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Date: (Filing No. S-)

STATE AND LOCAL GOVERNMENT

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**STATE OF MAINE
SENATE
128TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 120, L.D. 379, Bill, “An Act To Provide Stability and Continuity in the Department of Education”

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

'An Act To Provide Stability and Continuity in Leadership of State Agencies'

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

'Sec. 1. 5 MRSA §1, as amended by PL 1975, c. 771, §23, is further amended to read:

§1. Appointment of temporary officials; removal; salary; posting of nominations

In order to provide for the uninterrupted and orderly functioning of any agency, board, commission or department of the State Government during a vacancy in the office of the appointive or elective head thereof and whenever there is no state official, deputy, assistant or other state employee duly authorized by law to exercise the powers and perform the duties of ~~such the~~ appointive or elective head during ~~such the~~ vacancy, the Governor is empowered to appoint a temporary deputy commissioner to exercise the powers and perform the duties of the appointive or elective head of ~~such the~~ office during ~~such the~~ vacancy. The term of office of ~~such a~~ temporary deputy commissioner so appointed ~~shall be is~~ at the pleasure of the Governor and ~~shall may~~ not extend beyond the date of qualification of a successor to the office of appointive or elective head of ~~such the~~ agency, board, commission or department or 60 days from the date of ~~his~~ appointment, whichever ~~shall~~ first ~~occur~~ occurs. The term of office of ~~such a~~ temporary deputy commissioner so appointed to an office to which appointments are by law subject to confirmation by the Legislature ~~shall be is~~ at the pleasure of the Governor and ~~shall may~~ not extend beyond the date of qualification of a successor appointed to ~~such the~~ office or 6 months from the date of appointment, whichever ~~shall~~ first ~~occur~~ occurs. ~~Such A~~ temporary deputy commissioner ~~shall is~~ not be eligible for reappointment. ~~Such A~~ temporary deputy commissioner ~~shall must~~ be appointed from the personnel of the agency, board, commission or department in which ~~such the~~ vacancy occurs.

COMMITTEE AMENDMENT

1 During the term of ~~such~~ appointment, ~~the~~ a temporary deputy commissioner ~~shall be~~
2 is paid a salary to be determined by the Governor but not to exceed that received by the
3 appointive or elective head at the termination of ~~his~~ the appointive or elective head's
4 services with the State Government.

5 In the event an employee in the classified service of the State Government is
6 appointed as a temporary deputy commissioner ~~he shall~~ that employee, during the term of
7 ~~his~~ appointment as temporary deputy commissioner, ~~retain~~ retains all of the rights and all
8 of the retirement benefits to which ~~he may be~~ that employee is entitled as a classified
9 employee of the State Government.

10 Notwithstanding any other provision of law to the contrary, the Governor shall post
11 nominations to fill vacancies in the office of the commissioner of executive branch
12 departments in accordance with this section.

13 **1. Nomination of candidate to fill vacancy in the office of the commissioner.**
14 Except as provided in subsection 2, the Governor shall, within 90 days of a vacancy in the
15 office of the commissioner of an executive branch department, post the nomination of a
16 candidate for commissioner in accordance with Title 3, section 154. In the event a
17 candidate nominated to fill a vacancy in the office of the commissioner in accordance
18 with this subsection is not confirmed by the Legislature, the Governor shall, within 90
19 days of the Senate confirmation vote pursuant to Title 3, section 158, post the nomination
20 of an alternative candidate.

21 **2. Nomination of candidate to fill vacancy; Commissioner of Education.** For the
22 Commissioner of Education, appointed pursuant to Title 20-A, section 251, subsection 1,
23 the Governor shall, within 120 days of a vacancy in the office of the commissioner, post
24 the nomination of a candidate for commissioner in accordance with Title 3, section 154.
25 In the event a candidate nominated to fill a vacancy in the office of Commissioner of
26 Education in accordance with this subsection is not confirmed by the Legislature, the
27 Governor shall, within 120 days of the Senate confirmation vote pursuant to Title 3,
28 section 158, post the nomination of an alternative candidate.

29 **Sec. 2. 20-A MRSA §251, sub-§3** is enacted to read:

30 **3. Nomination to fill vacancy.** The nomination of a candidate to fill a vacancy in
31 the office of the commissioner must be made in accordance with Title 5, section 1,
32 subsection 2.'

SUMMARY

34 This amendment is the majority report of the committee. The amendment replaces the
35 bill, which is a concept draft. The amendment requires the Governor to nominate a
36 candidate for commissioner of an executive branch department, other than the
37 Department of Education, within 90 days of a vacancy in the position of commissioner
38 and, in the event a candidate nominated to fill a vacancy is not confirmed by the
39 Legislature, requires the Governor to post a nomination of an alternative candidate within
40 90 days of the Senate confirmation vote. For a vacancy in the office of the Commissioner
41 of Education, the amendment provides 120 days for the nomination to allow for the
42 required review by the State Board of Education prior to posting the nomination of a
43 candidate. In the event the candidate is not confirmed by the Legislature, the amendment

1 provides an additional 120 days for the Governor to post the nomination of an alternative
2 candidate.