MAINE STATE LEGISLATURE

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L.D. 1679

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STATE AND LOCAL GOVERNMENT

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "*H*" to H.P. 1226, L.D. 1679, "Resolve, Regarding Legislative Computer Information Systems"

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

'An Act Regarding the Legislative Computer Information Systems'

Further amend the resolve in the first paragraph after the title in the first line (page 1, line 1 in resolve) by striking out the following: 'and resolves'

Further amend the resolve by inserting after the 3rd paragraph after the title and before section 1 the following:

'Be it enacted by the People of the State of Maine as follows:'

Further amend the resolve by striking out all of sections 1 to 8 (page 1, lines 16 to 50 and page 2, lines 2 to 33 in L.D.) and inserting in their place the following:

'Sec. 1. 5 MRSA §1890-B, as amended by PL 1991, c. 340, is repealed and the following enacted in its place:

§1890-B. Misuse of State Government computer system

 1. Violation. A person is guilty of misuse of a State Government computer system if that person knowingly uses a computer system operated by a state department or agency, the Judicial Department or the Legislature:

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A. To prepare materials with the intent to expressly advocate, to those eligible to vote, for the election or defeat of any candidate for a federal office, a constitutional office, or any candidate for elective municipal, county or state office, including leadership positions in the Senate and the House of Representatives; or

B. With the intent to solicit contributions reportable under Title 21-A, chapter 13.

1-A. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Computer system" has the same meaning as in Title 17-A, section 431.

B. "Leadership positions" includes the presiding officers of each House, party leaders, the Clerk of the House and Assistant Clerk of the House and the Secretary of the Senate and the Assistant Secretary of the Senate.

2. Penalty. Misuse of a State Government computer system is a Class C crime.

4. Confidentiality. Computer programs, technical data, logic diagrams and source code related to data processing or telecommunications are confidential and are not public records as defined in Title 1, section 402, subsection 3 to the extent of the identified trade secrets. To qualify for confidentiality under this subsection, computer programs, technical data, logic diagrams and source code must:

A. Contain trade secrets as defined in Title 10, section 1542, subsection 4 held in private ownership; and

B. Have been provided to a state agency by an authorized independent vendor or contractor under an agreement by which:

(1) All trade secrets that can be protected are identified without disclosing the secret;

(2) The vendor or contractor retains all intellectual property rights in those trade secrets; and

(3) The state agency agrees to hold and use the programs, data, diagrams or source code without disclosing any identified trade secrets.

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2 **5. Public records.** Except as provided in subsection 4, any document created or stored on a State Government computer is a

4 public record and must be made available in accordance with Title 1, chapter 13 unless specifically exempted by that chapter.

6 **Sec. 2. Application.** This Act applies to employees of the executive, the judicial or the legislative branch on or after the

8 effective date of this Act.'

10 Further amend the resolve in the last paragraph before the statement of fact in the last line (page 2, line 36 in L.D.) by

12 striking out the following: "resolve" and inserting in its place the following: 'Act'

14

Further amend the bill by inserting at the end before the

16 statement of fact the following:

18 **'FISCAL NOTE**

20 This bill may increase prosecutions for Class C crimes. Sentences of more than 9 months imposed for Class C crimes must

22 be served in a state correctional institution. The cost to the State per sentence is $55,711 based upon an average length of

24 stay of one year and 10 months. The State also must reimburse counties for sentences served in county jails of 9 months or less

26 for Class C crimes.

28 The Judicial Department may require additional General Fund appropriations to cover indigent defense costs related to these

30 new cases. The amounts can not be estimated at this time. The additional workload and administrative costs associated with the

32 minimal number of new cases filed in the court system can be absorbed within the budgeted resources of the Judicial

34 Department. The collection of additional fines may also increase General Fund revenue by minor amounts.'

36

38 **STATEMENT OF FACT**

40 The amendment replaces the original bill and addresses the problem with the current law cited by the office of the Attorney

42 General, in a memorandum dated August 11, 1995. The amendment prohibits the use of the state computer system to advocate for

44 the election or defeat of any elected municipal, county or state candidate, including leadership positions, any constitutional

46 officers or federal representatives. The amendment also clarifies that any document created or stored on a State

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2   Government computer system must be made available in compliance
with the Maine Revised Statutes, Title 1, chapter 13.

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