in cash or in kind of the party committee that are not made on behalf of a candidate, committee or campaign must be reported as a separate item and may be reported as a lump sum.

4. Filing schedule. A party committee shall file its reports according to the following schedule.

- A. Reports filed during an election year must be filed with the commission on: July 15th and be complete as of June 30th; October 27th and be complete as of October 22nd; and January 15th and be complete as of December 31st.
- B. Reports filed during a nonelection year must be filed on July 15th and be complete as of June 30th and on January 15th and be complete as of December 31st.
- C. Any contribution or expenditure of \$1,000 or more made after the 12th day before any election and more than 48

hours before that election must be reported within 48 hours of that contribution or expenditure or by noon of the first business day after the contribution or expenditure, whichever is later.

5. Penalties. A party committee is subject to the penalties in section 1020, subsection 2, except that the commission may waive the penalties until January 1994.

6. Notice; forms. A state party committee shall notify all county, district and municipal party committees of the same political party of the party committee reporting requirements. The party committees shall obtain the necessary forms from the commission to complete the filing requirements.

7. Exemption. Any party committee receiving and expending less than \$1,500 in one calendar year is exempt from the reporting requirements of this section for that year.

§ 1018. Reports by party committees

1. State committee; federal reports. The state committee of each party shall file with the commission a copy of the complete report required of them under federal law on the same date that those reports are required to be filed under federal law.

2. Party committee. When a state, district, county or municipal committee of a party makes contributions or expenditures, aggregating in excess of \$50 in an election, that expressly advocate the election or defeat of a candidate or candidates, other than by contribution to a candidate or a candidate's authorized political committee, the party committee making the contribution or expenditure shall file a report with the commission.

A. Reports required by this subsection in relation to a candidate for Governor must be filed on the same dates on which reports for gubernatorial candidates are filed under section 1017, subsection 2. Reports required by this subsection in relation to a candidate for state or county office,

other than Governor, must be filed on the same dates on which reports for these candidates are filed under section 1017, subsection 3-A.

B. This report must contain an itemized account of each such contribution or expenditure aggregating in excess of \$50 in any election, the date and purpose of each and the name of each payee or creditor. Total contributions or expenditures of less than \$500 in any election need not be itemized.

C. Reports required by this subsection must be on forms prescribed, prepared and sent by the commission to the candidate at least 7 days before the filing date for the report. Persons filing these reports may use additional pages if necessary, but the pages must be the same size as the pages of the form. Although the commission mails the forms for required reports, failure to receive forms by mail does not excuse committees, candidates and other persons who must file reports from otherwise obtaining the forms.

§ 1019. Reports by other persons

Each person, other than a candidate, a candidate's authorized political committee or a party committee, who makes contributions or expenditures, aggregating in excess of \$50 in an election, that expressly advocate the election or defeat of a clearly identified candidate, other than by contribution to a candidate or a candidate's authorized political committee, shall file a report with the commission.

1. Filing dates. Reports required by this section in relation to a candidate for Governor must be filed on the same dates on which reports for gubernatorial candidates are filed under section 1017, subsection 2. Reports required by this section in relation to a candidate for state or county office, other than the office of Governor, must be filed on the same dates on which reports for those candidates are filed under section 1017, subsection 3-A.

2. Content. This report must contain an itemized account of each contribution or expenditure aggregating in excess of \$50 in any election, the date and purpose of each and the name of each payee or creditor. Total contributions or expenditures of less than \$500 in any election need not be itemized. The report must state whether the contribution or expenditure is in support of or in opposition to the candidate and must include, under penalty of perjury, as provided in Title 17-A, section 451, a statement under oath or affirmation whether the expenditure is made in cooperation, consultation or concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of a candidate. Any membership organization or corporation that makes a communication to its members or stockholders expressly advocating the election or defeat of a clearly identified candidate must report any expenditures aggregating in excess of \$50 for such a communication in any election, whether or not the communication is defined as an expenditure under section 1012, subsection 3, paragraph A.

3. Forms. Reports required by this section must be on forms prescribed and prepared by the commission and, in the case of semiannual reports, sent by the commission to the person at least 7 days before the filing date for the report. Persons filing these reports may use additional pages if necessary, but the pages must be the same size as the pages of the form. Although the commission mails the forms for required reports, failure to receive forms by mail does not excuse committees, candidates and other persons who must file reports from otherwise obtaining the forms.

§ 1020. Failure to file on time

1. Registration. Any candidate or political committee that fails to register the name of a candidate, treasurer or political committee with the commission within the time allowed by section 1013-A, subsection 1, must be assessed a forfeiture of \$50. The commission shall determine whether a registration satisfies the requirements for timely filing under section 1013-A, subsection 1.

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission before 5 p.m. on the date it is due. The commission shall determine whether a required report satisfies these requirements for timely filing and, if determined to be late, the number of days of lateness. If the reason for the late filing is that forms required to be sent by the commission were not postmarked at least 7 days before the filing date, the period for filing shall be increased by the deficiency without penalty.

A. Except as provided in paragraph B, there is a penalty of \$10 for each business day a report required to be filed under this subchapter is late.

B. A forfeiture of \$50 must be adjudged for each business day that reports required under section 1017, subsection 2, paragraph C or D; section 1017, subsection 3-A, paragraph B or C; section 1018, subsection 2, paragraph A; or section 1019, subsection 1 are late.

C. The maximum penalty under this subsection is \$500, except in the case of penalties assessed under paragraph B, in which case the maximum penalty is \$1,000.

D. A notice of lateness shall be sent to candidates and treasurers registered with the commission whose campaign finance reports are not received within 2 days of the filing deadline. That notice shall be sent on the 3rd day following the deadline.

E. A late report required under section 1017, subsection 2, paragraph A, B, E or F, or section 1017, subsection 3-A, paragraph A, D or E, that is filed within 10 days of the due date is not subject to penalty.

F. A report required to be filed 6 days before an election which is sent by certified or registered United States mail and

postmarked at least 2 days before the deadline is not subject to penalty. Any required report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as an original of the same report is received by the commission within 5 calendar days thereafter. Reports filed after the applicable grace period are subject to penalties from the original filing deadline.

G. The commission, upon determining that a report is late, shall notify the Secretary of State of the lateness. The Secretary of State has the initial responsibility for collecting the full amount of any penalty within 30 days after receiving notice of a late report from the commission. The Secretary of State shall have all necessary powers to carry out this responsibility.

H. The commission shall prepare a list of the names of candidates who are late in filing a report required under section 1017, subsection 2, paragraph C or D, or section 1017, subsection 3-A, paragraph B or C, within 30 days of the date of the election and shall make that list available for public inspection.

3. Enforcement. Failure to pay the full amount of any penalty levied under this section is a civil violation by the candidate, political party or other person whose campaign finance activities are required by this subchapter to be reported. Thirty days after receiving notice of the lateness of any report, the Secretary of State shall report to the Attorney General the name of any person who has failed to pay the full amount of any penalty. The Attorney General shall enforce the violation in a civil action to collect the full outstanding amount of the penalty. This action shall be brought in the Superior Court for the County of Kennebec or the District Court, 7th District, Division of Southern Kennebec.

**SUBCHAPTER III
REPORTS ON REFERENDUM
CAMPAIGNS**

- § 1031. Application (REPEALED)**
- § 1032. Definitions (REPEALED)**
- § 1033. Committee (REPEALED)**
- § 1034. Publication or distribution of statements (REPEALED)**
- § 1035. Records (REPEALED)**
- § 1036. Reports (REPEALED)**
- § 1037. Failure to file report on time (REPEALED)**

**SUBCHAPTER IV
REPORTS BY
POLITICAL ACTION COMMITTEES**

- § 1051. Application**

This subchapter applies to the activities of political action committees organized in and outside this State that accept contributions, incur obligations or make expenditures in an aggregate amount in excess of \$50 in any one calendar year for the election of state or county officers, or for the support or defeat of any campaign, as defined in this subchapter.

This subchapter does not apply to any broadcast time concerning any referendum campaign, as defined in section 1, subsection 36, which is provided by a broadcaster in accordance with the requirements of the Federal Communications Act, United States Code, Title 47, Section 315, generally referred to as the "Fairness Doctrine."

§ 1052. Definitions

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

1. Campaign. "Campaign" means any course of activities for a specific purpose such as the initiation, promotion or defeat of a candidate or question, including:

A. The referendum procedure under the Constitution of Maine, Article IV, Part Third, Section 17;

B. The initiative procedure under the Constitution of Maine, Article IV, Part Third, Section 18;

C. An amendment to the Constitution of Maine under Article X, Section 4;

D. Legislation expressly conditioned upon ratification by a referendum vote under the Constitution of Maine, Article IV, Part Third, Section 19;

E. The ratification of the issue of bonds by the State or any agency thereof; and

F. Any county referendum.

2. Committee. "Committee" means any political action committee, as defined in this subchapter, and includes any agent of a political committee.

3. Contribution. "Contribution" includes:

A. A gift, subscription, loan, advance or deposit of money or anything of value made to a political action committee, except that a loan of money by a financial institution made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;

B. A contract, promise or agreement, expressed or implied whether or not legally enforceable, to make a contribution to a political action committee;

C. Any funds received by a political action committee which are to be transferred to any candidate, committee, campaign or organization for the purpose of promoting, defeating or initiating a candidate, referendum, political party or initiative in this State; or

D. The payment, by any person or organization, of compensation for the personal services of other persons provided to a political action committee which is used by the political action committee to promote, defeat or initiate a candidate, campaign political party, referendum or initiated petition in this State.

4. Expenditure. The term "expenditure:"

A. Includes:

(1) A purchase, payment, distribution, loan, advance, deposit or gift or money or anything of value, made for the purpose of influencing the nomination or election of any person to political office; or for the initiation, support or defeat of a campaign, referendum or initiative in this State;

(2) A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make any expenditure for the purposes set forth in this paragraph; and

(3) The transfer of funds by a political action committee to another candidate or political committee; and

B. Does not include:

(1) Any news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine or other periodical publication, unless these facilities are owned or controlled by any political party, political committee or candidate;

(2) Nonpartisan activity designed to encourage individuals to register to vote or to vote;

(3) Any communication by any membership organization or corporation to its members or stockholders, if that membership organization or corporation is not organized primarily for the purpose of influencing the nomination or election of any person to state or county office;

(4) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by a political action committee in rendering voluntary personal services for candidate-related activities, if the cumulative value of these activities by the political action committee on behalf of any candidate does not exceed \$50 with respect to any election;

(5) Any unreimbursed travel expenses incurred and paid for by a political action committee which volunteers personal services to a candidate, if the cumulative amount of these expenses does not exceed \$50 with respect to any election; and

(6) Any communication by any political action committee member which is not made for the purpose of influencing the nomination for election, or election, of any person to state or county office.

5. Political action committee. The term "political action committee:"

A. Includes:

(1) Any separate or segregated fund established by any corporation, membership organization, cooperative or labor organization whose purpose is to influence the outcome of an election, including a candidate or question;

(2) Any person who serves as a funding and transfer mechanism and spends money to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition in this State;

(3) Any person who makes expenditures other than by contribution to a political action committee, for the purpose of the initiation, promotion or defeat of any question; and

(4) Any person, including any corporation or association, who solicits funds from members of nonmembers and spends more than \$1,500 in a calendar year to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition in this State; and

B. Does not include:

(1) A candidate or a candidate's treasurer under section 1013-A, subsection 1;

(2) A candidate's authorized political committee under section 1013-A, subsection 2; or

- (3) A party committee under section 1013-A, subsection 3.

§ 1053. Registration

Every political action committee that accepts contributions, incurs obligations or makes expenditures in the aggregate in excess of \$50 in any single calendar year to initiate, support, defeat or influence in any way a campaign, a referendum, initiated petition, candidate, political committee or another political action committee must register with the commission, within 7 days of accepting those contributions, incurring those obligations or making those expenditures, on forms prescribed by the commission. These forms must include the following information and any additional information reasonably required by the commission to monitor the activities of political action committees in this State under this subchapter:

1. Identification of committee. The names and mailing addresses of the committee, its treasurer, its principal officers and the identity of any candidate for any constitutional office or who is registered under section 1013-A and who is involved in decision making for a political action committee organized to advance the election of that candidate;

2. Status. A statement whether the political action committee is a continuing one;

3. Depository of funds. The names and addresses of the depositories in which funds of the committee are kept and the account numbers of each depository account;

4. Form of organization. The form or structure of organization, including cooperatives, corporations, voluntary associations, partnerships or any other structure by which the committee functions. The date of origin or incorporation must also be specified;

5. Assets. The total assets of the committee available to influence elections in this State at the time of registration to be

itemized and to include deposits in financial institutions, real property, personal property, investments, cash and any other form of wealth available to the committee;

6. Statement of support or opposition. A statement indicating the positions of the committee, support or opposition, with respect to a candidate, political committee, referendum, initiated petition or campaign, if known at the time of registration. If a committee has no position on a candidate, campaign or issue at the time of registration, the committee must inform the commission as soon as the committee knows this information; and

7. Contributions to committee. The names and mailing addresses of contributors who donate in excess of \$50 each year to the committee with amount or value of each contribution at the time of registration. Any person who makes contributions on an installment basis, the total of which exceeds \$50 in the calendar year, is considered a contributor to be identified under this subsection.

§ 1054. Appointment of treasurer

Any political action committee required to register under section 1053 must appoint a treasurer before making any expenditure, as defined in this chapter. The treasurer shall retain, for a minimum of 4 years, all receipts, including cancelled checks, of expenditures made in support of or in opposition to a campaign, political committee, political action committee, referendum or initiated petition in this State.

§ 1055. Publication or distribution of statements

Whenever any political action committee makes an expenditure to finance communications expressly advocating the initiation, promotion or defeat of a question or candidate through broadcasting stations, newspapers, magazines, outdoor advertising facilities, direct mails and other similar types of general public political advertising and through flyers, handbills, bumper stickers and other nonperiodical publications, these communications must clearly and

conspicuously state the name and address of the political action committee which made or financed the expenditure for the communication.

No person operating a broadcasting station within this State may broadcast any such communication without an oral or visual announcement of the name and address of the political action committee which made or financed the expenditure for the communication and statement that reads: "A copy of our report is available from and may be viewed at the office of the Secretary of State."

An expenditure, communication or broadcast which results in a violation of this section may result in a civil penalty of no more than \$100. Enforcement and collection procedures shall be in accordance with section 1062.

§ 1056. Expenditure limitations

Any committee required to register under this chapter shall comply with the following expenditure limitations.

1. **Aggregate expenditures.** No committee may make expenditures in support of or opposition to the candidacy of one person or to a political committee in an aggregate amount greater than \$5,000 in any election.

2. **Prohibited expenditures.** No committee may make any expenditure for liquor to be distributed to or consumed by voters while the polls are open on election day.

§ 1057. Records

Any political action committee that makes expenditures which aggregate in excess of \$50 to any one or more candidates, committees or campaigns in this State shall keep records as provided in this section. Records required to be kept under subsections 1, 2 and 3 shall be retained by the political action committee until 10 days after the next election following the election to which the records pertain.

1. Details of records. The treasurer of a political action committee must record a detailed account of:

A. All expenditures made to or in behalf of a candidate, campaign or committee;

B. The identity and address of each candidate, campaign or committee;

C. The office sought by a candidate and the district he seeks to represent, for candidates which a political action committee has made an expenditure to or in behalf of; and

D. The date of each expenditure.

2. Receipts. The treasurer of a political action committee must retain all receipts of expenditures made for a candidate, committee or campaign in this State. Receipts may be in the form of cancelled checks.

3. Record of contributions. The treasurer of a political action committee must keep a record of all contributions to the committee, by name and mailing address, of each donor and the amount and date of the contribution. This provision does not apply to contributions which do not exceed \$50 each for a general election, primary election and referendum campaign. When any donor's contributions to a political action committee exceed \$50, the record must include the aggregate amount of all contributions from that donor.

§ 1058. Reports; qualifications for filing

A political action committee that is registered with the commission or that accepts contributions, incurs obligations or makes expenditures in an aggregate amount in excess of \$50 on any one or more campaigns for the office of Governor, for state or county office or for the support or defeat of a referendum or initiated petition shall file a report on its activities in that campaign with the commission on forms as prescribed by the commission. A

political action committee organized in this State required under this section to file a report shall file the report for each filing period under section 1059, whether or not the expenditures are in excess of \$50 in any one period. A political action committee organized outside this State shall file with the commission on Governmental Ethics and Election Practices of this State a copy of the report that the political action committee is required to file in the state in which the political action committee is organized. The political action committee shall file the copy only if it has expended funds, received contributions or made expenditures in this State. The copy of the report must be filed in accordance with the schedule of filing in the state where it is organized. Any person or organization organized to oppose a question to be voted on by the electorate at referendum shall report, within 10 days following the drafting of the question by the Secretary of State and prior to the distribution of any petitions for voter signatures pursuant to chapter 11, to the commission as required in this section and sections 1059 and 1060.

§ 1059. Report; filing requirements

Committees required to register under section 1053 shall file reports in compliance with this section. All reports must be filed no later than 5 p.m. on the filing deadline.

1. Contents; quarterly reports and election year reports. The reports required under subsection 2, paragraphs A, B and C, must contain the following:

A. Itemized expenditures required by the commission to closely monitor the activities of political action committees;

B. Aggregate expenditures, listed by candidate or political committee, for the reporting period for which the report is filed;

B-1. Cumulative expenditures, listed by candidate or political committee, aggregating the expenditures made during preceding reporting periods in the same calendar year and during the reporting period for which the report is filed;

C. The total cumulative balance from all preceding reporting periods; and

D. In the report required to be filed under subsection 2, paragraph B, subparagraph 2, a summary of all expenditures made during the calendar year in which the election was held.

The commission may accept computer printout sheets that contain the information required by this chapter.

2. Reporting schedule. Committees shall file reports according to the following schedule.

A. Quarterly reports shall be filed:

(1) On January 15th and must be complete as of January 5th;

(2) On April 10th and must be complete as of March 31st;

(3) On July 15th and must be complete as of July 5th; and

(4) On October 10th and must be complete as of September 30th.

B. General and primary election reports shall be filed:

(1) On the 6th day before the date on which the election is held and must be complete as of the 12th day before that date; and

(2) On the 42nd day after the date on which the election is held and must be complete as of the 35th day after that date.

C. Reports of spending to influence special elections, referenda, initiatives, bond issues or constitutional amendments shall be filed:

(1) On the 6th day before the date on which the election is held and must be complete as of the 12th day before that date; and

(2) On the 42nd day after the date on which the election is held and must be complete as of the 35th day after that date.

D. A committee that files an election report under paragraph B or C is not required to file a quarterly report when the deadline for that quarterly report falls within 10 days of the filing deadline established in paragraph B or C.

E. A committee shall report any expenditure of \$500 or more, made after the 12th day before the election and more than 48 hours before 5 p.m. on the day of the election, within 48 hours of that expenditure or by noon of the first business day after the expenditure, whichever is later.

3. Report of expenditures made after the 11th day and more than 48 hours before any election (REPEALED).

4. Special election reports (REPEALED).

§ 1060. Content of reports

The reports must contain the following information and any additional information required by the commission to monitor the activities of political action committees:

1. Identification of candidates. The names and mailing addresses of any candidate whom the committee supports, intends to support or seeks to defeat. The report must indicate the office that the candidate is seeking, the political party represented by the

candidate, if any, the date of the contest and whether the contest is an election or a primary;

2. Identification of committees; parties. The names and mailing addresses of any political committee or political party supported in any way by the registrant;

3. Identification of referendum or initiated petition. The referendum or initiated petition which the committee supports or opposes and the names and mailing addresses of the organizations to which expenditures were made;

4. Itemized expenditures. An itemization of expenditures and the date of each expenditure made to support or oppose any candidate, campaign, political committee, political action committee, political party, referendum or initiated petition. The commission may specify the categories of expenditures which are to be reported to enable the commission to closely monitor the activities of political action committees;

5. Aggregate expenditures. An aggregation of expenditures and cumulative aggregation of expenditures to a candidate, campaign, political committee, political action committee, referendum or initiated petition;

6. Identification of contributions. Names and mailing addresses of contributors who have given more than \$50 to the political committee after the committee has registered under section 1053, the amount contributed by each donor and the date of the contribution. The information already reported as required by section 1053, subsection 7 should not be duplicated; and

7. Other expenditures. Operational expenses and other expenditures in cash or in kind that are not made on behalf of a candidate, committee or campaign.

§ 1061. Dissolution of committees

Whenever any political action committee disbands or determines that obligations will no longer be incurred and no expenditures will be made to any candidate, political committee or political party, or to initiate, support, defeat or influence in any way the outcome of a referendum, initiated petition, election or primary, and the committee has no outstanding obligations, it must file a termination report with the Secretary of State. If a termination report is not filed, the committee shall continue to file periodic reports as required in this chapter.

§ 1062. Failure to file on time

1. **Registration.** A political action committee required to register under section 1053 that fails to do so in accordance with section 1053 or that fails to provide the information required by the commission for registration must be assessed a forfeiture of \$250.

2. **Campaign finance reports.** A campaign finance report is not timely filed unless a properly signed copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission before 5 p.m. on the date it is due. The commission shall determine whether a required report satisfies these requirements for timely filing and, if determined to be late, the number of days of lateness.

A. Except as provided in paragraph B, there is a penalty of \$250, plus an additional penalty of \$50 for each business day beginning with the 2nd such day that a campaign finance report required to be filed under this subchapter is late, up to a maximum of \$1,000.

B. There is a penalty of \$250 for each business day that a report required to be filed under section 1059, subsection 2, paragraph B, subparagraph (1); section 1059, subsection 2, paragraph C, subparagraph (1); or section 1059, subsection 2, paragraph E is late, up to a maximum of \$2,000.

C. A notice of lateness shall be sent to political action committees and treasurers registered with the commission whose campaign finance reports are not received by 2 days after the filing deadline. That notice shall be sent on the 3rd day following the deadline.

D. A late report required to be filed under section 1059, subsection 2, paragraph A; section 1059, subsection 2, paragraph B, subparagraph (2); or section 1059, subsection 2, paragraph C, subparagraph (2), filed within 10 days of any deadline is not subject to penalty. Reports filed after the applicable grace period are subject to penalties from the original filing deadline.

E. A report required to be filed within 6 days before an election which is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty. Any required report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as an original of the same report is received by the commission within 5 calendar days thereafter.

F. The commission, upon determining that a report is late, shall notify the Secretary of State of the lateness. The Secretary of State has the initial responsibility for collecting the full amount of any penalty within 30 days after receiving notice of a late report from the commission. The Secretary of State shall have all necessary powers to carry out this responsibility.

G. The commission shall prepare a list of the names of committees that are late in filing a report required under section 1059, subsection 2, paragraph B, subparagraph (1); section 1059, subsection 2, paragraph C, subparagraph (1); or section 1059, subsection 2, paragraph E, within 30 days of the date of the election and shall make that list available for public inspection.

3. Enforcement. Failure to pay the full amount of any penalty levied under this section is a civil violation by the political action committee and its treasurer. Thirty days after receiving notice of the lateness of any report, the Secretary of State shall report to the Attorney General the name of any political action committee and treasurer that failed to pay the full amount of any penalty. The Attorney General shall enforce this violation in a civil action to collect the full outstanding amount of the penalty. The action shall be brought in the Superior Court for the County of Kennebec or the District Court, 7th District, Division of Southern Kennebec.

4. Enforcement and collection (REPEALED).

**SUBCHAPTER V
MAINE CODE OF
FAIR CAMPAIGN PRACTICES**

§ 1101. Maine Code of Fair Campaign Practices

1. Distribution to candidates. At the time a candidate for the office of Governor, the Senate of the House of Representatives registers with the commission as required under section 1013-A, the commission shall give the candidate a form containing a copy of the Maine Code of Fair Campaign Practices established in this subchapter. The commission shall, at that time, inform the candidate that subscription to the code is voluntary. For the purposes of this subchapter, "code" means the Maine Code of Fair Campaign Practices.

2. The code form. The code, printed on the form provided to candidates under subsection 1, must read as follows:

"Maine Code of Fair Campaign Practices

I shall conduct my campaign and, to the extent reasonably possible, insist that my supporters conduct themselves, in a manner consistent with the best Maine and American traditions, discussing

the issues and presenting my record and policies with sincerity and candor.

I shall uphold the right of every qualified voter to free and equal participation in the election process.

I shall not participate in and I shall condemn defamation of and other attacks on any opposing candidate or party that I do not believe to be truthful, provable and relevant to my campaign.

I shall not use or authorize and I shall condemn material relating to my campaign that falsifies, misrepresents or distorts the facts, including, but not limited to, malicious or unfounded accusations creating or exploiting doubts as to the morality, patriotism or motivations of any party or candidate.

I shall not appeal to and I shall condemn appeals to prejudices based on race, creed, sex or national origin.

I shall not practice and I shall condemn practices that tend to corrupt or undermine the system of free election or that hamper or prevent the free expression of the will of the voters.

I shall promptly and publicly repudiate the support of any individual or group that resorts, on behalf of my candidacy or in opposition to that of an opponent, to methods in violation of the letter or spirit of this code.

I, the undersigned, candidate for election to public office in the State of Maine, hereby voluntarily endorse, subscribe to and solemnly pledge to conduct my campaign in accordance with the above principles and practices.

Candidate for Public Office"

§ 1102. Printing of code forms

The commission shall print, or cause to be printed, copies of the code for distribution to registered candidates.

§ 1103. Acceptance of completed forms

The commission shall accept, at all times prior to the election, completed code forms that are properly subscribed to by a candidate.

§ 1104. Public records

The commission shall retain for public inspection all completed code forms accepted by the commission under section 1103. A code subscribed to by a candidate is a public record under Title 1, section 408.

§ 1105. Subscription to code voluntary

In no event may a candidate be required to subscribe to or endorse the code.

**CHAPTER 15
APPORTIONMENT**

§ 1201. Apportionment of the Maine Senate, Maine House of Representatives and Maine congressional districts

[Sections 1 through 6, detailing Maine Senate and House of Representatives district boundaries, are not reprinted here due to length. The information is available upon request from the Elections Division.]

7. **Congressional districts.** The State of Maine shall be divided into 2 districts for the election of Representatives to Congress. The districts are comprised as follows.

A. The first district is comprised of York, Cumberland, Sagadahoc, Lincoln, Kennebec and Knox Counties and the municipalities of Burnham, Freedom, Islesboro, Liberty, Lincolnville, Montville, Morrill, Northport, Palermo, Searsmont, Troy, Waldo and Unity in Waldo County.

B. The 2nd district is comprised of Androscoggin, Aroostook, Franklin, Hancock, Oxford, Penobscot, Piscataquis, Somerset and Washington Counties and the municipalities of Belfast, Belmont, Brooks, Frankfort, Jackson, Knox, Monroe, Prospect, Searsport, Stockton Springs, Swanville, Thorndike and Winterport in Waldo County.

C. In 1983 and every 10 years thereafter, when the Secretary of State has received notification of the number of congressional seats to which the State is entitled and the Federal Decennial Census population count is final, the apportionment commission established pursuant to the Constitution of Maine, Article IV, Part Third, Section 1-A, shall review the existing congressional districts. If the districts do not conform to Supreme Judicial Court guidelines, the commission shall reapportion the State into congressional districts.

In making such a reapportionment, the commission shall insure that each congressional district is formed of compact and contiguous territory and crosses political subdivisions the least number of times necessary to establish as equally populated districts as possible. The commission shall submit its plan to the Clerk of the House no later than 90 calendar days after appointment of the commission. The Legislature shall enact the submitted plan of the commission or a plan of its own in regular or special session by a vote of 2/3 of the members of each house within 30 calendar days after the plan is submitted to the Clerk of the House. This action is subject to the Governor's approval, as provided in the Constitution of Maine, Article IV, Part Third, Section 2.

D. In the event that the Legislature fails to make an apportionment within 30 calendar days, the Supreme Judicial Court shall, within 60 days following the period in which the Legislature is required to act, but fails to do so, make the apportionment. In making such apportionment, the Supreme Judicial Court shall take into consideration plans and briefs

filed by the public with the court during the first 30 days of the period in which the court is required to apportion.

The Supreme Judicial Court shall have original jurisdiction to hear any challenge to an apportionment law enacted by the Legislature, as registered by any citizen or group thereof. If any challenge is sustained, the Supreme Judicial Court shall make the apportionment.

WHAT OFFICES ARE AVAILABLE AND WHAT ARE THE REQUIREMENTS?

<u>Office</u>	<u>Age</u>	<u>Citizenship/Residency</u>
NATIONAL		
President (U.S. Constitution, Art. II, §1)	35	Lifetime/14 yrs. in U.S.
United States Senator (U.S. Constitution, Art. I, §3)	30	9 years/Resident of State in which running.
Representative to Congress (U.S. Constitution, Art. 1, §2)	25	7 years/Resident of State in which running.
STATE		
Governor (Maine Constitution, Art. V, Part First, §4)	30	15 years/5 years
State Senator (Maine Constitution, Art. IV, Part Second, §6)	25	5 years/1 year in State; reside in district 3 months before the election*
Representative to Legislature (Maine Constitution, Art. IV, Part First, §4)	21	5 years/1 year in State; reside in district 3 months before the election*

* No person may be a candidate unless, at the time of nomination for placement on the primary, general or special election ballot, he or she is a resident in the district which he or she seeks to represent.

COUNTY OFFICES
(21-A MRSA §333 and §352)

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Resident and voter in
the electoral division he
or she seeks to
represent.

County Commissioner
(30-A MRSA §61)

County Treasurer
(30-A MRSA §151)

District Attorney
(30-A MRSA §251 -- must be an **attorney**)

Judge of Probate
(Maine Constitution, Art. 6, §6; 4 MRSA §301 -- must be an **attorney**)

Register of Probate
(Maine Constitution, Art. 6, §6)

Register of Deeds
(33 MRSA §601)

Sheriff
(Maine Constitution, Art. 9, §10; 30-A MRSA §601)

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