

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## SECOND SPECIAL SESSION-2004

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Legislative Document

No. 1922

S.P. 758

In Senate, March 10, 2004

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**An Act To Preserve Transportation Projects Statewide by Using  
Federal GARVEE Financing for the Waldo-Hancock Bridge  
Replacement**

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Reference to the Committee on Transportation suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator DAMON of Hancock. (GOVERNOR'S BILL)  
Cosponsored by Representative ROSEN of Bucksport and  
Senators: SAVAGE of Knox, WESTON of Waldo, YOUNGBLOOD of Penobscot,  
Representatives: ASH of Belfast, BERRY of Belmont, KAELIN of Winterport, MARLEY of  
Portland, RICHARDSON of Brunswick.

Be it enacted by the People of the State of Maine as follows:

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

6           **1. Bank.** "Bank" means the Maine Municipal Bond Bank.

7  
8           **2. GARVEE.** "GARVEE" means grant anticipation revenue  
9 vehicle debt financing.

10  
11           **3. Qualified transportation project.** "Qualified  
12 transportation project" means all projects associated with the  
13 replacement of the Waldo-Hancock Bridge and approved by the  
14 Federal Highway Administration.

15  
16           **4. Revenues.** "Revenues" means, in the case of bonds or  
17 notes issued by the bank to finance the qualified transportation  
18 project, payments of funds derived from the Federal Highway  
19 Administration and other investments, gifts, grants,  
20 contributions, appropriations, income and any other amounts  
21 pledged to secure payment of such bonds or notes.

22  
23       **Sec. 2. Qualified transportation project costs.** Costs of the  
24 qualified transportation project include, without limitation,  
25 costs related to:

26  
27           **A.** The purchase price or acquisition of any property or  
28 interests in those properties or other rights necessary or  
29 convenient for such projects;

30  
31           **B.** The study, permitting and engineering of any such  
32 project, including the preparation of plans and  
33 specifications, surveys and estimates of cost;

34  
35           **C.** Construction, reconstruction, paving, repaving,  
36 building, alteration, repair, restoration, environmental  
37 review or remediation, enlargement or other improvement,  
38 including all labor, materials, machinery, fixtures and  
39 equipment, including rolling stock or vehicles;

40  
41           **D.** Engineering, architectural, legal and other professional  
42 services;

43  
44           **E.** Reserves, insurance, letters of credit or other  
45 financial guarantees for payment of future debt service on  
46 bonds or notes; and

2 F. All other costs or expenses necessary or convenient to  
such projects, including the financing or refinancing of the  
3 projects.

4 **Sec. 3. GARVEE financing authorized.** Notwithstanding any  
6 other provision of law, upon certification, the bank shall issue  
from time to time up to \$50,000,000 of GARVEE bonds to be repaid  
8 solely from annual federal transportation appropriations for  
funding of projects associated with the replacement of the  
10 Waldo-Hancock Bridge and approved by the Federal Highway  
Administration and any matching funds of the State as provided in  
12 this Act.

14 The bank shall issue GARVEE bonds from time to time pursuant  
to a resolution to be adopted by the bank. The GARVEE bonds  
16 issued must be secured pursuant to a pledge and certificate  
issued by the Department of Transportation and approved by the  
18 State Budget Officer. The pledge and certificate must contain  
provisions that dedicate and pledge receipt of future federal  
20 transportation funds to secure the payment of the GARVEE bonds,  
including principal, interest and issuance costs. The terms of  
22 the GARVEE bonds, their repayment schedule and other provisions  
to facilitate their creditworthiness are determined by the bank  
24 in consultation with the Department of Transportation and the  
State Budget Officer. The pledge and certificate are a part of  
26 the contract with the holders of the GARVEE bonds to be  
authorized.

28 The GARVEE bonds must be in the form, bear the date or  
30 dates, mature at the time or times and have such other terms as  
determined by the bank and approved by the Department of  
32 Transportation and the State Budget Officer, except that a GARVEE  
bond may not mature more than 20 years from the date of its issue.

34 GARVEE bonds issued under the provisions of this Act do not  
36 constitute a debt or liability of the State or of any political  
subdivision of the State, or a pledge of the full faith and  
38 credit of the State or of any political subdivision of the State,  
but are payable solely from the funds and revenues pledged for  
40 that purpose.

42 The proceeds from the sale of the GARVEE bonds are to be  
deposited into the appropriate highway fund capital account or  
44 other appropriate dedicated revenue account.

46 **Sec. 4. Maine Municipal Bond Bank provisions.** The bank has all  
the powers and duties provided by the Maine Revised Statutes,  
48 Title 30-A, chapter 225, modified and supplemented as provided in  
this section for the purposes set forth in this section. All  
50 words, terms and phrases have the same meaning as provided in

2 Title 30-A, chapter 225, except as modified and supplemented in  
this section for the purposes set forth in this section.

4 **1. Lending and borrowing powers.** The bank may assist the  
State by borrowing money to finance or refinance from time to  
6 time all or a portion of the costs of the qualified  
transportation project and make the proceeds of such borrowing  
8 available to the Department of Transportation at terms agreed  
upon by the bank, the State Budget Officer and the Department of  
10 Transportation. The principal of and interest on any bonds or  
notes issued by the bank to finance or refinance the qualified  
12 transportation project must be secured by a pledge of funds paid  
by the Federal Highway Administration and any matching funds of  
14 the State as necessary and legally available that are allocated  
for such purpose on an annual basis by the Department of  
16 Transportation in its sole discretion and may further be secured  
by a pledge of any rights, grants, reserves, contracts,  
18 agreements or other revenues or property as may be determined by  
resolution of the bank. Bonds, notes, leases, agreements or  
20 other forms of debt or liability entered into or issued by the  
bank under this section are not in any way a debt or liability of  
22 the State and do not constitute a loan of the credit of the State  
or create any debt or liability on behalf of the State or  
24 constitute a pledge of the faith and credit of the State. Each  
bond, note, lease, agreement or other evidence of debt or  
26 liability entered into by the bank must contain a statement to  
the effect that the bank is obligated to pay the principal,  
28 interest, redemption premium, if any, and other amounts payable  
solely from the sources pledged for that purpose by the bank and  
30 that neither the faith and credit nor the taxing power of the  
State is pledged to the payment of the principal, interest,  
32 premium, charge, fee or other amount on the bond, note, lease,  
agreement or other form of indebtedness.

34 **2. Powers with respect to qualified transportation  
36 project.** In addition to all other powers elsewhere granted to  
the bank, the bank may, with respect to the qualified  
38 transportation project:

40 A. Acquire title to, or an interest in, the qualified  
transportation project;

42 B. Make and execute contracts and all other instruments,  
44 including any amendments or modifications to the extent  
permitted under its contract with holders of its bonds or  
46 notes, with the State, the Federal Highway Administration or  
any other legal entity in furtherance of the purposes of  
48 this Act; and

2 C. Lease the qualified transportation project to the State  
or any agency, political subdivision, instrumentality or  
4 department of the State to further the purposes of this Act,  
as long as the obligation of the State or of any such  
6 agency, political subdivision, instrumentality or department  
to make any rental or other payments are considered  
8 executory only to the extent of funds paid by the United  
States Department of Transportation and any matching funds  
of the State as necessary and legally available that are  
10 allocated for such purpose on an annual basis by the  
Department of Transportation in its sole discretion, as long  
12 as the liability on account of the State or any such agency,  
political subdivision, instrumentality or department is not  
14 incurred by the State or any such agency, political  
subdivision, instrumentality or department beyond the money  
16 available for that purpose.

18 **3. Pledge of federal highway funds.** The Department of  
Transportation is authorized to transfer, assign or pledge any or  
20 all of the funds paid to it, directly or indirectly, by the  
Federal Highway Administration with respect to the qualified  
22 transportation project, together with any matching funds of the  
State as necessary and legally available that are allocated for  
24 such purpose on an annual basis by the Department of  
Transportation in its sole discretion. Any such pledge does not  
26 constitute a debt or liability on behalf of the State or of any  
political subdivision of the State or a loan of the credit of the  
28 State or of any political subdivision of the State or a pledge of  
the faith and credit of the State or of any political subdivision  
30 of the State. A decision by the Department of Transportation not  
to allocate such federal transportation funds or state matching  
32 funds as necessary and legally available in any given fiscal year  
for the payment of such bonds or notes or related costs and  
34 expenses may not be construed to constitute an action impairing  
any contract entered into by the bank under this Act.

36 **4. Contracts are subject to continuing federal  
38 appropriations of federal transportation funds.** Every contract  
relating to the issuance of bonds or notes to finance all or a  
40 part of the costs of the qualified transportation project must  
provide that all financial obligations of the State or of any  
42 agency, political subdivision, instrumentality or department of  
the State in regard to the portion of the principal of and  
44 interest on such bonds or notes and the related costs and  
expenses that may be paid from federal transportation funds  
46 pursuant to federal law and any agreement between the Federal  
Highway Administration or any agency of the Federal Highway  
48 Administration and the Department of Transportation that is or is  
to be the initial recipient of such federal transportation funds  
50 are subject to continuing federal appropriations of federal

2 transportation funds at a level equal to or greater than the  
amount needed to pay the federal share of principal, interest and  
costs and expenses on such bonds or notes.

4  
6 **5. State agency powers.** Each agency, instrumentality,  
department or other political subdivision of the State, for the  
purpose of aiding and cooperating in the financing, construction,  
8 operation or maintenance of the qualified transportation project,  
has the power:

10  
12 A. To sell, lease, loan, donate, grant, convey, pledge,  
assign or otherwise transfer to the bank any real or  
personal property or interests in any real or personal  
14 property; and

16 B. To enter into agreements, including loan and pledge  
agreements, with any person for the joint financing,  
18 construction, operation or maintenance of the qualified  
transportation project and to agree to make payments,  
20 without limitation as to amount except as set forth in the  
agreement, from revenues received in one or more fiscal  
22 years by the Department of Transportation or any person to  
defray the costs of the financing, construction, operation  
24 or maintenance of the qualified transportation project.

26 To assist in the financing, construction, operation or  
maintenance of the qualified transportation project, any  
28 governmental unit or political subdivision may, by contract,  
pledge, assign or otherwise transfer to the Department of  
30 Transportation or otherwise as directed by the bank all or a  
portion of federal transportation funds paid to the governmental  
32 unit or political subdivision or the revenues from any other  
legally available source.

34  
36 **6. Corporate powers.** In addition to all other powers  
granted to the bank, for the purpose of carrying out this Act,  
the bank may:

38  
40 A. Make, enter into and enforce all contracts or agreements  
necessary, convenient or desirable for the purposes of  
financing or refinancing the qualified federal  
42 transportation project;

44 B. Invest any funds or money of the bank not then required  
for funding costs of the qualified transportation project in  
46 the same manner as permitted for the investment of funds  
belonging to the State or held by the Treasurer of State,  
48 except as otherwise permitted or provided by this Act; and

2 C. Fix and prescribe any form of application or procedure  
3 to be required of the State or of any agency, political  
4 subdivision, instrumentality or department of the State with  
5 respect to the qualified transportation project and fix the  
6 terms and conditions of the qualified transportation project  
7 and may enter into agreements with the State or any agency,  
8 political subdivision, instrumentality or department of the  
9 State or of any political subdivision of the State in  
10 connection with the qualified transportation project.

11 **7. Exception to prohibited acts and limitation of powers.**  
12 Notwithstanding the provisions of the Maine Revised Statutes,  
13 Title 30-A, section 5958, the bank may make loans to the State or  
14 any agency, political subdivision, instrumentality or department  
15 of the State in connection with the financing of the qualified  
16 transportation project.

17 **8. Bonds and notes of bank.** Notwithstanding the provisions  
18 of the Maine Revised Statutes, Title 30-A, section 6003, the bank  
19 may issue its bonds from time to time in any principal amounts  
20 that it considers necessary to provide funds for any of the  
21 purposes authorized by this Act, including the financing or  
22 refinancing of all or a portion of the costs of the qualified  
23 transportation project.  
24

25 **9. Receipt of federal appropriation money.** The Treasurer  
26 of State may receive from the Federal Government any amount of  
27 money as appropriated, allocated, granted, turned over or in any  
28 way provided for the purposes of this Act. In connection with  
29 the financing of the qualified transportation project, these  
30 amounts must be credited to and deposited in the Highway Fund and  
31 are available to the bank.  
32

33 **10. Agreements with financial institutions.**  
34 Notwithstanding the provisions of the Maine Revised Statutes,  
35 Title 30-A, section 6019, the bank may enter into any agreements  
36 or contracts with any commercial banks, trust companies or  
37 banking or other financial institutions within or outside the  
38 State that are necessary, desirable or convenient in the opinion  
39 of the bank to provide any other services to the bank to assist  
40 the bank in effectuating the purposes of this Act.  
41

42 **11. Remedies of holders of bonds and notes.** In addition to  
43 all other rights or remedies set forth in the Maine Revised  
44 Statutes, Title 30-A, section 6023, subsection 2, the trustee as  
45 appointed pursuant to that section may, and upon written request  
46 of the holders of 25% in principal amount of all bonds then  
47 outstanding that have been issued to finance or refinance all or  
48 a portion of the costs of the qualified transportation project  
49 shall, in the trustee's or the bank's own name, by mandamus or  
50



2 other suit, action or proceeding at law or in equity, enforce all  
rights of such bondholders, including the right to require the  
4 bank to collect payments and other amounts and to collect  
interest and amortization payments under agreements payable to  
6 the bank and pledged to payment of such bonds, adequate to carry  
out any agreement as to, or pledge of, those payments and other  
8 amounts and of such interest and amortization payments and to  
require the bank to carry out any other agreements with the  
bondholders and to perform its duties under this Act.

10 **Sec. 5. Appropriations and allocations.** The following  
12 appropriations and allocations are made.

14 **TRANSPORTATION, DEPARTMENT OF**

16 Initiative: Provides for the allocation of additional Personal  
Services, All Other and Capital Expenditures funding to support  
18 the Waldo-Hancock Bridge project.

20 <b>Other Special Revenue Funds</b>	<b>2003-04</b>	<b>2004-05</b>
Personal Services	\$0	\$2,000,000
22 All Other	0	8,000,000
Capital Expenditures	0	40,000,000
24 Other Special Revenue Funds Total	<u>\$0</u>	<u>\$50,000,000</u>

26

28 **SUMMARY**

30 This bill authorizes the use of federal Grant Anticipation  
Revenue Vehicles, or GARVEE, financing in the amount of up to  
32 \$50,000,000 to fund projects associated with the Waldo-Hancock  
Bridge replacement. The GARVEE bonds will be issued by the Maine  
34 Municipal Bond Bank and will be repaid solely from future federal  
transportation funding apportioned to the State from the Federal  
36 Highway Administration and any matching funds of the State. The  
GARVEE bonds do not constitute a debt or liability of the State  
38 or a pledge of its full faith and credit.