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Date: (Filing No. H-)

VETERANS AND LEGAL AFFAIRS

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1106, L.D. 1496, “An Act To Establish the Board of Canvassers for Certifying Election Results”

Amend the bill by striking out the title and substituting the following:

'An Act To Amend the Process for Conducting Recounts'

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

'Sec. 1. 21-A MRSA §737-A, first ¶, as amended by PL 2019, c. 371, §28, is further amended to read:

Once a recount is requested for an election for the office of State Senator or State Representative that does not encompass more than one municipality, ward or precinct or for a county office that does not encompass more than one ~~county~~ municipality, ward or precinct, the Secretary of State shall notify the contracted courier service, which shall take physical control of all ballots and related materials involved in the recount as soon as possible and deliver them to the recount facility. When a recount is requested for a statewide office, congressional office ~~or statewide referendum~~ or office of State Senator or State Representative that encompasses more than one municipality, ward or precinct or for a county office that encompasses more than one ~~county~~ municipality, ward or precinct, the Secretary of State ~~may~~ shall direct the courier to retrieve ballots from certain ~~voting jurisdictions~~ municipalities, wards or precincts selected according to the procedure in subsection 1-B and deliver them to the recount facility so that the recount may be conducted in stages until the requesting candidate or ~~the lead applicant for a referendum recount~~ ~~concedes~~ candidate concedes or until all the ballots are recounted. When a recount is requested for a statewide referendum, the Secretary of State may direct the courier to retrieve ballots from certain municipalities, wards or precincts and deliver them to the recount facility so that the recount may be conducted in stages until the lead applicant for the recount concedes or until all of the ballots are recounted. If a qualified courier service is not available to provide these services, the State Police shall collect and deliver the ballots as described in this section at the request of the Secretary of State.

COMMITTEE AMENDMENT

1 **Sec. 2. 21-A MRSA §737-A, sub-§1**, as amended by PL 2019, c. 371, §30, is
2 further amended to read:

3 **1. Deposit for legislative or single county office recount in an election with one**
4 **municipality, ward or precinct.** This subsection applies to a recount for an election for
5 the office of State Senator or State Representative that does not encompass more than one
6 municipality, ward or precinct or for a county office that does not encompass more than
7 one ~~county~~ municipality, ward or precinct. All deposits required by this section must be
8 made with the Secretary of State when a recount is requested by a losing candidate or an
9 undeclared write-in candidate. Once the courier, or the State Police if requested, has taken
10 custody of the ballots and other election materials from the municipalities, the deposit made
11 by the candidate requesting the recount is forfeited to the State if the resulting count fails
12 to change the outcome of the election. If the recount reverses the election, the deposit must
13 be returned to the candidate requesting the recount. The amount of the deposit is calculated
14 as follows.

15 A. If the percentage difference shown by the official tabulation between the leading
16 candidate and the requesting candidate is 1.5% or less of the total votes cast for that
17 office, a deposit is not required.

18 B. If the percentage difference shown by the official tabulation between the leading
19 candidate and the requesting candidate is more than 1.5% and less than or equal to 4%
20 of the total votes cast for that office, the deposit is \$500.

21 C. If the percentage difference shown by the official tabulation between the leading
22 candidate and the requesting candidate is more than 4% and less than or equal to 6%
23 of the total votes cast for that office, the deposit is \$1,000.

24 D. If the percentage difference shown by the official tabulation between the leading
25 candidate and the requesting candidate is more than 6% and less than or equal to 8%
26 of the total votes cast for that office, the deposit is \$2,500.

27 E. If the percentage difference shown by the official tabulation between the leading
28 candidate and the requesting candidate is more than 8% and less than or equal to 10%
29 of the total votes cast for that office, the deposit is \$5,000.

30 F. If the percentage difference shown by the official tabulation between the leading
31 candidate and the requesting candidate is more than 10% of the total votes cast for that
32 office, the deposit is \$10,000.

33 **Sec. 3. 21-A MRSA §737-A, sub-§1-A**, as amended by PL 2019, c. 371, §31, is
34 further amended to read:

35 **1-A. Deposit for ~~statewide or multicounty office recount~~ state and county**
36 **elections comprising more than one municipality, ward or precinct.** This subsection
37 applies to a recount for an office not described by subsection 1. ~~A~~ Each losing candidate
38 who requests a recount must pay the deposit required by this subsection when the recount
39 is requested. The amount of the deposit is calculated as follows.

40 A. If the difference shown by the official tabulation between the leading candidate and
41 the requesting candidate is 1% or less of the total votes cast for that office or not more
42 than 1,000 votes, whichever is less, a deposit is not required. A candidate who is not

1 required to pay a deposit pursuant to this subsection may not be charged for the recount
2 regardless of whether the procedure changes the result of the election.

3 B. If the difference shown by the official tabulation between the leading candidate and
4 the requesting candidate is more than 1% of the total votes cast for that office or more
5 than 1,000 votes, whichever is less, the deposit is \$5,000 or 10% of the reasonable
6 estimate of the cost to the State of performing the first stage of the recount according
7 to the procedure in subsection 1-B, whichever is greater. After completion of the
8 recount, if the recount has not changed the result of the election, the Secretary of State
9 shall calculate the actual cost of the procedure, which must be paid by the requesting
10 candidate. If the deposit is greater than the actual cost, the overpayment must be
11 refunded to the candidate. If the actual cost is greater than the deposit, the candidate
12 shall pay the remainder of the actual cost to the State. Once the courier, or the State
13 Police if requested, has taken custody of the ballots and other election materials for the
14 first stage of the recount, the deposit made by the candidate requesting the recount is
15 forfeited to the State even if the candidate withdraws from the recount before the
16 recount begins. If a recount reverses the election, the deposit must be returned to the
17 candidate requesting the recount.

18 **Sec. 4. 21-A MRSA §737-A, sub-§1-B** is enacted to read:

19 **1-B. Recount conducted in stages.** A recount for an office not described by
20 subsection 1 must proceed in stages until each losing candidate who requests a recount for
21 that office concedes or until all of the ballots are recounted. Each candidate who requests
22 a recount for the office may select specific municipalities, wards or precincts for the first
23 stage of the recount. In the absence of a selection by any candidate who requested a recount
24 for the office, the Secretary of State shall determine which municipalities, wards or
25 precincts to include in the first stage of the recount for that office according to a procedure
26 established by rule. At the end of the first stage and any subsequent stage of the recount,
27 each candidate who requested a recount and who has not overtaken and passed the
28 candidate who initially appeared to win the election must be given the option to concede
29 or to proceed with the next stage of the recount. In the 2nd and any subsequent stages of
30 the recount, each candidate who requested a recount and who has not conceded may select
31 specific municipalities, wards or precincts for that stage of the recount. In the absence of
32 a selection by any candidate, the Secretary of State shall determine which municipalities,
33 wards or precincts to include in the next stage of the recount according to a procedure
34 established by rule.'

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

37 **SUMMARY**

38 This amendment, which is the minority report of the committee, replaces the bill. The
39 amendment requires that a recount for a statewide referendum or for a county office or
40 legislative office that comprises more than one municipality, ward or precinct, must
41 proceed in stages. Each losing candidate who requests a recount for the office may select
42 specific municipalities, wards or precincts for each stage of the recount until each candidate
43 who requested a recount concedes or until all the ballots are recounted. In the absence of
44 a selection by the candidates who requested the recount, the Secretary of State shall

- 1 determine which municipalities, wards or precincts to include in each stage of the recount
- 2 according to a procedure established by rule.