

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2426

H.P. 1739

House of Representatives, March 18, 1992

Reference to the Committee on Transportation suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative MACOMBER of South Portland. (GOVERNOR'S BILL)
Cosponsored by Representative STROUT of Corinth, Representative FOSS of Yarmouth and
Senator BRANNIGAN of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-TWO

**An Act to Create the Maine Transportation Authority As the Successor
Agency to the Maine Turnpike Authority.**

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

2 **Sec. 1. 3 MRSA §927, sub-§4, ¶B,** as amended by PL 1991, c.
4 376, §8, is further amended to read:

6 B. Independent agencies:

- 8 (1) State Board of Funeral Service;
- 10 (2) Board of Hearing Aid Dealers and Fitters;
- 12 (3) Advisory Commission on Radioactive Waste;
- 14 (4) Maine Human Development Commission;
- 16 (5) Maine Committee on Aging; and
- 18 (6) Maine Turnpike Transportation Authority.

20 **Sec. 2. 5 MRSA §285, sub-§1, ¶F,** as amended by PL 1985, c. 695,
22 §4, is further amended to read:

24 F. Any employee of the Maine Turnpike Transportation
Authority;

26 **Sec. 3. 5 MRSA §7051, sub-§4,** as amended by PL 1989, c. 443,
28 §11, is further amended by amending the first paragraph to read:

30 **4. Employees in military service; substitutes.** Whenever
any employee, regularly employed in other than a temporary
32 position for a period of at least 6 months by the State or by any
department, bureau, commission or office of the State, or by the
University of Maine System, technical colleges, Maine School
34 Building Authority, Maine Turnpike Transportation Authority,
Finance Authority of Maine or any other state or quasi-state
36 agency, or by any county, municipality, township or school
district within the State shall enlists, enrolls or is called or
38 ordered or drafted into the Armed Forces of the United States or
any branch or unit of the armed forces, in time of war,
40 contemplated war, emergency or limited emergency, ~~enlist, enroll,~~
~~be-called-or-ordered-or-be-drafted-into-the-Armed-Forces-of-the~~
42 ~~United-States-or-any-branch-or-unit-thereof,~~ or shall-be is
regularly drafted under federal manpower regulations, the
44 employee shall may not be deemed ~~or-held~~ to have thereby resigned
46 removed during the period of service. "Temporary," for the
purpose of this section, means employment based on a seasonal or
48 on-call basis or employment based on a contract of less than 6
months' duration.

2 **Sec. 4. 5 MRSA §7054, sub-§4**, as amended by PL 1989, c. 443,
3 §12, is further amended by amending the last paragraph to read:

4
5 This section applies to all examinations for original positions
6 in the State Police, Department of Inland Fisheries and Wildlife,
7 Department of Marine Resources, University of Maine System,
8 technical colleges, Maine School Building Authority, Maine
9 Turnpike Transportation Authority, Finance Authority of Maine or
10 any other state or quasi-state agency.

11 **Sec. 5. 5 MRSA §12004-F, sub-§4**, as enacted by PL 1987, c.
12 786, §5, is amended to read:

13 4. Maine Legislative 23 MRSA §1965
14 Turnpike Per Diem §8005
15 Transportation
16 Authority

17
18
19 **Sec. 6. 14 MRSA §8102, sub-§4**, as amended by PL 1989, c. 443,
20 §21, is further amended to read:

21
22 4. **State.** "State" means the State of Maine or any office,
23 department, agency, authority, commission, board, institution,
24 hospital or other instrumentality thereof, including the Maine
25 Turnpike Transportation Authority, the Maine Port Authority, the
26 Maine Technical College System, the Maine Veterans' Homes and all
27 such other state entities.

28
29 **Sec. 7. 23 MRSA §73, sub-§3, ¶G**, as enacted by IB 1991, c. 1,
30 §1, is amended to read:

31
32 G. Incorporate a public participation process in which local
33 governmental bodies and the public have timely notice and
34 opportunity to identify and comment on concerns related to
35 transportation planning decisions, capital investment decisions
36 and project decisions. The department and the Maine Turnpike
37 Transportation Authority shall take the comments and concerns of
38 local citizens into account and shall must be responsive to them.

39
40 **Sec. 8. 23 MRSA §73, sub-§4**, as enacted by IB 1991, c. 1, §1,
41 is amended to read:

42
43 4. **Rulemaking.** The Department of Transportation shall
44 adopt a rule ~~within one year of the effective date of this Act~~ by
45 December 20, 1992, in coordination with the Maine Turnpike
46 Transportation Authority and state agencies including the
47 Department of Economic and Community Development, the State
48 Planning Office and the Department of Environmental Protection,

2 to implement the statewide comprehensive transportation policy.
3 The rule must incorporate a public participation process that
4 provides municipalities and other political subdivisions of the
5 State and members of the public notice and opportunity to comment
6 on transportation planning decisions, capital investment
7 decisions, project decisions and compliance with the statewide
8 transportation policy.

9
10 **Sec. 9. 23 MRSA §608-A, sub-§12**, as enacted by PL 1985, c.
11 480, §§7 and 10, is amended to read:

12 **12. Town.** "Town" means any unit of municipal government,
13 including, towns, cities, plantations and unorganized townships.
14 With the exception of the Maine Turnpike Transportation
15 Authority, departments or bureaus of State Government and
16 quasi-independent agencies or boards who are responsible for
17 bridges on public highways shall must be treated as towns and for
18 the purposes of determining cost sharing in section 609-B the
19 average town valuation in the State shall must be used.

20
21 **Sec. 10. 23 MRSA §608-B, first ¶**, as amended by PL 1987, c.
22 325, §2, is further amended to read:

23 On and after July 1, 1986, bridges determined to be ~~of~~ in
24 satisfactory condition shall become the responsibility of the
25 unit of government that is responsible for the adjacent roadway,
26 except for the exceptions in section 603. The State shall ~~be~~ is
27 responsible for all such bridges on state and state-aid highways
28 and towns shall ~~be~~ are responsible for all such bridges on town
29 ways, except for bridges ~~over the Maine Turnpike~~ owned by the
30 Maine Transportation Authority, which shall ~~be~~ are the
31 responsibility of the Maine Turnpike Transportation Authority and
32 bridges over federally designated highways, which shall ~~be~~ are
33 the responsibility of the State.

34
35 **Sec. 11. 23 MRSA §1201, first ¶**, as amended by PL 1981, c. 105,
36 §1, is further amended to read:

37
38 In order to guide the users of the state turnpike system to
39 the exit leading ~~therefrom~~ to the major recreational areas and
40 other areas, structures and objects of local, regional and
41 statewide interest of the State, there shall must be erected and
42 maintained at strategic points on the rights-of-way beside the
43 lanes of traffic approaching the exits, separate descriptive and
44 directional signs of such a design so that each sign will be
45 conspicuous and readable when traveling at the maximum lawful
46 speed. The department shall erect and maintain ~~said~~ the signs on
47 the state constructed and maintained interstate system and the
48 Maine Turnpike Transportation Authority shall erect and maintain
49 ~~said~~ the signs on the highways constructed by ~~said~~ the authority;
50

2 and said State the department and the authority shall cause the
4 wording of said the signs to be sufficiently descriptive of the
6 area to identify it clearly to the traveling public. Nothing in
8 this section shall ~~require~~ requires the department to erect signs
10 which that are not in accordance with the Manual for Signing and
12 Pavement Marking of the National System of Interstate and Defense
14 Highways, this manual having been adopted by the American
16 Association of State Highway Officials and approved by the U.S.
18 Department of Commerce, Bureau of Public Roads.

20 **Sec. 12. 23 MRSA §1201, 2nd ¶**, as enacted by PL 1983, c. 332,
22 is amended to read:

24 The Maine Turnpike Transportation Authority shall develop
26 guidelines for review of applications from organizations
28 requesting signs on the Maine Turnpike, directing motorists to
30 structures and objects of local, regional and statewide
32 interest. Authority for approval of applications for directional
34 signs rests with the Maine Turnpike Transportation Authority.

36 **Sec. 13. 23 MRSA §1201, sub-§33**, as repealed and replaced by
38 PL 1981, c. 566, is amended to read:

40 **33. St. Joseph's College; Westbrook College.** Signs shall
42 must be provided by St. Joseph's College and Westbrook College
44 and installed and maintained by the Maine Turnpike Transportation
46 Authority at Exit 8 to replace the existing signs, which read
48 "Exit for the University of Southern Maine." The replacement
50 signs shall must conform with standards established by the Maine
Turnpike Transportation Authority and shall must read as follows:

EXIT FOR:

ST. JOSEPH'S COLLEGE

UNIVERSITY OF SOUTHERN MAINE

WESTBROOK COLLEGE

40 **Sec. 14. 23 MRSA §1201, sub-§34**, as enacted by PL 1981, c.
42 613, is amended to read:

44 **34. Mt. Abram Ski Area and Sunday River Ski Resort.** The
46 sign shall must be provided by Sunday River Ski Resort and by Mt.
48 Abram Ski Area and constructed, installed and maintained by the
50 Maine Turnpike Transportation Authority at exit 11 and shall must
be worded as follows:

EXIT 11

MT. ABRAM SKI AREA

2

SUNDAY RIVER SKI RESORT

4

Sec. 15. 23 MRSA §1201, sub-§35, as amended by PL 1989, c. 443, §58, is further amended to read:

6

8

35. Southern Maine Technical College. A sign shall ~~shall~~ must be provided by the Southern Maine Technical College and installed and maintained by the Maine Turnpike Transportation Authority at Exit 7 ~~which will~~, must conform with standards established by the Maine Turnpike Transportation Authority and shall ~~shall~~ must read as follows:

10

12

14

EXIT FOR:

16

SOUTHERN MAINE TECHNICAL COLLEGE

18

Sec. 16. 23 MRSA §1201, sub-§36, as enacted by PL 1983, c. 26, is amended to read:

20

22

36. The University of New England. A sign shall ~~shall~~ must be provided by the University of New England and installed and maintained by the Maine Turnpike Transportation Authority at Exit 4 ~~which will~~, must conform with standards established by the Maine Turnpike Transportation Authority and shall ~~shall~~ must read as follows:

24

26

28

EXIT FOR:

30

UNIVERSITY OF NEW ENGLAND

32

Sec. 17. 23 MRSA §1201, sub-§38, first ¶, as enacted by PL 1985, c. 506, Pt. A, §47, is amended to read:

34

36

38. Bates College. The signs shall ~~shall~~ must be provided by Bates College. The Maine Turnpike Transportation Authority shall erect one sign on the side of the northbound lanes between exits 12 and 13 and one sign on the side of the southbound lanes north of exit 13. The Maine Turnpike Transportation Authority shall ~~be~~ is responsible for the maintenance of the signs.

38

40

42

Sec. 18. 23 MRSA §1201, last ¶, as amended by PL 1971, c. 593, §22, is further amended to read:

44

46

In the absence of a specific recreational area, the department on the state constructed and maintained interstate system and the Maine Turnpike Transportation Authority on the highways constructed by said the authority may erect, situated

48

50

2 near an exit, suitable signs at the exit designating motel, hotel
and restaurant areas.

4 **Sec. 19. 23 MRSA c. 24, as amended, is repealed.**

6 **Sec. 20. 23 MRSA c. 701, sub-c. I, Pt. 8 is enacted to read:**

8 **PART 8**

10 **MAINE TRANSPORTATION AUTHORITY**

12 **CHAPTER 701**

14 **MAINE TRANSPORTATION AUTHORITY**

16 **SUBCHAPTER I**

18 **GENERAL PROVISIONS**

20 **§8001. Short title**

22 This chapter may be known and cited as the "Maine
24 Transportation Authority Act."

26 **§8002. Legislative findings**

28 The Legislature finds the following.

30 **1. Need for system.** The economic and social well-being of
32 the citizens of the State require that Maine's comprehensive
34 transportation system be developed to ensure the safety,
36 efficiency and modern function of the comprehensive
transportation system. A sound, balanced comprehensive
transportation system is vital to the future of the State and is
a key factor in its continued economic development.

38 **2. Need for financing.** There is a need for a stable and
40 assured method of financing the planning, acquisition,
42 engineering, construction, reconstruction, repair, rehabilitation
44 and operation of a comprehensive transportation system. The
State's commitment to the payment for and financing of a
comprehensive transportation system is a public use and public
purpose for which public money may be expended.

46 **3. Need for authority.** It is necessary for the Maine
48 Transportation Authority to be created and maintained to carry
out the purposes of this chapter. The authority shall work with

2 the Department of Transportation to provide a comprehensive
3 transportation system for the State.

4 4. Need for revenue allocation. It is necessary that the
5 department be provided each year the reserve operating revenues
6 of the authority as provided by this chapter. The provision of
7 these revenues is necessary for use by the department for
8 construction, reconstruction, operation and maintenance of the
9 State's transportation system, which serves and benefits users of
10 the authority's transportation system by providing direct and
11 indirect access to the authority's system from other portions of
12 the State's transportation system. The utilization of the
13 State's transportation system by users of the authority's
14 transportation system is a benefit to the authority and its
15 users, and the department may properly be compensated from the
16 operating revenues to be collected.

17 5. Public purposes. The purposes of this chapter are
18 public and the authority is performing a governmental function in
19 carrying out this chapter.
20

21 **§8003. Policy and purposes**

22
23 It is the policy of the State of Maine to develop a
24 comprehensive transportation system that is economically
25 efficient and environmentally sound and provides for the movement
26 of people and goods in a manner that is energy efficient. The
27 authority's transportation system must provide improved access to
28 highways, railroads, ports, airports and telecommunications. The
29 authority's transportation system should promote a strong and
30 diverse economy and interstate commerce, and expand economic
31 opportunities.
32

33 The authority's transportation system must be developed to
34 provide a safe, economic and energy-efficient system that
35 respects the integrity of the natural environment. Public
36 investment in the transportation system should reinforce the
37 general character and planned land use for the area.
38

39 The authority's transportation system must be operated and
40 maintained to foster innovation, competition, energy efficiency,
41 productivity, and accountability. This system must be maintained
42 in cooperation with the department to minimize the cost to the
43 users of this system.
44

45 Transportation planning decisions, capital investment
46 decisions and project decisions of the Maine Transportation
47 Authority are governed by and must comply with the transportation
48 policy established by section 73 and rules adopted to implement
49 that policy.
50

2 **§8004. Definitions**

4 As used in this chapter, unless the context otherwise
6 indicates, the following terms have the following meanings.

8 **1. Authority.** "Authority" means the Maine Transportation
10 Authority created by this chapter, or any successor, as
12 established by Title 5, section 12004-F, subsection 4.

14 **2. Authority's transportation system.** "Authority's
16 transportation system" means the Maine turnpike and such other
18 highways, railroads, ports, airports, telecommunications and
20 other transportation systems as provided in this chapter.

22 **3. Bond.** "Bond" or "bonds" means a bond, note or other
24 evidence of indebtedness authorized under this chapter or upon
26 which the authority is otherwise obligated, whether outstanding
28 at the adoption of this chapter or issued at a later date whether
30 issued under or pursuant to a bond resolution, trust indenture,
32 loan or other security agreement.

34 **4. Commissioner.** "Commissioner" means the Commissioner of
36 Transportation.

38 **5. Comprehensive transportation system.** "Comprehensive
40 transportation system" includes both the authority's and the
42 State's transportation systems.

44 **6. Department.** "Department" means the Department of
46 Transportation or its successor.

48 **7. Operating revenues.** "Operating revenues" means funds
50 available to the Maine Transportation Authority from fees, fares,
 tolls, rental of concessions and miscellaneous revenue and
 interest not otherwise pledged or dedicated.

8. Reconstruct or reconstruction. "Reconstruct" or
 "reconstruction" means any activities undertaken to maintain the
 authority's existing transportation system, or any part, as a
 modern, safe and efficient system.

9. Reserve operating revenues. "Reserve operating
 revenues" means the total annual operating revenues of the
 authority after money has been reserved to pay the reasonable
 operating expenses of the authority or its predecessor and to
 meet the requirements of any resolution or trust indenture
 executed by the authority or its predecessor in connection with
 bonds.

50

2 10. State highway system. "State highway system" means all
classes of roads set forth in section 53.

4 11. State's transportation system. The State's
transportation system means the state highway system as well as
6 all railroads, ports, airports, telecommunications and other
transportation systems placed under the jurisdiction of the
8 department by law.

10 **§8005. Powers**

12 The Maine Transportation Authority is a body both corporate
and politic in the State and may:

14 A. Sue and be sued;

16 B. Have a seal and alter the seal at the authority's
18 pleasure;

20 C. Adopt and amend bylaws covering its procedures and rules
governing use of the authority's transportation system and
22 any of the other services made available in connection with
the system; adopt, in accordance with the Maine
24 Administrative Procedure Act, rules governing the use of the
authority's transportation system and other services;
26 publish those bylaws and rules as necessary or advisable;
and cause records of its proceedings to be kept;

28 D. Acquire, hold and dispose of personal property for its
30 purposes;

32 E. Acquire in the name of the authority by purchase,
eminent domain, lease or otherwise, real property and rights
34 or easements in real property determined by the authority to
be necessary or desirable for its purposes, and use that
36 property;

38 F. Acquire any such real property by the exercise of the
power of eminent domain in the manner provided by section
40 8018;

42 G. Charge and collect fees, fares and tolls for the use of
the authority's transportation system and other services
44 made available in connection with the authority's
transportation system and use the proceeds of those fees,
46 fares and tolls for the purposes provided in this chapter,
both as subject to and in accordance with any agreement with
48 bondholders made as provided in this chapter;

- 2 H. Make contracts with the United States or any
4 instrumentality or agency of the United States, this State
6 or any of its agencies or instrumentalities, municipalities,
8 public corporations, or bodies existing in the State,
10 private corporations, partnerships, associations or
12 individuals;
- 14 I. Accept grants and the cooperation of the United States
16 or any agency of the United States in the construction,
18 maintenance, reconstruction, operation or financing of the
20 authority's transportation system and do any and all things
22 necessary in order to avail itself of that aid and
24 cooperation and repay any grant or portion of a grant;
- 26 J. Employ assistants, agents and servants; engineering,
28 traffic, architectural and construction experts; and
30 inspectors, attorneys and other employees as the authority
32 determines necessary or desirable for its purposes;
- 34 K. Exercise any of its powers in the public domain of the
36 United States, unless the exercise of those powers is not
38 permitted by the laws of the United States;
- 40 L. Borrow money, make, issue and sell at public or private
42 sale negotiable notes, bonds and other evidences of
44 indebtedness or obligations of the authority for the
46 purposes set forth in this chapter and secure the payment of
48 an obligation or any part of an obligation by pledge of all
 or any part of the operating revenues of the authority's
 transportation system;
- M. Enter into loan or security agreements with one or more
 lending institutions, including, but not limited to, banks,
 insurance companies and pension funds or trustees for those
 institutions, for purposes for which bonds may be issued and
 exercise with respect to such loan or security agreements
 all of the powers delineated in this chapter for the
 issuances of bonds;
- N. Use toll, fee and fare revenues to provide payment of
 obligations, if any, as are due to the United States or
 other persons in order to continue the use of the
 authority's transportation system as toll facilities;
- O. Issue revenue bonds pursuant to the powers and
 limitations of this chapter;
- P. Prior to the issuance of any bonds, issue interim
 certificates in such manner and with such conditions as the

2 authority may determine to be exchanged for those bonds when
3 issued;

4 O. Make contracts for the operation and maintenance of the
5 authority's transportation system with private corporations,
6 partnerships, associations or individuals;

7 R. Contract with the department for any services which the
8 department can provide;

9 S. Establish, own, operate and maintain the authority's
10 transportation system as provided by this chapter;

11 T. Utilize the Department of Transportation, Office of
12 Legal Services or the Department of the Attorney General for
13 general counsel and bond counsel and for labor, workers'
14 compensation and legislative issues and other required legal
15 services on a fee-for-service basis at rates determined by
16 those agencies; and

17 U. Take other lawful actions necessary or incidental to
18 these powers.

19 **§8006. Membership of authority**

20 1. Membership. The membership of the authority is as
21 follows.

22 A. The membership of the authority consists of 5 members.
23 The commissioner is one of those 5 members. The remaining 4
24 general members are appointed by the Governor, subject to
25 review by the joint standing committee of the Legislature
26 having jurisdiction over transportation and subject to
27 confirmation by the Legislature. The Governor shall name
28 one of the 5 members as chair of the authority to serve at
29 the Governor's pleasure. The commissioner may designate the
30 commissioner's deputy or any other member of the
31 commissioner's staff to represent the commissioner at
32 meetings of the authority with full powers to act and vote,
33 except that the designee of the commissioner may not
34 exercise the powers of the chair if the commissioner is then
35 servng as the chair.

36 B. Immediately on their appointments, the members of the
37 authority shall commence their duties. The authority may
38 elect a secretary and treasurer, who need not be members of
39 the authority. Upon due consideration the authority shall
40 elect an executive director or general manager who may not
41 be a member of the authority. Three members of the
42 authority constitute a quorum and 3 votes are required for

2 the authority to act on any matter, although a lesser number
3 may adjourn. No vacancy in the members of the authority
4 impairs the right of a quorum of the members to exercise all
5 the rights and perform all the duties of the authority.

6 C. Each general member of the authority shall serve a term
7 of office of 5 years, and until the member's successor is
8 duly appointed and qualified. Upon the expiration of the
9 term of office of any general member, the Governor shall
10 appoint a new general member. Any general member of the
11 authority is eligible for reappointment. In the event of a
12 vacancy in the general membership of the authority caused by
13 the death, incapacity, resignation or removal of a general
14 member, the Governor shall appoint a new general member to
15 fill that vacancy only for the unexpired term of office of
16 the former general member. No general member may be
17 appointed to the authority who is not a resident of the
18 State at the time of appointment and who has not been a
19 qualified voter in the State for a period of at least one
20 year next preceding appointment. The Governor may remove a
21 general member from the authority for good cause.

22 D. Before the issuance of any bonds under this chapter, the
23 secretary and treasurer shall execute a security bond in the
24 penalty amount of \$100,000. Each security bond must be
25 approved by the Attorney General and must be conditioned
26 upon the faithful performance of the duties of the office
27 and must be filed in the office of the State Auditor. Each
28 general member of the authority is entitled to receive
29 compensation according to the provisions of Title 5, chapter
30 379.

31
32 **§8007. Obligations of the authority**

33 The authority shall operate as follows.

34
35 1. **Obligations limited.** Liability or obligation may not be
36 incurred under this chapter beyond the extent to which money has
37 been provided under the provisions of this chapter.

38
39 2. **Bonds not pledges of State.** Revenue bonds issued
40 pursuant to this chapter, including any notes or other evidences
41 of indebtedness or obligations defined to be bonds by this
42 chapter, are not a debt of the State and are not a pledge of the
43 faith and credit of the State, but these bonds are payable
44 exclusively from the fund provided in this chapter for that
45 purpose funded from tolls or other operating revenues. All these
46 bonds must contain a statement on their face that the State is
47 not obligated to pay the bonds or the interest on them and that
48 the faith and credit of the State is not pledged to the payment
49 of the bonds.

2 of the principal of or interest or premium on such bonds. The
3 issuance of bonds or refunding bonds under this chapter does not
4 directly, indirectly or contingently obligate the State to levy
5 or to pledge any form of taxation whatever for those bonds or to
6 make any appropriation for the payment of the bonds or the
7 interest or premium on them.

8 3. Preservation of rights. No provision of this chapter
9 impairs or may be construed to impair the rights of existing
10 holders of bonds or of any other persons to whom the authority
11 owes contractual obligations.

12 **§8008. Issuance of bonds**

13 1. General. The authority is authorized to provide by
14 resolution from time to time for the issuance of revenue bonds,
15 including notes or other evidences of indebtedness or obligations
16 defined to be bonds by this chapter, but not exceeding at any one
17 time a principal amount of \$86,000,000 outstanding exclusive of
18 refundings, for the purposes set forth in this chapter. The
19 bonds of the authority do not constitute a debt of the State or
20 of any agency or political subdivision of the State, but are
21 payable solely from the operating revenues of the authority.
22 Notwithstanding any other provision of law, any bonds issued
23 pursuant to this chapter are fully negotiable. If any of the
24 members or officers of the authority whose signatures appear on
25 the bonds or coupons, if any, cease to be members or officers
26 before the delivery of the bonds, the signature is valid and
27 sufficient for all purposes as if the members or officers had
28 remained in office until that delivery.

29 Whether or not the bonds are of such form and character as to be
30 negotiable instruments under Title 11, Article 8, the bonds are
31 hereby made negotiable instruments within the meaning of and for
32 all the purposes of Title 11, Article 8, subject only to the
33 provisions of the bonds for registration.

34 This chapter provides that any pledge made by the authority in
35 respect of the bonds or notes is valid and binding from the time
36 when the pledge is made; that the funds or property so pledged
37 and thereafter received by the authority is immediately subject
38 to the lien of that pledge without any physical delivery of those
39 funds or properties or further act; and that the lien of such a
40 pledge is valid and binding as against all parties having claims
41 of any kind in tort, contract or otherwise against the authority
42 irrespective of whether those parties have notice of that lien.
43 A resolution, trust indenture or any other instrument by which a
44 pledge is created does not need to be recorded.

2 2. Bonds. The authority may in the resolution authorizing
3 prospective bond issues provide:

4 A. The manner of executing the bonds and coupons;

6 B. The form and denomination of the bonds;

8 C. Maturity dates not more than 25 years from the date or
10 dates of issuance, excluding the period, if any, during
11 which bond anticipation notes are outstanding;

12 D. The interest rate or rates on the bonds, which may be
13 fixed or variable or a combination of both;

14 E. For the redemption prior to maturity and the premium
16 payable for the bonds;

18 F. The place or places for the payment of interest and
19 principal;

20 G. For registration if the authority determines it to be
22 desirable;

24 H. For the pledge of all or any of the operating revenues
25 of the authority for securing payment;

26 I. For the replacement of lost, destroyed or mutilated
28 bonds;

30 J. For the setting aside of revenue and sinking funds and
31 the regulation and disposition of these revenues and funds
32 and for limitations on reserves, if any, established for
33 capital outlay from operating revenues;

34 K. For limitations on the issuance of additional bonds;

36 L. For the procedure, if any, by which the contract with
38 the bondholders may be abrogated or amended;

40 M. For the manner of sale, which may be public or private,
41 and purchase of the bonds;

42 N. For covenants against pledging any of the operating
44 revenues of the authority;

46 O. For covenants fixing and establishing the prices, rates
47 and charges for the use of the authority's facilities and
48 other services made available in connection with its
49 facilities so as to provide at all times funds that are
50 sufficient;

2 (1) To pay all costs of operation and maintenance of
4 the authority's transportation system, together with
 the necessary repairs to the system;

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

8 (3) For the creation of reserves for the payment of
10 principal and interest of all such bonds and for the
12 meeting of contingencies and the operation and
 maintenance of the authority's transportation system;
14 and

16 (4) To pay other lawful charges or costs for which the
 authority is responsible;

18 P. For such other covenants regarding prices, rates and
20 charges as the authority shall determine;

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

26 R. For covenants regarding the bonds to be issued, the
 issuance of the bonds in escrow or otherwise and the use and
28 disposition of the proceeds the bonds;

30 S. For covenants regarding the use of the authority's
 property, the maintenance and replacement of the property
32 and the insurance to be carried on the property and the use
 and disposition of insurance money;

34 T. For limitations upon the exercise of the powers
36 conferred upon the authority by this chapter;

38 U. For the issuance of bonds in series or in serial form or
 for a stated term of years with or without mandatory
40 retirements from a sinking fund or otherwise;

42 V. For the issuance, in addition to the issuance of notes
 and other evidences of indebtedness or obligations
44 authorized under this chapter, of notes in anticipation of
 authorized bonds and for the exercise with respect to the
46 bond anticipation notes of any of its powers provided by
 this chapter for the issuance of bonds; and

48 W. For the performance by the authority of any and all such
50 acts and things as may be necessary, convenient or desirable
 in order to secure its bonds or, in the absolute discretion

2 of the authority, as will tend to make the bonds more
3 marketable whether or not those acts or things are
4 enumerated in this chapter.

6 **§8009. Application of proceeds of bonds**

8 Bond proceeds must be applied as follows.

10 **1. Application.** All money received from any bonds or bond
12 anticipation notes issued pursuant to this chapter must be
14 applied solely:

16 A. To the payment of the cost of the acquisition,
18 construction, reconstruction and extraordinary repair of the
20 authority's transportation system;

22 B. To the repayment of the Federal Government for its costs
24 incurred in connection with the construction and
26 reconstruction of the authority's transportation system, but
28 only to the extent that repayment is required in order for
30 the authority to continue to collect tolls on the
32 authority's transportation system;

34 C. To the payment of reasonable underwriters' fees and
36 discounts, credit enhancement fees, counsel fees, rating
38 agency fees and other costs of issuance of the bonds;

40 D. To the creation of reasonable reserves for the payment
42 of the principal of and interest on those bonds and to meet
44 the cost of extraordinary repairs to or maintenance of the
46 authority's transportation system;

48 E. To the appurtenant fund; and

50 F. To the payment of any temporary notes of the authority,
the proceeds of which were used for any of the purposes
allowed by this section.

2. Lien created. Any proceeds from any bonds or bond
anticipation notes issued pursuant to this chapter that are not
applied as provided for in subsection 1 are subject to the lien
of the bond resolution, trust indenture loan or other security
agreement that secures those bonds. The lien created by this
subsection is provided in favor of the holders of those bonds or
of the trustee authorized by section 8013.

§8010. Bonds; how secured

In the discretion of the authority, bonds may be secured by
a trust indenture between the authority and a corporate trustee,

2 which may be any trust company or bank having the powers of a
3 trust company within or outside the State, or by a loan or other
4 security agreement with a lender or with such a trustee
5 containing provisions that may be included in a bond resolution
6 or trust indenture under this chapter. The trust indenture or
7 loan or other security agreement may pledge or assign tolls or
8 revenues to be received but may not convey or mortgage the
9 authority's transportation system or any part of it. Either the
10 resolution providing for the issuance of the bonds or the trust
11 indenture, loan or other security agreement may contain
12 provisions for protecting and enforcing the rights and remedies
13 of the bondholders as are reasonable and not in violation of law,
14 including covenants setting forth the duties of the authority in
15 relation to the acquisition of properties and the construction,
16 maintenance, operation, repair and insurance of the authority's
17 transportation system and the custody, safeguarding and
18 application of all money. It is lawful for any bank or trust
19 company incorporated under the laws of this State to act as a
20 depository of the proceeds of the bonds or revenues and to
21 furnish the indemnity bonds or to pledge such securities as are
22 required by the authority. That indenture, loan or other
23 security agreement may set forth the rights and remedies of the
24 bondholders or other lenders and of the trustee, if any, and may
25 restrict the individual right of action of bondholders or other
26 lenders as is customary in trust indentures securing bonds and
27 debentures of corporations. The trust indenture may contain such
28 other provisions as the authority determines reasonable and
29 proper for the security of bondholders. All expenses incurred in
30 carrying out the trust indenture, loan or other security
31 agreement may be treated as a part of the cost of maintenance,
32 operation and repair of the authority's transportation system.

33 **§8011. Exemption from taxes**

34
35 The activities of the authority for the purposes stated in
36 this chapter are to benefit the people of the State and improve
37 their commerce and prosperity and are essential government
38 functions. The authority is not required to pay any taxes or
39 assessment on any property acquired or used by it for the
40 purposes provided in this chapter, except that restaurants,
41 kiosks, fuel, service and other facilities, leased or rented by
42 the authority to private business entities, are subject to
43 taxation, and assessments may be made against the tenant in
44 possession based on the value of the leasehold interest, both
45 real and personal. The authority is not required to pay any tax
46 on its income except as required by the laws of the United
47 States, and the bonds or other securities and obligations issued
48 by the authority, their transfer and the income from them,
49 including any profits made on the sale of them, are free from
50 taxation within the State.

2 **§8012. Refunding bonds**

4 The authority is authorized to provide by resolution for the
6 issuance of revenue-refunding bonds of the authority, including
8 notes or other obligations defined as bonds under this chapter,
10 for the purpose of refunding any bonds then outstanding,
12 including the payment of any redemption premium on these bonds
14 and any interest accrued or to accrue to the date of redemption
16 of these bonds and, if determined advisable by the authority, for
18 any additional purpose for which bonds authorized by this chapter
 may be issued. The issuance of the bonds, the maturities and
 other details of the bonds, the rights of the holders of the
 bonds and the rights, duties and obligations of the authority in
 respect of those rights, duties and obligations are governed by
 this chapter insofar as these rights, duties and obligations are
 applicable.

20 **§8013. Provisions in case of default on bonds**

22 Except as may otherwise be provided in a bond resolution,
24 trust indenture, loan or other security agreement, in the event
26 that the authority defaults in the payment of principal or
28 interest on any of its bonds after the principal or interest
30 falls due and that default continues for a period of 60 days or
32 the authority defaults in any other agreement with the
34 bondholders or with a trustee under a trust indenture, loan or
 security agreement, the holders of 25% in aggregate of the
 principal amounts of the bonds then outstanding may appoint a
 trustee to represent the bondholders for the purpose provided in
 this section by filing a duly acknowledged instrument with the
 Secretary of State. The trustee, upon the written request of the
 holders of 25% of the aggregate principal amount of the bonds
 then outstanding, may:

36 1. Enforcement of rights of bondholders. Enforce the
38 rights of the bondholders by any action at law or in equity;

40 2. Suit on bonds. Bring suit on the bonds;

42 3. Enjoinment of acts or other things. Enjoin any acts or
44 other things that are unlawful or violate the rights of the
 bondholders; or

46 4. Require accounting. Require the authority to account as
48 if it were trustee of an expressed trust for the bondholders by
50 any action at law or in equity. The trustee is 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 of the facilities,

2 the revenue or receipts from which are or may be applicable to
3 the payment of the bonds in default, and operate and maintain the
4 facilities and collect and receive all revenue thereafter arising
5 from them in the same manner as the authority might do and shall
6 deposit all such money in a separate account and apply the same
7 in such manner as the court directs. In any action by the
8 trustee, the fees, counsel fees and expenses of the trustee and
9 the receiver, if any, and all costs and disbursements allowed by
10 the court are a first charge on any revenues and receipts derived
11 from the authority's transportation system, the revenues and
12 receipts from which are or may be applicable to the payment of
13 the bonds in default. In addition, the trustee has all the
14 powers necessary for the exercise of any functions specifically
15 set forth in this section or incident to the general
16 representation of the bondholders in the enforcement and
17 protection of their rights. Except as may otherwise be provided
18 in a bond resolution, trust indenture, loan or other security
19 agreement, in addition to other rights and limitations, any
20 bondholder has the right by any action in law or in equity to
21 enforce the bondholder's rights against the authority, including
22 the right to require the authority to carry out any agreement or
23 covenant and to perform its duties under this chapter.

24 **§8014. Interim certificates**

25 Prior to the issuance of any bonds, the authority may issue
26 interim certificates, in any manner and with any conditions as
27 the authority determines appropriate, to be exchanged for the
28 bonds when issued.

30 **§8015. Reports**

31
32 **1. Annual report.** The authority, on an annual basis, shall
33 present a report to the Legislative Council and send copies to
34 the joint standing committee of the Legislature having
35 jurisdiction over transportation matters, the commissioner and
36 the Office of Fiscal and Program Review. The report must include
37 a full detailed description of the authority's activities for the
38 preceding fiscal year, including a detailed report of its
39 receipts and expenditures from all sources.

40
41 **2. Allocation.** The authority shall on or before December
42 1st of each year, present to the Legislature for its approval the
43 operating budget of the authority and the revenues necessary to
44 meet the requirements of any resolution authorizing bonds of the
45 authority. The authority may only make expenditures in
46 accordance with allocations approved by the Legislature. The
47 reserve operating revenues of the authority must be transferred
48 to the department and expended in accordance with allocations
49 approved by the Legislature.

2 3. Comprehensive planning. In order that the authority's
4 transportation system develop in an orderly and efficient manner,
5 the authority shall submit to the Legislature and the department
6 a comprehensive plan for the maintenance and improvement of the
7 authority's transportation system. The first comprehensive plan
8 must be submitted by December 1, 1994 and must be resubmitted
 every 4 years and, if necessary, updated annually.

10 **§8016. Review of contracts**

12 All contracts and agreements relating to the construction or
13 reconstruction of the authority's transportation system must be
14 reviewed and approved by the department.

16 **§8017. Fair practices; affirmative action**

18 The authority is subject to and shall comply with Title 5,
19 chapter 65. Contractors and subcontractors on all authority
20 construction and reconstruction projects must be equal
21 opportunity employers and, in connection with contracts in excess
22 of \$250,000, must pursue in good faith affirmative action
23 programs designed to remedy underrepresentation of minorities,
24 women and persons with disabilities. The authority may adopt
25 rules to provide for the enforcement of this requirement. To the
26 extent practical, the authority may use program and technical
27 information developed by and available through the department to
28 carry out this section.

30 **§8018. Property of authority; eminent domain**

32 The authority shall hold and acquire property as follows.

34 1. Property of authority. All property of the authority
35 and all property held in the name of the State pursuant to this
36 chapter is exempt from levy and sale by virtue of any execution
37 and an execution or other judicial process is not a valid lien
38 upon its property.

40 2. Use of eminent domain. Whenever a reasonable price can
41 not be agreed upon for the purchase or lease of real property
42 found necessary for the purposes of the authority or whenever the
43 owner is legally incapacitated, absent, unable to convey valid
44 title or unknown, the authority may acquire by eminent domain, in
45 the manner provided by chapter 3, subchapter III, property
46 determined necessary or convenient for the construction,
47 reconstruction or efficient operation of the authority's
48 transportation system. Title to any property taken by eminent
49 domain must be held in the name of the authority.

50

2 3. Entry upon lands. The authority or its authorized
agents or employees may enter upon any lands, waters and premises
4 in the State for the purpose of making surveys, soundings,
drillings and examinations as the authority determines necessary
6 for the purposes of this chapter. The entry does not constitute
a trespass.

8 4. Authority for transfers of interest in land to
authority. All counties, cities, towns and other political
10 subdivisions or municipalities, all public agencies and
commissions of the State and all public service corporations and
12 districts, notwithstanding any other provision of law, may, upon
a request by the authority, lease, lend, grant or convey to the
14 authority, on such terms and conditions as the proper authorities
of the counties, cities, towns, political subdivisions,
16 municipalities, agencies, commissions, public service
corporations and districts determine reasonable, any real or
18 personal property or rights in that property necessary to the
purposes of the authority, including real and personal property
20 or rights in that property already devoted to public use. A
transfer may be made without an advertisement, order of court or
22 other action or formality other than the regular and formal
action of the authorities concerned. As used in this subsection,
24 the term "public service corporation" includes a public utility
as defined in Title 35-A, section 102, subsection 13 and a
26 corporation as defined in Title 13-A.

28 §8019. Applicable law

30 The provisions of the statutes and the decisions of the
courts of the State apply to criminal acts and civil violations
32 committed on the authority's transportation system.

34 §8020. State Police

36 Payment for State Police services on the authority's
transportation system must be made as follows:

38 A. The authority must assume all costs incurred by the
State Police in enforcing the rules of the authority,
40 providing for the safety of the public and enforcing the
laws on the authority's transportation system if the
42 authority has authorized the provision of those services by
the State Police, except that the services of any State
44 Police personnel whose costs are so assumed may be utilized
only for activities related to the authority, except in the
46 event of emergency.

48 B. The Chief of the State Police shall submit monthly
statements of costs incurred and the authority shall pay the
50

2 amount of those costs to the Treasurer of State within 20
3 days of receipt of the monthly statement. The Treasurer of
4 State shall credit those payments to the Highway Fund and
5 the General Fund.

6 C. Prior to June 1st of each year, the Chief of the State
7 Police shall file a report with the authority containing the
8 following information with respect to the level of State
9 Police services required in the following fiscal year. The
10 report must include:

11 (1) The estimated level of required personnel
12 calculated according to the assignment of that
13 personnel by shift;

14 (2) Monthly and annual estimates of the cost of
15 personnel required;

16 (3) The estimated number of vehicles and amount of
17 equipment required, including a schedule of anticipated
18 replacement needs;

19 (4) Annual estimates of the cost of vehicles and
20 equipment required; and

21 (5) Any other information that will aid the authority
22 in determining the required level of State Police
23 services and the cost of those services.

24 D. The authority shall review the information provided in
25 the annual report of the Chief of the State Police and shall
26 authorize the provision of such patrol and other services as
27 the authority determines necessary to enforce its rules, to
28 provide for the safety of the public and to enforce the laws
29 on the authority's transportation system.

30 **§8021. Termination of the authority**

31 Unless all of the liabilities and obligations of the
32 authority are assumed by a successor entity, the authority may
33 not be dissolved until:

34 1. Termination by law. The authority is terminated by law;
35 and

36 2. Payment of bonds, premiums and interest. All bonds,
37 premiums and interest have been paid or a sufficient amount for
38 the payment of all bonds and the interest of the bonds to
39 maturity or prior redemption date has been irrevocably set aside
40 in trust for the benefit of the bondholders.

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SUBCHAPTER II

MAINE TURNPIKE

§8101. Successor to Maine Turnpike Authority

The Maine Turnpike Authority, created by Private and Special Law 1941, chapter 69, is merged into the authority as a single body corporate and politic and the authority is in all respects the corporate successor to the Maine Turnpike Authority. Without further act or deed, the authority possesses all of the rights, privileges, immunities and franchises, whether public or private, possessed by the former Maine Turnpike Authority, including, but not limited to, all right, title and interest of the Maine Turnpike Authority in and to any property, real, personal and mixed, and all debts due on whatever accounts and all other choses in action, and is responsible and liable for all liabilities and obligations of the Maine Turnpike Authority, including, but not limited to, all bonds and notes outstanding at the adoption of this subchapter and all obligations under any resolution or indenture of trust entered into in connection with those bonds and notes. Any claim, action or proceeding pending by or against the Maine Turnpike Authority may be prosecuted as if the merger of the Maine Turnpike Authority did not take place or the authority may be substituted in the place of the Maine Turnpike Authority. No title to real estate or any interest in real estate may revert or is in any way impaired by reason of the merger of the Maine Turnpike Authority into the authority and the rights or creditors of the Maine Turnpike Authority or the holder of any lawful liens upon its property are not impaired by the merger.

§8102. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Access roads. "Access roads" means any and all roads or highways in the state highway system, including bridges, overpasses and underpasses, that directly or indirectly connect with the turnpike and that have been designated as access roads by the department.

2. Interchange. "Interchange" means a system of interconnecting roadways in conjunction with one or more points of separation that provides for the interchange of traffic between 2 or more roadways or highways, one of which is the turnpike, and includes sufficient lengths of intersecting

2 roadways for conformance with current road design standards or
3 standards acceptable to the department.

4 3. Turnpike. "Turnpike" means the roadway constructed
5 between York in York County and Augusta in Kennebec County
6 pursuant to Private and Special Law 1941, chapter 69, sections 1
7 to 20, as amended, and includes not only the roadway and all
8 rights-of-way, bridges, tunnels, overpasses, underpasses and
9 interchanges either upon the roadway or connected or connecting
10 with the roadway, but also all related buildings, toll facilities
11 and other equipment, median barriers, shoulders, embankments,
12 property rights, easements, leases and franchises determined
13 necessary or convenient for the construction, reconstruction,
14 operation or maintenance of the turnpike.

15 §8103. Maintenance of the turnpike

16 1. Maintenance and repair. The authority has the
17 responsibility for the maintenance and repair of the turnpike.
18 At the discretion of the authority, the services of the
19 department, as far as those services are available, may be
20 utilized for this purpose, as well as contracting for services
21 with private corporations, partnerships, associations or
22 individuals. All charges and costs actually expended by the
23 department for maintenance and repairs must be reimbursed by the
24 authority. The turnpike must be operated by toll takers and such
25 other operating employees as the authority in its discretion
26 employs. The authority may utilize the services of the State
27 Police to enforce the rules of the authority with respect to
28 tolls, volume, weight and speed of traffic and other matters of
29 enforcement as the authority requires.

30 2. Speed limit. The authority may adopt rules to establish
31 a maximum limitation on the speed of vehicles using the
32 turnpike. The maximum speed may not exceed 65 miles per hour or
33 the maximum speed that is permitted on similar roads in the
34 State. The authority may also adopt rules to limit the speed at
35 any point or place on the turnpike and to regulate the volume and
36 weight of vehicles admitted to the turnpike.

37 3. Tolls. Tolls, or the fixing of tolls, is not rulemaking
38 within the meaning of Title 5, chapter 375 and is not subject to
39 supervision or regulation by any state commission, board or
40 agency. Any adjustments to tolls may be made only after a public
41 hearing. The authority may fix and revise tolls for the use of
42 the turnpike and the different parts or sections of the turnpike
43 may charge and collect the tolls and may contract with any
44 person, partnership, association or corporation for the use of
45 any part of the turnpike, including the right-of-way adjoining
46 the paved portion. The tolls must be fixed and adjusted to
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2 provide a fund that, together with other revenues of the
3 turnpike, is sufficient in each fiscal year to pay:

4 A. The cost of maintaining, repairing and operating the
5 turnpike and providing and maintaining reasonable reserves
6 for those costs;

8 B. With respect to any bonds for which turnpike toll
9 revenues have been pledged as first lien collateral
10 security, principal of, interest or premium on, and all
11 sinking fund and other requirements under the resolution
12 authorizing issuance of the bonds or by the trust indenture
13 or loan or a security agreement as they become due;

14 C. Those sums that at the sole discretion of the authority
15 are determined to warrant the expenditure of turnpike
16 revenues for the purpose of maintaining, constructing or
17 reconstructing access roads or portions of those roads as
18 well as other improvements to the State's transportation
19 system that have been requested by the department. In
20 estimating those sums, the department and the authority may
21 consider the following factors, no one of which is
22 necessarily determinative:

24 (1) The existing State's transportation system;

26 (2) The traffic impact of the maintenance,
27 construction or reconstruction on the existing access
28 roads;

30 (3) Total cost of the State's transportation system;

32 (4) The probable change in the department's
33 expenditures resulting from maintenance, construction
34 or reconstruction;

36 (5) The relative number of vehicles using or expected
37 to use the access roads on the way to or from the
38 turnpike;

40 (6) The effect that maintenance, construction or
41 reconstruction will have on the flow of traffic to,
42 from and on the turnpike and in diverting vehicular
43 traffic off or away from the turnpike;

44 (7) Fuel type and consumption;

46 (8) The financial condition of the authority, the
47 financial impact of the maintenance, construction and
48 reconstruction of the State's transportation system and
49 reconstruction of the State's transportation system and
50 reconstruction of the State's transportation system and

2 the probable availability of turnpike revenues to make
3 these payments;

4 (9) Existing sources of revenue; or

6 (10) Other factors determined relevant, including, but
7 not limited to, expert opinion;

8 The authority shall cooperate with the department in any
10 surveys or studies to provide any required information, the
11 costs of which shall be borne by the department; and

12 D. The cost of maintaining, constructing or reconstructing
14 interchanges.

16 4. Rates. The rate of toll at each toll facility may be
17 revised at the authority's discretion.

18 A. The authority shall establish a system of commuter
20 discounts to provide passenger vehicles with reduced rates.
21 The commuter rates may not exceed 50% of the normal
22 passenger vehicle toll in effect.

24 B. Reduced rates of fees, fares and tolls may be
25 established for any class of vehicle based upon volume of
26 use.

28 5. Use by military. The turnpike may be used at any time
29 by the Armed Forces of the United States, the National Guard or
30 any of their allies, for defense purposes, free of all tolls and
31 charges, and that use does not constitute a taking of property
32 without due process. The cost of repair or replacement for any
33 structural damage to the turnpike created by that free use,
34 except for ordinary deterioration or depreciation, must be paid
35 or reimbursed by the party causing that damage.

36 §8104. Use of turnpike revenues

38 1. Expenditures. Expenditure of all tolls collected from
39 the turnpike toll facilities and all other revenues derived from
40 the turnpike operations after the effective date of this chapter
41 are limited to the following purposes:

44 A. Maintenance, repair and operation of the turnpike and
45 the establishment of reserves required for those purposes
46 including, without limitation, reserves required or
47 permitted by the resolutions authorizing the issuance of
48 bonds or by the trust indentures related to those bonds and
 including any costs incurred by the department or any other

2 state agency in connection with the operation of the
3 turnpike;

4 B. Payment of the cost of any debt incurred by or assumed
5 by the authority, including, but not limited to, payment of
6 principal of, interest or premium on and all sinking fund
7 and other requirements under any bonds issued by or assumed
8 by the authority, including, but not limited to, bonds
9 outstanding at the adoption of this chapter or issued at a
10 later date and payment of underwriters' fees and discounts,
11 credit enhancement fees, counsel fees, rating agency fees
12 and other costs of issuance of any bonds;

13 C. Construction or reconstruction to improve the turnpike
14 to meet greater traffic demands or improve safety of
15 operation, including reserves for those purposes as
16 authorized in paragraph E, except that the traveled way may
17 not be widened or expanded without the express approval of
18 the Legislature;

19 D. Maintenance, construction or reconstruction of access
20 roads and the State's transportation system when the
21 authority has made the determinations required by subsection
22 4;

23 E. Payments to reserve or sinking funds established by the
24 authority to meet anticipated future costs of constructing
25 or reconstructing designated interchanges or portions of
26 those interchanges, or to accomplish other designated
27 purposes for which the authority is authorized to issue
28 bonds, provided that the funding for projects financed from
29 reserves, together with the estimated future costs of those
30 projects, has been approved by the authority;

31 F. Repayment to the Federal Government for grants or loans,
32 the proceeds of which were used in connection with the
33 construction or reconstruction of any portion of the
34 turnpike or of any interconnecting access roads, but only to
35 the extent that the repayment is required for the authority
36 to continue to collect tolls on the turnpike; and

37 G. Payment or repayment to the Federal Government or any
38 agency of the Federal Government of any charges, taxes or
39 other payments required by law in connection with the
40 construction, reconstruction or operation of the turnpike or
41 the financing or refinancing of the turnpike or any part of
42 the turnpike.

43 2. Sinking fund for payment of bonds. The tolls and all
44 other revenues derived from the turnpike, except that part of
45 other revenues derived from the turnpike, except that part of
46 other revenues derived from the turnpike, except that part of
47 other revenues derived from the turnpike, except that part of
48 other revenues derived from the turnpike, except that part of
49 other revenues derived from the turnpike, except that part of
50 other revenues derived from the turnpike, except that part of

2 those revenues required to pay the costs of maintaining,
4 repairing and operating the turnpike and to provide reserves
6 provided for in a resolution authorizing the issuance of the
8 bonds or in the related trust indenture or loan or other security
agreement, must be set aside at such regular intervals as
provided in the resolution, trust indenture or loan or other
security agreement, in a sinking fund that is pledged to and
charged with the payment of:

10 A. The interest upon those bonds as that interest falls due;

12 B. The principal of those bonds as that principal falls due;

14 C. The necessary fiscal agency charges for paying principal
and interest; and

16 D. Any premiums upon bonds retired by call or purchase as
18 provided in this subsection.

20 The use of the sinking fund is subject to such rules as provided
22 in the resolution authorizing the issuance of bonds or in the
24 related trust indenture, loan or other security agreement, but,
26 except as otherwise provided in that resolution, trust indenture
28 or loan or other security agreement, the sinking fund is a fund
30 for the benefit of all bonds issued under this subsection
32 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, loan or other security
agreement, any money in the 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 must immediately be canceled and may not be
issued again.

34 **3. Revenues for additional interchanges.** In addition to
36 interchanges that have been incorporated into the turnpike, the
38 authority may authorize turnpike revenues to be utilized for
40 additional interchanges authorized pursuant to this section, but
42 only if the additional interchanges or improvements 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 the turnpike revenues is
warranted to pay all or any portion of the cost of maintaining or
constructing these additional interchanges or improvements. In
making the determination of whether a sufficient relationship
exists, the department and the authority shall consider the
following factors, no one of which is necessarily determinative:

48 A. The existing road network;
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- 2 B. The traffic impact of the construction or reconstruction
3 on the existing road network;
- 4 C. The probable change in department or authority
5 expenditures resulting from construction or maintenance;
- 6 D. The relative number of vehicles using or expected to use
7 those access roads on the way to or from the turnpike;
- 8 E. The road distance of those access roads or portions of
9 those roads from the nearest entrance to or exit from the
10 turnpike;
- 11 F. The effect the construction or improvement will have on
12 the flow of traffic to, from and on the turnpike and in
13 diverting vehicular traffic off of or away from the turnpike;
- 14 G. The probable availability of turnpike revenues to make
15 the payments;
- 16 H. The availability of alternative roads to or from the
17 turnpike;
- 18 I. The financial condition of the authority and financial
19 impact of maintenance, improvement and construction;
- 20 J. The existence of any seasonal interchanges that with
21 nominal capital expenditure could be placed into year-round
22 operation; and
- 23 K. Other factors determined relevant, including, but not
24 limited to, expert opinion.

25 Priority must be given to the construction or improvement of
26 interchanges and related access roads that will promote
27 industrial and economic development of communities that are
28 adjacent to or near the turnpike whose present lack of access
29 tends to discourage that development. In determining the extent
30 of effect on industrial and economic development, the department
31 and the authority shall consider existing, committed, proposed
32 and potential development.

33 4. Revenues for access roads and the State's transportation
34 system. Subject to this chapter, the authority, on July 1st and
35 January 1st of each fiscal year, shall authorize reserve
36 operating revenues to be transferred to the department for the
37 costs of constructing, reconstructing, operating and maintaining
38 access roads and the State's transportation system. It is the
39 intention of the Legislature that transfers of reserve operating
40 revenues shall be made to the department for the costs of
41 constructing, reconstructing, operating and maintaining
42 access roads and the State's transportation system.

2 revenues to the department from turnpike tolls should be no less
3 than \$8,700,000 annually.

4 **§8105. Commercial uses**

6 The authority may not lease, sell or otherwise convey, or
7 allow to be used, any of its real or personal property or
8 easements, franchises, buildings or structures, with access to
9 any part of the turnpike or its access roads, for commercial
10 purposes except:

12 1. Services for the traveling public. Kiosks at rest
13 areas, gasoline filling stations, service and repair stations,
14 automatic teller machines and restaurants that the authority
15 determines are necessary to service the needs of the traveling
16 public while using the turnpike; and

18 2. Utilities. Electric power, telegraph, telephone,
19 telecommunications, water, sewer or pipeline facilities.

20 The leasehold interests in kiosks, gasoline filling
21 stations, service and repair stations, automatic teller machines
22 and restaurants are subject to taxation.

24 **§8106. Widening or expansion**

26 The authority may construct, maintain, reconstruct and
27 operate a toll turnpike from a point at or near York in York
28 County to a point at or near Augusta in Kennebec County, except
29 that the traveled way may not be widened or expanded without the
30 express approval of the Legislature. A license, permit or
31 approval necessary for the widening or expansion of the turnpike
32 may not be issued by any state agency unless that agency makes an
33 affirmative finding that the widening or expansion is consistent
34 with state transportation policy as well as rules implementing
35 that policy.

38 **§8107. Penalties**

40 1. Fines; imprisonment. Any violation of rules related to
41 the turnpike or its use or services is a traffic infraction and
42 is punishable by a fine of up to \$250, except that any person who
43 operates a motor vehicle at a speed that exceeds, by 30 miles an
44 hour or more, a speed fixed by the authority commits a Class E
45 crime that is punishable by a fine of at least \$50 and up to
46 \$500, imprisonment of up to 30 days or both. Any person who
47 fails or neglects to pay tolls, fares or charges for use of the
48 turnpike commits a Class E crime that is punishable by a fine of
49 up to \$500, imprisonment for up to 30 days or both. Nothing
50 contained in this section prevents the authority from collecting

2 payment for use of the turnpike or any other service in
3 connection with the turnpike by action at law or in equity.

4 2. Rules. This section does not affect the power of the
5 authority to make rules governing use of the turnpike or the
6 power to prescribe limitations on the speed, volume and weight of
7 vehicles using the turnpike as granted to the authority by this
8 chapter.

10 **Sec. 21. 25 MRSA §1502, 3rd ¶**, as enacted by PL 1985, c. 403,
11 Pt. A, §1, is amended to read:

12 The State Police may provide patrol services to the Maine
13 Turnpike. The Chief of the State Police may charge the Maine
14 Turnpike Transportation Authority for these services. Revenues
15 received are allocated for the purpose of funding the cost of
16 patrolling the Maine Turnpike.

18 **Sec. 22. 26 MRSA §962, sub-§7, ¶A**, as enacted by PL 1991, c.
19 576, is amended to read:

22 A. Any officer, board, commission, council, committee or
23 other persons or body acting on behalf of:

24 (1) Any municipality or any subdivision of a
25 municipality;

28 (2) Any school, water, sewer or other district;

30 (3) The Maine Turnpike Transportation Authority;

32 (4) The Child Development Services System; or

34 (5) Any county or subdivision of a county; or

36 **Sec. 23. 28-A MRSA §201**, as enacted by PL 1987, c. 45, Pt. A,
37 §4, is amended to read:

38 In order to increase state revenues and to attract more of
39 the tourist trade to the state discount liquor store in Kittery,
40 the Maine Turnpike Transportation Authority shall erect and
41 maintain a guidepost no more than one mile north of the York toll
42 station on the southbound side of the Maine Turnpike. The
43 guidepost shall must be worded as follows:

46 DISCOUNT LIQUOR STORE -- KITTERY

48 YORK EXIT -- U.S. ROUTE 1 SOUTH

50

2 The Bureau of Alcoholic Beverages shall compensate the Maine
Turnpike Transportation Authority for the full cost of erecting
the guidepost.

4
6 **Sec. 24. 36 MRSA §2908, first ¶,** as repealed and replaced by PL
1987, c. 402, Pt. A, §183, is amended to read:

8 Any person, association of persons, firm or corporation who
shall ~~buy~~ buys and use uses any internal combustion engine fuel
10 as defined in this chapter for the purpose of operating or
propelling commercial motor boats, tractors used for agricultural
12 purposes not operating on public ways, or for registered vehicles
operating off the highways of this State, or vehicles owned or
14 operated by railroad companies while operating on rails or
tracks, or in stationary engines, or in the mechanical or
16 industrial arts, or for any other commercial use except in
nonrailroad motor vehicles operated or intended to be operated
18 upon any of the public highways of this State, or turnpikes
operated and maintained by the Maine Turnpike Transportation
20 Authority, or except as provided in section 2910, in the
operation of aircraft, and who shall ~~have~~ has paid any tax on
22 internal combustion engine fuel levied or directed to be paid as
provided by this chapter, either directly by the collection of
24 the tax by the vendor from the consumer, or indirectly by adding
the amount of that tax to the price of that fuel and paid by that
26 consumer, shall must be reimbursed and ~~repaid~~ the amount of the
tax paid by ~~him~~ less 1¢ per gallon upon presenting to the State
28 Tax Assessor a sworn statement accompanied by the original
invoices or other evidence as the State Tax Assessor may require
30 showing those purchases, ~~which.~~ The statement shall must show
the total amount of the fuel so purchased and used by that
32 consumer other than in nonrailroad motor vehicles operated or
intended to be operated upon any of the public highways of the
34 State and in the operation of aircraft. Applications for refunds
shall must be filed with the State Tax Assessor within 15 months
36 from the date of purchase.

38 **Sec. 25. Effective date.** This Act takes effect September 1,
1992.

40
42 **Sec. 26. Transition; authority members.** The 4 members of the
Maine Turnpike Authority in office on the effective date of this
Act shall serve out their respective terms of office as general
44 members of the Maine Transportation Authority.

46 **Sec. 27. Transition; authority operations.** The following
provisions apply to the creation of the Maine Transportation
48 Authority and the transfer of the Maine Turnpike to the Maine
Transportation Authority.

50

1. All agreements, leases, contracts or licenses issued under the Maine Revised Statutes, Title 23, chapter 24 prior to the effective date of this Act continue to be valid under the terms of issuance until they expire or are rescinded, amended or revoked in accordance with their respective terms.

2. All rules adopted under the Maine Revised Statutes, Title 23, chapter 24 or adopted with regard to that chapter prior to the effective date of this Act must be administered by the Maine Transportation Authority created in this Act and continue in effect until rescinded or amended by the authority or overturned by a court of law.

3. Employees of the Maine Turnpike Authority on the effective date of this Act shall be employees of the Maine Transportation Authority and are subject to all the existing terms and conditions of their employment including, but not limited to, all rights, privileges and benefits provided by their collective bargaining agreements.

Sec. 28. Transfer of funds required. The Maine Transportation Authority shall reduce administrative costs and provide more cost-effective services currently provided by the Maine Turnpike Authority. The Department of Transportation shall transfer \$5,000,000 of operating surplus funds, over and above all transfers otherwise required by the Maine Revised Statutes, Title 23, received from the Maine Turnpike Authority to the General Fund by June 30, 1993.

STATEMENT OF FACT

This bill creates the Maine Transportation Authority to replace and succeed the Maine Turnpike Authority. The new authority will manage the existing turnpike highway and have the ability to develop other modes of transportation as authorized by the Legislature. The authority will work closely with the Maine Department of Transportation to develop a comprehensive transportation system that minimizes cost to the users of the system and the people of the State.