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Date: (Filing No. S-)

STATE AND LOCAL GOVERNMENT

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE

SENATE

130TH LEGISLATURE

FIRST SPECIAL SESSION

COMMITTEE AMENDMENT “ ” to S.P. 163, L.D. 375, “An Act To Create Greater Accountability in the Office of County Sheriff”

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

'Sec. 1. 30-A MRSA §441, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed and the following enacted in its place:

§441. Removal of sheriff

1. Authority to remove. Pursuant to the Constitution of Maine, Article IX, Section 10, whenever the Governor upon complaint, due notice and hearing finds that a sheriff is not faithfully or efficiently performing any duty imposed by law, the Governor may remove that sheriff from office and appoint another sheriff to serve for the remainder of the term for which the removed sheriff was elected.

2. Complaint by county commissioners. Whenever a majority of the county commissioners finds that the sheriff is not faithfully or efficiently performing any duty imposed by law or that the sheriff is improperly exercising or acting outside the sheriff's authority, the commissioners may file a timely complaint with the Governor requesting the Governor remove the sheriff from office and appoint another sheriff to that office for the remainder of the term.

3. Requirements of complaint; filing. A complaint filed under subsection 2 must include:

- A. The sheriff's legal name;
- B. The sheriff's term of office and political affiliation, if any;
- C. A detailed description of the specific allegations against the sheriff including the legal duty that the sheriff did not faithfully or efficiently perform and the conduct in breach of that duty;

COMMITTEE AMENDMENT

1 D. A description of emergency circumstances, if any, that necessitate expedited
2 suspension of the sheriff; and

3 E. A recorded vote of the county commissioners requesting the Governor’s action to
4 remove the sheriff, signed by all commissioners issuing the complaint.

5 The complaint must be served on the sheriff contemporaneously with the filing of the
6 complaint with the Governor, and proof of service must be filed with the Governor.

7 **4. Retention of county sheriff records.** If the county commissioners submit a
8 complaint to the Governor under this section, the commissioners may, by majority vote,
9 also direct the staff of the office of the county sheriff to restrict the county sheriff’s access
10 to the paper and electronic records of the office during review of the complaint by the
11 Governor if the commissioners find that allowing the sheriff access to such records would
12 pose an immediate threat to public safety or welfare.

13 **5. Process for emergency suspension.** Consistent with the Constitution of Maine and
14 this section, upon receipt of the complaint alleging emergency circumstances and proof of
15 service as required in subsection 3, the Governor may summons the named sheriff to appear
16 and answer the allegations. If a sheriff refuses to answer the allegations or fails to appear
17 or, after appearance by the sheriff, the Governor finds that the sheriff is not faithfully or
18 efficiently performing any duty imposed by law and that emergency circumstances exist
19 that pose a substantial risk to public safety or threat to a significant public interest, the
20 Governor may immediately place the sheriff on paid administrative leave pending a full
21 and final adjudication of the complaint by the Governor. A sheriff placed on emergency
22 administrative leave may request a full and final hearing of the complaint within 7 days,
23 which must be heard within 21 days.'

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

26 **SUMMARY**

27 This amendment, which is the minority report of the committee, replaces the bill. It
28 creates a process for a majority of the county commissioners to file a complaint with the
29 Governor to remove a sheriff for failure to faithfully or efficiently perform any duty
30 imposed by law or for acting outside the sheriff’s authority. It permits the county
31 commissioners to order the staff of the office of the sheriff to restrict the sheriff’s access to
32 the records of the office. It establishes a process for the Governor to suspend the sheriff
33 with pay during the pendency of the investigation into the allegations of the complaint.