

MAINE STATE LEGISLATURE

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(EMERGENCY)
SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 2463

H.P. 1799 House of Representatives, March 7, 1988
Reference to the Committee on Transportation suggested
and ordered printed.

EDWIN H. PERT, Clerk
Presented by Representative WHITCOMB of Waldo.

Cosponsored by Senators EMERSON of Penobscot, TWITCHELL
of Oxford and Representative TAMMARO of Baileyville.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-EIGHT

1 AN ACT to Fund a Supplemental Highway
2 Program and to Establish a Program to Fund
3 the Construction of Extraordinary Bridges.
4

5 Emergency preamble. Whereas, Acts of the
6 Legislature do not become effective until 90 days
7 after adjournment unless enacted as emergencies; and

8 Whereas, the State has experienced an
9 unanticipated loss of federal highway construction

1 funds of approximately \$20,000,000 this biennium due
2 to federal budget cuts; and

3 Whereas, the State's highway system is in need of
4 considerable improvements to reach safe, modern
5 standards; and

6 Whereas, the State is faced with the need to
7 construct or reconstruct several bridges of unusual
8 size and complexity; and

9 Whereas, in the judgment of the Legislature, these
10 facts create an emergency within the meaning of the
11 Constitution of Maine and require the following
12 legislation as immediately necessary for the
13 preservation of the public peace, health and safety;
14 now, therefore,

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

17 PART A

18 Sec. 1. 23 MRSA §§610-H to 610-J are enacted to
19 read:

20 §610-H. Legislative findings

21 The Legislature finds that the construction or
22 replacement of several extraordinary bridges is vital
23 to the economic well-being of the State and necessary
24 to the movement of vehicular traffic.

25 The Legislature further finds that due to the size
26 and complexity of these structures, the costs
27 associated with these extraordinary bridges are such
28 that special funding provisions are warranted.

29 §610-I. Extraordinary bridges

30 For the first regular session of each Legislature,
31 the department shall prepare a work program for the
32 construction or major reconstruction of bridges that

1 the department considers to be extraordinary bridges.
2 The work program shall be presented to the joint
3 standing committee of the Legislature having
4 jurisdiction over transportation and shall include
5 estimates of scope of work, cost estimates and
6 estimated completion dates.

7 §610-J. Extraordinary Bridge Construction Fund

8 1. Deposit of funds. Annually, 1/19th of the
9 revenues derived from the tax levied in Title 36,
10 chapters 451 and 459 shall be deposited by the
11 Treasurer of State in a separate account to be known
12 as the Extraordinary Bridge Construction Fund. In
13 addition, \$4,000,000 transferred to the department
14 pursuant to sections 1961, 1965 and 1974 shall be
15 placed by the Treasurer of State in this account.

16 2. Legislative approval of budget. Expenditures
17 from the Extraordinary Bridge Construction Fund are
18 subject to legislative approval in the same manner as
19 expenditures from the Highway Fund.

20 3. Use of funds. Money in the Extraordinary
21 Bridge Construction Fund may only be used to defray
22 the costs associated with the construction or major
23 reconstruction of bridges identified pursuant to
24 section 610-I as extraordinary bridges. Permissible
25 costs shall include preliminary engineering,
26 right-of-way acquisition, construction and major
27 reconstruction.

28 Sec. 2. 23 MRS §1961, first ¶, as enacted by PL
29 1981, c. 595, §3, is amended to read:

30 The Legislature makes the following findings of
31 fact. The economic and social well-being of the
32 citizens of the State requires that the state's
33 transportation system be developed in a comprehensive
34 manner and depends upon the safety and efficiency
35 and modern functional state of the turnpike. The
36 turnpike should be maintained as a closed toll
37 facility whether there are turnpike bonds outstanding
38 or not. Toll revenues should be utilized: To pay for
39 retirement of any outstanding debt, including interest

1 thereon; to pay for operation and maintenance of the
2 turnpike; to pay for reconstruction of the turnpike;
3 and to repay the Federal Government for grants or
4 loans, the proceeds of which were used for the
5 construction or reconstruction of the turnpike or
6 portions thereof, interchanges and certain
7 interconnecting access roads, but only to the extent
8 that the repayment is required as a result of
9 maintaining tolls on the turnpike. The Department of
10 Transportation shall be provided each year a maximum
11 amount of ~~\$4,700,000~~ \$8,700,000 of the total annual
12 operating revenue after moneys have money has been
13 put aside to pay operating expenses and to meet the
14 requirements of any resolution authorizing bonds of
15 the authority, which amount is deemed necessary for
16 use by the department to maintain, construct and
17 reconstruct access roads on the state highway system
18 which serve serve and benefits benefit users of
19 the turnpike by providing direct and indirect access
20 to and from the turnpike as part of the state's
21 integrated highway system. Due to the utilization of
22 the state highway system by users of the turnpike, the
23 turnpike and its users have received and will continue
24 to receive a benefit from, or have caused and will
25 continue to cause, or both, the State acting by and
26 through the Department of Transportation to incur
27 costs for the construction, operation and maintenance
28 of the state highway system, which provides direct and
29 indirect access to and from the turnpike to areas in
30 the State for which the State may properly be and
31 should be compensated from the tolls to be collected.
32 The Maine Turnpike Authority should be maintained to
33 carry out the purposes of this chapter in cooperation
34 with the Department of Transportation.

35 **Sec. 3. 23** MRSa §1965, sub-§1, ¶10, as enacted by
36 PL 1981, c. 595, §3, is amended to read:

37 O. Provide an annual amount not to exceed a
38 maximum of ~~\$4,700,000~~ \$8,700,000 as the
39 department shall request and the authority shall
40 determine pursuant to section 1974, subsection 4,
41 after moneys have money has been set aside, or
42 adequate provision has been made, to pay operating
43 expenses and to meet the requirements of any

1 resolution authorizing bonds of the authority, to
2 be necessary for the use of the department each
3 year for the construction, operation and
4 maintenance of access roads and costs related
5 thereto;

6 Sec. 4. 23 MRSA §1974, sub-§4, as amended by PL
7 1981, c. 698, §105, is further amended to read:

8 4. Revenues for access roads and the state
9 highway system. Subject to the terms and conditions
10 of this chapter, the authority, semi-annually on July
11 1st and January 1st of each fiscal year commencing
12 July 1, 1983, shall, upon making the determination
13 referred to in this subsection, authorize turnpike
14 revenues to be transferred to the Department of
15 Transportation for the costs of construction,
16 reconstruction, operation and maintenance of access
17 roads provided, first, that the department provide
18 certification as to the utilization of all or a part
19 of the state highway system by turnpike users with
20 respect to the benefit received by the turnpike and
21 its users and the costs incurred by the department for
22 the construction, reconstruction, operation and
23 maintenance of the access roads caused by the turnpike
24 and its users and supporting the transfer of turnpike
25 revenues for each 2-year period. The department shall
26 not request and the authority shall not approve a
27 transfer of turnpike revenues under this subsection in
28 any year that exceeds the cost to the department for
29 construction, reconstruction, operation and
30 maintenance of access roads fairly attributable to
31 vehicular traffic traveling to or from the turnpike.
32 Based on the certification and such other information
33 as the authority deems necessary, the authority shall
34 determine whether or not the turnpike and users
35 thereof are so benefited by the system, and thereupon
36 the authority shall have and exercise sole discretion
37 to determine the level of revenues to be so
38 transferred to the department, but that transfer
39 annually shall not exceed ~~\$4,700,000~~ \$8,700,000.
40 In making its report, the department, as a basis for
41 requesting those revenues, and the authority in
42 determining the level of revenues to be transferred,

- 1 may consider the following factors, no one of which
2 may necessarily be determinative:
- 3 A. The existing access roads and the state
4 highway system;
- 5 B. The traffic impact of the maintenance,
6 construction or reconstruction on the existing
7 road network;
- 8 C. Total cost of the state highway system;
- 9 D. The probable change in departmental
10 expenditures resulting from maintenance,
11 construction or reconstruction;
- 12 E. The relative number of vehicles using or
13 expecting to use the access roads on the way to or
14 from the turnpike;
- 15 F. The road distance or average road distance of
16 the access roads or portions thereof from the
17 nearest entrance to or exit from the turnpike;
- 18 G. The effect that maintenance, construction or
19 reconstruction will have on the flow of traffic
20 to, from and on the turnpike, and in diverting
21 vehicular traffic off or away from the turnpike;
- 22 H. Proportionate usage of the state highway
23 system by vehicles using the turnpike and vehicles
24 not using the turnpike;
- 25 I. Vehicle classification and travel
26 characteristics;
- 27 J. Origins and destinations of trips;
- 28 K. Fuel type and consumption;
- 29 L. Financial condition of the turnpike; the
30 financial impact of that maintenance, construction
31 and reconstruction; and the probable availability
32 of turnpike revenues to make these payments;

1 M. Existing sources of revenue; or

2 N. Such other factors deemed relevant including,
3 but not limited to, expert opinion.

4 The authority shall cooperate with the department in
5 any surveys or studies required to provide this
6 report, the costs of which shall be borne by the
7 department.

8 Pending the department's first report, which shall be
9 submitted by May 1, 1983, for the period ending June
10 30, 1983, it is determined that for the current period
11 the aggregate sum to be transferred to the department
12 from operating revenues of the authority for benefits
13 received and costs incurred by the department caused
14 by turnpike users due to their utilization of the
15 turnpike, is ~~\$4,700,000~~ \$8,700,000. In the event
16 the authority subsequently determines that the
17 aggregate sum transferred to the department during the
18 period ending July 1, 1982 to June 30, 1983, exceeds
19 by more than 10% the amount the authority would
20 otherwise pay to the department under the provisions
21 of this subsection, an amount equal to the amount of
22 that excess shall be repaid by the department to the
23 authority in such manner and at such times as may be
24 agreed upon by the authority and the department,
25 provided that, if within 6 months after the
26 determination, the authority and the department have
27 not so agreed and written notice thereof shall have
28 been given to the department, the excess amount shall
29 be repaid in 5 equal annual installments in each of
30 the 5 years next succeeding.

31 Sec. 5. 36 MRSA §2903, sub-§1, as amended by PL
32 1983, c. 852, §4, is further amended to read:

33 1. Excise tax levied. Except as provided in
34 subsection 2, an excise tax is levied and imposed at
35 the rate of ~~14¢~~ 19¢ per gallon upon internal
36 combustion engine fuel sold or used within this State,
37 including these sales when made to the State or any
38 political subdivision thereof, for any purpose

1 whatsoever, except the internal combustion engine fuel
2 sold or used in such form and under such circumstances
3 as shall preclude the collection of this tax by reason
4 of the laws of the United States, or sold wholly for
5 exportation from the State, or brought into the State
6 in the ordinary standardized equipment fuel tank
7 attached to and forming a part of a motor vehicle and
8 used in the operation of that vehicle within the
9 State, except that no tax may be levied upon internal
10 combustion engine fuel, as defined in section 2902,
11 bought or used by any person, association of persons,
12 firm or corporation for the purpose of propelling jet
13 or turbojet engine aircraft, or sold wholly for
14 exportation from the State, or brought into the State
15 in the fuel tanks of an aircraft, or on or after July
16 1, 1983, sold in bulk to any political subdivision of
17 the State. On the same fuel only one tax shall be
18 paid to the State, for which tax the distributor first
19 receiving the fuel in the State shall be primarily
20 liable to the State, except when that fuel has been
21 sold and delivered to a licensed exporter wholly for
22 exportation from the State, or to another distributor
23 in the State, in which case the purchasing distributor
24 shall be primarily liable to the State for the tax.

25 Internal combustion fuel, as defined in section
26 2902, which is held by retailers at the close of March
27 31, 1983, shall be subject to the 14¢ per gallon tax
28 rate. Retailers, as defined in section 1752,
29 subsection 10, shall be liable for the difference
30 between the 14¢ per gallon tax rate and the 9¢ per
31 gallon tax rate in effect prior to April 1, 1983.
32 Payment shall be made to the State Tax Assessor before
33 May 15, 1983, and it shall be accompanied by the
34 appropriate completed form described by the State Tax
35 Assessor.

36 Sec. 6. 36 MRSA §2903-A, as amended by PL 1985,
37 c. 481, Pt. A, §81, is further amended to read:

38 §2903-A. Finding of fact

39 The Legislature makes a finding of fact that the
40 percentage relationship of "gasoline tax" paid by that
41 segment of the nonhighway gasoline user, the motorboat

1 user, is not less than 1.25% 2.00% of the total
2 "gasoline tax" revenue, but certainly is more
3 than the 1.25% referred to. Based on this
4 legislative "finding of fact" there is set aside
5 1.25% 2.00% of the total excise tax not to exceed
6 \$2,000,000, on internal combustion engine fuel sold or
7 used within the State, but not including internal
8 combustion engine fuel sold for use in the propulsion
9 of aircraft. From this 1.25% 2.00% allocation
10 shall be deducted the refunds paid out under section
11 2908 to purchasers and users of internal combustion
12 engine fuel for commercial motorboats; 20% of the
13 balance of 1.25% 2.00% after paying out such
14 refunds shall be paid to the Treasurer of State to be
15 made available to the Commissioner of Marine Resources
16 for the purpose of conducting research, development
17 and propagation activities by the department, and it
18 is the responsibility of the Commissioner of Marine
19 Resources to select activities and projects that will
20 be most beneficial to the commercial fisheries of the
21 State as well as the development of sports fisheries
22 activities in the State; the remaining 80% of the
23 balance of 1.25% 2.00% after paying out such
24 refunds shall be credited to the Boating Facilities
25 Fund, established under Title 38, section 322, within
26 the Maine State Bureau of Parks and Recreation. The
27 State Tax Assessor shall certify to the State
28 Controller, on or before the 15th day of each month,
29 the amounts to be credited under the previous
30 sentence, as of the close of the State Controller's
31 records for the previous month. When refunds paid to
32 purchasers and users of internal combustion engine
33 fuel for commercial motorboats in any month exceed
34 1.25% 2.00% of gasoline tax revenues for that month,
35 such excess shall be carried forward in computing
36 amounts to be credited to the Department of Marine
37 Resources and to the Boating Facilities Fund under
38 this section for the succeeding month or months. Funds
39 credited to the Department of Marine Resources shall
40 be allocated by the joint standing committee of the
41 Legislature having jurisdiction over appropriations
42 and financial affairs.

43 Sec. 7. 36 MRSA §2916 is enacted to read:

1	Personal Services		\$ 85,750
2	All Other	\$ 435,000	5,164,250
3	Capital Expenditures	2,465,000	29,750,000
4	Provides funds for		
5	a supplemental		
6	highway capital		
7	improvement		
8	program.		
9			
10	Total	<u>\$2,900,000</u>	<u>\$35,000,000</u>

11 Emergency clause. In view of the emergency
 12 cited in the preamble, this Act shall take effect May
 13 1, 1988.

14 STATEMENT OF FACT

15 The purpose of this bill is to fund a supplemental
 16 highway program to address improvement needs on
 17 highway corridors of statewide or regional economic
 18 significance. This bill also increased to \$2,000,000,
 19 or 2% of fuel tax revenues, whichever is less, the
 20 level of funds available for rebates for commercial
 21 motorboats, to the Commissioner of Marine Resources,
 22 and to the Boating Facilities Fund of the Bureau of
 23 Parks and Recreation.

24 Specifically, this bill increases the State's
 25 motor fuel tax by 5¢ per gallon. Four cents would be
 26 used for a state-funded, pay-as-you-go highway
 27 construction program. The program would be targeted
 28 toward capital improvements on selected highways that
 29 have been determined to play an important role in the
 30 economic well-being of the State. One cent would be
 31 used to fund a program to construct or reconstruct
 32 extraordinary bridges.

1 In order to deal effectively with the
2 extraordinary bridge problems, a special fund is
3 established. The revenue derived from 1/19th of the
4 fuel tax increase would be set aside for the
5 Extraordinary Bridge Construction Fund. In addition,
6 up to \$4,000,000 more may be transferred from the
7 Maine Turnpike Authority to the Extraordinary Bridge
8 Construction Fund. This transfer would take place
9 only after all other Maine Turnpike Authority expenses
10 are met.

11 The Department of Transportation, in conjunction
12 with the State Planning Office and the Department of
13 Economic and Community Development, has identified
14 approximately 1,300 miles of highways that are of a
15 particular statewide significance. These corridors
16 would be improved over the course of approximately 20
17 years. Generally, improvements would take the form of
18 passing and climbing lanes, paved shoulders,
19 straightening curves and improving alignments. In 2
20 or 3 cases, bypasses may be warranted.

21 With respect to extraordinary bridges, the age,
22 condition or absolute lack of big bridges in several
23 areas of the State is resulting in deteriorating
24 traffic conditions. Notable examples include the
25 Million Dollar Bridge between Portland and South
26 Portland, Carlton Bridge between Bath and Woolwich and
27 the replacement of the Bangor-Brewer Bridge. In
28 addition, new bridges are under consideration for
29 Augusta, Skowhegan, Waterville and Winslow.

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