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Date: (Filing No. H- )

**STATE AND LOCAL GOVERNMENT**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
132ND LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 688, L.D. 1059, “An Act to Establish the Process for the Selection of Delegates for a Convention Called Under the United States Constitution, Article V”

Amend the bill by striking out everything after the enacting clause and inserting the following:

**'Sec. 1. 3 MRSA c. 39** is enacted to read:

**CHAPTER 39**

**UNITED STATES CONSTITUTIONAL CONVENTION PROCEDURE**

**§1021. Definitions**

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

**1. Advisory committee.** "Advisory committee" means a committee consisting of members selected by each chamber using the process described in this chapter to perform the duties described in this chapter.

**2. Article V convention.** "Article V convention" or "convention" means a convention called pursuant to the United States Constitution, Article V for proposing amendments to the United States Constitution.

**3. Chamber.** "Chamber" means either the Senate or the House of Representatives of the Legislature.

**4. Commissioner.** "Commissioner" means a person selected by resolution of the Legislature as provided in this chapter to represent the State at an Article V convention. "Commissioner" includes an interim commissioner selected by the advisory committee pursuant to section 1028 to fill a vacancy in the delegation.

**COMMITTEE AMENDMENT**

1           **5. Commissioning resolution.** "Commissioning resolution" means a resolution  
2           adopted by both chambers that sets forth the names of the selected commissioners and their  
3           commissions and instructions.

4           **6. Delegation.** "Delegation" means the group of commissioners selected by the  
5           Legislature to attend an Article V convention with the powers and duties described in this  
6           chapter.

7           **§1022. Applicability**

8           This chapter applies to an Article V convention.

9           **§1023. Qualifications of commissioners**

10           At the time of selection and throughout an Article V convention, a commissioner must  
11           meet the following criteria.

12           **1. Citizenship.** The commissioner must be a United States citizen and have been a  
13           United States citizen for at least 5 years prior to the date of selection.

14           **2. State residency.** The commissioner must be a resident of the State and have been  
15           a resident of the State for at least 5 years prior to the date of selection.

16           **3. Age.** The commissioner must be at least 25 years of age.

17           **4. Registered voter.** The commissioner must be a registered voter in the State.

18           **5. Federal lobbyist restriction.** The commissioner may not be registered or required  
19           to be registered as a federal lobbyist or have been registered or required to be registered as  
20           a federal lobbyist at any time within the 5 years prior to the date of selection.

21           **6. Federal employee restriction.** The commissioner may not be a federal employee  
22           or contractor and may not have been a federal employee or contractor within the 10 years  
23           prior to the date of selection. This restriction does not apply to members of the United  
24           States Armed Forces.

25           **7. Federal official restriction.** The commissioner may not have held a federal elected  
26           or appointed office at any time within the 10 years prior to the date of selection.

27           **8. Felony conviction.** The commissioner may not have been convicted of a violation  
28           of a state or federal criminal law involving moral turpitude that is punishable by  
29           imprisonment for one year or more.

30           **9. Statewide public office restriction.** The commissioner may not hold a statewide  
31           public office, which includes, but is not limited to, Governor, Secretary of State, Treasurer  
32           of State, State Auditor or Attorney General, while performing the duties of commissioner.  
33           For the purposes of this subsection, serving as a state Legislator is not considered holding  
34           a statewide public office.

35           **§1024. Commissioner selection and removal**

36           The following provisions apply to commissioner selection and removal.

37           **1. Selection and number of commissioners.** Five commissioners must be selected  
38           by a resolution passed by a majority of those present and voting in a joint session of the  
39           Legislature. At least 2 commissioners must be members of the party holding the largest  
40           number of seats in the Legislature and at least 2 commissioners must be members of the  
41           party holding the 2nd largest number of seats in the Legislature. All commissioners must

1 be selected by the process described in this subsection except for interim commissioners  
2 who are selected pursuant to section 1028.

3 **2. Recall, suspension and removal of commissioners.** A commissioner may be  
4 recalled or removed at any time and for any reason by a joint resolution of the Legislature  
5 or by a majority vote of those present and voting in a joint session of the Legislature. If the  
6 Legislature is not in session, a commissioner may be recalled and suspended from that  
7 commissioner's duties by the advisory committee pursuant to section 1033, pending a vote  
8 of the Legislature to remove the commissioner.

9 **3. Recall or suspension of commissioners by advisory committee; penalty for**  
10 **violation.** A commissioner must be recalled or suspended by the advisory committee if the  
11 advisory committee determines under section 1033 that the commissioner has exceeded the  
12 scope of the commissioner's authority. A commissioner who is determined to have  
13 exceeded the scope of the commissioner's authority commits a Class C crime.

14 **§1025. Commissioning resolution**

15 A commissioning resolution must include, but is not limited to, the following  
16 components.

17 **1. Convention rules; voting restrictions.** A commissioner may not:

18 A. Vote for or otherwise promote any change to the traditional convention rule or  
19 decision on the floor and in the committee of the whole that each state has one vote;

20 B. Vote for or otherwise promote a convention rule that does not require recorded roll  
21 call votes or the electronic equivalent;

22 C. Propose an amendment with subject matter that is inconsistent with the resolutions  
23 of the legislatures of the several states that were the basis of calling the convention. A  
24 proposed amendment is not germane unless its subject matter is consistent with the  
25 resolutions of the legislatures of the several states that were the basis of calling the  
26 convention; or

27 D. Vote in favor of any proposed amendment that would alter the text of the specific  
28 guarantees of individual liberty established by the United States Constitution, including  
29 the original United States Constitution, the Bill of Rights and the following  
30 amendments: Amendment XIII, Amendment XIV, Amendment XV, Amendment XIX,  
31 Amendment XXIII, Amendment XXIV and Amendment XXVI.

32 **2. Scope of authority.** The commissioning resolution must clearly state the scope of  
33 the commissioners' authority, which must be limited to:

34 A. The subject matter enumerated in the 34 state applications that triggered the  
35 convention if this State was not one of the 2/3 of the states applying for the Article V  
36 convention or the subject matter in this State's application if this State was one of the  
37 2/3 of the states applying for the Article V convention; and

38 B. Any additional instructions from the Legislature, whether provided in the  
39 commissioning resolution or issued by the Legislature after the adoption of the  
40 commissioning resolution.

41 A commissioner exceeds the scope of the commissioner's authority by voting or otherwise  
42 acting beyond the authority granted in the commissioner's commission. The Legislature

1 may provide additional instructions at any time by a subsequent resolution, a copy of which  
2 the Clerk of the House shall provide to each commissioner and to the advisory committee.

3 **§1026. Oath**

4 Before exercising any function of the commissioner's position, each commissioner  
5 shall execute the following oath in writing:

6 "I, ..... (name), do swear, that I will support the Constitution of the United  
7 States and of this State, so long as I shall continue a citizen thereof. So help me God. I,  
8 ..... (name), do swear, that I will faithfully discharge, to the best of my abilities,  
9 the duties incumbent on me as commissioner according to the Constitution and laws of the  
10 State. So help me God."

11 A commissioner's executed oath must be filed with the Secretary of State.

12 **§1027. Credentials**

13 After a commissioner's executed oath is filed with the Secretary of State pursuant to  
14 section 1026, the Clerk of the House shall provide to the commissioner an official copy of  
15 the executed oath and the commissioning resolution, which together serve as the  
16 commissioner's credentials.

17 **§1028. Vacancies**

18 A commissioner vacancy must be filled by the advisory committee, which shall select  
19 an interim commissioner until such time as a vote by a joint session of the Legislature  
20 selects a permanent replacement.

21 **§1029. Compensation and expenses**

22 Commissioners must be compensated for attending a meeting of the convention as  
23 follows.

24 **1. Members of Legislature.** A commissioner who is a member of the Legislature is  
25 entitled to receive per diem and reimbursement of expenses and mileage equal to that  
26 received by a member of the Legislature for attending a special session outside the time  
27 specified for a first regular session or second regular session pursuant to section 2 for  
28 attending a meeting of the convention.

29 **2. Members of public.** Except as provided in subsection 3, a commissioner who is a  
30 member of the public is entitled to receive the same per diem and reimbursement of  
31 expenses and mileage provided to members of the Legislature for attending a meeting of  
32 the convention as provided under subsection 1.

33 **3. Commissioners otherwise compensated.** A commissioner who is serving in that  
34 commissioner's capacity as an employee of this State as defined by Title 5, section 20,  
35 subsection 1 is not entitled to receive additional compensation for attending meetings of  
36 the convention but is entitled to reimbursement for expenses and mileage.

37 **§1030. Emolument and gift prohibition**

38 A commissioner may not accept, during that commissioner's time of service, any gifts  
39 or benefits with a combined value of more than \$200 other than from a member of that  
40 commissioner's family and of the kind customarily granted by a member of one's family.  
41 For the purposes of this section, "gift or benefit" must be construed liberally to include  
42 current and future loans, lodging, food, offers of prospective employment and other actual

1 and prospective benefits. An employer's decision to continue paying a commissioner's  
2 current salary is not a gift for the purposes of this section.

3 **§1031. Delegation procedures and standards of behavior**

4 The following procedures and standards of behavior apply to members of the  
5 delegation.

6 **1. Assigning roles.** The commissioners within the delegation shall choose from  
7 among them a commissioner to chair the delegation, a commissioner to cast the State's vote  
8 on the convention floor and a commissioner to communicate with the media on behalf of  
9 the delegation. If the delegation so decides, the same commissioner may exercise any 2 or  
10 all 3 roles. The delegation may designate a different commissioner to perform any of the  
11 roles at any time.

12 **2. Avoiding public implications of division.** Each commissioner shall take care to  
13 avoid communicating the impression to any person outside the delegation that the  
14 delegation is divided on a question on which the delegation has taken a formal position,  
15 including but not limited to casting a vote.

16 **3. Prohibition on media engagement.** A commissioner other than the commissioner  
17 designated to communicate with the media on behalf of the delegation may not  
18 communicate with the media about convention business during the convention or during  
19 any temporary recess or temporary adjournment of the convention.

20 **4. Violations of conduct by members of delegation.** A commissioner who violates  
21 subsection 2 or 3 may be recalled or suspended by the advisory committee or by the  
22 Legislature in accordance with this chapter.

23 **5. Presentation of opinions to delegation.** Subsections 2 and 3 may not be construed  
24 to prevent a commissioner from presenting that commissioner's opinions to the convention  
25 or debating a matter at the convention on which the delegation has not formally taken a  
26 position.

27 **6. Quorum.** A majority of commissioners present and voting at the time the delegation  
28 is polled constitutes a quorum for decisions by the delegation, including the designation of  
29 commissioners for particular duties and the determination of how the State's vote will be  
30 cast. A decision may not be made and a vote may not be cast if less than a majority of the  
31 delegation votes in the poll.

32 **7. Rule of decision within delegation.** A quorum being present, a rule of decision  
33 must be a majority of those present and voting at the time of polling.

34 **§1032. Advisory committee**

35 The following provisions govern the membership and conduct of the advisory  
36 committee.

37 **1. Membership; chair.** The advisory committee consists of the following members:  
38 a State Senator selected by the President of the Senate; a State Representative selected by  
39 the Speaker of the House; and a member of the Legislature nominated jointly by the  
40 President of the Senate and the Speaker of the House and approved by a majority of those  
41 present and voting in each chamber. The advisory committee shall select one of its  
42 members as chair.

1           **2. Advising function.** The advisory committee may develop appropriate procedures  
2 and mechanisms for monitoring the convention and its committees and subcommittees. A  
3 commissioner may request that the advisory committee provide advice as to whether a  
4 prospective action by the commissioner would violate the commissioning resolution or any  
5 subsequent instructions. The advisory committee shall communicate to the commissioner  
6 requesting such advice a determination within 24 hours of receiving the request. The  
7 advisory committee may communicate the determination by any appropriate means.

8           **3. Staffing.** Only upon the approval of the Legislative Council, Legislative Council  
9 staff may provide staffing assistance to the advisory committee, except that Legislative  
10 Council staff support is not authorized when the Legislature is in regular or special session.

11 **§1033. Advisory committee authority**

12           The following provisions govern the exercise of the advisory committee's authority.

13           **1. Notification.** If the advisory committee has reason to believe that a commissioner  
14 has exceeded the scope of the commissioner's authority, the advisory committee shall notify  
15 the President of the Senate, the Speaker of the House and the Attorney General.

16           **2. Issuing determination.** Upon a request by the President of the Senate, the Speaker  
17 of the House or the Attorney General for a determination on whether a commissioner has  
18 exceeded the scope of the commissioner's authority pursuant to section 1025, subsection 2,  
19 the advisory committee shall expeditiously make a determination on whether the  
20 commissioner has exceeded the scope of the commissioner's authority and immediately  
21 communicate the determination to the President of the Senate, the Speaker of the House or  
22 the Attorney General, as applicable.

23           **3. Removal.** Upon determining that a commissioner has exceeded the scope of the  
24 commissioner's authority pursuant to this section, the advisory committee shall  
25 immediately remove that commissioner and communicate that action and the reasons for  
26 that action to the President of the Senate, the Speaker of the House, the Attorney General  
27 and the presiding officers of the convention.

28 **§1034. Interference with commissioner's duties**

29           A person who intentionally or knowingly bribes, threatens, intimidates or obstructs or  
30 attempts to bribe, threaten, intimidate or obstruct a commissioner in the performance of the  
31 commissioner's duties at an Article V convention commits a Class C crime.'

32           Amend the bill by relettering or renumbering any nonconsecutive Part letter or section  
33 number to read consecutively.

34 **SUMMARY**

35           This amendment, which is the majority report of the committee, replaces the bill, which  
36 is a concept draft. The amendment establishes a process for the selection and oversight of  
37 delegates, referred to in the bill as "commissioners," to a convention under Article V of the  
38 United States Constitution assembled for the purpose of proposing amendments to the  
39 United States Constitution.

40 **FISCAL NOTE REQUIRED**

41 **(See attached)**