

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 2124

H. P. 2061

House of Representatives, January 30, 1978

Filed by the Joint Standing Committee on Transportation under Joint Rule 17.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-EIGHT

AN ACT to Revise the Powers and Duties of the Maine Turnpike Authority and to Provide Commuter Passes for Turnpike Users.

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

P&SL 1941, c. 69, as amended is repealed and the following enacted in its place:

Sec. 1. Definitions. The following words and terms shall have the following meanings.

1. **Authority.** "Authority" shall mean the Maine Turnpike Authority heretofore created, or if the 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 the authority shall be given by law.

2. **Cost of the turnpike.** "Cost of the turnpike" shall embrace the cost of constructing or reconstructing the turnpike and all connecting tunnels and bridges, overpasses, underpasses and interchanges; the cost of all lands, property rights, easements and franchises acquired which are deemed necessary for that 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 that construction or reconstruction; 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, underpasses and interchanges; the placing of the same in operation; and the condemnation of property necessary for that construction or reconstruction and operation. Any obligation or expense heretofore or hereafter incurred by the department for traffic surveys, preparation of plans and specifications, supervision of construction and other engineering services performed by the department and its agents and employees in connection with the construction or reconstruction of the turnpike or any of the connecting tunnels and bridges, overpasses, underpasses and interchanges shall be regarded as a part of the cost of the turnpike and shall be reimbursed to the department out of the proceeds of the turnpike revenue bonds hereinafter authorized.

3. Department. "Department" shall mean the Department of Transportation.

4. Interchange. "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 department.

5. Interconnecting access roads. "Interconnecting access roads" shall mean any and all highways, including bridges, underpasses, within 10 road miles of the turnpike, which are under the control of the department, which directly or indirectly connect with the turnpike and with respect to which the authority has made the determinations required by section 12, subsection 6.

6. Maintain or Maintenance. "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.

7. Owner. "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.

8. Reconstruct or reconstruction. "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 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 the turnpike.

9. The turnpike. "The turnpike" shall mean the turnpike constructed pursuant to the private and special laws of 1941, chapter 69, sections 1 to 20, as amended, and shall be deemed to include not only the turnpike as it existed on December 31, 1977, and all tunnels and bridges connected therewith, overpasses, underpasses, median barriers, shoulders or embankments, or both, and interchanges, but also all property rights, easements and franchises relating thereto and deemed necessary or convenient for the construction or reconstruction or the operation thereof, but shall not include interconnecting access roads.

Sec. 2. Establishment of the authority. In order to facilitate vehicular traffic between the southern core of the State of Maine, and to carry out the purposes of this Act, the Maine Turnpike Authority heretofore created is hereby authorized and empowered to operate, maintain and reconstruct the turnpike from a point at or near York in York County to a point at or near Augusta in Kennebec County together with connecting tunnels and bridges, overpasses, underpasses and median barriers and to issue turnpike revenue bonds and refunding bonds payable solely from tolls as hereinafter provided.

Sec. 3. 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, but those 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 shall not be obligated to pay the same or the interest thereon except from tolls and that the faith and credit of the State shall not be pledged to the payment of the principal of or interest 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 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. Powers. The Maine Turnpike Authority as heretofore created shall be a body corporate and politic in the State of Maine.

1. Authority; powers. The authority shall have the following powers:

A. To sue and be sued;

B. To have a seal and alter the same at pleasure;

C. To adopt from time to time and amend bylaws covering its procedure, rules and regulations governing use of the turnpike and any of the other services made available in connection with that turnpike; to publish the same as such publication is necessary or advisable and to cause records of its proceedings to be kept;

D. To construct, maintain, reconstruct and operate a toll turnpike from a point at or near York in York County to a point at or near Augusta in Kennebec County;

E. To acquire, hold and dispose of personal property for its purposes;

F. To acquire in the name of the authority by purchase, condemnation, lease or otherwise, real property and rights or easements therein deemed by it necessary or desirable for its purposes and to use that property;

G. To acquire any such real property by the exercise of the power of condemnation in the manner provided by law; to charge and collect fees, fares and tolls for the use of that turnpike and other services made available in connection with that turnpike subject to and in accordance with such agreement with bondholders as may be made as hereinafter provided;

H. 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;

I. 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 to do any and all things necessary in order to avail itself of that aid and cooperation and to repay any such grant or portion thereof;

J. 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;

K. To exercise any of its powers in the public domain of the United States of America unless the exercise of those powers is not permitted by the laws of the United States of America;

L. 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 those obligations or any part thereof by pledge of the revenue of the turnpikes;

M. 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;

N. To provide net revenues to or for the use of the department for the construction or reconstruction or both of interconnecting access roads, which the department has previously determined to require such assistance, and with respect to which the authority has made the determinations required by section 12, subsection 6; and

O. To provide reduced rates of fees, fares and tolls to any class of vehicles based upon volume of use and, with regard to passenger vehicles only, to provide reduced rates of fees, fares and tolls by the use of commutation or other tickets.

Sec. 5. Appointment of authority; compensation; officers.

1. Appointment of members. The present authority as heretofore created shall consist of 4 members and in addition thereto the Commissioner of Transportation shall be a member ex officio. The 4 members shall be appointed by the Governor and shall be residents of the State at the time of their appointment and qualification and shall also at that time have been qualified voters therein for a period of at least one year next preceding their appointment. The existing appointed members of the authority shall continue in office for the remaining term of their appointment and until their respective successors shall have been reviewed by the Joint Standing Committee on Transportation and confirmed by the Legislature. Their successors shall each be appointed for a term of 6 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 appointment to 2 complete terms. Immediately after those 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.

On or after January 1, 1981, the Maine Turnpike Authority shall consist of 6 members and the Commissioner of Transportation shall serve as an ex officio

member. The 2 additional members of the authority shall be appointed by the Governor and shall be subject to review and confirmation and to the qualifications as provided in this section. The newly appointed members shall serve initial terms as follows.

A. One member shall be appointed to serve until January 1, 1982.

B. The other member shall be appointed to serve until January 1, 1983.

Thereafter, their successors shall each be appointed for a term of 6 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 appointment to 2 complete terms.

2. Compensation of authority members. Each member of the authority shall receive \$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.

3. Officers 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 until the additional members of the authority are appointed, at which time a quorum shall consist of 5 members who for all purposes shall 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, the secretary and treasurer shall execute a bond in the penalty of \$100,000. Each such bond shall be approved by the Attorney General and shall be conditioned upon the faithful performance of the duties of his office, which bond shall be filed in the office of the State Auditor.

Sec. 6. Contracts and Agreements.

1. Role of the Department of Transportation. All contracts and agreements relating to the construction or reconstruction of connecting tunnels and bridges, overpasses, underpasses and the interchanges shall be approved by the Department of Transportation and the turnpike and connecting tunnels and bridges, overpasses, underpasses and interchanges shall be constructed or reconstructed under the supervision of the department.

2. Review by the Legislature. No proposed expenditure of funds to construct or reconstruct interconnecting access roads shall be used by the department until

those proposals have been reviewed by and included in the capital budget of the department and have been reviewed by the Legislature in the same manner as the remainder of the department's capital budget. The foregoing budgetary procedure is additional to, and not in substitution for, any other provision of this Act.

3. Approval of capital improvements by the Department of Transportation. Prior to any major capital improvements being undertaken by the authority, the contemplated expenditure of which exceeds \$500,000, the following procedures shall be followed and the required approvals obtained. If the authority desires to rebuild, redesign, improve or enlarge any existing facilities, including, but not necessarily limited to, traveled ways, bridges, overpasses, median barriers, shoulders, embankments, interchanges, then the authority shall file, in such detail as shall be reasonably required by the department the necessary plans, specifications and other documents describing those proposed capital improvements, with the department and request the approval of same. In determining whether or not to approve the authority's proposed major capital improvement, the department shall follow the project development processes and standards used by the department for similar highway improvements, including environmental assessments, public notices and public hearings. In reviewing any request of the authority for approval, the department shall consider whether the proposed major capital improvement is reasonably necessary to maintain the turnpike in a safe and efficient and modern functional state. The determination by the department shall be in writing and set forth with reasonable clarity the reasons for the approving or disapproving of any proposed major capital improvement.

Sec. 7. Eminent domain.

1. Acquisition of property. 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 of that real property whether wholly or partly constructed on 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, underpasses or interchanges, or both, in the same manner provided by the Maine Revised Statutes, Title 23, section 154 et seq., as amended, for the taking of property for state and state aid highways by the department.

2. Title to condemned property. 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. In the event that the authority does accept title to the property that it has condemned, it shall pay for the property from the revenues provided by this Act. 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 that undertaking or security shall impose no liability upon the State, except such as may be paid from the funds provided under the authority of this Act.

3. Entry upon property. 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 that entry shall not be deemed a trespass.

4. Leasing or sale of property to the authority. All counties, cities, towns and other political subdivisions or municipalities and all public agencies and commissions of the State 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 those 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 section, the term "public service corporation" includes every public utility as defined in the Maine Revised Statutes, Title 35 and every corporation referred to in the Maine Revised Statutes, Title 13-A.

Sec. 8. Issuance of bonds. Subject to the provisions of section 14, 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. No bonds shall be issued on or after September 21, 1963, for the purpose of constructing any unit or lineal extension of the turnpike not already constructed on that 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 those bonds, those signatures shall, nevertheless, be valid and sufficient for all purposes.

1. Resolution for issuing bonds. The authority may in the resolution authorizing prospective issues provide as to those bonds:

- A. The manner of executing the bonds and coupons;
- B. The form and denomination thereof;
- C. Maturity dates not more than 30 years from the date or dates of issuance;
- D. The interest rates thereon;
- E. For redemption prior to maturity and the premium payable therefor;
- F. The place or places for the payment of interest and principal;
- G. For registration, if the authority deems such to be desirable;
- H. For the pledge of all or any of the revenues for securing payment;
- I. For the replacement of lost, destroyed or mutilated bonds;
- J. The setting aside of reserve and sinking funds and the regulation and disposition thereof;
- K. For limitation on the issuance of additional bonds;
- L. For the procedure, if any, by which the contract with the bondholder may be abrogated or amended;
- M. For the manner of sale and purchase thereof;
- N. For covenants against pledging of any of the revenue of the turnpike;
- O. For covenants fixing and establishing such prices, rates and charges for the use of the turnpike and other services made available in connection with the turnpike so as to provide at all times funds which will be sufficient:
 - (1) To pay all costs of operation and maintenance of the turnpike, its connecting tunnels, bridges, overpasses, underpasses and interchanges together with the necessary repairs thereto or replacements thereof;
 - (2) To meet and pay the principal and interest of all such bonds as they severally become due and payable; and
 - (3) For the creating of such revenues to pay for the principal of and interest and premium on all such bonds and for the meeting of contingencies and the reconstruction, operation and maintenance of the turnpike, its connecting

tunnels, bridges, overpasses, underpasses and interchanges, and, thereafter, of interconnecting access roads as the authority shall determine;

P. For such other covenants as to those prices, rates and charges as the authority shall determine;

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

R. For covenants as to the bonds to be issued and as to the issuance of those bonds, in escrow and otherwise, and as to the use and disposition of the proceeds thereof;

S. 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;

T. For limitations upon the exercise of the powers conferred upon the authority by this Act;

U. For the issuance of those bonds in series thereof;

V. For covenants as to the use of toll and other revenues by the 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 12, subsection 6, to be of benefit to 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;

W. 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 those acts or things may not be enumerated herein; and

X. To issue bonds upon the terms and conditions hereinbefore set forth to effectuate the purpose of section 4 of this Act.

Sec. 9. Application of proceeds of bonds.

1. Moneys received from bonds. All moneys received from any bonds issued pursuant to this Act shall be applied solely:

A. To the payment of the cost of the turnpike;

B. To the appropriate fund or funds created in the indenture; and

C. In the case of refunding bonds issued under section 11, to refund outstanding turnpike bonds, including payment of any redemption of those bonds; and there

shall be and hereby is created and granted a lien upon those moneys until so applied in favor of holders of those bonds or the trustee hereinafter provided for in respect of those bonds.

Sec. 10. Bonds; how secured. Those bonds 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. This trust indenture may pledge or assign tolls or revenue to be received, but shall not convey or mortgage the turnpike or any part thereof. This 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. That 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, that 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 that trust indenture may be treated as a part of the cost of maintenance, operation and repair of the turnpike.

Sec. 11. Refunding bonds. Subject to the provisions of section 14, 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 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 those bonds, and, if deemed advisable by the authority, for the additional purposes for which bonds may be issued under section 8.

The issuance of those 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. 12. Maintenance of the turnpike.

1. Services of the Department of Transportation. The turnpike shall be maintained and repaired by and under the control of the authority and, at the

discretion of the authority, the services of the department so far as the same are available or expedient may be utilized for this purpose. All charges and costs for that maintenance and repairs actually expended by the department shall be paid to it by the authority. The 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 with respect to such other matters of enforcement as it may in its discretion require.

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

3. Tolls. 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. Those 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:

- A. The cost of maintaining, repairing and operating the turnpike;
- B. 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
- C. The cost to the department of constructing or reconstructing interconnecting access roads as in the sole discretion of the authority are determined as provided in subsection 6, to warrant the expenditure of turnpike revenues.

4. Tolls shall not be regulated by the State. 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 subsection 3, shall be set aside at such regular intervals as may be provided in that trust indenture, in the sinking fund which is pledged to, and charged with the payment of:

- A. The interest upon such bonds as such interest shall fall due;**
- B. The principal of the bonds as the same shall fall due;**
- C. The necessary fiscal agency charges for paying principal and interest; and**
- D. Any premiums upon bonds retired by call or purchase as herein provided. The use and disposition of that sinking fund shall be subject to such regulations as may be provided in the trust indenture, but, except as may otherwise be provided in that trust indenture, that 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 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.**

5. Government use of the turnpike. 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 that use shall not constitute a taking of property without due process, provided, however, that any structural damage to the turnpike created by that free use, ordinary deterioration or depreciation excepted, shall be compensated for at cost of repair or replacement.

6. Department of Transportation use of toll revenues. The authority may provide turnpike revenues to the Department of Transportation for the construction or reconstruction, or both, of interconnecting access roads, provided it shall first determine that those 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 a determining factor:

- A. The relative number of vehicles using such access roads on their way to or from the turnpike;**
- B. The availability of alternate roads to or from the turnpike;**
- C. 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;**
- D. The probable effect of the failure of the authority to pay or assist in the payment of the costs of that construction or reconstruction; and**

E. 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 those 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. 13. Provisions in case of default on bonds.

1. Appointment of a trustee. 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 that 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 trust indenture.

2. Powers of the trustee. The trustee upon the written request of the holders of 25% in principal amount of the bonds then outstanding may:

A. Enforce the rights of the bondholders by mandamus or other suit, action or proceeding at law or in equity;

B. Bring suit upon the bonds;

C. Enjoin any acts or other things which may be unlawful or in violation of the rights of the bondholders; and

D. Require the authority to account as if it were trustee of an expressed trust for the bondholder by action of suit in equity. The 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, 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. The 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. 14. 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. 15. Exemption from taxes. The accomplishments by the authority of the authorized purpose stated in this Act being for the benefit of the people of the State and for the improvement of their commerce and prosperity in which accomplishment the authority will be performing essential governmental functions, the authority shall not be required to pay any taxes or assessments on any property acquired or used by it for the purposes provided in this Act nor shall the authority be required to pay any tax upon its income, except as may be required by the laws of the United States of America, and the bonds or other securities and obligations issued by the authority, their transfer and the income therefrom, including any profits made on the sale thereof, shall at all times be free from taxation within the State of Maine.

Sec. 16. Governmental functions and site location. It is hereby declared that the purposes of this Act are public, 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. Penalty. Subject to the provisions of section 19, 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 the turnpike by action at law or in equity.

Sec. 18. 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 that 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.

Sec. 19. Crimes and civil violations committed upon turnpike. The provisions of the Revised Statutes and amendments thereto shall apply to criminal acts and civil violations committed on the turnpike. 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 to maintain the turnpike in quality condition in the future as a means of stimulating Maine's economic growth. This bill therefore, retains the Maine Turnpike Authority as the administrative agency of the turnpike. The bill also retains the closed toll system present system to fund turnpike maintenance and operation. In order to reduce turnpike traveling costs to frequent users, commuter tickets will be provided at reduced rates.

The bill also increases public influence and control over the actions of the Maine Turnpike Authority. To this end the bill proposes to:

1. Increase the number of authority members from 4 to 6 and reduce the term of office from 10 years to 6 years. Each member is subject to legislative approval;
2. Require legislative approval of interconnecting access roads;
3. Require that capital improvements to the turnpike in excess of \$500,000 be placed within the budget of the Department of Transportation; and
4. Subject proposals for road construction to public hearing.