

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1999

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Legislative Document

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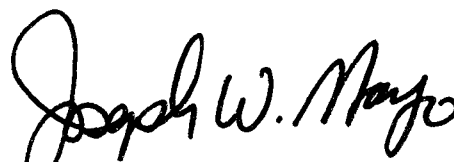
H.P. 838

House of Representatives, February 9, 1999

**An Act to Create the East-West Highway Authority.**

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Reference to the Committee on Transportation suggested and ordered printed.

  
JOSEPH W. MAYO, Clerk

Presented by Representative GOODWIN of Pembroke.  
Cosponsored by Representative DUGAY of Cherryfield.

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

4 **Sec. 1. 5 MRSA §12004-F, sub-§1-A is enacted to read:**

6 1-A. East-West Highway Authority      Legislative Per Diem      22 MRSA §1991

8 **Sec. 2. 23 MRSA c. 26 is enacted to read:**

10 **CHAPTER 26**

12 **EAST-WEST HIGHWAY AUTHORITY**

14 **§1990. Definitions**

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

20 1. Access roads. "Access roads" means any and all roads or  
22 highways in the state highway system, including bridges,  
24 overpasses and underpasses, that directly or indirectly connect  
with the East-West Highway and that have been designated as such  
by the Department of Transportation.

26 2. Authority. "Authority" means the East-West Highway  
28 Authority as established by Title 5, section 12004-F, subsection  
1-A.

30 3. Bond. "Bond" or "bonds" means and includes a bond or  
32 note or other evidence of indebtedness authorized under this  
chapter whether issued under or pursuant to a bond resolution,  
34 trust indenture or loan or other security agreement.

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

38 5. Department. "Department" means the Department of  
40 Transportation or its successor.

42 6. Department project. "Department project" means the  
44 rehabilitation, reconstruction or construction of any highway or  
bridge on the state highway system determined by the department  
46 and the authority to have a sufficient relationship to the  
public's use of the highway in accordance with section 1999-A,  
subsection 6.

48 7. East-West Highway. "East-West Highway" means the roadway  
50 constructed by the East-West Highway Authority between Calais and  
the border of New Hampshire and an extension of the primary

2 highway to the border of the Province of Quebec, Canada, together  
4 with any expansion or extension of that roadway that is  
6 authorized by law, and includes not only the roadway and all  
8 rights-of-way, bridges, tunnels, overpasses, underpasses and  
10 interchanges either on the roadway or connected to or connecting  
12 with the roadway as expanded or extended, but also all buildings,  
toll facilities and other equipment, median barriers, shoulders,  
embankments, property rights, easements, leases and franchises  
relating to the roadway and such rights-of-way bridges, tunnels,  
overpasses, underpasses and interchanges that are determined  
necessary or convenient for the construction, reconstruction,  
operation or maintenance of the highway.

14 8. Interchange. "Interchange" means a system of  
16 interconnecting roadways in conjunction with one or more points  
18 of separation providing for the interchange of traffic between 2  
20 or more roadways or highways, one of which is the highway and  
includes sufficient lengths of intersecting roadways required for  
conformance with road design standards or standards acceptable to  
the department.

22 9. Intermodal transportation facility. "Intermodal  
24 transportation facility" means any facility, including but not  
26 limited to any rail or bus depot or station, taxi stand, loading  
28 platform, parking lot and any related building or appurtenance,  
30 located on or adjacent to the highway or in the immediate  
vicinity of any highway interchange, that is designed to serve  
the needs of users of 2 or more modes of transportation including  
the highway and that mode of transportation the authority  
determines necessary or convenient to meet the needs of users of  
the highway.

32 10. Law enforcement officer. "Law enforcement officer"  
34 means a person who by virtue of public employment is vested by  
36 law with a duty to maintain public order or to make arrests for  
crimes, whether that duty extends to all crimes or is limited to  
specific crimes.

38 11. Operating revenues. "Operating revenues" means funds  
40 available to the East-West Highway Authority from fees, fares,  
42 tolls and rentals of concessions and miscellaneous revenue and  
interest not otherwise pledged or dedicated.

44 12. Operating surplus. "Operating surplus" means the total  
46 annual operating revenues of the East-West Highway Authority,  
48 after money has been put aside to pay the reasonable operating  
expenses, to pay or to reserve for capital expenditures and to  
meet the requirements of any resolution authorizing bonds of the  
East-West Highway Authority, including any amounts pledged to  
secure obligations issued pursuant to section 1994, subsection 2

2 or to pay principal, interest or premium, if any, with respect to  
3 these obligations.

4 13. Reconstruct or reconstruction. "Reconstruct" or  
5 "reconstruction" means any activities undertaken to maintain the  
6 East-West Highway or any part of the East-West Highway as a  
7 modern, safe and efficient facility and includes, but is not  
8 limited to, any rebuilding, redesign, improvement or enlargement  
9 of the highway or any part of the highway that the authority  
10 considers necessary to continuously, adequately, safely and  
11 swiftly facilitate vehicular traffic upon, to or from the  
12 East-West Highway.

14 14. State highway system. "State highway system" or "state  
15 highways" includes any classification of highways under section  
16 53.

18 §1991. East-West Highway Authority; membership; powers;  
19 miscellaneous

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

24 A. The authority consists of the following 12 members,  
25 appointed to 7-year terms by the Governor:

- 26 (1) Two members from Hancock County;  
28 (2) Two members from Franklin County;  
30 (3) Two members from Oxford County;  
32 (4) Two members from Penobscot County;  
34 (5) Two members from Somerset County; and  
36 (6) Two members from Washington County.

38 Members from a county must be selected from a list of  
39 recommended members submitted to the Governor by that  
40 county's commissioners. The Governor's appointments are  
41 subject to review by the joint standing committee of the  
42 Legislature having jurisdiction over transportation matters  
43 and subject to confirmation by the Legislature.

46 B. The commissioner is a member ex officio. The  
47 commissioner may designate a deputy, director, assistant or  
48 other officer or employee of the department to represent the  
49 commissioner at meetings of the authority with full power to  
50 act and vote on behalf of the commissioner.

2           2. Qualifications. A person may not be appointed to the  
4           authority if the person is not a resident of the State at the  
6           time of the appointment and confirmation or if the person has not  
              been a qualified voter in the State for a period of at least one  
              year next preceding the appointment.

8           3. Compensation. Each member of the authority is entitled  
10           to compensation according to the provisions of Title 5, chapter  
              379.

12           4. Removal from office. The Governor may remove a member  
14           from the authority only for gross misconduct.

16           5. Vacancies. Upon the expiration of the term of office of  
18           any member, the Governor shall appoint a new member who serves in  
20           office for a term of 7 years and until a successor is duly  
22           appointed and qualified. A member of the authority is eligible  
24           for reappointment. In the event of a vacancy in the membership  
26           of the authority caused by the death, incapacity, resignation or  
              removal of a member, the Governor shall appoint a member to fill  
              that vacancy only for the unexpired term of office of the member  
              whose death, incapacity, resignation or removal created the  
              vacancy, but the newly appointed member may be reappointed at the  
              end of the unexpired term in accordance with this subsection.

28           6. Officers. The Governor shall name one of the appointed  
30           members as chair of the authority. The authority shall elect a  
32           secretary and treasurer who need not be members of the authority  
34           and shall elect an executive director or general manager who is  
36           not a member of the authority. Seven members of the authority  
              constitute a quorum and 7 votes are required for the authority to  
              act on any matter, although a lesser number may adjourn. A  
              vacancy in the membership of the authority does not impair the  
              right of a quorum of the members to exercise all the rights and  
              perform all the duties of the authority.

38           7. Security bond. Before the issuance of any bonds under  
40           this chapter, the secretary and treasurer shall execute a  
42           security bond in the amount of \$100,000. Each security bond must  
44           be approved by the Attorney General, must be conditioned upon the  
              faithful performance of the duties of the office and must be  
              filed in the office of the State Auditor.

46           8. Powers. The authority is a body both corporate and  
              politic in the State and may:

48           A. Sue and be sued;

50           B. Have a seal and alter the seal at pleasure;

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C. Adopt from time to time and amend bylaws covering its procedures and rules governing use of the East-West Highway and any of the other services made available in connection with the East-West Highway; develop and adopt, in accordance with Title 5, chapter 375, rules governing the use of the East-West Highway and other services; publish those bylaws or rules as publication is necessary or advisable; and cause records of its proceedings to be kept;

D. Construct, maintain, reconstruct and operate a toll highway between Calais in Washington County and the border of New Hampshire and an extension to the border of the Province of Quebec, Canada;

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

F. Acquire in the name of the authority by purchase, eminent domain, lease or otherwise real property and rights or easements to or in that real property considered necessary or desirable for its purposes and use that property;

G. Acquire any such real property by the exercise of the power of eminent domain in the manner provided by section 1993;

H. Charge and collect fees, fares and tolls for the use of the East-West Highway and other services made available in connection with the East-West Highway and use the proceeds of those fees, fares and tolls for the purposes provided in this chapter as subject to and in accordance with such an agreement with bondholders as may be made as provided in this chapter;

I. Make contracts with the United States or any instrumentality or agency of the United States; this State or any of its agencies or instrumentalities, municipalities, public corporations or bodies; and private corporations, partnerships, associations and individuals;

J. Accept grants and the cooperation of the United States or any agency of the United States in the construction, maintenance, reconstruction, operation and financing of the East-West Highway and do all things necessary in order to avail itself of that aid and cooperation and repay any such grant or portion of that grant;

K. Provide maintenance services on connecting interstate highways for a maximum road distance of 5 miles from the

2 point of connection with the East-West Highway and only in  
3 accordance with reimbursement arrangements that are mutually  
4 satisfactory to the authority and the department;

5 L. Employ assistants; agents and servants; engineering,  
6 traffic, architectural and construction experts and  
7 inspectors; and attorneys and other employees that it  
8 considers necessary or desirable for its purposes;

9 M. Exercise any of its powers in the public domain of the  
10 United States, unless the exercise of those powers is not  
11 permitted by the laws of the United States;

12 N. Borrow money; make, issue and sell at public or private  
13 sale negotiable notes, bonds and other evidences of  
14 indebtedness or obligations of the authority for the  
15 purposes set forth in this chapter; and secure the payment  
16 of those obligations or any part of those obligations by  
17 pledge of all or any part of the operating revenues of the  
18 East-West Highway;

19 O. Enter into loan or security agreements with one or more  
20 lending institutions, including, but not limited to, banks,  
21 insurance companies and pension funds, or trustees for those  
22 lending institutions for purposes for which bonds may be  
23 issued and exercise with respect to such loan or security  
24 agreements all of the powers delineated in this chapter for  
25 the issuances of bonds;

26 P. Use toll revenues to provide payment of obligations, if  
27 any, that may be due to the United States in order to  
28 continue the use of the East-West Highway as a toll-type  
29 facility;

30 Q. Before the issuance of any bonds, issue interim  
31 certificates in such a manner and with such conditions as  
32 the authority may determine to be exchanged for bonds when  
33 they are issued;

34 R. Utilize the Department of Transportation, Office of  
35 Legal Services or the Department of the Attorney General for  
36 general counsel, bond counsel, labor defense, workers'  
37 compensation, legislative issues and other required legal  
38 services on a fee-for-service basis at rates determined by  
39 those agencies;

40 S. Take all other lawful action necessary and incidental to  
41 these powers;



2 T. Adopt rules, in accordance with the Maine Administrative  
4 Procedure Act, to establish a logo signing program on the  
6 East-West Highway. The authority may charge fees for signs  
8 that contain names, symbols, logos or other identifiers of  
10 specific commercial enterprises. This paragraph may not be  
12 interpreted as limiting the authority's general power to  
14 collect fees under paragraph H; and

16 U. Make a contract or enter into an agreement with or  
18 provide certifications and assurances to the department, or  
20 any 3rd party, necessary in connection with the  
22 determination of department projects; the issuance of bonds  
24 or other obligations pursuant to section 1968, subsection  
26 2-A; the pledge of revenues to the payment of these bonds or  
28 obligations; or the payment of the costs or a portion of the  
30 costs of department projects.

32 9. Cooperation with department. The authority may issue  
34 bonds or other obligations to pay for department projects. These  
36 amounts are considered necessary for use by the department for  
38 construction, reconstruction, operation and maintenance of all  
40 roads on the state highway system, which serve and benefit users  
42 of the East-West Highway by providing direct and indirect access  
44 to and from the East-West Highway as part of the integrated  
46 highway system. Due to the utilization of the state highway  
48 system by users of the East-West Highway, the East-West Highway  
50 and its users have received and will continue to receive a  
benefit from, or have caused and will continue to cause, or both,  
the State acting by and through the department to incur costs for  
the construction, operation and maintenance of the state highway  
system, which provides direct and indirect access to and from the  
East-West Highway to areas in the State, for which the State may  
properly be and should be compensated from the tolls to be  
collected. The authority is maintained to carry out the purposes  
of this chapter in cooperation with the department.

10. Governmental function. It is declared that the  
purposes of this chapter are public and that the authority must  
be regarded as performing a governmental function in carrying out  
this chapter.

11. Transportation policy. Transportation planning  
decisions, capital investment decisions and project decisions of  
the authority are governed by and must comply with the  
transportation policy set forth in section 73 and rules  
implementing that policy.

12. Appropriation. On or before January 31st of each year,  
the authority shall present to each regular session of the  
Legislature for its approval a budget for the operating expenses

2 of the authority for the calendar year that begins after the  
3 adjournment of that regular session and shall present to each  
4 regular session of the Legislature for informational purposes a  
5 statement of the revenues necessary for capital expenditures and  
6 reserves and to meet the requirements of any resolution  
7 authorizing bonds of the authority during that calendar year,  
8 including debt service and the maintenance of reserves for debt  
9 service and reserve maintenance. The authority may only pay  
10 operating expenses in accordance with allocations approved by the  
11 Legislature or as necessary to satisfy the requirements of any  
12 resolution authorizing bonds of the authority. The operating  
13 surplus must be transferred to the department and expended in  
14 accordance with allocations approved by the Legislature.

15 **§1992. Obligations of authority**

16  
17 **1. General.** All expenses incurred in carrying out this  
18 chapter must be paid solely from funds provided under this  
19 chapter and liability or obligation may not be incurred under  
20 this chapter beyond the extent to which money has been provided  
21 under this chapter.

22  
23 **2. Contracts for construction or reconstruction.** All  
24 contracts and agreements relating to the construction or  
25 reconstruction of the East-West Highway and the construction or  
26 reconstruction of connecting tunnels and bridges, overpasses,  
27 underpasses, interchanges and toll facilities must be approved by  
28 the department and the East-West Highway and connecting tunnels  
29 and bridges, overpasses, underpasses, interchanges and barriers  
30 must be constructed or reconstructed under the supervision of the  
31 department.

32  
33 Contractors and subcontractors on all authority construction and  
34 reconstruction projects must be equal opportunity employers and,  
35 in connection with contracts in excess of \$250,000, also pursue  
36 in good faith affirmative action programs designed to remedy  
37 underrepresentation of minorities, women and persons with  
38 disabilities. The authority may by rule provide for the  
39 enforcement of this requirement. To the extent practical, the  
40 authority may use program and technical information developed by  
41 and available through the department to carry out this subsection.

42  
43 All authority construction and reconstruction projects are  
44 governed by the prevailing wage provisions in Title 26, chapter  
45 15.

46  
47 **3. Bonds not to be pledges of State.** Highway revenue bonds  
48 issued under this chapter, including any notes or other evidences  
49 of indebtedness or obligations defined to be bonds under this  
50 chapter, are not a debt of the State or a pledge of the faith and

2 credit of the State, but these bonds are payable exclusively from  
3 the fund provided in this chapter for that purpose from tolls or  
4 other operating revenues. All these bonds must contain a  
5 statement on their face that the State is not be obligated to pay  
6 the same or the interest on the bonds and that the faith and  
7 credit of the State is not be pledged to the payment of the  
8 principal of or interest or premium on those bonds. The issuance  
9 of bonds or the refunding of bonds under this chapter does not  
10 directly or indirectly or contingently obligate the State to levy  
11 or to pledge any form of taxation in connection with the issuing  
12 or refunding of bonds or to make any appropriation for the  
13 payment of the bonds or the interest or premium on the bonds.

14 4. Semiannual report. The authority, on a semiannual basis,  
15 shall present its report to the Legislative Council and send  
16 copies to the joint standing committee of the Legislature having  
17 jurisdiction over transportation matters, the commissioner and  
18 the Office of Fiscal and Program Review. The report must include  
19 a full, detailed description of the authority's activities for  
20 the preceding fiscal half, including a detailed report of its  
21 receipts and expenditures from all sources.

22 5. Fair practices; affirmative action. The authority is  
23 subject to and shall comply with Title 5, chapter 65.

24 §1993. Property of authority; eminent domain

25 The authority may hold and acquire property as follows.

26 1. Property of authority. All property of the authority and  
27 all property held in the name of the State pursuant to the  
28 provisions of this chapter is exempt from levy and sale by virtue  
29 of any execution, and an execution or other judicial process is  
30 not a valid lien upon property held pursuant to the provisions of  
31 this chapter. The authority may not lease, sell or otherwise  
32 convey or allow to be used any of its real or personal property  
33 or easements in that property, franchises, buildings or  
34 structures that have access to any part of the East-West Highway  
35 or its approaches for commercial purposes, with the exception of  
36 those intermodal transportation facilities, kiosks at rest areas,  
37 gasoline filling stations, service and repair stations, state and  
38 tri-state lottery ticket agencies, automatic teller machines and  
39 restaurants as it determines necessary to service the needs of  
40 the traveling public that is using the East-West Highway, except  
41 that the authority may permit the erection or installation of  
42 electric power, telegraph, telephone, water, sewer or pipeline  
43 facilities and provided that the leasehold interests in those  
44 intermodal transportation facilities, kiosks, gasoline filling  
45 stations, service and repair stations, state and tri-state  
46 lottery ticket agencies, automatic

2 teller machines and restaurants are subject to taxation as  
3 provided in section 1997. In accordance with rules adopted  
4 pursuant to section 1991, subsection 8, paragraph T, the  
5 authority may erect and maintain or allow to be erected and  
6 maintained signs that contain names, symbols, trademarks, logos  
7 or other identifiers of specific commercial enterprises.

8 2. Use of eminent domain. When a reasonable price can not  
9 be agreed upon for the purchase or lease of real property found  
10 necessary for the purposes of the authority or when the owner is  
11 legally incapacitated or is absent or is unable to convey valid  
12 title or is unknown, the authority may acquire by eminent domain  
13 any such real property whether wholly or partly constructed or  
14 interest or interests in real property and any land, rights,  
15 easements, franchises and other property considered necessary or  
16 convenient for the construction or reconstruction or the  
17 efficient operation of the East-West Highway, its connecting  
18 tunnels, bridges, overpasses, underpasses or interchanges in the  
19 manner provided by chapter 3, subchapter III. Title to any  
20 property taken by eminent domain must be in the name of the  
21 authority.

22 3. Entry upon lands. The authority and its authorized  
23 agents and employees may enter upon any lands, waters and  
24 premises in the State for the purpose of making surveys,  
25 soundings, drillings and examinations as it considers necessary  
26 or convenient for the purposes of this chapter, and the entry may  
27 not be deemed a trespass.

28 4. Authority for transfers of interest in land to  
29 authority. All counties, cities, towns and other political  
30 subdivisions or municipalities and all public agencies and  
31 commissions of the State and all public service corporations and  
32 districts, notwithstanding any contrary provisions of law, may  
33 lease, lend, grant or convey to the authority, upon its request,  
34 upon such terms and conditions as the proper authorities of the  
35 counties, cities, towns, political subdivisions, other  
36 municipalities, agencies, commissions, public service  
37 corporations and districts consider reasonable and fair and  
38 without the necessity for any advertisement, order of court or  
39 other action or formality other than the regular and formal  
40 action of the authorities concerned, any real or personal  
41 property or rights in such property that may be necessary or  
42 convenient to the effectuation of the authorized purposes of the  
43 authority, including real and personal property or rights in that  
44 property already devoted to public use. As used in this  
45 subsection, the term "public service corporation" includes every  
46 public utility as defined in Title 35-A, section 102, subsection  
47 13 and every corporation referred to in Title 13-A.

**§1994. Issuance of bonds**

2  
4 1. Highway revenue bonds. The authority may provide by  
6 resolution from time to time for the issuance of highway revenue  
8 bonds, including notes or other evidences of indebtedness or  
obligations defined to be bonds under this chapter, not exceeding  
\$200,000,000 in the principal amount at any one time outstanding  
exclusive of refundings, for any purpose described in section  
1995, subsection 1.

10  
12 2. Bonds for department projects. In addition to bonds  
14 outstanding pursuant to any other provision of this chapter, the  
16 authority may provide by resolution from time to time but no  
18 later than June 30, 2002 for the issuance of special obligation  
20 bonds, including notes or other evidences of indebtedness or  
22 obligations defined to be bonds under this chapter, not exceeding  
\$40,000,000 in aggregate principal amount exclusive of  
refundings, to pay to the department the costs, or a portion of  
the costs, of department projects. Department projects paid for  
with bonds in accordance with this subsection must be determined  
by the department and the authority to have a sufficient  
relationship to the public's use of the East-West Highway in  
accordance with section 1999-A, subsection 6.

24  
26 3. Bonds; negotiable; not debt of State. The bonds of the  
28 authority do not constitute a debt of the State or of any agency  
30 or political subdivision of the State and are payable solely from  
32 the operating revenues of the East-West Highway. Notwithstanding  
34 any provision of law, any bonds issued pursuant to this chapter  
are fully negotiable. If a member or an officer of the authority  
whose signature appears on the bonds or coupons ceases to be a  
member or an officer before the delivery of the bonds, the  
signature is, nevertheless, valid and sufficient for all purposes  
as if the member or officer had remained in office until that  
delivery.

36  
38 Whether or not the bonds are of such a form and character as to  
40 be negotiable instruments under Title 11, Article 8, the bonds  
are hereby made negotiable instruments within the meaning of and  
for all the purposes of Title 11, Article 8, subject only to the  
provisions of the bonds for registration.

42  
44 It is the intention of this chapter that any pledge made by the  
46 authority in respect to the bonds or notes is valid and binding  
48 from the time when the pledge is made; that the funds or property  
so pledged and thereafter received by the authority is  
immediately subject to the lien of that pledge without any  
physical delivery of those funds or property or further act; and  
50 that the lien of such a pledge is valid and binding as against  
all parties having claims of any kind in tort or contract or

2 otherwise against the authority irrespective of whether those  
3 parties have notice of that lien. Neither the resolution, trust  
4 indenture nor any other instrument by which a pledge is created  
5 need be recorded.

6 The authority may, in the resolution authorizing prospective  
7 issues, provide as to those bonds:

- 8
- 9 A. The manner of executing the bonds and coupons;
- 10
- 11 B. The form and denomination of the bonds;
- 12
- 13 C. Maturity dates not more than 25 years from the date or  
14 dates of issuance, excluding the period, if any, during  
15 which bond anticipation notes are outstanding;
- 16
- 17 D. The interest rate or rates on the bonds, which may be  
18 fixed or variable or a combination of both;
- 19
- 20 E. For the redemption prior to maturity and the premium  
21 payable for the bonds;
- 22
- 23 F. The place or places for the payment of interest and  
24 principal;
- 25
- 26 G. For registration if the authority determines it to be  
27 desirable;
- 28
- 29 H. For the pledge of all or any of the operating revenues  
30 of the East-West Highway for securing payment;
- 31
- 32 I. For the replacement of lost, destroyed or mutilated  
33 bonds;
- 34
- 35 J. The setting aside of revenue and sinking funds and the  
36 regulation and disposition of these revenues and funds and  
37 for limitations on reserves, if any, established for capital  
38 outlay from operating revenues;
- 39
- 40 K. For limitations on the issuance of additional bonds;
- 41
- 42 L. For the procedure, if any, by which the contract with  
43 the bondholders may be abrogated or amended;
- 44
- 45 M. For the manner of sale, which may be public or private,  
46 and purchase of the bonds;
- 47
- 48 N. For covenants against pledging any or certain parts of  
49 the operating revenues of the East-West Highway;
- 50

2 O. For covenants fixing and establishing the prices, rates  
4 and charges for the use of the East-West Highway and other  
6 services made available in connection with the East-West  
8 Highway so as to provide at all times funds that will be  
10 sufficient:

12 (1) To pay all costs of operation and maintenance of  
14 the East-West Highway, together with the necessary  
16 repairs to the highway;

18 (2) To meet and pay the principal and interest of all  
20 such bonds as those bonds severally become due and  
22 payable;

24 (3) For the creation of reserves for the principal and  
26 interest of all such bonds and for the meeting of  
28 contingencies and the operation and maintenance of the  
30 East-West Highway as the authority determines; and

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

36 P. For such other covenants as to prices, rates and charges  
38 as the authority determines;

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

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

S. For covenants as to the use of its property and the  
maintenance and replacement of the property and the  
insurance to be carried on the property and the use and  
disposition of insurance money;

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

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

V. For the issuance, in addition to the issuance of notes  
and other evidences of indebtedness or obligations  
authorized under this chapter, of notes in anticipation of  
authorized bonds and for the exercise with respect to the

2 bond anticipation notes of any or all of its powers  
3 delineated in this chapter for the issuance of bonds; and

4 W. For the performance by the authority of any acts and  
5 things necessary or convenient or desirable in order to  
6 secure its bonds or in the absolute discretion of the  
7 authority as will tend to make the bonds more marketable  
8 notwithstanding that those acts or things may not be  
9 enumerated in this chapter.

10 **§1995. Application of proceeds of bonds or bond anticipation**  
11 **notes**

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

16  
17 **A. To the payment of the cost of the construction and**  
18 **reconstruction of the East-West Highway or to the payment to**  
19 **the department of the cost of department projects;**

20  
21 **B. To the repayment of grants or loans from the Federal**  
22 **Government that were used to construct or reconstruct the**  
23 **East-West Highway or portions of it or interconnecting**  
24 **access roads or portions of them but only to the extent that**  
25 **repayment is required in order for the authority to maintain**  
26 **or establish tolls on the East-West Highway;**

27  
28 **C. To the payment of the costs of constructing or**  
29 **reconstructing interchanges that are determined by the**  
30 **department and the authority to have a sufficient**  
31 **relationship to the public's use of the East-West Highway**  
32 **and the orderly regulation and flow of traffic on the**  
33 **East-West Highway in accordance with the requirements of**  
34 **section 1999-A, subsection 3;**

35  
36 **D. To the payment of the costs of issuance of the bonds;**

37  
38 **E. To the creation of reasonable reserves for the payment**  
39 **of the principal of and interest on those bonds and to meet**  
40 **the cost of extraordinary repairs to or maintenance of the**  
41 **East-West Highway;**

42  
43 **F. To an appurtenant fund; and**

44  
45 **G. To the payment of any temporary notes of the authority,**  
46 **the proceeds of which were used for any of the foregoing**  
47 **purposes.**



2        2. Lien created. There is created and granted a lien upon  
3        the money until so applied in favor of holders of those bonds or  
4        the trustee provided for under this chapter in respect of those  
5        bonds.

6        **§1996. Bonds; how secured**

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

42       **§1997. Exemption from taxes**

44       The accomplishment by the authority of the authorized  
45       purpose stated in this chapter, being for the benefit of the  
46       people of the State and for the improvement of their commerce and  
47       prosperity, in which accomplishment the authority will be  
48       performing essential governmental functions, the authority is not  
49       required to pay any taxes or assessment on any property acquired  
50       or used for the purposes provided in this chapter, except that

2 restaurants, kiosks, fuel and service facilities, leased or  
3 rented by the authority to business entities, are subject to  
4 taxation, and assessments must be made against the tenant in  
5 possession based upon the value of the leasehold interest, both  
6 real and personal. The authority may not be required to pay any  
7 tax upon its income except as may be required by the laws of the  
8 United States, and the bonds or other securities and obligations  
9 issued from the authority and the transfer and the income from  
10 the transfer of those bonds or other securities and obligations,  
11 including any profits made on that sale, must at all times be  
12 free from taxation within the State.

#### 13 **§1998. Refunding bonds**

14  
15 The authority is authorized to provide by resolution for the  
16 issuance of highway revenue refunding bonds of the authority,  
17 including notes or other obligations defined as bonds under this  
18 chapter for the purpose of refunding any bonds then outstanding,  
19 including the payment of any redemption premium on those bonds  
20 and any interest accrued or to accrue to the date of redemption  
21 of those bonds; and, if considered advisable by the authority,  
22 for any additional purpose for which bonds authorized by this  
23 chapter may be issued. The issuance of the bonds and the  
24 maturities and other details of the bonds, the rights of the  
25 holders of the bonds and the rights, duties and obligations of  
26 the authority in respect to those rights, duties and obligations  
27 are governed by this chapter insofar as these rights, duties and  
28 obligations may be applicable.

#### 29 **§1999. Maintenance of East-West Highway**

30  
31 1. Maintenance and repair. The East-West Highway must be  
32 maintained and repaired by and under the control of the authority  
33 and, at the discretion of the authority, the services of the  
34 department, as far as the services are available or expedient,  
35 may be utilized for this purpose. All charges and costs for  
36 maintenance and repairs actually expended by the department must  
37 be paid to it by the authority. The East-West Highway must be  
38 operated by such force of toll takers and other operating  
39 employees as the authority may in its discretion employ. The  
40 authority may utilize the services of the State Police to enforce  
41 the rules of the authority with respect to tolls, volume, weight  
42 and speed of traffic and with respect to such other matters of  
43 enforcement as it may in its discretion require, and all charges  
44 and costs for those services actually expended by the State  
45 Police must be paid by the authority to the Treasurer of State in  
46 accordance with section 1999-A, subsection 4.

47  
48 2. Speed limit. The authority may by rule prescribe a  
49 maximum limitation on the speed of vehicles using the East-West  
50 Highway.

2 Highway, but not to exceed 65 miles per hour or such maximum  
3 speed as is permitted on similar roads in the State, to limit the  
4 speed at any point or place on the East-West Highway, and may  
5 regulate the volume and weight of vehicles admitted to the  
6 East-West Highway.

7 3. Tolls. Tolls, or the fixing of tolls, is not rulemaking  
8 and is not subject to supervision or regulation by any state  
9 commission, board or agency. Subject to subsection 4, the  
10 authority may fix and revise from time to time tolls for the use  
11 of the East-West Highway and the different parts or sections of  
12 the East-West Highway; charge and collect those tolls; and  
13 contract with any person, partnership, association or corporation  
14 desiring the use of any part of the East-West Highway, including  
15 the right-of-way adjoining the paved portion. The tolls must be  
16 so fixed and adjusted as to provide a fund at least sufficient  
17 with other revenues of the East-West Highway, if any, to pay for  
18 each fiscal year:

19 A. The cost of maintaining, repairing and operating the  
20 East-West Highway and providing and maintaining reasonable  
21 reserves for those costs;

22 B. The bonds and the interest on those bonds, and all  
23 sinking fund requirements, and other requirements provided  
24 by the resolution authorizing issuance of those bonds or by  
25 the trust indenture or loan or a security agreement as those  
26 bonds, interest, sinking fund requirements and other  
27 requirements become due;

28 C. Those sums for the purpose of maintaining, constructing  
29 or reconstructing access roads or portions of access roads  
30 that have been requested by the department and in the sole  
31 discretion of the authority are from time to time determined  
32 to warrant the expenditure of East-West Highway revenues; and

33 D. The cost of maintaining, constructing or reconstructing  
34 interchanges.

35 The authority may use any method for assessing and collecting  
36 tolls, including but not limited to toll tickets, barrier toll  
37 facilities, billing accounts, commuter passes and electronic  
38 recording or identification devices. The display of a recording  
39 or identification device issued or authorized by the authority  
40 for these purposes on or near the windshield of a motor vehicle  
41 is not a violation of a law or rule, including but not limited to  
42 Title 29-A, sections 1916 and 2082, unless the device is attached  
43 in a way that obstructs the driver's clear view.

2           4. Rates. The rate of a toll at each toll facility may be  
revised from time to time.

4           A. The authority shall establish a system of commuter  
6           discounts to provide passenger vehicles with reduced rates  
          that may not exceed 50% of the normal passenger vehicle toll.

8           B. The authority is prohibited from imposing variable  
          surcharges based on the time of day.

10           C. Reduced rates of fees, fares and tolls must be made to  
12           any class of vehicle based upon volume of use.

14           5. Use by military. The East-West Highway may be used at  
16           any time by the Armed Forces of the United States or the State or  
          any of their allies for defense purposes or preparations free of  
18           all tolls and charges. Such use does not constitute a taking of  
          property without due process as long as any structural damage to  
20           the East-West Highway created by that free use, ordinary  
          deterioration or depreciation excepted, is compensated for at  
22           cost of repair or replacement.

24           §1999-A. Use of highway revenues

26           1. Expenditures. Expenditure of all tolls collected from  
28           the East-West Highway toll facilities and all other revenues  
          derived from the highway operations is limited to the following  
          purposes:

30           A. Maintenance, repair and operation of the East-West  
32           Highway and the establishment of reserves required for those  
          purposes, including, without limitations, reserves required  
34           or permitted by the resolutions authorizing the issuance of  
          bonds or by the trust indentures relating to those bonds and  
36           including any costs specially incurred by the department or  
          any other state agency in connection with the operation of  
38           the East-West Highway;

40           B. Payment of the cost of any debt incurred by the  
          authority, including, but not limited to, payment of  
42           interest and principal on any bonds issued by the authority  
          and payment into any sinking funds required by subsection 2;

44           C. Construction or reconstruction to improve the East-West  
46           Highway to meet greater traffic demands or improve safety of  
          operation, including reserves for those purposes, as  
48           authorized in paragraph E;

2 D. Maintenance, construction or reconstruction of access  
3 roads, or portions of those roads, where the authority has  
4 made the determinations required by subsection 3;

6 E. Payments to reserve or sinking funds established by the  
7 authority to meet anticipated future costs of constructing  
8 or reconstructing designated interchanges or portions of  
9 interchanges submitted by the department or to accomplish  
10 other designated purposes for which the authority may issue  
11 bonds, provided that the funding for those projects financed  
12 from reserves, together with the estimated future costs of  
13 those projects, has been approved by the authority;

14 F. Repayment to the Federal Government for grants or loans  
15 that were used in connection with the construction or  
16 reconstruction of any portion of the East-West Highway or of  
17 any interconnecting access roads, but only to the extent  
18 that the repayment is required in order for the authority to  
19 maintain or establish tolls on the East-West Highway; and

20 G. Payment or repayment to the Federal Government or any  
21 agency of the Federal Government of any charges, taxes or  
22 other payments required by law in connection with the  
23 construction, reconstruction or operation of the East-West  
24 Highway or the financing or refinancing of the East-West  
25 Highway or any part of the East-West Highway.

28 2. Sinking fund for payment of bonds. The tolls and all  
29 other revenues derived from the East-West Highway, except such a  
30 part of the tolls and revenues as may be required to pay the cost  
31 of maintaining, repairing and operating the East-West Highway and  
32 to provide reserves for that cost as may be provided for in a  
33 resolution authorizing the issuance of the bonds or in the  
34 related trust indenture or loan or other security agreement, must  
35 be set aside at such regular intervals as may be provided in the  
36 resolution or trust indenture or loan or other security agreement  
37 in a sinking fund that is pledged to, and charged with, the  
38 payment of:

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

42 B. The principal of the bonds as that principal falls due;

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

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

2 The use and disposition of the sinking fund is subject to such  
4 rules as may be provided in the resolution authorizing the  
6 issuance of bonds or in the related trust indenture or loan or  
8 other security agreement, but, except as may otherwise be  
10 provided in that resolution or trust indenture or loan or other  
12 security agreement, the sinking fund is a fund for the benefit of  
14 all bonds issued under this subsection 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 or 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 again be issued.

16 3. Revenues for additional interchanges. The authority may  
18 authorize highway revenues to be utilized for interchanges  
20 determined pursuant to the terms and conditions of this section,  
22 as long as the department may request use of revenues by  
24 submitting a proposed program for additional interchanges or  
26 improvements to existing interchanges and as long as the  
28 authority exercises sole discretion to set the level of revenues  
30 and as long as the additional interchanges or improvements have  
32 or would have a sufficient relationship to the public's use of  
34 the East-West Highway and the orderly regulation and flow of  
vehicular traffic using the East-West Highway so that the use of  
the highway revenues is warranted to pay all or any portion of  
the cost of maintaining or constructing the additional  
interchanges or improvements and all or a portion of the access  
roads required in connection with the East-West Highway. In  
making the determination of whether a sufficient relationship  
exists, the department and the authority shall consider the  
following factors, no one of which may necessarily be  
determinative:

36 A. The existing road network;

38 B. The traffic impact of the construction or reconstruction  
40 on the existing road network;

42 C. The probable change in departmental or authority  
44 expenditures resulting from construction or maintenance;

46 D. The relative number of vehicles using or expecting to  
use those access roads on the way to or from the East-West  
Highway;

48 E. The road distance of those access roads or portions of  
50 those access roads from the nearest entrance to or exit from  
the East-West Highway;

2 F. The effect the construction or improvement will have on  
4 the flow of traffic to, from and on the East-West Highway  
and in diverting vehicular traffic off or away from the  
6 East-West Highway;

8 G. The probable availability of highway revenues to make  
10 the payments;

12 H. The availability of alternative roads to or from the  
14 East-West Highway;

16 I. The extent to which the construction or improvement of  
18 interchanges and related access roads will promote  
20 industrial and economic development of communities adjacent  
22 to or near the East-West Highway, whose present lack of  
access tends to discourage that development. In determining  
the extent of the effect on industrial and economic  
development, the department and the authority shall consider  
existing, committed, proposed and potential development, and  
priority must be given to construction or improvement that  
will promote industrial and economic development;

24 J. The financial condition of the East-West Highway and the  
26 financial impact of maintenance, improvement and  
construction; and

28 K. Other factors considered relevant, including, but not  
30 limited to, expert opinion.

32 4. Payment for state police services on East-West Highway.  
Payment for state police services on the East-West Highway is as  
34 follows:

36 A. The authority shall assume all costs incurred by the  
38 State Police in enforcing the rules of the authority and in  
40 providing for the safety of the public traveling on the  
42 East-West Highway as long as the authority has authorized  
the provision of those services by the State Police and as  
long as the services of any state police personnel whose  
costs are assumed by the authority are utilized only for  
highway-related activities, except in the event of an  
44 emergency.

46 B. The Chief of the State Police shall submit monthly  
48 statements of costs incurred in connection with the  
East-West Highway, and the authority shall pay the amount of  
those costs to the Treasurer of State within 20 days of  
receipt of the monthly statement. The Treasurer of State

2 shall credit those payments proportionately to the Highway  
3 Fund and the General Fund.

4 C. Prior to December 1st of each year, the Chief of the  
5 State Police shall file a report with the authority  
6 containing the following information with respect to the  
7 level of state police services required in the following  
8 fiscal year to adequately enforce the rules of the authority  
9 and to adequately provide for the safety of the public  
10 traveling on the East-West Highway:

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

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

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

19 (4) Annual estimates of the cost of vehicles and  
20 equipment required for highway duty; 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 patrol and other services as it  
27 considers necessary to enforce its rules and to provide for  
28 the safety of the public traveling on the highway.

29 **5. Revenues to secure special obligation bonds for**  
30 **Department of Transportation projects; determination of project**  
31 **eligibility for funding.** Subject to the terms and conditions of  
32 this chapter, the authority may authorize highway revenues to be  
33 transferred to a trustee or agent designated by the authority,  
34 and that trustee or agent shall hold these revenues in trust to  
35 secure or to be applied to the payment of obligations issued  
36 pursuant to section 1994, subsection 2 and as provided for in a  
37 resolution authorizing the issuance of these bonds or in a  
38 related trust indenture or loan or other security agreement.

39 The department shall provide the authority with a list of  
40 proposed department projects and any other information requested  
41 by the authority and relating to a project on the list. The  
42 department and the authority shall determine department projects  
43 and the authority shall determine department projects  
44 and the authority shall determine department projects  
45 and the authority shall determine department projects  
46 and the authority shall determine department projects  
47 and the authority shall determine department projects  
48 and the authority shall determine department projects  
49 and the authority shall determine department projects  
50 and the authority shall determine department projects



2 that are eligible for funding with proceeds from bonds authorized  
3 by section 1994, subsection 2. In making this determination, the  
4 department and the authority may consider the following factors:

6 A. The existing access roads and the state highway system;

8 B. The traffic impact of the maintenance, construction or  
9 reconstruction on the existing road network;

10 C. The total cost of the state highway system;

12 D. The probable change in departmental expenditures  
13 resulting from maintenance, construction or reconstruction  
14 of the department project;

16 E. The relative number of vehicles using or expected to use  
17 the department project on the way to or from the East-West  
18 Highway;

20 F. The road distance or average road distance of the  
21 department project or portions of the department project  
22 from the nearest entrance to or exit from the East-West  
23 Highway;

24 G. The effect that maintenance, construction or  
25 reconstruction will have on the flow of traffic to, from and  
26 on the East-West Highway and in diverting vehicular traffic  
27 off or away from the East-West Highway;

30 H. The proportionate usage of the state highway system by  
31 vehicles using the East-West Highway and vehicles not using  
32 the highway;

34 I. Vehicle classification and travel characteristics;

36 J. Origins and destinations of trips;

38 K. Fuel type and consumption;

40 L. Existing sources of revenue; and

42 M. Any other factors considered relevant, including, but  
43 not limited to, expert opinion.

44 **§1999-B. Provisions in case of default on bonds**

46 Except as may otherwise be provided in a bond resolution or  
47 trust indenture or loan or security agreement, in the event that  
48 the authority defaults in the payment of principal or interest on  
49 any of its bonds after the principal or interest falls due and  
50 is not paid, the authority shall be liable for the principal and

2 that default continues for a period of 60 days or defaults in any  
4 other agreement with bondholders or with a trustee under a trust  
6 indenture or loan or security agreement, the holders of 25% in  
8 aggregate principal amounts of the bonds then outstanding by  
10 instrument filed in the office of the Secretary of State duly  
12 acknowledged may appoint a trustee to represent the bondholders  
14 for the purpose provided in this section. The trustee may upon  
16 the written request of the holders of 25% in principal amount of  
18 the bonds then outstanding:

20 1. Enforcement of rights of bondholders. By mandamus or  
22 other suit, action or proceeding at law or in equity, enforce the  
24 rights of the bondholders;

26 2. Suit upon bonds. Bring suit upon the bonds;

28 3. Enjoinment of acts or other things. Enjoin any acts or  
30 other things that may be unlawful or in violation of the rights  
32 of the bondholders; or

34 4. Require accounting. By action or suit in equity, require  
36 the authority to act as if it were trustee of an expressed trust  
38 for the bondholders. The trustee is entitled, as a right, to the  
40 appointment of a receiver who may, to the extent that the  
42 authority could itself do, enter and take possession of the  
44 facilities of the authority or any part of the facility, the  
46 revenue or receipts from which are or may be applicable to the  
48 payment of the bonds in default, and operate and maintain the  
50 facilities and collect and receive all revenue thereafter arising  
from operating the facilities in the same manner as the authority  
might do. The receiver shall deposit all such money in a  
separate account and apply that money in such a manner as the  
court directs. In any suit, action or proceeding by the trustee,  
the fees, counsel fees and expenses of the trustee and of the  
receiver, if any, and all costs and disbursements allowed by the  
court are a first charge on any revenues and receipts derived  
from the East-West Highway, the revenues and receipts from which  
are or may be applicable to the payment of the bonds in default.  
The trustees shall, in addition, have and possess all the powers  
necessary and appropriate for the exercise of any functions  
specifically set forth in this section or incident to the general  
representation of the bondholders in the enforcement and  
protection of their rights. Except as may otherwise be provided  
in a bond resolution or trust indenture or loan or other security  
agreement, in addition to other rights and limitations, any  
bondholder has the right by mandamus or other suit, action or  
proceeding in law or in equity to enforce that bondholder's  
rights against the authority, including the right to require the  
authority to carry out any agreement or covenant and to perform  
its duties under this chapter.

2       **§1999-C. Interim certificates**

4           Before the issuance of any bonds, the authority may issue  
6           interim certificates in such a manner and with such conditions as  
8           the authority may determine to be exchanged for the bonds when  
          issued.

10       **§1999-D. Trust funds**

12           Subject to any agreement with the bondholders, all revenue  
14           received from the operation of the East-West Highway after  
16           deducting expenditures required for the construction,  
18           reconstruction, operation and maintenance of the East-West  
20           Highway and for the payment of the principal and the interest on  
          the bonds of the authority or otherwise in accordance with the  
          provisions of the authority and after deducting the operating  
          surplus provided to the department must be held and invested by  
          the authority to establish trust funds for reserve and sinking  
          funds for the retirement of bonded indebtedness.

22       **§1999-E. Termination of authority**

24           When all bonds and the interest on the bonds are paid or a  
26           sufficient amount for the payment of all bonds and the interest  
28           to maturity on the bonds are set aside in trust for the benefit  
30           of the bondholders and continue to be held for that purpose, and  
32           when sufficient funds are paid to the Maine State Retirement  
34           System to finance in full the accrued benefits for all employees  
36           of the authority, the authority must be dissolved and the  
38           East-West Highway, its leases, rights, easements, franchises,  
          lands and properties become the property of the State. The  
          East-West Highway must thereafter be maintained by the  
          department. All machinery, equipment and other property  
          belonging to the authority appertaining to the maintenance and  
          operation of the East-West Highway must be vested in the  
          department. Once the authority is dissolved, the State may not  
          charge tolls, fares or fees for use of the East-West Highway.

40       **§1999-F. Penalties**

42           1. Fines; imprisonment. Any violation of published rules  
44           relating to the East-West Highway or its use or services is  
46           deemed a traffic infraction and is punishable by a fine of not  
48           more than \$250, except that any person who operates a motor  
50           vehicle at a speed that exceeds, by 30 miles an hour or more, the  
          speed fixed by the authority is guilty of a misdemeanor and must  
          be punished by a fine of not less than \$50 nor more than \$500 or  
          by imprisonment for not more than 30 days, or by both. Any  
          failure or neglect to pay tolls, fares or charges for use of the

2 East-West Highway is a misdemeanor and is punishable by a fine of  
3 not more than \$500 or by imprisonment for not more than 30 days,  
4 or by both. Nothing contained in this section may prevent the  
5 authority from collecting payment for use of the East-West  
6 Highway or any other service in connection with the East-West  
7 Highway by action at law or in equity.

8 2. Criminal acts and civil violations. The laws of the  
9 State and amendments to those laws and the decisions of the  
10 courts of the State apply to criminal acts and civil violations  
11 committed on the East-West Highway.

12 3. Toll violations. The registered owner's liability for  
13 toll violations is as follows.

14 A. If an operator of a vehicle fails to pay a toll, the  
15 registered owner of that vehicle is liable for payment of  
16 the toll. If the registered owner fails to pay the toll,  
17 the registered owner is subject to a civil penalty as  
18 follows:

19 (1) Fifty dollars, except as provided in subparagraph  
20 (2) or (3);

21 (2) One hundred dollars, if a failure to pay occurs  
22 within 18 months of a prior failure to pay; or

23 (3) One hundred fifty dollars, if a failure to pay  
24 occurs within 18 months of 2 or more prior failures to  
25 pay.

26 B. As used in this subsection, unless the context otherwise  
27 indicates, the following terms have the following meanings.

28 (1) "Electronic toll collection system" means a system  
29 of collecting tolls or charges that is capable of  
30 charging an account holder for the appropriate toll by  
31 transmission of information between a device on a motor  
32 vehicle and a toll collection facility.

33 (2) "Pay" means paying a toll by cash, by permitting a  
34 charge against a valid account with the authority or by  
35 another means of payment approved by the authority at  
36 the time.

37 (3) "Photo-monitoring system" means a motor vehicle  
38 sensor installed to work in conjunction with a toll  
39 collection facility that automatically produces a  
40 photograph, microphotograph, videotape or other  
41 photograph, microphotograph, videotape or other

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recorded image of a motor vehicle when the operator of the motor vehicle fails to pay a toll.

(4) "Registered owner" means a person in whose name a motor vehicle is registered under the law of a jurisdiction, including a person issued a dealer or transporter registration plate, except as provided in paragraph E, and a person deemed to be a registered owner under the provisions of paragraph E.

(5) "Toll" or "tolls" means tolls or charges prescribed by the authority for the use of the East-West Highway.

Definitions of terms included in Title 29-A, section 101 apply to terms used in this subsection that are not specifically defined in this subsection.

C. The following procedures must be taken for the collection of tolls and civil penalties under this subsection.

(1) The authority shall send a notice of liability by first class mail to a person alleged to be liable as a registered owner under this subsection no later than 60 days after the alleged failure to pay. A manual or automatic record of the mailing prepared in the ordinary course of business of the authority is prima facie evidence of the mailing of the notice.

(2) A notice of liability must include the name and address of the person alleged to be liable as a registered owner for the failure to pay a toll under this subsection, the amount of the toll not paid, the registration number of the vehicle involved, the toll collection facility at which the failure occurred and the date and the approximate time of the failure.

(3) A notice of liability must include information advising the person liable under this subsection of the manner and the time in which the liability alleged in the notice may be contested and the statutory defenses described in paragraph E. The notice must also include a warning that failure to contest in the manner and time provided is an admission of liability and a waiver of available defenses, resulting in the entry of a default judgment of liability for the failure to pay and revocation of the registration certificate and plates issued for the vehicle.

2           (4) The authority may collect a toll and a civil  
4           penalty that is not paid by a registered owner who is  
6           liable under this subsection within 120 days after  
8           mailing the notice of liability by civil action  
          commenced in the District Court or Superior Court in  
          the county in which the alleged failure to pay  
          occurred. Adjudication of liability under this  
          subsection is based upon a preponderance of the  
          evidence.

10  
12           D. Except as provided in paragraph E, it is not a defense  
14           to liability under this subsection that a registered owner  
          was not operating the motor vehicle at the time of the  
          failure to pay.

16           E. Defenses to liability under this subsection are as  
18           follows.

20           (1) If a person other than the registered owner of the  
22           motor vehicle is adjudicated criminally or civilly  
24           responsible for the failure to pay an authority toll,  
          the registered owner is not liable under this  
          subsection.

26           (2) If the registered owner is the lessor of motor  
28           vehicles and at the time of the failure to pay an  
30           authority toll the motor vehicle was in the possession  
32           of a lessee and the lessor provides the authority with  
          a copy of the lease agreement containing the  
          information required by Title 29-A, section 254, the  
          lessee and not the lessor is liable under this  
          subsection.

34           (3) If the motor vehicle is operated using a dealer or  
36           transporter registration plate and at the time of the  
38           failure to pay the motor vehicle was under the custody  
40           or control of a person other than the dealer or  
42           transporter, and if the dealer or transporter provides  
          the authority with the name and address of the person  
          who had custody or control over the motor vehicle at  
          the time of the failure to pay, that person and not the  
          dealer or transporter is liable under this subsection.

44           (4) If a report that the motor vehicle was stolen is  
46           given to a law enforcement officer or agency before the  
48           failure to pay occurs or within a reasonable time after  
          the registered owner becomes aware of the theft, the  
          registered owner is not liable under this subsection.

2 F. Nothing in this subsection may be construed to limit the  
4 liability of an operator of a motor vehicle for a failure to  
6 pay an authority toll. If a person who is liable for a  
8 failure to pay under this subsection was not the operator of  
the motor vehicle at the time of the failure to pay, that  
person may maintain an action for indemnification against  
the operator to recover all tolls and civil penalties under  
this subsection paid by that person.

10 G. If a registered owner does not satisfy a judgment under  
12 this subsection within 30 days after final adjudication of  
14 liability under paragraph C, in addition to any other method  
16 for enforcing the judgment, upon petition by the authority,  
18 the adjudicating court shall order the suspension of the  
20 registration for the vehicle involved in the failure to pay  
22 and forward the suspension to the Secretary of State. The  
Secretary of State shall proceed, in accordance with Title  
29-A, section 154, subsection 6, to mail the required 10-day  
notice and suspend the registration certificate and plates  
issued for the vehicle in question. A notice under this  
paragraph is not effective with respect to a vehicle  
described in paragraph E.

24 4. Admissibility of photo-monitoring evidence. A  
26 photograph, microphotograph, videotape or other recorded image  
28 produced by a photo-monitoring device is admissible in a  
30 proceeding to collect a toll or other charge of the authority, to  
collect civil penalties imposed under subsection 3 or to impose  
civil or criminal liability for a failure to pay the toll or  
charge.

32 A. An original or facsimile of a certificate, sworn to or  
34 affirmed by an agent of the authority that states that a  
36 failure to pay has occurred and states that it is based upon  
38 a personal inspection of a photograph, microphotograph,  
40 videotape or other recorded image produced by a  
photo-monitoring system, as defined in subsection 3, is  
prima facie evidence of the facts contained in the  
certificate.

42 B. Notwithstanding any other provision of law, a  
44 photograph, microphotograph, videotape or other recorded  
46 image prepared for enforcement of authority tolls is for the  
48 exclusive use of the authority in the discharge of its  
50 duties under this section. This material is confidential  
and is not available to the public. The authority shall  
make this information available to a law enforcement officer  
upon request. Except as provided in this subsection or as  
may be necessary to prove a claim for indemnification under  
subsection 3, paragraph F or to prosecute a criminal

2 offense, this material may not be used in a court in an  
action or proceeding.

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

10 **§1999-G. Confidentiality of authority records**

12 A log or record identifying the name, address or travel  
patterns of a patron of the East-West Highway, whether prepared  
14 for enforcement of authority tolls or other purposes of the  
authority, is for the exclusive use of the authority in the  
16 discharge of its duties under this chapter. This material is  
confidential and is not available to the public except that a law  
18 enforcement officer or a representative of an insurance company  
making a request for specific records in the course of conducting  
20 the officer's or representative's business may have access to  
this material to the extent and in the manner access to such  
22 material is afforded under Title 1, chapter 13, subchapter I.  
The authority may release accident and other incident reports to  
24 affected parties and may release information specific to a  
commuter pass account or commercial billing account to the holder  
26 of that account.

28 **SUMMARY**

30 This bill creates the East-West Highway Authority to  
32 construct a highway from Calais to the New Hampshire border with  
an extension to the border of the Province of Quebec, Canada.  
34 The authority may issue bonds and charge tolls to build the  
highway.