

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1318

H.P. 950

House of Representatives, April 24, 1989

Reference to the Committee on Transportation suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative TRACY of Rome.

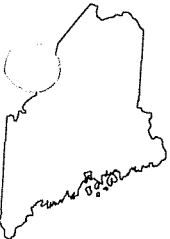
Cosponsored by Representative GOULD of Greenville, Representative JOSEPH of Waterville and Senator BERUBE of Androscoggin.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

Resolve, to Establish a Commission to Study Town Supervision of
Private Roads.

(EMERGENCY)



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

5 **Whereas,** considerable confusion exists as to the terms "town
way," "private way" and "private road" and the responsibilities
7 and rights of municipalities regarding them; and

9 **Whereas,** it is desirable that this item be resolved by the
First Regular Session of the 114th Legislature; and

11 **Whereas,** this is a complex issue requiring study by a
13 variety of specialized interests; and

15 **Whereas,** unless this legislation is passed on an emergency
basis, this study will not be able to begin until July 1989; and

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

23 **Commission created and charged. Resolved:** That the Commission
25 to Study Town Supervision of Private Roads is hereby
established. The commission shall study whether a municipality
27 should maintain and plow roads that are on private land but
accessible to the public and roads that are on private land but
29 not accessible to the public.

31 This study shall include the following issues:

33 1. The constitutional issue of using public equipment on
private property;

35 2. The issue of long-term maintenance creating a
37 requirement that the maintenance be continued and the issue of
this maintenance resulting in the road becoming public property;

39 3. A definition of the phrase "capable of carrying" motor
41 vehicles;

43 4. The possibility of requiring that privately owned roads
be maintained to a certain standard by the owner; and

45 5. How to prevent disputes between municipalities and
47 land-owners as to road ownership and maintenance.

49 In its study, the commission shall review the Attorney
General's opinion of November 16, 1977, and offer to members of
51 the public who testified at the public hearing on February 2,
1988, on H.P. 1541, L.D. 2096, "AN ACT to Allow Plowing of

1 Private or Public Ways or Roads by Municipalities" the
2 opportunity to present testimony to the commission.

3
4 The commission shall present legislation as to whether it
5 wishes the various categories of roads and ways to be maintained
6 and plowed, what name should be given to each category of road
7 and whether it should amend the various current laws to reflect
8 these wishes and to make these laws consistent. The commission
9 shall review the following laws in this connection: The Maine
10 Revised Statutes, Title 23, sections 3021, 3105, 3201 and 3651;
11 and Title 29, section 944; and be it further

12 **Appointment. Resolved:** That the commission shall consist of
13 7 members, appointed in the following manner:

14
15 1. Four Legislators, at least one of whom shall be a
16 Senator and one of whom shall represent each of the joint
17 standing committees of the Legislature having jurisdiction over
18 judiciary, state and local government and transportation
19 matters. These appointments are to be made jointly by the
20 President of the Senate and the Speaker of the House of
21 Representatives;

22
23 2. One Executive Department official selected by the
24 Governor;

25
26 3. A representative of the Maine Municipal Association to
27 be appointed by that organization; and

28
29 4. A representative of the Governor's Municipal Advisory
30 Council chosen by the council.

31
32 Each person required to make an appointment or appointments
33 under this resolve shall make the appointment or appointments by
34 July 10, 1989, and shall inform the President of the Senate, the
35 Speaker of the House of Representatives, the Executive Director
36 of the Legislative Council and the Governor upon making the
37 appointment or appointments.

38
39 The commission member from the joint standing committee of
40 the Legislature having jurisdiction over state and local
41 government shall serve as chair of the commission and shall call
42 the first meeting no later than August 1, 1989; and be it further

43
44 **Meetings. Resolved:** That the commission shall attempt to
45 accomplish its mission within the 3 meetings which are provided
46 as a general guideline by the Legislative Council. Should
47 additional meetings be required, the committee shall request any
48 necessary funds from the council; and be it further

49
50 **Report. Resolved:** That the commission shall present its
51 findings, together with any recommended legislation, to the joint

1 standing committee of the Legislature having jurisdiction over
2 state and local government by December 1, 1989. The committee
3 may hold a meeting to review the findings. This committee shall
4 present its report and any legislation to the Legislature by
5 January 1, 1990. If a request for extension is made while the
6 Legislature is not in session, it may be acted upon by the
7 Legislative Council; and be it further

9 **Staff assistance. Resolved:** That, if staff assistance is
10 desired, assistance shall be requested from the Legislative
11 Council; and be it further

13 **Agency cooperation. Resolved:** That all agencies and
14 departments of State Government and in particular the Department
15 of the Attorney General and the Department of Transportation
16 shall cooperate with the committee and shall expeditiously
17 provide the committee with the information and materials that it
18 needs; and be it further

19 **Compensation. Resolved:** That the members of the commission
20 who are Legislators shall receive the legislative per diem, as
21 defined in the Maine Revised Statutes, Title 3, section 2, for
22 each day's attendance at commission meetings. All members of the
23 commission shall receive reimbursement for expenses upon
24 application to the Executive Director of the Legislative Council;
25 and be it further

27 **Appropriation. Resolved:** That the following funds are
28 appropriated from the General Fund to carry out the purposes of
29 this resolve.

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	1989-90	1990-91
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34 **LEGISLATURE**

35 **Commission to Study Town Supervision**
36 **of Private Roads**

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39

Personal Services	\$220	\$1,155
All Other	300	2,250

40
41 Provides funds for 3 meetings
42 of the commission and one
43 meeting of the joint standing
44 committee of the Legislature
45 having jurisdiction over
46 state and local government.
47 None of these meetings is to
48 be a public hearing and a
49 report is to be presented not
50 to exceed 35 pages.
51

