

MAINE STATE LEGISLATURE

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1

L.D. 1637

2

(Filing No. H-413)

3

STATE OF MAINE

4

HOUSE OF REPRESENTATIVES

5

112TH LEGISLATURE

6

FIRST REGULAR SESSION

7

COMMITTEE AMENDMENT "A" to H.P. 1128, L.D.
1637, Bill, "AN ACT to Adjust Bridge Capital and
Maintenance Responsibilities."

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10 Amend the bill by striking out everything after
11 the enacting clause and inserting in its place the
12 following:

13 'Sec. 1. 23 MRSA c. 9, sub-c. III, as amended,
14 is repealed.

15 Sec. 2. 23 MRSA c. 9, sub-c. IV, as amended, is
16 repealed.

17 Sec. 3. 23 MRSA c. 9, sub-c. V, first 2 lines
18 are repealed and the following enacted in their
19 place:

20

SUBCHAPTER V

21

BRIDGES OF HISTORIC SIGNIFICANCE

22

23 Sec. 4. 23 MRSA §601, as amended by PL 1971, c.
593, §22, is repealed.

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26 Sec. 5. 23 MRSA §§602 and 603 are enacted to
read:

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§602. Finding of fact

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The Legislature finds that it is in the best in-
terest of the State that bridges with historic sig-
nificance be maintained or improved as necessary by
the State. These bridges are of historic importance
due to their unique construction combined with their
antiquity. Should it become necessary to bypass any
of these structures or to replace them with modern

1 structures, the Legislature further finds that the
2 provisions of subchapter I and subchapter VII shall
3 apply.

4 §603. Management

5 The State shall be responsible for the management
6 of and all costs for maintenance and rehabilitation
7 for the following historic bridges: Lovejoy Bridge,
8 Andover; Robyville Bridge, Corinth; Hemlock Bridge,
9 Fryeburg; Bennett Bridge, Lincoln Plantation;
10 Watson's Bridge, Littleton; Artist's Bridge, Newry;
11 Lowe's Bridge, Sangerville-Guilford; Babb's Bridge,
12 Windham-Gorham; Wire Bridge, New Portland; Porter
13 Bridge, Porter-Parsonsfield; and Bailey Island
14 Bridge, Harpswell.

15 The commissioner shall, from time to time, make
16 recommendations to the Legislature relating to addi-
17 tions to or deletions from the list in this section.
18 The commissioner may establish such guidelines as may
19 be necessary and may make recommendations either on
20 his own initiative or upon petition by any party.

21 Sec. 6. 23 MRSA c. 9, sub-c. VI, as amended, is
22 repealed.

23 Sec. 7. 23 MRSA c. 9, sub-c. VII is enacted to
24 read:

25 SUBCHAPTER VII

26 LOCAL BRIDGES

27 §608. Findings of fact

28 The Legislature makes a finding of fact that
29 there are many bridges on town ways for which the
30 State has responsibility and many bridges on
31 state-aid highways for which towns have responsibili-
32 ty. The Legislature finds that it is in the best inter-
33 est of the State that responsibility for bridges

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1 should coincide with the responsibility for adjacent
2 roadway.

3 The Legislature makes a further finding of fact
4 that bridge capital improvement programs, for which
5 the towns have a logical responsibility, should re-
6 fect the town's ability to pay, the relative use of
7 bridges and the protection of investment in bridges.

8 The Legislature makes a further finding of fact
9 that towns lack the technological capability to ade-
10 quately maintain major bridges. Towns should main-
11 tain all minor bridges and all unimproved major
12 bridges that exist on town roads. The State should
13 maintain all state bridges and all improved town ma-
14 ior bridges having reasonable levels of traffic.

15 §608-A. Definitions

16 As used in this subchapter, unless otherwise in-
17 dicated, the following terms have the following mean-
18 ings.

19 1. Bridge. "Bridge" means a structure designed
20 to convey a public road or highway over a physical
21 barrier or obstacle such as other roads, highways,
22 railroads or water. "Bridge" shall be limited to
23 structures designed principally for the use of carry-
24 ing motor vehicles and must be larger than culverts.

25 2. Capital improvement. "Capital improvement"
26 means to create, add to or restore structural or
27 functional capacity. The actual work activities of
28 bridge capital improvement are often referred to as
29 construction for a new bridge replacement of an ex-
30 isting bridge, and rehabilitation of an existing
31 bridge. Rehabilitation differs from maintenance in
32 that it makes comprehensive structural or functional
33 improvements that impact service ability for a rela-
34 tively long period of time, whereas similar mainte-
35 nance is restricted to noncomprehensive repairs to
36 individual members or isolated areas. Capital im-

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1 provement shall include the cost of project develop-
2 ment, construction, inspection and related supervi-
3 sion and administration. Capital improvement also
4 includes the costs necessary for the removal or elim-
5 ination of unnecessary structures.

6 3. Culvert. A "culvert" means any structure
7 whose span is less than 10 feet. Multiple culverts
8 with a combined opening of less than 80 square feet
9 shall also be defined as culverts and those with a
10 combined opening of 80 square feet or greater shall
11 be defined as a bridge.

12 4. Local bridges. "Local bridges" means bridges
13 located on town ways or state-aid highways. Excluded
14 from this subchapter are railroad bridges, bridges
15 over the Maine Turnpike, the Interstate Highway Sys-
16 tem and bridges on federally designated highways.

17 5. Logarithm. "Logarithm" means common or base
18 ten.

19 6. Maintenance. "Maintenance" means the work
20 activity necessary to preserve the structure to its
21 existing structural or functional capacity and integ-
22 riety and to arrest deterioration of its components.
23 Maintenance is not intended to increase or fully re-
24 store structural or functional capacity. Maintenance
25 is performed to insure safety of the user or the
26 structure in response to vehicular accident damage,
27 flood damage, ice damage or unanticipated component
28 failure. More often maintenance is scheduled for
29 routine operations or to address limited deficiencies
30 found in periodic inspections.

31 7. Major bridge. A "major bridge" means any
32 bridge larger than a minor bridge.

33 8. Minor bridge. A "minor bridge" means any
34 bridge with combined spans of less than 25 feet, ex-
35 cept in the case of concrete T-beam bridges and steel
36 stringer bridges where structures with spans of less

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1 than 20 feet shall be considered minor bridges.

2 9. Responsibility. "Responsibility" for capital
3 improvement or maintenance shall be determined based
4 upon the historic records relating to the original
5 construction of individual bridges maintained by the
6 department and upon the guidelines established by the
7 department in section 608-B. In the event that re-
8 sponsibility cannot be determined from records, or is
9 in dispute, responsibility shall be the same as the
10 responsibility for the adjacent roadway.

11 10. Span. "Span" means to distinguish among ma-
12 ajor bridges, minor bridges and culverts. "Span"
13 shall always be measured perpendicular to the center-
14 line of the bridge opening. For structures with sup-
15 ports, "span" means the greatest horizontal distance
16 between front faces of extreme abutments. For ring
17 structures, "span" means the greatest horizontal
18 opening. For arches, "span" means greatest horizon-
19 tal distance between springing lines.

20 When the proper capital improvement for a structure
21 is judged to be replacement, the "span" used to de-
22 termine town responsibility shall be that of the re-
23 placement structure.

24 11. Time of approval. "Time of approval" means
25 the date on which the town approves the preliminary
26 design and authorizes the improvement.

27 12. Town. "Town" means any unit of municipal
28 government, including, towns, cities, plantations and
29 unorganized townships. With the exception of the
30 Maine Turnpike Authority, departments or bureaus of
31 State Government and quasi-independent agencies or
32 boards who are responsible for bridges on public
33 highways shall be treated as towns and for the pur-
34 poses of determining cost sharing in section 609-B
35 the average town valuation in the State shall be
36 used.

1 13. Valuation. "Valuation" means valuation
2 based upon 100% of the current market value as certi-
3 fied and filed by the State Tax Assessor and in ef-
4 fect at the time of approval by the town.

5 §608-B. Transfer

6 On and after July 1, 1986, bridges determined to
7 be of satisfactory condition shall become the respon-
8 sibility of the unit of government that is responsi-
9 ble for the adjacent roadway, except for the excep-
10 tions in section 603. The State shall be responsible
11 for all such bridges on state and state-aid highways
12 and towns shall be responsible for all such bridges
13 on town ways, except for bridges over the Maine Turn-
14 pike and Interstate Highway System.

15 The guidelines for determining satisfactory condi-
16 tion shall be determined by the department. Prior
17 to adoption of these guidelines, the department shall
18 offer an opportunity for a public hearing or hear-
19 ings.

20 The department shall inform each town or county
21 in writing of its determination regarding satisfacto-
22 ry condition of bridges. Within 30 days of receipt
23 of this notice, the town or county may petition the
24 department to hold a public hearing and after the
25 hearing the department shall issue its decision which
26 shall be final.

27 §608-C. Capital improvement candidates

28 On and after July 1, 1986, the department shall
29 biennially prepare lists of bridges eligible for im-
30 provement under this subchapter, arranged in priority
31 order. The department shall offer to the towns an
32 opportunity to improve bridges based inasmuch as is
33 practical on those lists. Any town, county or the
34 State may petition to the department, based on the
35 lists prepared under this section, to improve a
36 bridge under this subchapter.

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1 §608-D. Preliminary engineering

2 The department shall make surveys and investiga-
3 tions it determines necessary for improving any
4 bridge under this subchapter and shall be the sole
5 arbiter as to whether and in what manner any bridge
6 shall be improved. The department shall conduct the
7 preliminary engineering necessary to estimate the
8 cost for the improvement.

9 §609. Approval to proceed

10 The department shall inform the town or county of
11 the estimated cost of the bridge improvement, includ-
12 ing their estimated share of the cost. The town may
13 either cancel the improvement request or issue ap-
14 proval to proceed. Approval to proceed shall be ac-
15 companied by initial funding. Town and county per-
16 centages of cost become fixed at this time. After
17 town officials are authorized to raise the local
18 share of the estimated cost of the bridge improve-
19 ment, the department shall proceed with the necessary
20 engineering and other work. The department shall se-
21 lect the appropriate construction procedure in ac-
22 cordance with standard procedures.

23 §609-A. County commissioners authorized to borrow

24 County commissioners are authorized to raise
25 funds by borrowing reasonable sums as may be neces-
26 sary to carry out this subchapter. Any loan entered
27 into by the county commissioners shall be a legal
28 debt of the county whose credit is pledged under this
29 law. All loans made by the county commissioners un-
30 der this law are excepted from the laws of the State
31 limiting the borrowing capacity of counties.

32 §609-B. Cost sharing

33 1. Cost. The cost of all capital improvements
34 for bridges on the state-aid system for which the

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1 State is responsible shall be borne by the State.
2 The cost of all capital improvements for bridges on
3 the town-way system shall be borne jointly by the
4 State and the town and, at times, the county. The
5 cost of initial capital improvements for bridges on
6 the state-aid system for which the town is responsi-
7 ble and found to be not in satisfactory condition
8 shall be borne jointly by the State and the county.
9 The effect of federal funds shall be used to uniform-
10 ly reduce state and local cost.

11 2. Procedure to determine percentages paid by
12 towns. The following procedure shall be applied to
13 determine the percentages paid by the town or towns.

14 A. To provide county assistance for the more
15 significant bridges on the town-way system, the
16 town's share for bridge improvements as calcu-
17 lated for bridges on the town-way system shall be
18 based on 80% of the estimated cost of the im-
19 provement in those cases where all of the follow-
20 ing criteria are met:

21 (1) The bridge is a major bridge as defined
22 in this subchapter;

23 (2) Traffic on the bridge exceeds the medi-
24 an average traffic for bridges on townways;
25 and

26 (3) The tax rate exceeds 10 mills, caused
27 by dividing the total cost of the capital
28 improvement by the town valuation.

29 B. The county in which the town is located shall
30 bear a fixed 20% of the cost of any bridges in
31 paragraph A, but not to exceed twice the town's
32 share. In the event that the bridge exists in 2
33 or more counties, each county's share shall be
34 proportional to its valuation.

35 C. The town percentage share of a capital im-

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1 provement constructed under this subchapter shall
2 be determined by multiplying a factor that mea-
3 asures ability to pay by a factor that measures
4 relative use of the structure.

5 D. The factor that measures ability to pay shall
6 be:

7	<u>TAX RATE</u>	<u>TOWN ABILITY TO PAY FACTOR</u>
8	<u>1 1/4 mill or</u>	<u>65%</u>
9	<u>less</u>	
10	<u>2 1/2 mills</u>	<u>60%</u>
11	<u>3 3/4 mills</u>	<u>55%</u>
12	<u>5 mills</u>	<u>50%</u>
13	<u>7 1/2 mills</u>	<u>45%</u>
14	<u>10 mills</u>	<u>40%</u>
15	<u>15 mills</u>	<u>35%</u>

16 Provided that:

17 (1) For tax rates between those shown, the
18 town ability to pay factor shall be deter-
19 mined by linear proportion between adjacent
20 factors.

21 (2) Notwithstanding any other provisions of
22 law, the tax rate shall be determined based
23 upon the most recent valuation made by the
24 State Tax Assessor.

25 (3) In no case, may the town share exceed
26 1/2 of 1% of the town valuation.

27 E. The factor that measures relative use of a
28 structure shall be a traffic ratio. The traffic
29 ratio shall be logarithmic in nature. It shall
30 be constructed as the logarithm of the median an-
31 ual average daily traffic for all townway
32 bridges divided by the logarithm of the average
33 daily traffic on the bridge in question. The ba-
34 sic town percentage shall then be determined as

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1 the product of the ability to pay factor and the
2 relative use factor. In no case, may the town
3 share exceed 65% of the project cost or 1/2 of 1%
4 of the town valuation.

5 F. After the basic percentage in paragraph E is
6 determined, an adjustment may be made for special
7 circumstances. The town's portion shall be re-
8 duced by 1% for every 2 town-way bridges over 5.
9 Bridges which cross the boundary line between 2
10 or more towns shall count as 1/2 bridge for each
11 town.

12 G. For those bridges on the state-aid system for
13 which the town is responsible, the county shall
14 pay the town's portion of any capital improvement
15 necessary to bring that structure to a satisfac-
16 tory condition. Adjustments for multiple bridges
17 and county assistance to towns shall not apply.
18 Upon completion of the initial improvement for
19 any bridge, the county shall be absolved of any
20 further responsibility for the capital improve-
21 ment of the bridge and any subsequent improve-
22 ments shall be the sole responsibility of the
23 State.

24 H. The effect of federal funds shall next be
25 used to reduce all county and town percentages.
26 The reduction factor shall be applied in propor-
27 tion to the availability of federal funds. The
28 reduction afforded may differ among program years
29 to reflect availability of federal funds and
30 needs, but otherwise the effect of the reduction
31 factor shall be applied uniformly to all
32 projects.

33 I. Each local percentage shall be rounded to the
34 nearest full percent, however, the minimum town
35 share shall be 1% of the cost of the project, but
36 not more than 1/2 of 1% of the town's valuation.
37 In those cases where county participation is re-
38 quired, the minimum county share shall be one

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1 percent of the cost of the project.

2 §609-C. Payment of town and county costs

3 The portions of the cost payable by the town or
4 the county shall be due as follows: Twenty-five per-
5 cent at the time of approval by the town, 50% upon
6 the commencement of the improvement and the remainder
7 upon the substantial completion of the improvement as
8 certified by the department. The department shall
9 prepare the final bill within 6 months after the sub-
10 stantial completion of all work items.

11 In the event that the actual improvement cost ex-
12 ceeds the estimated cost, the town or county shall
13 not pay more than 110% of their estimated cost. The
14 foregoing notwithstanding, major change in scope of
15 the improvement after the time of approval will re-
16 quire that a new estimate and town share be deter-
17 mined.

18 In case any town neglects or refuses to pay into
19 the State Treasury its proportional part of the cost
20 of improvement which may be due and payable under
21 this subchapter or its proportional part of the ex-
22 cess cost of improvement above the estimated cost,
23 then the Treasurer of State shall, out of any funds
24 in the State Treasury due the town from the Local
25 Road Assistance Program, pay such proportional part
26 and deduct the amount so paid. In the event that the
27 proportional share due from the town exceeds the
28 funds available to the town under the Local Road As-
29 sistance Program, the Treasurer of State may proceed
30 with a civil action against the delinquent town to
31 recover any sum due the State, but these remedies
32 shall be in addition to, and not exclusive of, other
33 remedies afforded by law for the proper enforcement
34 of this subchapter.

35 §609-D. Bridges crossing boundary line; apportion-
36 ment of costs

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1 When a bridge crosses the boundary line of the
2 State, the costs to be shared shall be that portion
3 of the cost determined to be the responsibility of
4 units of State Government.

5 When a town bridge to be improved is on a
6 townline, the valuation of the towns shall be com-
7 bined to determine the ability to pay factor. The
8 basic total town percentages shall be determined as
9 the product of that ability to pay factor and the use
10 factor. The resulting combined town percentage shall
11 then be apportioned to the individual towns based on
12 their individual valuations. The apportioned amounts
13 shall be restricted to 1/2 of 1% of the towns' valua-
14 tions and shall also be eligible for the reductions
15 in section 609-B.

16 When a bridge on the state-aid system crossing a
17 boundary line is to receive initial improvement, the
18 total basic county shares shall be determined using
19 the respective towns' valuation in this section. The
20 resulting combined percentages shall be apportioned
21 based on the respective county valuations.

22 §610. State not liable for damage

23 The State and the Department of Transportation
24 shall not be liable to any person, corporation or en-
25 tity for damages arising out of any activities per-
26 formed pursuant to this subchapter.

27 §610-A. Capital allocation

28 The department shall allocate total funds availa-
29 ble for bridge capital improvements among the catego-
30 ries of state bridges on the state and state-aid
31 highway systems, town bridges on the state-aid sys-
32 tem, state bridges on town ways and town bridges on
33 town ways. The allocation shall be reflected in the
34 department's biennial Capital Improvement Program,
35 and shall be determined on the basis of a formula
36 that considers at a minimum the condition, the use

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1 and the protection of the investment associated with
2 each category of bridges. The relative weight of
3 each factor considered in the formula shall be estab-
4 lished by the department. Prior to the adoption of
5 this formula, the department shall offer an opportu-
6 nity for a public hearing or hearings.

7 In the event that there are insufficient applica-
8 tions to utilize funds allocated to any of these cat-
9 egories, the commissioner may direct that funds be
10 utilized for bridges in other categories.

11 §610-B. Priority of improvements

12 The department shall place bridge projects in
13 priority within each category of bridges in section
14 610-A. Within each category, priorities will be de-
15 termined by use of formulas which consider, at a min-
16 imum, inadequacy and use of each bridge. Inadequacy
17 shall be determined based upon the biennial inventory
18 and inspection of bridges as developed by the depart-
19 ment. Use shall be determined based upon traffic
20 surveys and estimates conducted by the department.
21 These formulas shall be established by the depart-
22 ment. Prior to the adoption of formulas, the depart-
23 ment shall offer an opportunity for public hearing or
24 hearings.

25 §610-C. Emergency improvements

26 In the event of an emergency, the commissioner
27 may initiate any bridge capital improvement under
28 this subchapter.

29 §610-D. Salvage

30 Such material as may be reasonably salvaged from
31 an existing bridge improved under this subchapter may
32 become the property of the current owner of the
33 bridge, provided that all such salvage shall be re-
34 quested prior to the issuance of the approval to pro-
35 ceed.

1 §610-E. Supervision

2 The department shall have supervision of all con-
3 struction work under this subchapter.

4 §610-F. Maintenance of structures

5 On and after July 1, 1986, maintenance responsi-
6 bility for bridges certified by the department as
7 having a satisfactory condition, as defined in sec-
8 tion 608-B, shall be the same as responsibility for
9 the adjacent roadway, except that the State shall be
10 responsible for the maintenance of all major bridges
11 in satisfactory condition on town ways with average
12 annual daily traffic of at least 25 vehicles. The
13 department shall determine the guidelines for estab-
14 lishing average annual daily traffic. Prior to the
15 adoption of the procedure, the department shall offer
16 an opportunity for a public hearing or hearings.

17 No general prescription may be made of the activi-
18 ties that are properly called maintenance for unusu-
19 al bridge types and locations. Special arrangements
20 for the state maintenance of qualifying town bridges
21 with unusual features will need to be made before the
22 State assumes maintenance responsibility. The de-
23 partment will develop such general guidelines as may
24 prove necessary to prescribe or limit bridge mainte-
25 nance activity, or both. Consultation with town rep-
26 resentatives shall be a part of the development of
27 guidelines.

28 Maintenance responsibility for bridges not certi-
29 fied as having a satisfactory condition shall not be
30 transferred, except that state maintained bridges on
31 town ways shall be transferred to the town when an
32 "offer to improve," as defined in section 608-C, has
33 been made by the department and the offer is not ac-
34 cepted by the town within 4 years.

35 §610-G. Local bridges on federal systems

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1 Bridges that otherwise qualify for the provisions
2 of this subchapter but which are on federally design-
3 ated highway systems shall be eligible for state
4 maintenance under the conditions of this subchapter
5 and, at the option of the town government, be eligi-
6 ble for the provisions for capital improvements, in-
7 cluding cost sharing, as an alternative to
8 federal-town financing.

9 Sec. 8. 29 MRSA §903, as amended by PL 1979, c.
10 397, §2, is further amended by adding after the first
11 paragraph a new paragraph to read:

12 Whenever necessary, the Department of Transporta-
13 tion shall take action to protect public safety and
14 public investment by posting bridges for which the
15 State is responsible. In addition, the Department
16 of Transportation shall provide information to the
17 officers of all municipal and county governments re-
18 garding the advisability of posting any bridges under
19 the control of these officers. For this purpose, the
20 department shall, where necessary, determine the ca-
21 capacity of any bridges and notify local officials
22 promptly of its findings. The department shall com-
23 plete this initial process by July 1, 1987, and shall
24 periodically repeat the process.

25 Sec. 9. 29 MRSA §1753, as amended by PL 1971, c.
26 593, §22, is further amended to read:

27 §1753. Restriction of heavy objects for bridges

28 Notwithstanding any loads authorized in this Ti-
29 tle upon any bridge, officials or corporations
30 charged with the repair and maintenance thereof may
31 shall limit the ~~load~~ combined weight of the vehicle
32 and load or any axle, or the number or speed of
33 vehicles permitted on any bridge to such ~~weight~~
34 limits as they deem necessary for the safety of life
35 or property or the maintenance of such bridge. Upon
36 the failure or neglect of such local officials or

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1 corporations to prescribe such weights for any
2 bridge, the Department of Transportation may fix such
3 ~~limit of weight~~ limits as it deems proper. Such regu-
4 lations shall be in effect when notice thereof is
5 conspicuously posted at each end of the bridge af-
6 fected.

7 Such limits as may be prescribed by local offi-
8 cials shall be in accordance with the advice of the
9 Department of Transportation or upon that of a regis-
10 tered professional civil engineer retained for the
11 purpose of inspecting and determining the safe capac-
12 ity of bridges. In the event of an emergency, noth-
13 ing in this paragraph may prevent local officials
14 from prescribing such limits as they may deem proper
15 for the structural capacity or the maintenance of the
16 bridge. As soon as is reasonably possible, the local
17 officials shall seek the advice of the Department of
18 Transportation.

19 **Sec. 10. Effective Date.** Sections 1 to 7 of
20 this Act shall become effective July 1, 1986. Any
21 local bridge projects that have progressed to the
22 time of approval under the Maine Revised Statutes,
23 Title 23, chapter 9, subchapter III or VI, prior to
24 July 1, 1986, shall be completed under the provisions
25 of the laws that were in effect at the time of their
26 approval.

27 **Sec. 11. Program evaluation.** Prior to January
28 1, 1990, the Commissioner of Transportation shall
29 conduct an evaluation of the Local Bridge Program.
30 He shall report his findings and any recommendations
31 for proposed legislation to the joint standing com-
32 mittee of the Legislature having jurisdiction over
33 transportation prior to the Second Regular Session of
34 the 114th Legislature.'

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STATEMENT OF FACT

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The purpose of this amendment is to correct typographical errors and to eliminate section 9 of the original bill which will be the subject of a study on truck weights to be established by executive order.

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This amendment also requires the Commissioner of Transportation to evaluate the Local Bridge Program and report the results of the evaluation to the Legislature.

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Reported by the Committee on Transportation
Reproduced and distributed under the direction of the
Clerk of the House

6/13/85

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