

# MAINE STATE LEGISLATURE

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L.D. 1974

DATE: 5-19-06

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
122ND LEGISLATURE  
SECOND REGULAR SESSION

HOUSE AMENDMENT "C" to COMMITTEE AMENDMENT "B" to H.P. 1382, L.D. 1974, Bill, "An Act To Make Additional Allocations from the Highway Fund and Other Funds for the Expenditures of State Government and To Change Certain Provisions of State Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2005 and June 30, 2006"

Amend the amendment by inserting after Part P the following:

**PART Q**

**Sec. Q-1. Suspension of imposition of indexed motor fuel tax rate.**

Notwithstanding the Maine Revised Statutes, Title 36, section 3321, the adjusted tax rate calculated by the State Tax Assessor to take effect on July 1, 2006 may not be imposed upon internal combustion engine fuel or upon distillates, and the rate calculated to take effect on July 1, 2005 remains in effect until July 1, 2007. The State Tax Assessor shall calculate the adjusted rate to take effect July 1, 2007 by multiplying the rate that, except for this section, would have been in effect on February 15, 2006 by the inflation index as computed in Title 36, section 3321, subsection 2.

**PART R**

**Sec. R-1. Definitions.** As used in this Part, unless the context otherwise indicates, the following terms have the following meanings.

**1. Bank.** "Bank" means the Maine Municipal Bond Bank.

2           **2. GARVEE.** "GARVEE" means grant anticipation revenue vehicle  
debt financing.

4           **3. Qualified transportation projects.** "Qualified  
6 transportation projects" means projects to reconstruct,  
rehabilitate or replace existing bridges and existing arterial  
8 and major collector highways that meet eligibility requirements  
of the Federal Highway Administration. "Qualified transportation  
10 projects" does not include projects that predominately consist of  
a new highway or a new bridge on a new location, unless approved  
12 by the Legislature.

14           **4. Revenues.** "Revenues" means, in the case of bonds or notes  
issued by the bank to finance the qualified transportation  
16 projects, payments of funds derived from the Federal Highway  
Administration and other investments, gifts, grants,  
18 contributions, appropriations, income and any other amounts  
pledged to secure payment of such bonds or notes.

20           **Sec. R-2. Qualified transportation projects costs.** Costs of the  
qualified transportation projects include, without limitation,  
22 costs related to:

24           **1. Purchase price.** The purchase price or acquisition of  
any property or interests in that property or other rights  
26 necessary or convenient for such projects;

28           **2. Study, permitting and engineering.** The study,  
permitting and engineering of any such projects, including the  
30 preparation of plans and specifications, surveys and estimates of  
cost;

32           **3. Construction.** Construction, reconstruction, paving,  
34 repaving, building, alteration, repair, restoration,  
environmental review or remediation, enlargement or other  
36 improvement, including all labor, materials, machinery, fixtures  
and equipment, including rolling stock or vehicles;

38           **4. Professional services.** Engineering, architectural,  
40 legal and other professional services;

42           **5. Financial guarantees.** Reserves, insurance, letters of  
credit or other financial guarantees for payment of future debt  
44 service on bonds or notes; and

46           **6. Other costs.** All other costs or expenses necessary or  
convenient to such projects, including the financing or  
48 refinancing of the projects.

2           **Sec. R-3. GARVEE financing authorized.** Notwithstanding any  
3 other provision of law, upon certification, the bank shall issue  
4 from time to time, in addition to any GARVEE bonds heretofore  
5 authorized and issued, up to \$60,000,000 of GARVEE bonds to be  
6 repaid solely from annual federal transportation appropriations  
7 for funding for qualified transportation projects.

8           The bank shall issue GARVEE bonds from time to time pursuant  
9 to a resolution to be adopted by the bank. The GARVEE bonds  
10 issued must be secured pursuant to a pledge and certificate  
11 issued by the Department of Transportation and approved by the  
12 State Budget Officer. The pledge and certificate must contain  
13 provisions that dedicate and pledge receipt of future federal  
14 transportation funds to secure the payment of the GARVEE bonds,  
15 including principal, interest and issuance costs. The terms of  
16 the GARVEE bonds, their repayment schedule and other provisions  
17 to facilitate their creditworthiness are determined by the bank  
18 in consultation with the Department of Transportation and the  
19 State Budget Officer. The pledge and certificate are a part of  
20 the contract with the holders of the GARVEE bonds to be  
21 authorized.

22           The GARVEE bonds must be in the form, bear the date or  
23 dates, mature at the time or times and have such other terms as  
24 determined by the bank and approved by the Department of  
25 Transportation and the State Budget Officer, except that a GARVEE  
26 bond may not mature more than 20 years from the date of its issue.

27           GARVEE bonds issued under the provisions of this Part do not  
28 constitute a debt or liability of the State or of any political  
29 subdivision of the State, or a pledge of the full faith and  
30 credit of the State or of any political subdivision of the State,  
31 but are payable solely from the funds and revenues pledged for  
32 that purpose.

33           The proceeds from the sale of the GARVEE bonds are to be  
34 deposited into the appropriate Other Special Revenue Funds  
35 account.

36           **Sec. R-4. Maine Municipal Bond Bank provisions.** The bank has  
37 all the powers and duties provided by the Maine Revised Statutes,  
38 Title 30-A, chapter 225, modified and supplemented as provided in  
39 this section for the purposes set forth in this section. All  
40 words, terms and phrases have the same meaning as provided in  
41 Title 30-A, chapter 225, except as modified and supplemented in  
42 this section for the purposes set forth in this section.

43           **1. Lending and borrowing powers.** The bank may assist the  
44 State by borrowing money to finance or refinance from time to  
45 time all or a portion of the costs of the qualified  
46 transportation projects and make the proceeds of such borrowing

2 available to the Department of Transportation at terms agreed  
upon by the bank, the State Budget Officer and the Department of  
4 Transportation. The principal of and interest on any bonds or  
notes issued by the bank to finance or refinance the qualified  
6 transportation projects must be secured by a pledge of funds paid  
by the Federal Highway Administration and any matching funds of  
8 the State as necessary and legally available that are allocated  
for such purpose on an annual basis by the Department of  
10 Transportation in its sole discretion and may further be secured  
by a pledge of any rights, grants, reserves, contracts,  
12 agreements or other revenues or property as may be determined by  
resolution of the bank. Bonds, notes, leases, agreements or other  
14 forms of debt or liability entered into or issued by the bank  
under this section are not in any way a debt or liability of the  
16 State and do not constitute a loan of the credit of the State or  
create any debt or liability on behalf of the State or constitute  
18 a pledge of the faith and credit of the State. Each bond, note,  
lease, agreement or other evidence of debt or liability entered  
20 into by the bank must contain a statement to the effect that the  
bank is obligated to pay the principal, interest, redemption  
22 premium, if any, and other amounts payable solely from the  
sources pledged for that purpose by the bank and that neither the  
24 faith and credit nor the taxing power of the State is pledged to  
the payment of the principal, interest, premium, charge, fee or  
26 other amount on the bond, note, lease, agreement or other form of  
indebtedness.

28 **2. Powers with respect to qualified transportation**  
**projects.** In addition to all other powers elsewhere granted to  
30 the bank, the bank may, with respect to the qualified  
transportation projects:

32 A. Acquire title to, or an interest in, the qualified  
34 transportation projects;

36 B. Make and execute contracts and all other instruments,  
including any amendments or modifications to the extent  
38 permitted under its contract with holders of its bonds or  
notes, with the State, the Federal Highway Administration or  
40 any other legal entity in furtherance of the purposes of  
this Part; and

42 C. Lease the qualified transportation projects to the State  
44 or any agency, political subdivision, instrumentality or  
department of the State to further the purposes of this  
46 Part, as long as the obligation of the State or of any such  
agency, political subdivision, instrumentality or department  
48 to make any rental or other payments are considered  
executory only to the extent of funds paid by the United  
50 States Department of Transportation and any matching funds

of the State as necessary and legally available that are allocated for such purpose on an annual basis by the Department of Transportation in its sole discretion, and as long as the liability on account of the State or any such agency, political subdivision, instrumentality or department is not incurred by the State or any such agency, political subdivision, instrumentality or department beyond the money available for that purpose.

**3. Pledge of federal highway funds.** The Department of Transportation is authorized to transfer, assign or pledge any or all of the funds paid to it, directly or indirectly, by the Federal Highway Administration with respect to the qualified transportation projects, together with any matching funds of the State as necessary and legally available that are allocated for such purpose on an annual basis by the Department of Transportation in its sole discretion. Any such pledge does not constitute a debt or liability on behalf of the State or of any political subdivision of the State or a loan of the credit of the State or of any political subdivision of the State or a pledge of the faith and credit of the State or of any political subdivision of the State. A decision by the Department of Transportation not to allocate such federal transportation funds or state matching funds as necessary and legally available in any given fiscal year for the payment of such bonds or notes or related costs and expenses may not be construed to constitute an action impairing any contract entered into by the bank under this Part.

**4. Contracts are subject to continuing federal appropriations of federal transportation funds.** Every contract relating to the issuance of bonds or notes to finance all or a part of the costs of the qualified transportation projects must provide that all financial obligations of the State or of any agency, political subdivision, instrumentality or department of the State in regard to the portion of the principal of and interest on such bonds or notes and the related costs and expenses that may be paid from federal transportation funds pursuant to federal law and any agreement between the Federal Highway Administration or any agency of the Federal Highway Administration and the Department of Transportation that is or is to be the initial recipient of such federal transportation funds are subject to continuing federal appropriations of federal transportation funds at a level equal to or greater than the amount needed to pay the federal share of principal, interest and costs and expenses on such bonds or notes.

**5. State agency powers.** Each agency, instrumentality, department or other political subdivision of the State, for the purpose of aiding and cooperating in the financing, construction,

2 operation or maintenance of the qualified transportation  
projects, has the power:

4 A. To sell, lease, loan, donate, grant, convey, pledge,  
assign or otherwise transfer to the bank any real or  
6 personal property or interests in any real or personal  
property; and

8 B. To enter into agreements, including loan and pledge  
10 agreements, with any person for the joint financing,  
construction, operation or maintenance of the qualified  
12 transportation projects and to agree to make payments,  
without limitation as to amount except as set forth in the  
14 agreement, from revenues received in one or more fiscal  
years by the Department of Transportation or any person to  
16 defray the costs of the financing, construction, operation  
or maintenance of the qualified transportation projects.

18 To assist in the financing, construction, operation or  
20 maintenance of the qualified transportation projects, any  
governmental unit or political subdivision may, by contract,  
22 pledge, assign or otherwise transfer to the Department of  
Transportation or otherwise as directed by the bank all or a  
24 portion of federal transportation funds paid to the governmental  
unit or political subdivision or the revenues from any other  
26 legally available source.

28 **6. Corporate powers.** In addition to all other powers  
granted to the bank, for the purpose of carrying out this Part,  
30 the bank may:

32 A. Make, enter into and enforce all contracts or agreements  
necessary, convenient or desirable for the purposes of  
34 financing or refinancing the qualified federal  
transportation projects;

36 B. Invest any funds or money of the bank not then required  
38 for funding costs of the qualified transportation projects  
in the same manner as permitted for the investment of funds  
40 belonging to the State or held by the Treasurer of State,  
except as otherwise permitted or provided by this Part; and

42 C. Fix and prescribe any form of application or procedure  
44 to be required of the State or of any agency, political  
subdivision, instrumentality or department of the State with  
46 respect to the qualified transportation projects and fix the  
terms and conditions of the qualified transportation  
48 projects and may enter into agreements with the State or any  
agency, political subdivision, instrumentality or department

of the State or of any political subdivision of the State in  
connection with the qualified transportation projects.

**7. Exception to prohibited acts and limitation of powers.**  
Notwithstanding the provisions of the Maine Revised Statutes,  
Title 30-A, section 5958, the bank may make loans to the State or  
any agency, political subdivision, instrumentality or department  
of the State in connection with the financing of the qualified  
transportation projects.

**8. Bonds and notes of bank.** Notwithstanding the provisions  
of the Maine Revised Statutes, Title 30-A, section 6003, the bank  
may issue its bonds from time to time in any principal amounts  
that it considers necessary to provide funds for any of the  
purposes authorized by this Part, including the financing or  
refinancing of all or a portion of the costs of the qualified  
transportation projects.

**9. Receipt of federal appropriation money.** The Treasurer  
of State may receive from the Federal Government any amount of  
money as appropriated, allocated, granted, turned over or in any  
way provided for the purposes of this Part. In connection with  
the financing of the qualified transportation projects, these  
amounts must be credited to and deposited in the Highway and  
Bridge Improvement account, Federal Expenditures Fund and are  
available to the bank.

**10. Agreements with financial institutions.**  
Notwithstanding the provisions of the Maine Revised Statutes,  
Title 30-A, section 6019, the bank may enter into any agreements  
or contracts with any commercial banks, trust companies or  
banking or other financial institutions within or outside the  
State that are necessary, desirable or convenient in the opinion  
of the bank to provide any other services to the bank to assist  
the bank in effectuating the purposes of this Part.

**11. Remedies of holders of bonds and notes.** In addition to  
all other rights or remedies set forth in the Maine Revised  
Statutes, Title 30-A, section 6023, subsection 2, the trustee as  
appointed pursuant to that section may, and upon written request  
of the holders of 25% in principal amount of all bonds then  
outstanding that have been issued to finance or refinance all or  
a portion of the costs of the qualified transportation projects  
shall, in the trustee's or the bank's own name, by mandamus or  
other suit, action or proceeding at law or in equity, enforce all  
rights of such bondholders, including the right to require the  
bank to collect payments and other amounts and to collect  
interest and amortization payments under agreements payable to  
the bank and pledged to payment of such bonds, adequate to carry  
out any agreement as to, or pledge of, those payments and other



amounts and of such interest and amortization payments and to  
require the bank to carry out any other agreements with the  
bondholders and to perform its duties under this Part.

**Sec. R-5. Contingent upon ratification.** Sections 1 to 4 and  
section 7 of this Part do not become effective unless the people  
of the State ratify the issuance of the bonds as set forth in  
this Part.

**Sec. R-6. Referendum for ratification; submission at general election;  
form of question; effective date.** This Part must be submitted to the  
legal voters of the State of Maine at the next general election  
in the month of November following passage of this Act. The  
municipal officers of this State shall notify the inhabitants of  
their respective cities, towns and plantations to meet, in the  
manner prescribed by law for holding a general election, to vote  
on the acceptance or rejection of this Part by voting on the  
following question:

"Do you favor the issuance of \$60,000,000 in revenue bonds  
to be used to improve existing roads and bridges statewide  
to be repaid with federal transportation funds?"

The legal voters of each city, town and plantation shall  
vote by ballot on this question and designate their choice by a  
cross or check mark placed within a corresponding square below  
the word "Yes" or "No." The ballots must be received, sorted,  
counted and declared in open ward, town and plantation meetings  
and returns made to the Secretary of State in the same manner as  
votes for members of the Legislature. The Governor shall review  
the returns and, if a majority of the legal votes are cast in  
favor of this Part, the Governor shall proclaim the result  
without delay, and this Part becomes effective 30 days after the  
date of proclamation.

The Secretary of State shall prepare and furnish to each  
city, town and plantation all ballots, returns and copies of this  
Part necessary to carry out the purpose of this referendum.

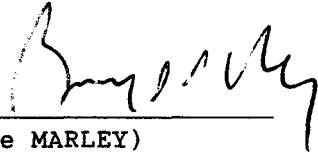
**Sec. R-7. Allocations.** Allocations to carry out the purposes  
of this Part will be created by financial orders. The  
Commissioner of Transportation is authorized to allot these funds  
by financial order upon the recommendation of the State Budget  
Officer and the approval of the Governor. The transferred  
amounts are considered adjustments to allocations.'

HOUSE AMENDMENT "C" to COMMITTEE AMENDMENT "B" to H.P. 1382,  
L.D. 1974

2 Further amend the amendment by relettering or renumbering  
4 any nonconsecutive Part letter or section number to read  
consecutively.

6  
8 **SUMMARY**

10 This amendment incorporates the substance of Senate  
12 Amendment "B" to Committee Amendment "B," and, in addition, it  
clarifies that the GARVEE bonds that it authorizes are in  
addition to any GARVEE bonds previously authorized and issued.

14  
16 SPONSORED BY:   
18 (Representative MARLEY)

20 TOWN: Portland

**FISCAL NOTE REQUIRED**  
**(See attached)**



# 122nd MAINE LEGISLATURE

LD 1974

LR 3082(34)

**An Act to Make Additional Allocations from the Highway Fund and Other Funds for the Expenditures of State Government and To Change Certain Provisions of State Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2006 and June 30, 2007**

**Fiscal Note for House Amendment "C" to Committee Amendment "B"**

**Sponsor: Rep. Marley**

**Fiscal Note Required: Yes**

## Fiscal Note

	2005-06	2006-07	Projections 2007-08	Projections 2008-09
<b>Net Cost (Savings)</b>				
General Fund	\$0	\$8,737	\$0	\$0
Highway Fund	\$0	\$7,858,205	\$0	\$0
<b>Revenue</b>				
General Fund	\$0	(\$8,737)	\$0	\$0
Highway Fund	\$0	(\$7,858,205)	\$0	\$0
Other Special Revenue Funds	\$0	(\$153,058)	\$0	\$0

### Referendum Costs

Referendum Costs	Month/Year	Election Type	Question	Length
	Nov-06	General	Referendum	Standard

The Secretary of State's budget includes sufficient funds to accommodate one ballot of average length for the general election in November. If the number or size of the referendum questions increases the ballot length, an additional appropriation of \$8,000 or more may be required.

### Fiscal Detail and Notes

The net effects of suspending fuel tax indexing for fiscal year 2006-07 will result in one-time revenue losses of \$7,858,205 to the Highway Fund, \$8,737 to the General Fund and \$153,058 to Other Special Revenue Funds. Based on the estimated year-end balances for the Highway Fund, a balanced budget is not maintained for the 2006-2007 biennium.

If the GARVEE bond proposed in this amendment is approved by the voters in a statewide election, debt service would be financed entirely through the use of future federal revenues from the Federal Highway Administration.