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TRANSPORTATION

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
126TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 493, L.D. 721, Bill, “An Act To Provide Transparency in Public-private Partnerships for Transportation Projects”

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

Sec. 1. 23 MRSA §4251, sub-§4, ¶L, as enacted by PL 2009, c. 648, Pt. A, §1, is repealed.

Sec. 2. 23 MRSA §4251, sub-§10, as enacted by PL 2009, c. 648, Pt. A, §1, is repealed and the following enacted in its place:

10. Information in public record. Except as provided in subsection 10-A, information obtained by the department under this subchapter is a public record pursuant to Title 1, chapter 13, subchapter 1.

Sec. 3. 23 MRSA §4251, sub-§10-A is enacted to read:

10-A. Confidential information. Information submitted to the department relating to a public-private partnership proposal under this subchapter is confidential and not a public record under Title 1, chapter 13, subchapter 1 if the private entity submitting the information designates the information as being only for the confidential use of the department and if:

A. The information is a trade secret as defined in Title 10, section 1542, subsection 4; or

B. Disclosure of the information would result in a business or competitive disadvantage, loss of business, invasion of privacy or other significant detriment to the private entity to whom the record belongs or pertains.

If legal action is filed to gain access to the information designated as confidential under this subsection, the private entity must defend its designation and the department shall release the information in accordance with the order of the reviewing court. Failure to defend the designation under this subsection constitutes a waiver of confidentiality by the private entity and the department shall release the information.'

COMMITTEE AMENDMENT

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SUMMARY

This amendment, which strikes and replaces the bill, repeals the requirement that the Department of Transportation determine whether a public-private partnership proposal and corresponding transportation facility are in the best interest of the public. The amendment also provides that information obtained by the department relating to a public-private partnership transportation project proposal is a public record as defined in the Freedom of Access Act, except for information designated by the private entity as a trade secret or as information that, if disclosed, would result in a business or competitive disadvantage, loss of business, invasion of privacy or other significant detriment to the private entity to whom the information belongs or pertains.