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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. 1468, L.D. 1975, “An Act Concerning Winter Maintenance on Private Roads in the Town of Windham”

Amend the bill by striking out the emergency preamble and inserting the following:

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

Whereas, the Town of Windham has provided winter maintenance service to approximately 101 private ways in the town for several years without the intention to establish these private ways as town ways; and

Whereas, approximately 1,700 residents live on the private ways maintained in the winter by the Town of Windham and have come to rely on this service; and

Whereas, this Legislature enacted Private and Special Law 2021, chapter 10 to allow the Town of Windham time to work with residents to resolve this situation; and

Whereas, Private and Special Law 2021, chapter 10 is repealed on June 30, 2022, and the Town of Windham has been unable, despite its best efforts, to successfully resolve all aspects of this complicated and long-standing situation; and

Whereas, timely legislation is needed to resolve this situation before Private and Special Law 2021, chapter 10 is repealed; and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,'

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

Sec. 1. P&SL 2021, c. 10, is repealed.

COMMITTEE AMENDMENT

1 **Sec. 2. Definitions.** As used in this Act, unless the context otherwise indicates, the
2 following terms have the following meanings.

3 **1. Council.** "Council" means the town council of the Town of Windham.

4 **2. Designated private way.** "Designated private way" means a private way located
5 in the Town of Windham that satisfies the criteria listed in section 3.

6 **3. Private way.** "Private way" has the same meaning as in the Maine Revised Statutes,
7 Title 23, section 1903, subsection 10-A.

8 **4. Road association.** "Road association" means a road association created pursuant
9 to the Maine Revised Statutes, Title 23, chapter 305, subchapter 2.

10 **5. Road commissioner.** "Road commissioner" means the road commissioner, as
11 described by the Maine Revised Statutes, Title 23, section 2701, of the Town of Windham.

12 **6. Town way.** "Town way" has the same meaning as in the Maine Revised Statutes,
13 Title 23, section 3021, subsection 3.

14 **7. Winter maintenance.** "Winter maintenance" means the snow removal and surface
15 treatment, including sanding and salting, performed on designated private ways.

16 **Sec. 3. Identification of designated private ways.** The council may identify a
17 private way in the Town of Windham as a designated private way if:

18 1. The council has evidence that the Town of Windham performed winter maintenance
19 on the private way for at least 20 years prior to the effective date of this Act; and

20 2. The road commissioner has determined that the private way cannot meet standards
21 developed or required by generally applicable local ordinances for dedication and
22 acceptance as a town way pursuant to the Maine Revised Statutes, Title 23, section 3025.

23 **Sec. 4. Designated private way roster and map.** The Town of Windham may
24 create and maintain a roster and map of all designated private ways.

25 **Sec. 5. Authorization of winter maintenance on designated private ways.**
26 Until October 1, 2023, the council and the Town of Windham may use public equipment
27 to perform winter maintenance on a designated private way regardless of the existence of
28 a public easement over the designated private way for the public purpose of ensuring the
29 health and safety of the residents of the Town of Windham and minimizing environmental
30 damage to surrounding water bodies.

31 **Sec. 6. Development of basic maintenance standards.** The road commissioner
32 may, in consultation with the council, develop basic maintenance standards for designated
33 private ways so that the road commissioner may identify maintenance that must be
34 performed by a road association or property owners benefited by the designated private
35 way for public winter maintenance under section 7.

36 **Sec. 7. Conditions for public winter maintenance.** Beginning October 1, 2023,
37 the council and the Town of Windham may use public equipment to perform winter
38 maintenance on a designated private way only if the following conditions are met:

39 1. The private way is under the purview of a road association or association of property
40 owners with authority to address general maintenance of the designated private way;

1 The amendment prevents a road association or property owners benefited by a private
2 way receiving winter maintenance from the town from asserting a claim that the private
3 way has become a town way by any method or mechanism other than dedication and
4 acceptance pursuant to the Maine Revised Statutes, Title 23, section 3025.