

MAINE STATE LEGISLATURE

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L.D. 1974

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DATE: 4-27-06

(Filing No. S-641)

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**STATE OF MAINE
SENATE
122ND LEGISLATURE
SECOND REGULAR SESSION**

SENATE AMENDMENT "B" 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.

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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
by the Legislature.

12 **4. Revenues.** "Revenues" means, in the case of bonds or notes
14 issued by the bank to finance the qualified transportation
projects, payments of funds derived from the Federal Highway
16 Administration and other investments, gifts, grants,
contributions, appropriations, income and any other amounts
18 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 up to \$60,000,000 of GARVEE bonds to be repaid
5 solely from annual federal transportation appropriations for
6 funding for qualified transportation projects.

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

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

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

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

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

42 **1. Lending and borrowing powers.** The bank may assist the
43 State by borrowing money to finance or refinance from time to
44 time all or a portion of the costs of the qualified
45 transportation projects and make the proceeds of such borrowing
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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**
30 **projects.** In addition to all other powers elsewhere granted to
the bank, the bank may, with respect to the qualified
32 transportation projects:

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

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

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

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

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

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

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

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

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

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

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

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

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

32 A. Make, enter into and enforce all contracts or agreements
34 necessary, convenient or desirable for the purposes of
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
40 in the same manner as permitted for the investment of funds
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
46 subdivision, instrumentality or department of the State with
respect to the qualified transportation projects and fix the
48 terms and conditions of the qualified transportation
projects and may enter into agreements with the State or any
agency, political subdivision, instrumentality or department

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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.'

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SENATE AMENDMENT "B" 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.

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SUMMARY

10 This amendment suspends for one year the imposition of the
indexed motor fuel tax rate and leaves in place until July 1,
12 2007 the rate that took effect July 1, 2005.

14 This amendment authorizes the Maine Municipal Bond Bank to
issue \$60,000,000 in federally authorized grant anticipation
16 revenue vehicle debt financing, or GARVEE, revenue bonds to be
repaid with federal transportation funds, the proceeds of which
18 will be used by the Department of Transportation to improve
existing highways and bridges statewide:

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SPONSORED BY: Ken Gagnon *etc*
(Senator GAGNON)

COUNTY: Kennebec

FISCAL NOTE REQUIRED
(See attached)

SENATE AMENDMENT



122nd MAINE LEGISLATURE

LD 1974

LR 3082(21)

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 Senate Amendment "B" to Committee Amendment "B"

Sponsor: Sen. Gagnon

Fiscal Note Required: Yes

Fiscal Note

	2005-06	2006-07	Projections 2007-08	Projections 2008-09
Net Cost (Savings)				
General Fund	\$0	\$8,737	\$0	\$0
Highway Fund	\$0	\$7,858,205	\$0	\$0
Revenue				
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.