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State of Maine

DEPARTMENT OF ATTORNEY GENERAL

M E M O R A N D U M

To: Jack Hunt, Office of Legal Services, DOT
From: Crombie J. D. Garrett *C.J.D.G.* Deputy Attorney General
Date: December 14, 1992
Subject: P.L. 1991, Ch. 780, Part KKK

I am responding to your memorandum regarding the effect of Part KKK on various funds administered by the Department of Transportation. These funds are numbered 1 through 11. I will address them by group.

With respect to funds 1, 2, 3, and 4, you state that these are funds established to cover the exact costs of certain projects administered by DOT. While you state that these funds are "dedicated" revenue, that would not necessarily protect them from the imposition of the 0.9% surcharge. Without more specific information regarding these funds, it appears that the surcharge may be appropriate.

With respect to item 5, the Transportation Demand Management Project, it is clear that such funds are protected by federal law from the imposition of the surcharge.

With respect to items 6 and 7, it is unclear whether such funds are protected or not. As with items 1 through 4, it appears that they may be subject to imposition of the Part KKK surcharge. If, as suggested by Bob Scott, the same funds may have been subjected twice to the imposition of the surcharge, then there may be a reason to consider protecting them from double imposition of that charge. Otherwise, they appear to be subject to the surcharge.

Items 8, 9 and 10 represent funds that are apparently derived solely from the Highway Fund. Under the circumstances, these funds are protected from the imposition of the surcharge under Part KKK.

With respect to item 11 the Van Pool Services Fund, unless these funds are protected by some law or unspecified common law principle specifically directing their use solely for one purpose and for no other, these funds appear to be subject to the Part KKK surcharge.

Should you have more complete information with respect to any of these funds, it would be useful for us to be able to see it in order to determine whether our original conclusions are correct.

CJDG/vv