

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
LEGISLATIVE RESEARCH COMMITTEE

SUMMARY REPORT  
TO THE  
ONE HUNDRED AND SIXTH LEGISLATURE

VOLUME ONE

JANUARY, 1973



STATE OF MAINE

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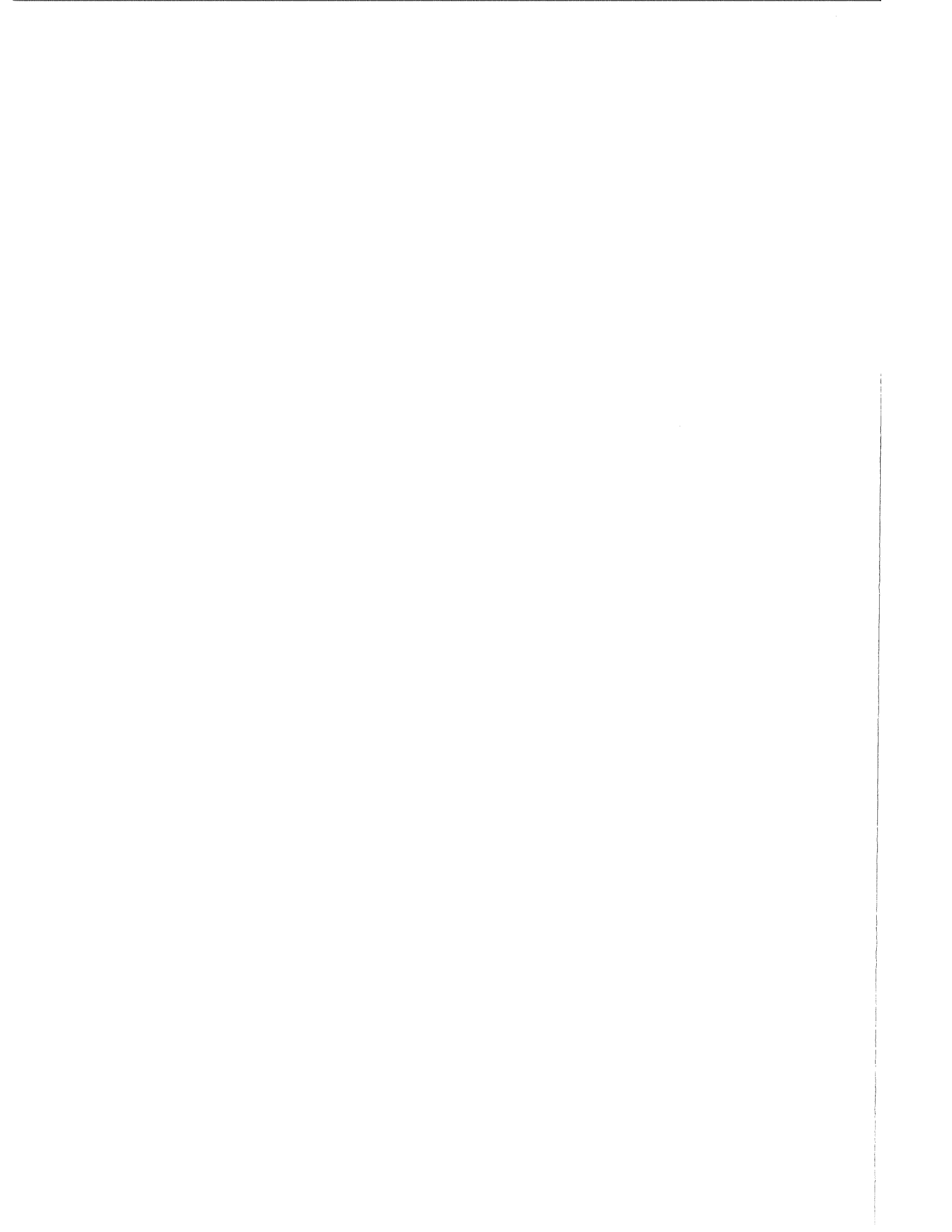
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STATE OF MAINE  
LEGISLATIVE RESEARCH COMMITTEE  
STATE HOUSE  
AUGUSTA, MAINE 04330

January 3, 1973

To the Members of the 106th Legislature:

The Legislative Research Committee hereby has the pleasure of submitting to you its report on activities for the past two years. This summary, designated as Volume I, deals with both assigned and unassigned studies and contains the findings and recommendations pursuant thereto.

The Committee was unfortunate in the loss of its original vice-chairman, the late Representative John E. Gill of South Portland. In his death on July 23, 1972, the State of Maine lost an able public servant. We of the Committee gratefully acknowledge our indebtedness to his ability and his contribution to the work of the Committee.

The Committee also wishes to acknowledge with appreciation the countless public and private individuals, organizations and agencies without whose assistance and cooperation the Committee would not have reached its conclusions.

The members of the Committee appreciate having been chosen to participate in this work and sincerely hope the results of many hours of work and devoted study transmitted here will prove beneficial to the members of the Legislature and ultimately to the citizens of the State of Maine.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "J. Sewall".

JOSEPH SEWALL, Chairman  
Legislative Research Committee



STATE OF MAINE  
LEGISLATIVE RESEARCH COMMITTEE

REPORT ON  
ACQUISITION OF STATE HIGHWAY PROPERTY  
to the  
ONE HUNDRED AND SIXTH LEGISLATURE

JANUARY, 1973  
Legislative Research Committee  
Publication 106-5



## ACQUISITION OF STATE HIGHWAY PROPERTY

WHEREAS, the impact on both public and private ownership from the acquisition of land by the State Highway Commission is significant; and

WHEREAS, hardship is often the case when citizens lose their property for little or no compensation in the process of eminent domain; and

WHEREAS, landowners are subjected to extreme pressure to transfer certain title or interest at less than fair value under municipal contracts required by the commission; now, therefore, be it

ORDERED, the House concurring, that the Legislative Research Committee be authorized and directed to study the methods and procedures employed by the State Highway Commission for acquisition of property and property rights for highway purposes; and be it further

ORDERED, that the Committee report its findings and recommendations at the next regular session of the Legislature; and be it further

ORDERED, upon final passage, that a copy of this Order be transmitted forthwith to the State Highway Commission as notice of the pending study.

SP 602	In Senate Chamber	House of Representatives
Berry	Read and Passed	Read and Passed
Cumberland	June 21, 1971	June 22, 1971
	Sent down for concurrence	In concurrence

SUBCOMMITTEE ON ACQUISITION OF STATE HIGHWAY PROPERTY

CHAIRMAN - Guy A. Marcotte

VICE CHAIRMAN - Richard N. Berry

Roland A. Gauthier

Edwin H. Greeley

Ronald S. Wight

The Legislative Research Committee was directed by the foregoing order of the 105th Legislature and charged with the responsibility of studying the methods and procedures employed by the State Highway Commission (now Maine Department of Transportation) for acquisition of property and property rights for highway purposes.

In order to gain an in-depth understanding of the methods and procedures of property acquisition by the Department, the Committee held several meetings and hearings, and met with various people to review the Department's operations in the area of acquisition and relocation assistance procedures.

A brief description of the method of operation (relating to right-of-way for major construction projects) is outlined here for clarification; after a highway project is authorized, a proposed centerline is established and physical characteristics are located related to the centerline, including buildings, property markers, utilities and other physical features of significance. At this point, the Department's Right of Way Division develops property owner reports on each parcel on the project. The report indicates owner's name, parcel location and a brief description of the property. A title search is made to determine the correct ownership of the property affected. Plans are prepared indicating the centerline and physical features, and are subsequently utilized to develop the right-of-way plans. These are the first steps in



assessing the possible impact on property owners. Additional preliminary design information is developed and a public hearing is offered prior to final location and design approval. Subsequently, sales information is obtained in the project area by the appraiser upon which he bases the value of the rights to be acquired. The appraiser then contacts the owner to discuss the usage and unique factors of the property. With this information, the appraiser determines the offer to be made to the owner. (It should be noted that procedures on state-aid projects are more simplified.) Later, Right-of-Way personnel contact the owner to explain the project, the effect of the taking, and to make an offer for the rights to be acquired. If agreement is reached, settlement is made. If no agreement is reached, then it is referred to the Land Damage Board for a determination of damages to be paid. The majority of cases are settled without a hearing before the Land Damage Board. Condemnation proceedings are followed as prescribed by statute and the majority of land acquisition is by condemnation. It should be noted that the majority of homes are acquired by negotiation.

The Land Damage Board is a separate agency and is not connected or directly related to the Maine Department of Transportation.

At a Land Damage Board hearing, the owner is given every opportunity to express his opinion, and the Board does make an effort to assist those land owners not represented by legal or

appraisal people. The Land Damage Board provides assurances that the land owners' rights are protected.

Either party may appeal the decision of the Land Damage Board to the Superior Court, if so desired.

It should be noted that in any action (taking) requiring the relocation of people, businesses, farms, non-profit organizations and/or personal property, the procedures, methods and considerations are spelled out in State statute and specified in Federal statute, as well as in Federal memorandums.

The chairman of the Subcommittee on Acquisition of State Highway Property did request and receive information from the Commissioner of Transportation on the position of the Department in respect to certain specific aspects of right-of-way acquisition. The Commissioner of Transportation also appeared before the subcommittee to respond to various questions.

One specific area of concern in this matter, was acquisition of property by local municipalities for State-initiated highway projects. A summary of municipal-State relationships in property acquisition follows:

1. On major construction projects, largely involving Federal funds, property acquisition and easements are the basic responsibility of the Maine Department of Transportation. Formal appraisals are conducted

1. Cont'd.

and fair market value paid for property acquired. On projects in urban areas the acquisition is accomplished by the Department of Transportation, but the grading and draining easements are accomplished by the municipalities.

2. On urban projects or portions of projects within existing right-of-way where no property acquisition is involved, but drainage and grading easement may be required, the towns often do obtain the easements. Usually, the impact to adjacent property is relatively minor in these instances.

3. On projects accomplished with joint State Aid funds, the acquisition of the necessary right-of-way is accomplished at the Department's division officers. Most projects in this category are simple in nature and a simplified procedure is used. The project is initiated locally and usually the property acquisition is handled at the local level. In some few cases involving minor changes in location, when the town can handle the property acquisition more expeditiously, the municipal officials do assist with the acquisition of the property. In the event one of these projects

3. Cont'd.

does require the taking of homes or businesses, or agreement cannot be reached with the owners, then the staff in the Augusta headquarters office, in the form of appraisers, the right-of-way engineering people and the legal people, if necessary, are used to acquire the necessary rights.

4. Under the County Bridge Act, bridges built under the provisions of MRSA T23, Section 452, do require some technical assistance of the Maine Department of Transportation's Right of Way Division, such as research, preparation of documents, and appraisals where necessary. The towns have the responsibility for the acquisition of all rights necessary in this instance.

The matter of responsibility for power and maintenance costs for street lighting was also given consideration by the subcommittee. Adequate street lighting is not altogether a matter of traffic control, but does involve, to a considerable extent, public safety (crime in the streets, etc.) and to some extent the general business activity in the area. It should be noted that lighting on highway projects is agreed upon with the municipality before the installation of lighting and that this is in an area where the municipalities generally have the responsibility for highway maintenance activities.

As a result of the Relocation Assistance Acts passed by Maine Legislature, individuals, families, farms, businesses, and non-profit organizations displaced by highway construction are given considerable assistance in relocating. This is particularly true in instances such as follows:

1. Any person who is displaced from a dwelling, actually owned and occupied by such person, may receive payment not in excess of \$15,000. This requires that the displaced person must have owned and occupied the dwelling for not less than 180 days prior to the initiations of negotiations for the acquisition of property. This payment is in addition to payments otherwise authorized, including payments for the actual value of the property.
2. Any displaced tenant or person who is in occupancy between 90 and 180 days prior to initiation of negotiations, who qualifies under the law, may receive an amount necessary to make a down payment on a decent, safe and sanitary dwelling. The amount shall not exceed \$4,000, and if the amount exceeds \$2,000, such person must match all in excess of \$2,000 in making the down payment. This provides significant assistance to those having difficulty in raising a down payment.

3. Any affected home owner or tenant may receive a moving expense allowance of up to \$300 and a dislocation allowance of \$200 for a self move. This applies to any displaced person eligible for payments under the law, who is displaced from a dwelling and who elects to accept such payment.

It should be recognized that there are certain minimal procedures established in acquiring property and a high degree of uniformity has been achieved. In the event that town funds are used to acquire right-of-way or easements, the Maine Department of Transportation does not attempt to supervise the acquisition or approve the amounts paid to the property owners. Municipal involvement in right-of-way acquisition is generally limited, however, to activities of relatively minor impact.

The overall conclusions of the Subcommittee on Acquisition of State Highway property is a finding that the methods, policies and procedures employed by the Maine Department of Transportation are both reasonable and workable; and no additional legislation is suggested at this time.

The following are attached for reference purposes:

1. An Act Relating to Relocation Assistance and Land Acquisition in State Highway Projects. Chapter 333 of the public laws of 1971.
2. Relocation Procedures.
3. Breakdown of negotiated settlements.
4. Comparison of offers and amounts paid.

APPROVED

CHAPTER

STATE OF MAINE MAY 20 '71

333

BY GOVERNOR

PUBLIC LAW

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-ONE

S. P. 573 — L. D. 1717

AN ACT Relating to Relocation Assistance and Land Acquisition in State  
Highway Projects.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, a substantial number of families would be displaced or relocated, or both, prior to the normally effective date of this legislation; and

Whereas, denial of increased benefits to those displaced persons would create an inequity; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. R. S., T. 23, c. 3, sub-c. VII, additional. Chapter 3 of Title 23 of the Revised Statutes, as amended, is further amended by adding a new subchapter VII, to read as follows:

SUBCHAPTER VII

RELOCATION ASSISTANCE

§ 241. Purpose

The prompt and equitable relocation and reestablishment of persons, businesses, farm operations and nonprofit organizations displaced as a result of state or state aid highway projects is necessary to insure that a few individuals do not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole. Relocation payments and advisory assistance are to be made available to all persons so displaced in accordance with this subchapter.

§ 242. Definitions

As used in this subchapter, the following words and phrases shall have the following meanings:

1. Average annual net earnings. "Average annual net earnings" shall mean  $\frac{1}{2}$  of any net earnings of the business or farm operation before federal or state income taxes during the 2 taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for such project or during such other period as the com-

mission determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse or his dependents during such period.

2. Business. "Business" shall mean any lawful activity excepting a farm operation conducted primarily:

A. For the purchase, sale, lease and rental of personal and real property and for the manufacture, processing or marketing of products, commodities or any other personal property;

B. For the sale of services to the public; or

C. By a nonprofit organization; or

D. Solely for the purposes of section 244, for assisting in the purchase, sale, resale, manufacture, processing or marketing of products, commodities, personal property or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

3. Displaced person. "Displaced person" shall mean any person who, on or after the effective date of this Act, moves from real property, or moves his personal property from real property as a result of the acquisition of such real property in whole or in part, or as the result of the written order of the commission to vacate real property acquired in whole or in part, for a state or state aid highway; and solely for the purposes of section 244, as a result of the acquisition of or the written order of the commission to vacate other real property on which such person conducts a business or farm operation, for such program or project.

4. Existing patronage. "Existing patronage" shall mean the average dollar volume of business transacted during the 2 taxable years immediately preceding the year in which the business is relocated.

5. Farm operation. "Farm operation" shall mean any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

6. Federal agency. "Federal agency" shall mean any department, agency or instrumentality in the executive branch of the Federal Government, except the National Capital Housing Authority, any wholly-owned government corporation, except the District of Columbia Redevelopment Land Agency, and the Architect of the Capitol, the Federal Reserve Banks and branches thereof.

7. Mortgage. "Mortgage" shall mean such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of this State, together with the credit instruments, if any, secured thereby.

8. Person. "Person" shall mean any individual, partnership, corporation or association.

9. Project. "Project" shall mean any highway construction undertaken by the State of Maine by its State Highway Commission on a state or state aid highway.

10. State agency. "State agency" shall mean any department, agency or instrumentality of this State or any political subdivision of this State.



§ 243. Relocation assistance advisory services

1. Relocation assistance advisory program. Whenever the acquisition of real property for a project will result in the displacement of any person on or after the effective date of this Act, the commission shall provide a relocation assistance advisory program for displaced persons which shall offer the services described in subsection 2. If the commission determines that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, the commission may offer such person relocation advisory services under such program.

2. Program to include. Each relocation assistance advisory program required by subsection 1 shall include such measures, facilities or services as may be necessary or appropriate in order to:

A. Determine the need, if any, of displaced persons, for relocation assistance;

B. Provide current and continuing information on the availability, prices and rentals of comparable decent, safe and sanitary sales and rental housing, and of comparable commercial properties and locations for displaced businesses;

C. Assure that, within a reasonable period of time, prior to displacement there will be available, to the extent that can reasonably be accomplished, in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced, decent, safe and sanitary dwellings, equal in number to the number of and available to such displaced persons who require such dwellings and reasonably accessible to their places of employment;

D. Assist a displaced person displaced from his business or farm operation in obtaining and becoming established in a suitable replacement location;

E. Supply information concerning federal and state housing programs, disaster loan programs and other federal or state programs offering assistance to displaced persons; and

F. Provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to relocation.

3. Coordination. The commission shall coordinate relocation activities with project work, and other planned or proposed governmental actions in the community or nearby areas which may affect the carrying out of relocation assistance programs.

§ 244. Moving and related expenses

1. Payments. Whenever the acquisition of real property for a project will result in the displacement of any person on or after the effective date of this Act, the commission shall make a payment to any displaced person, upon proper application on forms approved by the commission, for

A. Actual reasonable expenses in moving himself, his family, business, farm operation or other personal property;

B. Actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the commission; and

C. Actual reasonable expenses in searching for a replacement business or farm.

2. Moving expense allowance. Any displaced person eligible for payments under subsection 1 who is displaced from a dwelling and who elects to accept the payments authorized by subsection 1 may receive a moving expense allowance, determined according to a schedule established by the commission, not to exceed \$300 and a dislocation allowance of \$200.

3. Fixed payment. Any displaced person eligible for payments under subsection 1 who is displaced from his place of business or from his farm operation and who elects to accept the payment authorized by this subsection in lieu of the payment authorized by subsection 1 may receive a fixed payment in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall be not less than \$2,500 nor more than \$10,000. In the case of a business no payment shall be made under this subsection unless the commission is satisfied that the business:

A. Cannot be relocated without a substantial loss of its existing patronage, and

B. Is not part of a commercial enterprise having at least one other establishment not being acquired by the State, which is engaged in the same or similar business.

#### § 244-A. Replacement housing for home owner

1. Owner. In addition to payments otherwise authorized, the commission shall make an additional payment not in excess of \$15,000 to any displaced person who is displaced from a dwelling actually owned and occupied by such displaced person for not less than 180 days prior to the initiation of negotiations for the acquisition of the property. Such additional payment shall include the following elements:

A. The amount, if any, which when added to the acquisition cost of the dwelling acquired by the State, equals the reasonable cost of a comparable replacement dwelling which is a decent, safe and sanitary dwelling adequate to accommodate such displaced person, reasonably accessible to public services and places of employment and available on the private market. All determinations required to carry out this paragraph shall be made in accordance with standards established by the commission.

B. The amount, if any, which will compensate such displaced person for any increased interest costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such amount shall be paid only if the dwelling acquired by the State was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than 180 days prior to the initiation of negotiations for the acquisition of such dwelling. Such amount shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling, over the remainder term of the mortgage on the acquired dwelling, reduced to discounted present value. The discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located.

C. Reasonable expenses incurred by such displaced person for evidence of title, recording fees and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

2. Replacement dwelling. The additional payment authorized by subsection 1 shall be made only to such a displaced person who purchases and occupies a replacement dwelling which is decent, safe and sanitary not later

than the end of the one-year period beginning on the date on which he receives from the State final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

3. Mortgage insurance. The commission is authorized to negotiate with any federal agency for any mortgage insurance protection available to a displaced person to insure any mortgage on a comparable replacement dwelling executed by a displaced person assisted under this section.

#### § 244-B. Replacement housing for tenants and certain others

In addition to amounts otherwise authorized by this subchapter, the commission shall make a payment to or for any displaced person displaced from any dwelling not eligible to receive a payment under section 244-A which dwelling was actually and lawfully occupied by such displaced person for not less than 90 days prior to the initiation of negotiations for acquisition of such dwelling. Such payment shall be either:

1. Lease or rent. The amount necessary to enable such displaced person to lease or rent for a period not to exceed 4 years, a decent, safe and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities, and reasonably accessible to his place of employment, but not to exceed \$4,000, or

2. Purchase. The amount necessary to enable such person to make a down payment, including incidental expenses described in section 244-A, subsection 1, paragraph C, on the purchase of a decent, safe and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities, but not to exceed \$4,000, except that if such amount exceeds \$2,000, such person must equally match any such amount in excess of \$2,000 in making the down payment.

#### § 245. Administration

The State Highway Commission shall carry out the functions of this subchapter either with its personnel or through any federal, state or municipal governmental agency having an established organization for conducting relocation assistance programs; and is authorized and empowered to make all contracts and do all things necessary to fulfill the intent and purposes of this subchapter.

#### § 245-A. Hardship

If the commission deems a hardship case exists, it may make any payment authorized by this subchapter, in whole or in part to the displaced person affected in advance of moving, conveying or other acquisition of title or possession by the State.

#### § 245-B. Rules and regulations

The commission may adopt rules and regulations consistent with this subchapter as it deems necessary or appropriate to carry out this subchapter and to include the standards of "decent, safe and sanitary."

#### § 246. Appeal

1. Land Damage Board. If the commission is unable to negotiate any payment authorized under section 244, subsection 1, paragraph A, or section 244-A, subsection 1, at what it deems to be a reasonable amount, either the commission or the displaced person, or both, may apply to the Land Damage

Board in writing for a determination and assessment. The proceedings shall then be the same as in condemnation proceedings under subchapter III.

2. Chairman of Highway Commission. Any person aggrieved by a determination as to eligibility for any payment, except those enumerated in subsection 1, authorized by this subchapter may have his application reviewed by the Chairman of the Maine State Highway Commission or his delegate whose determination shall be final and nothing herein shall be construed to give any person a cause of action in the Land Damage Board or the Superior Court.

#### § 247. Limitation

Nothing contained in this subchapter shall be construed as creating in any eminent domain proceeding an element of damages not in existence on the date of enactment hereof.

Any payments authorized under this subchapter and received by a displaced person shall not be considered income for purposes under the Internal Revenue Code, or resources of any recipient of public assistance.

Sec. 2. R. S., T. 23, § 153-A, additional. Title 23 of the Revised Statutes is amended by adding a new section 153-A, to read as follows:

#### § 153-A. Housing for displaced persons

1. Purchase. Where a proposed highway project cannot proceed to actual construction because replacement housing is not available to displaced persons and cannot otherwise be made available, the commission on behalf of the State of Maine may acquire by purchase such real property as may be necessary to construct new housing thereon, rehabilitate existing housing thereon or move existing housing thereon.

2. Acquisition interpreted. Acquisition of necessary replacement housing sites, rehabilitation, relocation or construction of replacement housing shall be an expense incidental to construction or reconstruction of a highway and shall not be deemed to be highway right-of-way and need not be within the limits of a construction project.

3. Construction. The commission may construct, relocate or rehabilitate on any housing sites acquired under subsection 1 such housing as may be necessary for any person displaced by any highway construction or reconstruction undertaken by the commission.

4. Sale. The commission on behalf of the State of Maine may sell and convey the interest of the State acquired as replacement sites with the improvements thereon and may lease such interests in such property pending sale. Proceeds shall be credited to the project funds from which the purchase, rehabilitation or construction expenditures were made.

Sec. 3. R. S., T. 23, § 154, amended. Section 154 of Title 23 of the Revised Statutes, as amended, is further amended by adding at the end a new paragraph, to read as follows:

If a condemnation proceeding is instituted and then abandoned, the owner of any right, title or interest in any real property included in said proceeding shall be reimbursed by the commission for his reasonable attorney, appraisal and engineering fees, actually incurred because of the condemnation proceedings.

Sec. 4. R. S., T. 23, §§ 154-A - 154-E, additional. Title 23 of the Revised Statutes is amended by adding 5 new sections, 154-A, 154-B, 154-C, 154-D and 154-E, to read as follows:

§ 154-A. Fair market value adjustment

Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining just compensation for the property.

§ 154-B. Coercive action

In no event shall the commission either advance the time of condemnation, or defer negotiations or condemnation or take any other action coercive in nature, in order to compel an agreement on the price to be paid for property or property rights.

§ 154-C. Uneconomic remnants

If the acquisition of only part of a property would leave its owner with an uneconomic remnant, the commission shall offer to acquire the entire property and such remnant may be acquired by purchase or condemnation.

§ 154-D. Notice to vacate

No person lawfully occupying real property shall be required to move from a dwelling, or move his business or farm operation without at least 90 days written notice from the commission of the date by which such move is required.

§ 154-E. Improvements

For the purpose of determining the just compensation to be paid for any building, structure or other improvement acquired, such building, structure or other improvement shall be deemed to be part of the real property acquired notwithstanding the right or obligation of a tenant, as against the owner of any other interest in the real property, to remove such building, structure or improvement at the expiration of his term, and the fair market value which such building, structure or improvement contributes to the fair market value of the real property to be acquired, or the fair market value of such building, structure or improvement for removal from the real property, whichever is the greater, shall be paid to the tenant therefor in accordance with the terms and provisions otherwise provided in this section.

Payments under this section shall not result in duplication of any payments otherwise authorized by this subchapter. No such payment shall be made unless the owner of the land involved disclaims all interest in the improvement of the tenant. In consideration for any such payment, the tenant shall assign, transfer and release to the State all his right, title and interest in and to such improvements. Nothing in this section shall be construed to deprive the tenant of any rights to reject payment under this section and to obtain payment for such property interests in accordance with applicable law, other than this section.

Sec. 5. R. S., T. 23, §§ 160, 161, additional. Title 23 of the Revised Statutes is amended by adding 2 new sections, 160 and 161, to read as follows:

§ 160. Property management

Any property taken or acquired for highway purposes may be leased, let or rented by the commission to a displaced person pending advantageous use for highway purposes. The commission may renovate and maintain property pending such advantageous use. The proceeds from leasing, letting or renting such property shall be credited to the fund from which payment was made

for the acquisition. The consideration paid by the tenant for occupancy shall not exceed the fair rental value of the property based on short-term occupation.

§ 161. Incidental expense payments

1. Reimbursement. The commission, as soon as practicable after the date of payment of just compensation, shall reimburse the owner from whom land or rights in land were acquired for highway purposes, to the extent the commission deems fair and reasonable, for expenses such owner necessarily incurred for:

A. Recording fees, transfer taxes and similar expenses, if any, incidental to conveying such property to the State;

B. Penalty costs for prepayment of any preexisting recorded mortgage entered into in good faith encumbering such real property; and

C. The pro rata portion of real property taxes paid which are allowable to a period subsequent to the date of vesting title in the State, or the effective date of possession of such real property by the State, whichever is earlier.

2. Determination. Any determination by the commission in the administration of this section shall be final and nothing herein shall be construed to give any person a cause of action in the Land Damage Board or the Superior Court.

Sec. 6. R. S., T. 23, §§ 211 - 222, repealed. Sections 211 to 222 of Title 23 of the Revised Statutes, as enacted by section 1 of chapter 207 of the public laws of 1969, are repealed.

Sec. 7. Application. This Act shall be retroactive to January 2, 1971, for the purpose of providing the increased benefits to displaced persons caused by projects initiated after that date.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

\_\_\_\_\_  
IN HOUSE OF REPRESENTATIVES,.....1971

Read three times and passed to be enacted.

.....*Speaker*

\_\_\_\_\_  
IN SENATE,.....1971

Read twice and passed to be enacted.

.....*President*

\_\_\_\_\_  
Approved.....1971

.....*Governor*

## Relocation Procedures

### Conceptual Stage (Prior to final location approval)

1. Relocation personnel go to proposed project to determine the number of dwellings, business and farms that may be affected and might require relocation assistance.
2. Relocation personnel determine availability of relocation housing that may be needed to fill the requirements of those to be displaced by highway project.
3. Findings as a result of above surveys are submitted to the federal government along with the assurances that displaced home owners and tenants will be able to obtain decent, safe and sanitary replacement housing at a price within their means.
4. The above information is made available to the State Highway Commission's Project Scheduling Group.

### Right of Way Stage (Following public hearing and location approval)

1. An inventory is made of actual housing needs of individuals on the project. Such information includes the number of people living in each home or apartment, number, type and size of rooms, what the rooms contain, and other pertinent information.
2. An inventory is made of functionally comparable replacement housing. The SHC certifies to the Federal Highway Administration that adequate replacement housing is available.
3. Inventory of functionally comparable replacement housing is kept current for those displacees requesting relocation assistance.
4. SHC right of way agents negotiate for acquisition of homes. Negotiators inform property owners of state's offer.
5. Relocation assistance officer contacts the home owners and tenants within a few days of the R/W negotiator's contact. He explains to the owners and tenants eligibility requirements and payment procedures and also tells him what aid is available to him under the relocation program.
  - If the price to be paid for the house is less than the cost of an available functionally comparable replacement, the owner is eligible for a supplement of up to \$15,000 to pay the difference. This amount to be determined by the state.
  - Actual reasonable expenses for moving (and temporary storage, if needed) personal property.
  - Up to \$300 for those who accept a lump sum furniture-moving payment in lieu of actual moving cost, plus a \$200 dislocation allowance.
  - Rent supplement of up to \$4,000 over four years.

- Up to \$4,000 for the displaced renter who has occupied a dwelling more than 90 days and decides to make a down payment on the purchase of replacement housing, providing that all in excess of \$2,000 is matched by an equal investment on his part.
- Full reimbursement of reasonable closing costs, but not brokerage or insurance fees, paid by eligible displaced persons who bought replacement houses after January 2, 1971.
- Difference in interest rates between old and new home loan is reimbursable.

Business owners displaced for highway purposes are aided by:

- Actual reasonable expenses for moving the personal property on the business premises.
- Actual direct loss of tangible personal property in moving or discontinuing a business.
- Actual reasonable expenses, up to \$500 for searching for a replacement business.
- Either actual moving expenses paid for a licensed, bonded mover or a negotiated self-move allowance not greater than the lower of two bids obtained by the state from such movers.
- If it is found that a business cannot be relocated without a substantial loss of patronage, and that it is not part of a chain, and that it contributes materially to the displaced proprietor's income, he can be given \$2,500 to \$10,000 computed on average annual net earnings of the two previous years. This payment is in lieu of moving expenses.

6. The property owner or tenant is informed of the appeal procedures he should follow if he is not satisfied with the offer made.

7. The property owner or tenant is informed of all the services available to him under the relocation program, such as:

- Assistance in completing application forms for payments.
- Current and continuing information about replacement housing.
- Information about all state and federal agencies that might be helpful in providing additional aid.
- Services to minimize hardships, such as providing transportation in connection with finding relocation housing if no personal transportation is available.



8. Property owners and tenants are notified that they will not be required to move prior to 90 days after initiation of negotiation for property. They are also notified, after the state has control of the property, that they will receive at least 30 days notice prior to the actual vacating date.

#### Legislation Dates

August 23, 1968 — First federal relocation assistance became law.

April 28, 1969 — First Maine relocation legislation was passed to put state in conformance with federal law. (Made retroactive to date of federal law.)

January 2, 1971 — Original federal relocation act provisions were broadened to provide more liberal payments and increased the scope of relocation assistance.

May 20, 1971 — Maine relocation law was revised to put state in conformance with new federal law. (Made retroactive to date of new federal law.)

SIX YEAR BREAKDOWN OF NEGOTIATED SETTLEMENTS

Year	<u>Interstate</u>			<u>Primary</u>			<u>Secondary</u>		
	<u>Total Parcels Acquired</u>	<u>No. Settled</u>	<u>% Settled</u>	<u>Total Parcels Acquired</u>	<u>No. Settled</u>	<u>% Settled</u>	<u>Total Parcels Acquired</u>	<u>No. Settled</u>	<u>% Settled</u>
1965	117	84	72%	274	211	77%	361	308	85%
1966	152	109	72%	414	334	81%	394	332	84%
1967	89	70	79%	553	430	78%	517	380	74%
1968	354	229	65%	223	172	77%	312	249	80%
1969	80	15	19%	384	220	57%	156	101	65%
1970	81	35	43%	239	143	60%	267	161	60%
<u>STATE, STATE AID, BRIDGE &amp; OTHERS</u>							<u>L.S.F. (1966 Only)</u>		
1965	817	792	97%				32	27	84%
1966	733	709	97%						
1967	531	508	96%						
1968	672	626	93%						
1969	362	331	91%						
1970	483	439	91%						

OVERALL NEGOTIATED SETTLEMENTS FOR ALL TYPE PROJECTS AS OF DEC. 31, 1970

<u>Year</u>	<u>Total Parcels</u>	<u>Total Parcels Settled to Jan. 1, 1971</u>	<u>% of Parcels Settled by Negotiations</u>
1965	1569	1395	88.91%
1966	1725	1511	87.59%
1967	1690	1378	81.54%
1968	1561	1252	80.20%
1969	982	667	67.92%
1970	1070	778	72.71%

Overall Percent Settlements, 6 Year Average = 79.81%

SIX YEAR RECORDS

COMPARISON OF OFFERS AND AMOUNTS PAID

<u>Year</u>	<u>LAND DAMAGE BOARD</u>			<u>COURT</u>		
	<u>Total Offers</u>	<u>Total Awards</u>	<u>No. of Awards Involved</u>	<u>Total Offers</u>	<u>Total Awards</u>	<u>No. of Awards Involved</u>
1965	\$ 247,277.00	\$ 326,182.00	215	\$ 85,103.00	\$ 139,370.00	36
1966	118,562.00	152,106.00	107	96,251.00	139,461.00	32
1967	141,264.00	174,148.00	116	70,255.00	125,870.00	15
1968	239,450.00	304,120.00	154	49,030.00	82,705.00	13
1969	380,330.00	503,235.00	123	56,125.00	129,300.00	9
1970	458,512.00	577,617.00	130	79,690.00	106,350.00	15

ADMINISTRATIVE SETTLEMENTS

<u>Year</u>	<u>Total Offers</u>	<u>Amount Paid</u>	<u>No. of Parcels</u>
* 1969	\$ 442,426.00	\$ 563,264.00	58
* 1970	155,845.00	170,043.00	50

\* Only two years of records compiled