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VETERANS AND LEGAL AFFAIRS

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
128TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " " to H.P. 1082, L.D. 1571, Bill, "An Act To Amend the Election Laws Relating to Party Qualification"

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

'Sec. 1. 21-A MRSA §301, sub-§1, ¶E, as enacted by PL 2009, c. 426, §2, is amended to read:

E. At least 10,000 voters enrolled in the party voted in the last general election, except that a qualified party does not have to meet this enrollment until the 2nd general election after it has qualified and thereafter.

Sec. 2. 21-A MRSA §303, sub-§2, as amended by PL 2013, c. 131, §11, is further amended to read:

2. Enrollment of voters. Within 5 business days after the declaration of intent required in subsection 1 is filed, the Secretary of State shall certify whether the application meets the requirements of subsection 1 and, if so, notify the applicants that they may enroll voters in the proposed party under sections 141 to 145. On or before December 1st January 2nd of the odd-numbered next even-numbered year following the filing of the application under subsection 1, the applicants must file a certification with the Secretary of State, on a form designed by the Secretary of State, that they have at least 5,000 voters enrolled in the proposed party. The Secretary of State shall verify the proposed party's enrollment figures within 5 15 business days of receiving the proposed party's certification and notify the applicants whether the proposed party has met the requirements to participate in a primary election in the subsequent even-numbered year. A determination by the Secretary of State that the party has not met these requirements may be challenged pursuant to section 303-A.

Sec. 3. 21-A MRSA §303-A is enacted to read:

COMMITTEE AMENDMENT

1 **§303-A. Challenge to denial of party qualification**

2 If the Secretary of State determines that a party has not met the requirements to
3 qualify as a party pursuant to section 303, the proposed party may challenge that
4 determination. The procedure for challenging the determination is as follows.

5 **1. Challenge.** A challenge under this section must be in writing, signed by the
6 voters who signed the declaration of intent to form a party by enrollment, and must set
7 forth the reasons for the challenge. The challenge may include a request for copies of
8 voter registration and enrollment or change of enrollment applications that were rejected
9 by municipal registrars from up to 15 named municipalities. The challenge must be filed
10 in the office of the Secretary of State before 5 p.m. on the 5th business day after the party
11 receives the secretary's determination.

12 **2. Notification.** Within 5 business days of receiving a properly filed challenge under
13 subsection 1, the Secretary of State shall notify the municipalities listed by the challenger
14 and direct the municipal officials of those municipalities to submit copies of the rejected
15 voter registration and enrollment or change of enrollment applications if requested under
16 subsection 1 to the Secretary of State within 5 business days.

17 **3. Public hearing.** Within 15 business days after receipt of a properly filed
18 challenge under subsection 1, and after providing due notice of the hearing to the
19 challenger, the Secretary of State shall hold a public hearing on the challenge. The
20 hearing must be held in accordance with the Maine Administrative Procedure Act. The
21 challenger has the burden of providing sufficient evidence to establish that the party did
22 enroll a minimum of 5,000 voters by the applicable deadline pursuant to section 303.

23 **4. Ruling.** The Secretary of State shall rule on the validity of any challenge within 5
24 business days after the completion of the hearing described in subsection 3.

25 **5. Appeal of Secretary of State's determination.** A challenger may appeal the
26 determination of the Secretary of State under subsection 4 by commencing an action in
27 the Superior Court. This action must be conducted in accordance with the Maine Rules
28 of Civil Procedure, Rule 80C, except as modified by this section. This action must be
29 commenced within 5 business days of the date of the determination of the Secretary of
30 State. Upon timely application, a person may intervene in this action if the person claims
31 an interest relating to the subject matter of the petitions, unless the person's interest is
32 adequately represented by existing parties. The court shall issue a written decision
33 containing its findings of fact and conclusions of law and setting forth the reasons for its
34 decision within 20 days of the date of the determination of the Secretary of State.

35 **6. Appeal of Superior Court decision.** A challenger may appeal the decision of the
36 Superior Court under subsection 5, on questions of law, by filing a notice of appeal
37 within 3 days of that decision. The record on appeal must be transmitted to the Law Court
38 within 3 days after notice of appeal is filed. After filing notice of appeal, the parties have
39 4 days to file briefs and appendices with the clerk of courts. As soon as the record and
40 briefs have been filed, the court shall immediately consider the case. The court shall issue
41 its decision within 14 days of the date of the decision of the Superior Court.

42 **Sec. 4. Retroactivity.** Sections 1 and 2 of this Act apply retroactively to
43 November 1, 2016 and apply to any party whose nominee for President of the United
44 States appeared on the ballot at the general election on November 8, 2016.'

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SUMMARY

This amendment replaces the bill and is the majority report of the committee. The amendment extends the date by which a party may qualify as a party by submitting an application to the Secretary of State with the required number of voters enrolled in the proposed party. The amendment also provides that a party has 2 general election cycles to enroll the required number of voters to maintain party status. Current law provides for one general election cycle to enroll the required 10,000 voters. Like the bill, the amendment establishes an appeal process if the Secretary of State denies an application for party qualification. These changes to the process of party qualification are intended to address legal issues raised by the Libertarian Party of Maine in a lawsuit filed in 2016, *Libertarian Party of Maine v. Dunlap*, Docket No. 2:16-cv-00002-JAW, and addressed by the United States District Court in a preliminary injunction order issued on May 27, 2016.

This amendment also provides that the party qualifications in this amendment apply retroactively to November 1, 2016.

FISCAL NOTE REQUIRED

(See attached)