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Date: (Filing No. H-)

STATE AND LOCAL GOVERNMENT

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
131ST LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 939, L.D. 1443, “An Act to Establish a Recall Process for Public School Board Members”

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

'Sec. 1. 20-A MRSA §1005 is enacted to read:

§1005. Recall of school board members

1. Grounds for recall. Notwithstanding any provision of law or municipal charter to the contrary, a school board member may not be recalled unless the school board member:

- A. Has been convicted of a felony;
- B. Has failed to perform duties prescribed by law; or
- C. Has willfully misused, converted or misappropriated, without legal authority, public property or public funds.

A school board member's performance of a required duty or a discretionary duty is not a ground for recall.

2. Petition for recall. A written petition to recall a school board member must be signed as follows:

- A. If the school board member was elected by the voters of a municipality, by a number of voters equal to at least 20% of the number of votes cast in that municipality in the last gubernatorial election; or
- B. If the school board member was elected as a school board member-at-large in a school administrative unit, by a number of voters equal to at least 20% of the voters of the school administrative unit who voted in the last gubernatorial election.

3. Notice of intention. In order to initiate a recall election under subsection 2, the initiator of the petition shall file a notice of intention of recall with the municipal clerk of the municipality in which the school board member was elected or with each municipal clerk of all municipalities in a school administrative unit, if the school board member was

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1 electd at large. A notice of intention of recall under this subsection must include the name,
2 address and contact information of the person filing the notice, the name of the school board
3 member subject to recall under this section and the reason for the recall initiative, which
4 must comply with subsection 1. Only a person registered to vote in the municipality in
5 which the school board member was elected, or in a municipality in the school
6 administrative unit if the school board member was elected at large, may file a notice of
7 intention of recall under this subsection.

8 **4. Petition forms.** Within 3 business days of receipt of a notice of intention of recall
9 under subsection 3, the municipal clerk shall prepare petition forms for the collection of
10 signatures under subsection 5 and send notice to the initiator of the petition under
11 subsection 3 that the petition forms are available. If the school board member was elected
12 at large, the municipalities shall coordinate in preparing and providing the petition forms
13 and sending notice and shall designate one municipal clerk to handle the submission of
14 signatures under subsection 5. A municipality may charge the initiator of the petition a
15 reasonable fee for preparing and providing the petition forms under this subsection. A
16 petition form under this subsection must include:

17 A. At the top of the form, the name of the school board member subject to recall, the
18 name and contact information of the initiator of the petition and the date by which the
19 signatures must be submitted to the municipal clerk under subsection 5;

20 B. The reason for the recall initiative;

21 C. Spaces for each voter's signature, street address and printed name; and

22 D. Space at the bottom of the form for the name, address and signature of the person
23 circulating the petition form.

24 **5. Collection and submission of signatures.** A petition form under subsection 4 may
25 be circulated or signed only by registered voters of the municipality in which the school
26 member was elected, or of a municipality within the school administrative unit if the school
27 board member was elected at large. A circulator of a petition form shall oversee the
28 collection of signatures and ensure that the information required under subsection 4,
29 paragraph C is accurate and complete. The initiator of the petition under subsection 3 shall
30 collect the petition forms from all circulators and submit the signed petition forms to the
31 municipal clerk who prepared the petition forms within 14 days of receipt of notice from
32 the municipal clerk that the petition forms are available under subsection 4. A municipal
33 clerk may not accept a petition form submitted more than 14 days after sending notice of
34 availability to the initiator under subsection 4, and any voter signatures on that petition
35 form are invalid.

36 **6. Petition certification and notification.** Within 7 business days of receiving
37 petition forms under subsection 5, the municipal clerk shall determine whether the petition
38 forms meet the criteria under subsection 5 and certify the validity of any signatures on the
39 petition forms. If the municipal clerk finds that the number of valid signatures submitted
40 under subsection 5 meets or exceeds the requirements under subsection 2, the municipal
41 clerk shall certify the petition and immediately send notification of the certification to the
42 appropriate municipal officers, the initiator of the petition and the school board member
43 subject to the recall. If the municipal clerk finds that the number of valid signatures
44 submitted under subsection 5 does not meet the requirements for a petition under subsection
45 2, the municipal clerk shall file the petition and the petition forms in the municipal clerk's

1 office and notify the initiator of the petition and, if the school board member was elected
2 at large, the clerks of the other municipalities within the school administrative unit, that the
3 number of valid signatures does not meet the requirements for a petition under subsection
4 2.

5 **7. Scheduling recall election.** Within 21 business days of certification of the petition
6 under subsection 6, the municipal officers shall schedule a recall election to determine
7 whether the school board member subject to the petition should be recalled. The election
8 must be held no less than 45 days and no more than 75 days after certification of the petition
9 under subsection 6 unless a regular municipal election is scheduled to be held within 90
10 days of the certification of the petition under subsection 6, in which case the recall election
11 must be held on the date of the regular municipal election. If the municipal officers fail to
12 schedule a recall election within 21 business days of certification of the petition under
13 subsection 6, the municipal clerk shall schedule, or in the case of an at-large election, the
14 municipal clerks of the municipalities within the school administrative unit shall jointly
15 schedule the recall election in accordance with the requirements of this subsection.

16 **8. Ballots for recall election.** If the school board member subject to the recall does
17 not resign from the school board member's position within 21 business days of certification
18 of the petition under subsection 6, the ballots for the recall election under subsection 7 must
19 be printed. A ballot for a recall election under this section must read:

20 "Do you authorize the recall of (name of school board member) from the
21 (school administrative unit) school board?

22 Yes No"

23 **9. Valid election.** The recall must be approved by a majority of voters in an election
24 in which the total number of ballots is at least 30% of the number of votes cast in the
25 municipality in the last gubernatorial election, or, if the school board member was elected
26 as a school board member-at-large, 30% of the ballots cast in the school administrative unit
27 in the last gubernatorial election.

28 **10. Results of recall election.** Within 2 business days of a recall election under
29 subsection 8, the municipal clerk, or, if the election was for a school board member-at-
30 large, the municipal clerks of each municipality within the school administrative unit, shall
31 certify and record the election results and notify the municipal officers of those results. If
32 a majority of voters vote to remove the school board member, the recall takes effect on the
33 date the election results are recorded pursuant to this subsection.

34 **Sec. 2. 30-A MRSA §2505, first ¶,** as enacted by PL 2011, c. 324, §1, is amended
35 to read:

36 Except as otherwise provided by the municipality's ordinances or charter, an elected
37 official of a municipality may be recalled from office pursuant to this section. For purposes
38 of this section, "official" has the same meaning as in section 2604, subsection 2, except that
39 "official" does not include a member of a school board whose recall is governed by Title
40 20-A, section 1005.'

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

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SUMMARY

This amendment replaces the bill. The amendment:

1. Removes, as grounds for a recall petition, a school board member behaving in a manner that relates to and adversely affects the administration of the school board member's office and the rights and interests of the public;
2. Removes, as grounds for a recall petition, the school board member committing an act of misconduct in office;
3. Adds as grounds for recall being convicted of a felony;
4. Lowers the required percentage of voters who must sign the recall petition from 25% to 20%;
5. Increases the required percentage of voters who must authorize the recall of a school board member from 25% to 30%; and
6. Adds provisions detailing the recall petition and election process that are similar to those found in the Maine Revised Statutes, Title 30-A, section 2505.