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JUDICIARY

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STATE OF MAINE
SENATE
127TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " " to S.P. 415, L.D. 1168, Bill, "An Act To Prohibit the Use of Eminent Domain in Certain Public-private Partnerships and To Prohibit the Use of Eminent Domain by a Private Business Entity in a Public-private Partnership"

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-§3, as enacted by PL 2009, c. 648, Pt. A, §1, is amended to read:

3. Authorization. Notwithstanding any other provision of law, the department is authorized to receive or solicit proposals to form a public-private partnership with respect to a transportation facility. Proposals must be reviewed in accordance with this subchapter. Upon approval of the Legislature as provided in this subchapter, the department may enter into an agreement. All proposals must comply with section 73.

Sec. 2. 23 MRSA §4251, sub-§§7 and 9, as enacted by PL 2009, c. 648, Pt. A, §1, are amended to read:

7. Exercise of powers. If the department exercises its power of eminent domain for the development and construction of a transportation facility pursuant to this subchapter and section 73, the department must retain ownership rights and interests taken. The department's power of eminent domain may not be conferred on a private entity. The State may provide maintenance, law enforcement and other services with respect to a transportation facility owned by a private entity when the agreement provides for reasonable reimbursement for such services.

9. Legislative approval. If the department determines that a public-private partnership proposal and draft agreement meets the standards of this subchapter, the department shall submit to the Legislature a bill that authorizes the agreement. The bill must include a statement that the proposal meets the standards in subsection 4, a summary of the substance of the draft agreement and a description of the nature and amount of state investment, if any, including effects on programmed capital work. If

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1 legislative approval is granted, the department shall report to the joint standing committee
2 of the Legislature having jurisdiction over transportation matters by February 1st of each
3 year as to the status of the project and any substantive changes to the public-private
4 partnership proposal.'

5 **SUMMARY**

6 This amendment replaces the bill. It amends the law governing public-private
7 partnerships for transportation projects to clarify that all projects must comply with the
8 Sensible Transportation Policy Act, to explicitly state that the Department of
9 Transportation may not confer its power of eminent domain on a private entity and to
10 require the Department of Transportation to report by February 1st of every year on the
11 status of any projects and any substantive changes.

12 **FISCAL NOTE REQUIRED**

13 **(See attached)**