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Date: (Filing No. H-)

STATE AND LOCAL GOVERNMENT

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1121, L.D. 1513, “An Act To Require the Maintenance of a Discontinued Public Road That Provides the Sole Access to One or More Residences”

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

'An Act To Establish the Maine Abandoned and Discontinued Roads Commission'

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

'Sec. 1. 5 MRSA §12004-I, sub-§83-A is enacted to read:

83-A.

Transportation: Maine Abandoned and Discontinued Expenses Only 23 MRSA
Roads Roads Commission §3036

Sec. 2. 23 MRSA §3036 is enacted to read:

§3036. Maine Abandoned and Discontinued Roads Commission

The Maine Abandoned and Discontinued Roads Commission, referred to in this section as "the commission," is established by Title 5, section 12004-I, subsection 83-A and operates in accordance with this section.

1. Members. The commission consists of the following 12 members:

A. One member who is an employee of the Department of Inland Fisheries and Wildlife, designated by the Commissioner of Inland Fisheries and Wildlife;

B. One member who is an employee of the Department of Agriculture, Conservation and Forestry, designated by the Commissioner of Agriculture, Conservation and Forestry;

C. One member who is an employee of the Department of Transportation, designated by the Commissioner of Transportation;

COMMITTEE AMENDMENT

1 D. One member who is an employee of the Office of the Attorney General, designated
2 by the Attorney General;

3 E. Four members appointed by the President of the Senate, who, in making the
4 appointments, shall take into consideration any recommendation made by the
5 association or organization from whose membership the appointment is made, as
6 follows:

7 (1) One member of a statewide association representing municipalities;

8 (2) One member of a statewide association representing woodland property
9 owners;

10 (3) One member of a statewide association of attorneys who has expertise in real
11 estate law; and

12 (4) One member of a land trust organization; and

13 F. Four members appointed by the Speaker of the House, who, in making the
14 appointments, shall take into consideration any recommendation made by the
15 association or organization from whose membership the appointment is made, as
16 follows:

17 (1) One member of a statewide association representing county governments;

18 (2) One member of a statewide organization representing all-terrain vehicle users
19 or snowmobile users;

20 (3) One member of a statewide association representing residents of the State
21 living on or owning property that abuts an abandoned or discontinued road or that
22 is accessible only by traveling over an abandoned or discontinued road; or, if no
23 such association exists, a resident of the State living on property that abuts an
24 abandoned or discontinued road or that is accessible only by traveling over an
25 abandoned or discontinued road; and

26 (4) One member of the general public who is a resident of the State not directly
27 affected by matters related to abandoned or discontinued roads.

28 **2. Duties.** The commission shall:

29 **A.** Consider the following:

30 (1) Property owner liability, including personal injury, property damage and
31 environmental damage liability resulting from public use of an abandoned or
32 discontinued road;

33 (2) Public easement retention over an abandoned or discontinued road, including
34 the scope of permitted and actual public use;

35 (3) Statutory terminology related to abandoned or discontinued roads; and

36 (4) The statutory process for the abandonment or discontinuation of a road,
37 including barriers to determining the legal status of a road;

38 **B.** For matters relating to abandoned and discontinued roads other than those described
39 by paragraph A, prioritize matters for consideration by the commission by determining
40 which matters related to abandoned and discontinued roads have a significant negative
41 impact, qualitatively or quantitatively, on:

- 1 (1) Owners of property that abuts an abandoned or discontinued road;
- 2 (2) Owners of property accessible only by traveling over an abandoned or
- 3 discontinued road;
- 4 (3) Recreational users of an abandoned or discontinued road;
- 5 (4) Members of the public;
- 6 (5) Municipal, county or state governments; and
- 7 (6) The physical integrity of an abandoned or discontinued road and surrounding
- 8 land;

9 C. Develop recommendations on ways to address matters considered by the
10 commission, including recommendations for statutory changes; and

11 D. Review legislation affecting abandoned or discontinued roads and provide
12 information to joint standing committees of the Legislature upon request.

13 **3. Chair.** The members of the commission shall elect from among the membership a
14 chair, who serves a 3-year term. The chair continues to hold the office until a successor is
15 elected and may serve multiple terms. The chair calls and presides over meetings of the
16 commission. In the absence of the chair, the member designated by the Commissioner of
17 Inland Fisheries and Wildlife or the member designated by the Commissioner of
18 Agriculture, Conservation and Forestry may preside over meetings.

19 **4. Term of office.** Members of the commission serve 3-year terms. A member may
20 serve after the expiration of that member's term until a successor has been appointed. A
21 member may serve multiple terms.

22 **5. Meetings.** The commission shall meet at least 3 times, but may meet no more than
23 6 times, each year.

24 **6. Subcommittees.** The commission may establish subcommittees to meet to conduct
25 the work of the commission. Subcommittees may invite persons who are not members of
26 the commission to participate in a nonvoting capacity.

27 **7. Public comment.** The commission shall accept public comment during its meetings.

28 **8. Staff support.** The Office of the Attorney General shall provide staff support to the
29 commission.

30 **9. Bylaws.** The commission may, by a majority vote of the members, adopt or amend
31 bylaws as necessary or appropriate to carry out the purposes or exercise the powers of the
32 commission. Prior to adoption or amendment of bylaws, the commission shall ask the
33 member designated by the Attorney General to review the bylaws and provide comments
34 to the commission.

35 **10. Fund established.** The Road Commission Fund is established as a nonlapsing fund
36 within the Office of the Attorney General to support the work of the commission. The fund
37 consists of any funds received from any public or private source.

38 **11. Report.** By February 1, 2023, and annually thereafter, the commission shall submit
39 a report of its activities and any recommended statutory changes to the joint standing
40 committee of the Legislature having jurisdiction over state and local government matters,
41 the joint standing committee of the Legislature having jurisdiction over agriculture,

1 conservation and forestry matters and the joint standing committee of the Legislature
 2 having jurisdiction over inland fisheries and wildlife matters. If the report includes
 3 recommended statutory changes, the committee with jurisdiction over the subject of that
 4 statute may report out a bill related to the recommendation.

5 **Sec. 3. Initial meeting.** The initial meeting of the Maine Abandoned and
 6 Discontinued Roads Commission, established pursuant to the Maine Revised Statutes, Title
 7 23, section 3036, must be called within 60 days of the effective date of this Act by the
 8 member designated by the Attorney General.

9 **Sec. 4. Initial terms.** Notwithstanding the Maine Revised Statutes, Title 23, section
 10 3036, subsection 4, of the members initially appointed to the Maine Abandoned and
 11 Discontinued Roads Commission, the following members must be appointed to an initial
 12 term of 2 years:

- 13 1. The member designated by the Commissioner of Transportation;
- 14 2. The member designated by the Attorney General;
- 15 3. The member from a statewide association representing county governments;
- 16 4. The member from a statewide association of attorneys;
- 17 5. The member from a statewide organization representing all-terrain vehicle users or
 18 snowmobile users; and
- 19 6. The member who is a member of the general public.

20 **Sec. 5. Appropriations and allocations.** The following appropriations and
 21 allocations are made.

22 **ATTORNEY GENERAL, DEPARTMENT OF THE**
 23 **Administration - Attorney General 0310**

24 Initiative: Provides funding for one Research Assistant Paralegal position and related All
 25 Other costs in the Office of the Attorney General, natural resources division to provide staff
 26 support to the Maine Abandoned and Discontinued Roads Commission and to assist the
 27 commission in the conduct of its duties.

28 GENERAL FUND	2021-22	2022-23
29 POSITIONS - LEGISLATIVE COUNT	0.000	1.000
30 Personal Services	\$0	\$59,188
31 All Other	\$0	\$3,919
32		
33 GENERAL FUND TOTAL	\$0	\$63,107

34 **Road Commission Fund N950**

35 Initiative: Provides a base allocation for the newly established Road Commission Fund
 36 program to support the work of the Maine Abandoned and Discontinued Roads
 37 Commission in the event that funds are received from public or private sources.

38 OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
39 Unallocated	\$0	\$500
40		
41 OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$500

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ATTORNEY GENERAL, DEPARTMENT OF THE		
DEPARTMENT TOTALS	2021-22	2022-23
GENERAL FUND	\$0	\$63,107
OTHER SPECIAL REVENUE FUNDS	\$0	\$500
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$63,607

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

SUMMARY

This amendment replaces the bill. It establishes the Maine Abandoned and Discontinued Roads Commission. The commission is charged with prioritizing matters related to abandoned and discontinued roads that have a significant negative impact, qualitatively or quantitatively, on residential owners of property that abuts the road, recreational users of the road, members of the public, municipal, county or state governments and the physical integrity of the road and surrounding land; developing recommendations to address the prioritized matters; recommending statutory changes; and reviewing legislation. The commission has the authority to receive funds to support the work of the commission. The commission must report to the joint standing committee of the Legislature having jurisdiction over state and local government matters, the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters and the joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters by February 1, 2023 and annually thereafter. The committees have authority to report out bills in response to the reports. The Office of the Attorney General is required to provide staff support to the commission. The amendment also adds an appropriations and allocations section.

FISCAL NOTE REQUIRED

(See attached)