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Testimony of Representative Dan Sayre introducing

**LD 1443, An Act to Establish a Recall Process for Public School
Board Members**

Before the Joint Standing Committee on State and Local Government

Senator Nangle, Representative Stover and distinguished members of the Joint Committee on State and Local Government, I am Representative Daniel Sayre of Kennebunk. I am here to present LD 1443, An Act to Establish a Recall Process for Public School Board Members.

This bill responds to an increase in efforts to initiate citizen's recalls of school board officials in Maine. The goal is to make the process more consistent and fair, and to better balance two important public interests:

- the right of the public to enjoy the service of their elected officials for their full term of office.
- the right of the public to remove an elected official before their term is over if they have violated the public trust.

Due to recent input from several stakeholders, I am offering a draft amendment that I believe represents a better balance of those interests than what I had previously proposed.

I confess that I considered what should be every lawmaker's first thought: what if we do nothing? It is an attractive option. However, recent recall campaigns have revealed flaws in the status quo, and I believe we need to act now to correct them.

For example, a recall effort in Kennebunk in 2022 surfaced jurisdictional questions between Title 20-A and Title 30-A in Maine statute. Immediate issues were resolved in Superior Court, but other questions remain, especially in regards to at-large school units that serve multiple jurisdictions.

Second, the right to recall a school board official is unevenly distributed. Maine law permits a municipality to recall a school board member only if its charter designates a process for doing so

except under very narrow circumstances. Nevertheless, the Town of Paris recently recalled a school board member under provisions of a municipal ordinance, not a charter. This apparent contravention of State statute has gone uncontested by the parties involved, leaving legal questions pending and making future cases only a matter of time.

I believe the legislature should act now. The action I propose is to set a consistent right to recall school board officials for all municipalities in Maine. I also propose that we limit this right in two important ways. I believe that doing so will better balance the public's right to remove seriously bad actors against our right to enjoy a full term of service from the people we elect.

The first limitation in the amended bill is that recall is appropriate only in cases of official misconduct or crime. This is important, especially in regards to school board officials. You will hear from others how school governance differs from municipal public service and that how we hold school officials accountable needs to be tailored to the duties they are charged with and the discretion we require them to exercise. I will leave those points to the experts. But schools are also the locus of two things that drive high emotion – our culture and our kids. If we are going to have effective governance of our school boards, we cannot have our leaders subject to the threat of removal any time a community member has any sort of grievance. The experience of Kennebunk in 2022 should be cautionary to every municipality in the state. A small local group initiated the recall of two school board members as a gambit to force removal of the newly hired superintendent. Several months of public acrimony ensued; only one of the two petitions reached the threshold number of signatures – 665 – doing so on the 31st day of a prescribed 30-day collection period. A lawsuit ensued that cost both the town and the RSU thousands of dollars each. When the election was over, the recall failed 1716 to 516 -- a margin of more than 3:1. Less than 80% of the petition signers had bothered to turn out to vote.

What I have taken away from that experience is that recalls that don't arise from serious public misconduct are bad for their communities. Hence, I propose defining grounds for recall that are narrow and specific.

The second limitation is the requirement that a recall campaign demonstrate significant voter support. Consider again the Kennebunk example. It has a petition threshold of 10% of the number of people who voted in the last gubernatorial election. That meant that less than 7% of the town's voters were empowered to force an election in which just 5% of the electorate supported the recall.

This bill sets the threshold for a successful petition at 25% of the number of voters in the last gubernatorial election. It further requires at least 30% of that number to turn out for the election to be valid. These thresholds are important – if a community truly needs to remove a miscreant from office, Maine's tradition of high turnout will more than suffice to throw them out. Higher

thresholds will also protect popular choices made at regular elections from being removed by a small minority, in the event a special election is inconveniently timed or gives the public little notice.

In closing, it is hard for me to characterize Kennebunk's recall as anything other than a major waste of time and resources. It yielded no improvement in learning outcomes, no increase in school resources and no upgrades in facilities. It made no impact on the effectiveness of the schools' board, administration or staff. In short, it delivered no measurable benefit to the cause of education in our community. Its most obvious legacy is that fewer qualified people are willing to step forward to serve, knowing what they might be subjected to.

And with that I'll sum up: any effort that lowers the bar on calling recall elections will multiply these harms. In contrast, establishing high bars for a) demonstrating grounds for recall and b) demonstrating public support to call an election will best protect the public's right to effective school governance. That is what this bill intends to do. With that, I'll take any questions from the committee.