

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 388

H. P. 343

House of Representatives, February 10, 1977

Referred to Committee on Transportation. Sent up for concurrence and 2,000 ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Greenlaw of Stonington.

Cosponsors: Messrs. Morton of Farmington, Jackson of Yarmouth, Carroll of Limerick.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT Relating to the Maine Turnpike Authority.

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

Sec. 1. P&SL 1941, c. 69, § 1 is amended to read:

Sec. 1. **Maine Turnpike Authority, created.** In order to facilitate vehicular traffic between the ~~southwestern and northeastern~~ **southern core** of the state of Maine, **and to carry out the purposes of this Act**, the Maine Turnpike Authority ~~hereinafter~~ **heretofore** created is hereby authorized and empowered to ~~construct~~ **operate, and maintain and reconstruct** ~~a~~ the turnpike ~~at such location as shall be approved by the state highway commission~~ from a point at or near ~~Kittery~~ **York** in York County to a point at or near ~~Fort Kent in Aroostook~~ **Augusta in Kennebec** county together with connecting tunnels and bridges, overpasses, ~~and~~ **underpasses, median barriers and toll-free sections of the facility** and to issue turnpike revenue bonds **and refunding bonds payable solely from tolls as hereinafter provided** ~~to pay the cost of such construction.~~

Sec. 2. P&SL 1941, c. 69, § 1-A is enacted to read:

Sec. 1-A. **Legislative findings.** The Legislature finds that the economic and social well-being of the citizens of the State of Maine depends upon the safety, efficiency and modern functional state of the Maine Turnpike, that the turnpike should be maintained as a toll facility whether there are turnpike bonds outstanding or not as the annual maintenance expense of the facility will require an estimated additional \$5,000,000 annual burden to the already

burdened Department of Transportation budget unless it is so maintained; that the toll facility should be made into a barrier type facility with portions free to the public; that toll revenues should be utilized to pay debt service on bonds issued pursuant to this Act, to pay for operation and maintenance of the turnpike, and certain toll-free sections of the turnpike, to pay for reconstruction of the turnpike and thereafter to the extent possible, to pay for the costs or a portion of the cost of constructing or reconstructing interconnecting access roads and thereby ease the financial burden on the State Department of Transportation; that safety and welfare requires the rebuilding, redesign, improvement or enlargement, or both, of the existing turnpike facilities from York to South Portland to accommodate the increase traffic experienced since the opening of the turnpike and to provide turnpike facilities which are consistent with modern knowledge of safety design; that the economy of the State of Maine also requires such improvement in order to encourage travel and commerce into and out of the State of Maine; and that the Maine Turnpike Authority should be maintained to carry out the purposes of this Act.

Sec. 3. P&SL 1941, c. 69, § 2 is amended to read:

Sec. 2. **Bonds not to be pledges of state.** Turnpike revenue bonds issued under the provisions of this Act shall not be deemed to be a debt of the state of Maine or a pledge of the faith and credit of the state of Maine but such bonds shall be payable exclusively from the fund herein provided therefor from tolls. All such bonds shall contain a statement on their face that the state of Maine shall not be obligated to pay the same or the interest thereon except from tolls and that the faith and credit of the state of Maine shall not be pledged to the **payment of the principal of or interest of or premium on** such bonds. The issuance of turnpike revenue bonds **or refunding bonds** under the provisions of this Act shall not directly or indirectly or contingently obligate the state of Maine to levy or to pledge any form of taxation whatever therefor or to make any appropriation for the payment **thereof or the interest or premium thereon.**

Sec. 4. P&SL 1941, c. 69, § 3 is amended to read:

Sec. 3. **Definitions.** The following words and terms shall have the following meanings:

(a) The word "authority" shall mean the Maine Turnpike Authority ~~hereinafter~~ **heretofore** created, or if said authority shall be abolished, any board, commission or officer succeeding to the principal functions thereof, or upon whom the powers given by this Act to said authority shall be given by law.

(b) The word "owner" shall include all individuals, copartnerships, associations or corporations having any title or interest in any property rights, easements or franchises authorized to be acquired by the Act.

(c) The words "the turnpike" shall mean the turnpike ~~to be constructed as hereinafter provided from a point at or near Kittery in York county to a point at or near Fort Kent in Aroostook county~~ pursuant to the private and special laws of 1941, chapter 69, sections 1 to 19, as amended, and shall be deemed to include not only the turnpike as it existed on December 31, 1976

and all tunnels and bridges connected therewith, overpasses ~~and~~, underpasses, median barriers, shoulders or embankments or both, interchanges, toll barriers and toll-free sections, but also all property rights, easements and franchises relating thereto and deemed necessary or convenient for the construction or reconstruction or the operation thereof, or the modification thereof into a barrier type facility, but shall not include interconnecting access roads.

(d) The term "cost of the turnpike" shall embrace the cost of constructing or reconstructing the turnpike and all connecting tunnels and bridges, overpasses ~~and~~, underpasses, interchanges, toll barriers and toll-free sections; the cost of all lands, property rights, easements and franchises acquired which are deemed necessary for such construction or reconstruction; the cost of all machinery and equipment, financing charges, interest prior to and during construction or reconstruction and for one year after completion of such construction or reconstruction or for one year after completion of construction of any component integral operating unit thereof; cost of traffic estimates and of engineering and legal expenses; plans, specifications, surveys, estimates of costs of revenues; other expenses necessary or incident to determining the feasibility or practicability of the enterprise; administrative expenses; the payment of obligations, if any, as may be due the United States of America in order to continue the use of the turnpike as a toll-type facility; and such other expenses as may be necessary or incidental to the financing herein authorized; the construction or reconstruction of the turnpike and connecting tunnels and bridges, overpasses, ~~and~~ underpasses, interchanges, toll barriers and toll-free sections; the placing of the same in operation; and the condemnation of property necessary for such construction or reconstruction and operation. Any obligation or expense heretofore or hereafter incurred by the State ~~highway commission~~ Department of Transportation of the state of Maine for traffic surveys, preparation of plans and specifications, supervision of construction and other engineering services performed by the State ~~highway commission~~ Department of Transportation and its agents and employees in connection with the construction or reconstruction of the turnpike or any of the connecting tunnels and bridges, overpasses ~~and~~, underpasses, interchanges and barriers shall be regarded as a part of the cost of the turnpike and shall be reimbursed to the State ~~highway commission~~ Department of Transportation out of the proceeds of the turnpike revenue bonds hereinafter authorized.

(e) The term "interconnecting access roads" shall mean any and all highways, including bridges, underpasses and overpasses, within 10 road miles of the turnpike, which are under the control of the State Department of Transportation, which directly or indirectly connect with the turnpike and with respect to which the authority shall have made the determinations required by section 11(f) of this Act.

(f) The word "interchange" shall mean a system of interconnecting roadways in conjunction with one or more points of separation, providing for the interchange of traffic between 2 or more roadways or highways, one of which is the turnpike, and shall include sufficient lengths of intersecting roadways required for conformance with then current road design standards or standards acceptable to the State Department of Transportation.

(g) The term “barrier type facility” or “toll barriers” shall mean an open facility wherein portions of the turnpike would be free of tolls and toll barriers would be placed on the turnpike at various locations. The location of such barriers, and the location of the toll-free sections of the turnpike, shall be at the discretion of the authority.

(h) The word “reconstruct” or “reconstruction” shall embrace any and all activities undertaken as deemed necessary by the authority to maintain the turnpike or any part thereof as a modern, safe and efficient facility, and shall include but not be limited to any rebuilding, redesign, improvement or enlargement of existing facilities, including the redesign, improvement or enlargement of the existing facilities, traveled way, bridges, overpasses, median barriers, shoulders, embankments or interchanges or both which the authority deems necessary to continuously, adequately, safely and swiftly facilitate vehicular traffic upon, to or from or both the turnpike.

(i) The word “maintain” or “maintenance” shall embrace any and all activities undertaken to continue and to put the turnpike, or any part thereof, in a safe, efficient and modern functional state, and shall embrace construction or reconstruction when such construction or reconstruction is deemed necessary by the authority to obtain a safe, efficient and modern functional state.

Sec. 5. P&SL 1941, c. 69, § 4, as last amended by PL 1975, c. 771, § 429, is further amended to read:

Sec. 4. Powers. (a) “The Maine Turnpike Authority” as heretofore created shall continue to be a body both corporate and politic in the state of Maine and shall have powers (1) to sue and be sued; (2) to have a seal and alter the same at pleasure; (3) to adopt from time to time and amend by-laws covering its procedure, rules and regulations governing use of the turnpike and any of the other services made available in connection with said turnpike; to publish the same as such publication is necessary or advisable and to cause records of its proceedings to be kept; (4) to construct, maintain, reconstruct and operate a toll turnpike from a point at or near ~~Kittery~~ York in York county to a point at or near ~~Fort Kent in Aroostook~~ Augusta in Kennebec county and to transform the turnpike as it existed on December 31, 1976 to one using barrier-type facilities; (5) to acquire, hold and dispose of personal property for its purposes; (6) to acquire in the name of the authority by purchase, ~~continuation~~ condemnation, lease or otherwise, real property and rights or easements therein deemed by it necessary or desirable for its purposes and to use such property; (7) to acquire any such real property by the exercise of the power of condemnation in the manner provided by law; (8) to charge and collect fees, fares and tolls for the use of said turnpike and other services made available in connection with said turnpike subject to and in accordance with such agreement with bondholders as may be made as hereinafter provided; (9) to make contracts with the United States of America or any instrumentality or agency of the United States of America, the state of Maine or any of its agencies or instrumentalities, municipalities, public corporations, or bodies existing therein, private corporations, partnerships, associations and individuals; (10) to accept grants and the cooperation of the United States

of America or any agency thereof in the construction, maintenance, reconstruction, operation and financing of the turnpike ~~and its connecting tunnels, bridges, overpasses and underpasses and approaches~~ and to do any and all things necessary in order to avail itself of such aid and cooperation **and to repay any such grant or portion thereof**; (11) to employ such assistants, agents and servants, engineering, traffic, architectural and construction experts and inspectors and attorneys and such other employees, as it shall deem necessary or desirable for its purpose; (12) to exercise any of its powers in the public domain of the United States of America unless the exercise of such powers is not permitted by the laws of the United States of America; (13) to borrow money, make and issue negotiable notes, bonds and other evidences of indebtedness or obligations of the authority and to secure the payment of such obligations or any part thereof by pledge of any part of the revenue of the turnpike; (14) to do all other lawful things necessary and incidental to the foregoing powers. All property of the authority and all property held in the name of the state of Maine pursuant to the provisions hereof shall be exempt from levy and sale by virtue of any execution and no execution or other judicial process shall be a lien upon its property held pursuant to the provisions hereof. Provided, however, the authority shall not lease, sell or otherwise convey, or allow to be used, any of its real or personal property or easements therein, franchises, buildings or structures, **with access to any part of the turnpike or its approaches**, for commercial purposes, with the exception of such gasoline filling stations, service and repair stations and restaurants as it deems necessary to service the needs of the traveling public while using the turnpike, except that the authority may permit the erection, or installation of electric power, telegraph, telephone, water, **sewer** or pipe line facilities; (15) to provide net revenues to or for the use of the State Department of Transportation for the construction or reconstruction or both of interconnecting access roads, which the State Department of Transportation has previously determined to require such assistance, and with respect to which the authority has made the determinations required by section 11(f) of this Act.

(b) The authority **as heretofore created** shall consist of 4 members and in addition thereto the ~~chairman~~ **Commissioner** of the State ~~highway commission~~ **Department of Transportation** shall be a member ex officio. The 4 members shall be appointed by the Governor and shall be residents of the State of Maine at the time of their appointment and qualification and shall also at such time have been qualified ~~electors~~ **voters** therein for a period of at least 1 year next preceding their appointment. The ~~existing~~ appointed members of the authority shall continue in office for ~~terms of 4, 6, 8 and 10 years, respectively from the dates of the remaining term~~ of their appointment and until their respective successors shall be duly appointed and qualified ~~the term of each appointed member to be designated by the governor at the time of his appointment~~. Their successors shall each be appointed for a term of 10 years except that any person appointed to fill a vacancy shall serve only for the unexpired term and any member of the authority shall be eligible for reappointment. Immediately after such appointments, the members of the authority shall enter upon their duties. The Governor shall name one of the appointed members as chairman of the authority. The authority shall elect

a secretary and treasurer who need not be a member of the authority and shall elect an executive director or general manager who is not a member of the authority. Three members of the authority shall constitute a quorum who for all purposes must act unanimously. No vacancy in the authority shall impair the right of a quorum of the members to exercise all the rights and perform all the duties of the authority. Before the issuance of any turnpike revenue bonds under the provisions of this Act ~~each appointed member of the authority shall execute a bond in the penalty of \$25,000 and,~~ the secretary and treasurer shall execute a bond in the penalty of ~~\$50,000~~ \$100,000. Each such bond ~~to~~ shall be approved by the Attorney General and ~~to~~ shall be conditioned upon the faithful performance of the duties of his office which ~~bonds~~ bond shall be filed in the office of the State Auditor. Each member of the authority shall receive ~~\$20~~ \$50 for each day in attendance at an official meeting and be reimbursed for necessary expenses incurred in the performance of his duties. All expenses incurred in carrying out the provisions of this Act shall be paid solely from funds provided under the authority of this Act and no liability or obligation shall be incurred hereunder beyond the extent to which money shall have been provided under the authority of this Act.

(c) All contracts and agreements relating to the construction or reconstruction of the turnpike and ~~the construction or reconstruction of~~ connecting tunnels and bridges, overpasses ~~and,~~ underpasses, interchanges and barriers shall be approved by the State ~~highway commission~~ Department of Transportation and the turnpike and connecting tunnels and bridges, overpasses, ~~and~~ underpasses, interchanges and barriers shall be constructed or reconstructed under the supervision of the State ~~highway commission~~ Department of Transportation provided, however, that such supervision of the state highway commission shall not extend to the control of the location or course of the turnpike.

(d) ~~The authority shall have full power and authority to construct, complete, operate and open for vehicular travel the turnpike herein provided for in integral operating units. Turnpike revenue bonds herein provided for shall be issued against the revenue from such integral operating units and all such bonds of such integral operating units may be called at the discretion of the authority for the issuance of revenue refunding bonds against the revenue of the same or additional integral operating units and, at the discretion of the authority, upon the completion of the entire turnpike system outstanding bonds may be called for issuance of revenue refunding bonds against all revenue of the authority even though the bonds of one or more integral operating units have been retired at or before such time of entire completion~~

Sec. 6. P&SL 1941, c. 69, § 5, as last amended by P&SL 1955, c. 201, §§ 1 and 2, is further amended to read:

Sec. 5. Eminent domain. (a) Whenever a reasonable price cannot be agreed upon for the purchase or lease of real property found necessary for the purposes of the authority or whenever the owner is legally incapacitated or is absent or is unable to convey valid title or is unknown, the authority is hereby authorized and empowered to acquire by condemnation any such real property whether wholly or partly constructed or interest or interests therein

and any land, rights, easements, franchises and other property deemed necessary or convenient for the construction or reconstruction or the efficient operation of the turnpike, its connecting tunnels, or bridges, overpasses, or underpasses or interchanges or both in the manner hereinafter provided by Title 23 of the Revised Statutes, section 154 et seq., as amended, for the taking of property for state and state aid highways by the State Department of Transportation. In such event, the authority shall cause the land to be taken, to be surveyed and described and a plan thereof and said description to be recorded in the registry of deeds for the county or registry district where the same is located, and notice thereof shall be given in some newspaper published wholly or in part in said county or if no such newspaper exists then in a newspaper of statewide circulation. The county commissioners of the county wherein such property or land is located shall constitute a board of appraisers which shall on petition of the authority or interested parties meet and ascertain and determine the value of the property or land to be taken, make a correct return of their doings, signed by them, accompanied by an accurate plan of the land and state in their return the names of the person to whom damages are allowed, and the amount allowed to each. The county commissioners shall give reasonable notice to interested parties of the time and place of their meeting and afford interested parties an opportunity to be heard. Their return shall be filed with the clerk of the county commissioners and remain in the custody of their clerk for inspection. Any interested party aggrieved by their determination of damages may appeal from their determination to the Superior Court of the county at the next regular term of said court following the date of filing of their return with their said clerk. If no such appeal is made, the proceedings shall be closed, and become effectual; all claims for damages not allowed by them be forever barred; and all damages allowed by them be final. If an appeal be taken at the time and in the manner provided herein, the court shall determine the damages by a committee of reference if the parties so agree, or by a verdict of its jury, and shall render judgment for the damages recovered, and judgment for costs in favor of the party entitled thereto. The appellant shall file notice of his appeal with the county commissioners within the time above limited, and at the first term of court shall file a complaint setting forth substantially the facts, upon which the case shall be tried like other cases. The party prevailing recovers costs to be allowed and taxed by the courts, except that they shall not be recovered by the party claiming damages, but by the other party, if on such appeal by either party, said claimant fails to recover a greater sum as damages than was allowed to him by the county commissioners. The committee of reference shall be allowed a reasonable compensation for their services, to be fixed by the court upon the presentation of their report and paid from the county treasury upon the certificate of the clerk of courts. From the action of the court or on exceptions, or from any judgment after a jury trial, an appeal may be taken by any party to the supreme judicial court.

(b) Title to any property condemned by the authority shall be taken in the name of the authority. The authority shall be under no obligation to accept and pay for any property condemned or any costs incidental to any condemnation proceedings and shall in any event pay for the same except from the sums provided by this Act; and in any condemnation proceedings,

the court having jurisdiction of the suit, action or proceedings may make such orders as may be just to the authority and to the owners of the property to be condemned and may require an undertaking or other security to secure such owners against loss or damage by reason of the failure of the authority to accept and pay for the property; but such undertaking or security shall impose no liability upon the State of Maine except such as may be paid from the funds provided under the authority of this Act.

(c) The "authority" and its authorized agents and employees may enter upon any lands, waters and premises in the State for the purpose of making surveys, soundings, drillings and examinations as it may deem necessary or convenient for the purpose of this Act and such entry shall not be deemed a trespass.

(d) All counties, cities, towns and other political subdivisions or municipalities and all public agencies and commissions of the State of Maine, and all public service corporations and districts, notwithstanding any contrary provisions of law, are hereby authorized and empowered to lease, lend, grant or convey to the authority upon its request upon such terms and conditions as the proper authorities of such counties, cities, towns, political subdivisions, other municipalities, agencies, commissions, public service corporations and districts may deem reasonable and fair and without the necessity for any advertisement, order of court or other action or formality other than the regular and formal action of the authorities concerned, any real or personal property or rights therein which may be necessary or convenient to the effectuation of the authorized purposes of the authority including real and personal property or rights therein already devoted to public use. As used in this subsection, the term "public service corporation" includes every public utility as defined in section 16 of chapter 44 of the Revised Statutes of 1954 Title 35 of the Revised Statutes, as amended or as replaced, and every corporation referred to in sections 11 to 14, inclusive, of chapter 50 Title 13-A of said Revised Statutes, as amended or as replaced.

(e) If reasonable and fair conditions for the acquisition of property or rights as provided in the preceding subsection cannot be agreed upon the property may be taken under condemnation proceedings in the same manner as provided in subsection (a) of this section, and in that event the county commissioners shall determine the reasonable and fair conditions for the acquisition of property or rights by the authority. In the case of any property or facilities legally located within, under or upon any public street or way by franchise, permit or legislative authority, said reasonable and fair conditions for acquisition or relocation shall include the payment by the authority of either the value of said property or facilities less depreciation or the reasonable cost of relocating property or facilities exclusive of improvements made or to be made in such relocation, whichever is the lesser. Said payment shall include payment of such cost for any such property or facilities acquired or the cost of any such relocations made at the request of and for the benefit of said authority in any section of the turnpike under construction and not open to public use prior to May 1, 1955, except where said authority has obtained title thereto by purchase or specific conveyance. The county commissioners of the county wherein such property or land is located

shall constitute a board which shall on petition of the authority or interested parties meet and ascertain and determine the reasonable and fair conditions for the acquisition, make a correct return of their doings, signed by them, accompanied by an accurate plan of the land or situation involved. The county commissioners shall give reasonable notice to interested parties of the time and place of their meeting and afford interested parties an opportunity to be heard. Their return shall be filed with the clerk of the county commissioners and remain in the custody of their clerk for inspection. Any interested party aggrieved by their determination of reasonable and fair conditions may appeal from their determination to the superior court of the county at the next regular term of said court following the date of filing their return with their said clerk. If so such appeal is made the proceedings shall be closed, and become effectual. If an appeal be taken at the time and in the manner provided herein, the court shall determine the reasonable and fair conditions for the acquisition and make its decree therefor. The appellant shall file notice of his appeal with the county commissioners within the time above limited, and at the first term of court shall file a complaint setting forth substantially the facts, upon which the case shall be heard by the court. From the action of the court or on exceptions, an appeal may be taken by any party to the supreme judicial court

(f) Whenever the authority decides to acquire any lands, rights, easements and franchises or interest therein by condemnation as hereinbefore provided and has tendered a bond or other security in sufficient sum to secure the owner or owners for damages and the same has been accepted or if the acceptance has been refused and the same has been filed and approved by the court having jurisdiction over such condemnation proceedings, the authority shall have the right to immediate possession of the property which is the subject matter of the condemnation proceedings and may enter thereon in the name of the authority

(g) When an award of damages has been made by the county commissioners and said award has become final, the county commissioners, upon petition or motion of the authority, may after such notice as they deem necessary to parties in interest, order the amount of the award to be paid over to the county treasurer to be held by the treasurer for the person or persons legally entitled thereto. If no person or persons have established a valid claim to the award within 20 years from the time said award was first paid over to the county treasurer, the award or any part thereof unpaid shall be forfeited to the State of Maine. Upon payment by the authority of the amount of the award to the county treasurer, the county commissioners shall order the bond required to be posted by the authority under section 5 (f) to be cancelled and delivered up to the authority. The acts of the authority, prior to the enactment hereof, in the payment of awards to the treasurers of York county and Cumberland county on orders of the county commissioners of the respective counties and such orders of the county commissioners of York county and Cumberland county are hereby ratified, confirmed and made valid and said awards shall be held by the treasurers of York county and Cumberland county upon the same terms and conditions as provided in this subsection

Sec. 7. P&SL 1941, c. 69, § 6, as amended by P&SL 1963, c. 76, § 1, is further amended to read:

Sec. 6. Issuance of bonds. Subject to the provisions of section 13, ~~The~~ the authority is hereby authorized to provide by resolution from time to time for the issuance of bonds for the purpose of paying the cost of the turnpike ~~its connecting tunnels, bridges, overpasses and underpasses and the location and equipment thereof.~~ No bonds shall be issued on or after ~~the effective date of this act~~ **September 21, 1963** for the purpose of constructing any unit or **lineal** extension of the turnpike not already constructed on said date. The bonds of the authority shall not constitute a debt of the state or of any agency or political subdivision thereof but shall be payable solely from the revenue of the turnpike. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this Act shall be fully negotiable. In case any of the members of the authority whose signatures appear on the bonds or coupons shall cease to be such members before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes the same as if such members had remained in office until such delivery. The authority may in the resolution authorizing prospective issues provide as to such bonds:

- (1) The manner of executing the bonds and coupons;
- (2) The form and denomination thereof;
- (3) Maturity dates not more than ~~50~~ 30 years from the date or dates of issuance;
- (4) The interest rates thereon;
- (5) For redemption prior to maturity and the premium payable therefor;
- (6) The place or places for the payment of interest and principal;
- (7) For registration if the authority deems such to be desirable;
- (8) For the pledge of all or any of the revenues for securing payment;
- (9) For the replacement of lost, destroyed or mutilated bonds;
- (10) The setting aside of reserve and sinking funds and the regulation and disposition thereof;
- (11) For limitation on the issuance of additional bonds;
- (12) For the procedure, if any, by which the contract with the bondholder may be abrogated or amended;
- (13) For the manner of sale and purchase thereof;
- (14) For covenants against pledging of any of the revenue of the turnpike;
- (15) For covenants fixing and establishing such prices, rates and charges for the use of said turnpike and other services made available in connection with said turnpike so as to provide at all times funds which will be sufficient:
 - (a) To pay all costs of operation and maintenance of said turnpike, its connecting tunnels, bridges, overpasses ~~and~~, underpasses, **interchanges and toll barriers and toll-free sections of the turnpike**, together with the necessary

repairs thereto or replacements thereof;

(b) To meet and pay the principal and interest of all such bonds as they severally become due and payable;

(c) For the creating of such revenues to pay for the principal of and interest and premium on ~~of~~ all such bonds and for the meeting of contingencies and the reconstruction, operation and maintenance of said turnpike, its connecting tunnels, bridges, overpasses ~~and~~, underpasses, interchanges, toll barriers, toll-free sections of the turnpike and, thereafter, of interconnecting access roads as the authority shall determine;

(16) For such other covenants as to such prices, rates and charges as the authority shall determine;

(17) For covenants as to the rights, liability, powers and duties arising upon the breach by the authority of any covenant, condition or obligation;

(18) For covenants as to the bonds to be issued and as to the issuance of said bonds in escrow and otherwise and as to the use and disposition of the proceeds thereof;

(19) For covenants as to the use of its property and the maintenance and replacement thereof and the insurance to be carried thereon and the use and disposition of insurance money;

(20) For limitations upon the exercise of the powers conferred upon the authority by this Act;

(21) For the issuance of such bonds in series thereof;

(21a) For covenants as to the use of toll and other revenues by the State Department of Transportation for the construction or reconstruction, or both, interconnecting access roads as in the sole discretion of the authority are determined as provided in section 11 (f) of benefit to the turnpike, expenses for operation and maintenance of the turnpike, debt service on outstanding bonds of the authority and reasonable reserves for the foregoing as determined by the authority in its sole discretion;

(22) The performance by the authority of any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds or in the absolute discretion of the authority as will tend to make the bonds more marketable notwithstanding that such acts or things may not be enumerated herein; and

(23) To issue bonds upon the terms and conditions hereinbefore in this section set forth to effectuate the purpose of section 4 ~~(d)~~ of this Act.

Sec. 8. P&SL 1941, c. 69, § 7 is amended to read:

Sec. 7. **Application of proceeds of bonds.** All moneys received from any bonds issued pursuant to this Act shall be applied solely (1) to the payment of the cost of the turnpike; ~~or~~ and (2) to the ~~appurtenant fund~~ appropriate fund or funds created in the indenture; and (3) in the case of refunding bonds issued under section 10, to refund outstanding turnpike bonds, including the

payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds; and there shall be and hereby is created and granted a lien upon such moneys until so applied in favor of holders of such bonds or the trustee hereinafter provided for in respect of such bonds.

Sec. 9. P&SL 1941, c. 69, § 8 is amended to read:

Sec. 8. Bonds; how secured. ~~In the discretion of the authority such~~ Such bonds ~~may~~ shall be secured by a trust indenture by and between the authority and a corporate trustee which may be any trust company or bank having the powers of a trust company within or outside of the State of Maine. Such trust indenture may pledge or assign tolls or revenue to be received but shall not convey or mortgage the turnpike or any part thereof. ~~Either the resolution providing for the issuance of such bonds or such~~ Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the acquisition of properties and the construction, reconstruction, maintenance, operation and repair and insurance of the turnpike and the custody, safeguarding and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of this State to act as depositories of the proceeds of the bonds or revenues and to furnish such indemnity bonds or to pledge such securities as may be required by the authority. Such indenture may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action of bondholders as is customary in trust indentures securing bonds and debentures of corporations. In addition to the foregoing such trust indenture may contain such other provisions as the authority may deem reasonable and proper for the security of bondholders. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation and repair of the turnpike.

Sec. 10. P&SL 1941, c. 69, § 10, as repealed and replaced by P&SL 1951, c. 152, is amended to read:

Sec. 10. Refunding bonds. ~~The~~ Subject to the provisions of section 13, the authority is hereby authorized to provide by resolution for the issuance of turnpike revenue refunding bonds of the authority for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this Act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the authority, for the additional ~~purpose of constructing improvements, extensions or enlargements of any integral operating unit or units in connection with which the bonds to be refunded shall have been issued. The authority is further authorized to provide by resolution for the issuance of turnpike revenue bonds of the authority for the combined purpose of:~~

(a) Refunding any bonds then outstanding which shall have been issued under the provisions of this act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds; and

~~(b) Paying all or any part of the cost of any additional integral operating unit or units purposes for which bonds may be issued under section 6.~~

The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof and the rights, duties and obligations of the authority in respect of the same, shall be governed by the provisions of this Act insofar as the same may be applicable.

Sec. 11. P&SL 1941, c. 69, § 11, as amended by P&SL 1959, c. 66, is further amended to read :

Sec. 11. Maintenance of the turnpike. (a) The turnpike ~~when finally completed or any integral operating unit thereof~~ shall be maintained and repaired by and under the control of the authority and, at the discretion of the authority, the services of the State ~~highway commission~~ **Department of Transportation** of the State of Maine so far as the same are available or expedient may be utilized for this purpose. All charges and costs for such maintenance and repairs actually expended by said State ~~highway commission~~ **Department of Transportation** shall be paid to it by the authority. Such turnpike shall be operated by such force of toll takers and other operating employees as the authority may in its discretion employ. The authority may utilize the services of the state police to enforce the rules and regulations of the authority with respect to tolls, volume, weight and speed of traffic and with respect to such other matters of enforcement as it may in its discretion require.

(b) The authority may by regulation prescribe a maximum limitation on the speed of vehicles using said turnpike, but not exceeding ~~70~~ 55 miles per hour or such maximum speed as is permitted on similar roads in the State of Maine, and so limit at any point or place thereon, and is empowered to regulate the volume and weight of vehicles admitted to the turnpike.

(c) The authority is hereby authorized to fix and to revise from time to time tolls for the use of the turnpike and the different parts or sections thereof, and to charge and collect the same, and to contract with any persons, partnership, association or corporation desiring the use of any part thereof, including the right of way adjoining the paved portion. Such tolls shall be so fixed and adjusted as to provide a fund at least sufficient with other revenues of the turnpike, if any, to pay :

- (1) The cost of maintaining, repairing and operating the turnpike; and
- (2) The bonds and the interest thereon, and all sinking fund requirements, and other requirements provided by the resolution authorizing issuance of the bonds or by the trust indenture as the same shall become due; and
- (3) The cost to the State Department of Transportation of constructing or reconstructing interconnecting access roads as in the sole discretion of the authority are determined as provided in subsection (f) to warrant the expenditure of turnpike revenues.

(d) Tolls shall not be subject to supervision or regulation by any state commission, board or agency. The tolls and all other revenues derived from

the turnpike, except such part thereof as may be required to pay the cost of maintaining, repairing and operating the turnpike and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of the bonds or in the trust indenture, **and except such part thereof, if any, as may pursuant to the indenture be required to be paid for purposes designated in clause 3 of subsection (c),** shall be set aside at such regular intervals as may be provided in ~~such resolution or~~ such trust indenture, in the sinking fund which is pledged to, and charged with the payment of (1) the interest upon such bonds as such interest shall fall due; (2) the principal of the bonds as the same shall fall due; (3) the necessary fiscal agency charges for paying principal and interest; and (4) any premiums upon bonds retired by call or purchase as herein provided. The use and disposition of such sinking fund shall be subject to such regulations as may be provided ~~in the resolution authorizing the issuance of bonds or~~ in the trust indenture, but, except as may otherwise be provided in such ~~resolution or~~ trust indenture, such sinking fund shall be a fund for the benefit of all bonds issued hereunder without distinction or priority of one over another. Subject to the provisions of the ~~resolution authorizing the issuance of bonds or of the~~ trust indenture, any moneys in such sinking fund in excess of an amount equal to one year's interest on all bonds then outstanding may be applied to the purchase or redemption of bonds. All bonds so purchased or redeemed shall forthwith be cancelled and shall not again be issued.

(e) The turnpike may be used at any and all times by the Armed Forces of the United States, the State of Maine or any of their allies for defense purposes or preparations therefor free of all tolls and charges and such use shall not constitute a taking of property without due process, provided, however, that any structural damage to the turnpike created by such free use, ordinary deterioration or depreciation excepted, shall be compensated for at cost of repair or replacement.

(f) The authority may provide turnpike revenues to the State Department of Transportation for the construction or reconstruction or both of interconnecting access roads, provided it shall first determine that such interconnecting access roads have or would have a sufficient relationship to the public's use of the turnpike and the orderly regulation and flow of vehicular traffic using the turnpike so that the use of turnpike revenues is warranted to pay all or any portion of the cost of constructing or reconstructing, or both, such access roads. In making the determination of whether a sufficient relationship exists, the authority shall consider the following factors, no one of which shall necessarily be determinative: (i) the relative number of vehicles using such access roads on their way to or from the turnpike; (ii) the availability of alternate roads to or from the turnpike; (iii) the effect such construction or reconstruction will have on the flow of traffic to, from and on the turnpike, and in diverting vehicular traffic onto, off of, or away from the turnpike; (iv) the probable effect of the failure of the authority to pay or assist in the payment of the costs of such construction or reconstruction; and (v) the probable availability of turnpike revenues to make such payments and such other factors including expert opinion as the authority may in its discretion deem relevant. In no event shall the authority pay the whole or any portion

of the cost of construction or reconstruction of access roads for more than 10 road miles from the turnpike nor for more than the extent the authority determines is necessary to achieve an orderly flow of vehicular traffic to and from the turnpike over said access roads. Provisions for the prior use of tolls to pay debt service on revenue bonds issued by the authority, for the operation and maintenance of the turnpike, and determinations as to the amounts and times of payment on account of the costs of construction or reconstruction of access roads shall be set forth in the trust indenture pursuant to which the bonds of the authority may be issued.

Sec. 12. P&SL 1941, c. 69, § 12 is amended to read:

Sec. 12. Provisions in case of default on bonds. In the event that the authority shall make default in the payment of principal or interest on any of the bonds after the same shall fall due and such default shall continue for a period of 60 days or default in any agreement with the bondholders or the trustees under a trust indenture, the holders of 25% in aggregate principal amounts of the bonds then outstanding by instrument filed in the office of the Secretary of State duly acknowledged may appoint a trustee to represent the bondholders for the purpose herein provided, except to the extent the rights herein given may be restricted ~~by the resolution passed before the issuance of the bonds or~~ by the trust indenture. Such trustee may upon the written request of the holders of 25% in principal amount of the bonds then outstanding:

(1) by mandamus or other suit, action or proceeding at law or in equity enforce the rights of the bondholders;

(2) bring suit upon the bonds;

(3) enjoin any acts or other things which may be unlawful or in violation of the rights of the bondholders;

(4) by action or suit in equity require the authority to account as if it were trustee of an expressed trust for the bondholders. Such trustee shall be entitled as a right to the appointment of a receiver who may, to the extent that the authority could itself do, enter and take possession of the facilities of the authority or any part thereof, the revenue or receipts from which are or may be applicable to the payment of the bonds so in default, and operate and maintain the same and collect and receive all revenue thereafter arising therefrom in the same manner as the authority might do, and shall deposit all such moneys in a separate account and apply the same in such manner as the court shall direct. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and the receiver, if any; and all costs and disbursements allowed by the court shall be a first charge on any revenues and receipts derived from the turnpike, the revenues and receipts from which are or may be applicable to the payment of the bonds so in default. Such trustees shall in addition to the foregoing have and possess all the powers necessary and appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of the bondholders in the enforcement and protection of their rights. In addition to other rights and limitations any bondholder shall have the right by mandamus or

other suit, action or proceeding in law or in equity to enforce his rights against the authority including the right to require the authority to carry out any agreement or covenant and to perform its duties under this Act.

Sec. 13. P&SL 1941, c. 69, § 13, is repealed and the following enacted in its place:

Sec. 13. **Limitation upon the issuance of bonds.** No new bonds shall be issued after the effective date of this Act either under section 6 or section 10, unless or until the authority shall have determined to its satisfaction that any contractual obligation to the Federal Government to convert the turnpike into a toll-free highway upon payment of theretofore outstanding bonds, has been, or not later than substantially simultaneously with the issuance of such new bonds will be, waived, discharged or otherwise become inoperative or of no effect.

Sec. 14. P&SL 1941, c. 69, § 15 is repealed as follows:

Sec. 15. **Expenses.** All expenses incurred by the authority in the interim between the enactment of this Act and the date money received from grants, bonds, or revenue, whichever shall be first, shall be available, shall be a charge upon the highway funds in an amount not exceeding \$10,000; provided further, that there shall be made available to said authority the engineering and advisory service of the state highway commission so far as the same are available prior to the reception of grants, bonds or revenue, whichever shall be first, but such engineering and advisory services as are available and are rendered by the state highway commission shall be charged to said authority as a part of the cost of the turnpike to be paid by said authority as all other costs of said turnpike

Sec. 15. P&SL 1941, c. 69, § 16, as amended by P&SL 1963, c. 76, § 2, is further amended to read:

Sec. 16. **Termination of the authority.** When all bonds and the interest thereon shall have been paid or a sufficient amount for the payment of all bonds and the interest to maturity thereon shall have been set aside in trust for the benefit of the bondholders and shall continue to be held for that purpose, the authority shall become dissolved and the turnpike, ~~its connecting tunnels, bridges, overpasses and underpasses~~ its leases, rights, easements, franchises, lands and properties shall become the property of the State of Maine and all revenue therefrom become payable to the Treasurer of the State of Maine as a part of the highway funds of the State of Maine and the turnpike, ~~its connecting tunnels, bridges, overpasses and underpasses~~ shall thereafter be maintained and operated ~~free of tolls~~ by the State ~~highway commission~~ Department of Transportation, and all funds of the authority not required for the payment of the bonds and all machinery, equipment and other property belonging to the authority appertaining to the maintenance and operation of the turnpike, shall be vested in the State ~~highway commission~~ Department of Transportation.

Sec. 16. P&SL 1941, c. 69, § 18 is amended to read:

Sec. 18. Governmental functions and site location. It is hereby declared that the purposes of this Act are public, ~~and~~ that the authority shall be regarded as performing a governmental function in the carrying out of the provisions of the Act and that the authority is subject to the Site Location of Development Law, Maine Revised Statutes, Title 38, section 481 et seq., as amended.

Sec. 17. P&SL 1941, c. 69, § 19, as repealed and replaced by PL 1975, c. 731, § 85, is repealed and the following enacted in its place:

Sec. 19. Penalty. Subject to the provisions of section 20, any violation of published rules and regulations relating to the turnpike or its use or services shall be deemed a traffic infraction and shall be punishable by a fine of not more than \$250. Any failure or neglect to pay tolls, fares or charges for use of the turnpike shall be deemed a Class E crime. Nothing herein contained shall prevent the authority from collecting payment for use of the turnpike or any other service in connection with said turnpike by action at law or in equity.

Sec. 18. P&SL 1941, c. 69, § 20, as enacted by P&SL 1957, c. 133, is amended to read:

Sec. 20. Offenses committed upon turnpike. The provisions of the Revised Statutes and amendments thereto shall apply to criminal acts, violations and infractions committed on the turnpike. Should provisions in the rules and regulations conflict with the Revised Statutes, including provisions as to penalties, all provisions of the Revised Statutes shall apply to such criminal act, violation or infraction. This section shall not revoke the power of the authority to make rules and regulations governing use of the turnpike, or the power to prescribe limitations on the speed, volume and weight of vehicles using the turnpike, as heretofore granted to the authority, which powers are hereby expressly reaffirmed.

STATEMENT OF FACT

The purpose of this bill is reflected in section 1-A, Legislative Findings, which is stated in the second section of the bill.