

MAINE STATE LEGISLATURE

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L.D. 1974

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DATE: 5-22-06

(Filing No. S-659)

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STATE OF MAINE
SENATE
122ND LEGISLATURE
SECOND REGULAR SESSION

SENATE AMENDMENT "H" 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 adding after Part P the following:

PART Q

Sec. Q-1. Transfer from unappropriated surplus at close of fiscal year 2005-06. Notwithstanding any other provision of law, at the close of fiscal year 2005-06 the State Controller shall transfer an amount up to \$15,000,000 available from the unappropriated surplus of the General Fund to the Department of Transportation, Highway and Bridge Improvement Highway Fund account after all required deductions of appropriations, budgeted financial commitments and adjustments considered necessary by the State Controller have been made and as the next priority after the transfers required pursuant to the Maine Revised Statutes, Title 5, sections 1507 and 1511 and before the transfers required pursuant to Title 5, section 1536, subsection 1, paragraphs A to E.

Sec. Q-2. Purpose. The transfer under section 1 of this Part is in addition to the transfer authorized in Public Law 2005, chapter 519, Part HHH, section 2 and is intended to provide additional resources to the Highway Fund on a one-time basis to address the Highway Fund shortfall and does not represent any future General Fund commitment to the Highway Fund.

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2 **Sec. Q-3. Transfer.** Notwithstanding the Maine Revised
3 Statutes, Title 5, section 1585, or any other provision of law,
4 the amount transferred pursuant to this Part is considered an
5 adjustment to allocations in fiscal year 2006-07. These funds
6 may be allotted by financial order upon recommendation of the
7 State Budget Officer and approval of the Governor.

8

PART R

10

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

14

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

16

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

19

20 **3. Qualified transportation projects.** "Qualified
21 transportation projects" means projects to reconstruct,
22 rehabilitate or replace existing bridges and existing arterial
23 and major collector highways that meet eligibility requirements
24 of the Federal Highway Administration. "Qualified transportation
25 projects" does not include projects that predominately consist of
26 a new highway or a new bridge on a new location, unless approved
27 by the Legislature.

28

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

35

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

39

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

43

44 **2. Study, permitting and engineering.** The study,
45 permitting and engineering of any such projects, including the
46 preparation of plans and specifications, surveys and estimates of
47 cost;

48

49 **3. Construction.** Construction, reconstruction, paving,
50 repaving, building, alteration, repair, restoration,

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2 environmental review or remediation, enlargement or other
improvement, including all labor, materials, machinery, fixtures
and equipment, including rolling stock or vehicles;

4

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

8

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

12

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

16

18 **Sec. R-3. GARVEE financing authorized.** Notwithstanding any
other provision of law, upon certification, the bank shall issue
from time to time, in addition to any GARVEE bonds heretofore
authorized and issued, up to \$45,000,000 of GARVEE bonds to be
repaid solely from annual federal transportation appropriations
for funding for qualified transportation projects.

22

24 The bank shall issue GARVEE bonds from time to time pursuant
to a resolution to be adopted by the bank. The GARVEE bonds
issued must be secured pursuant to a pledge and certificate
issued by the Department of Transportation and approved by the
State Budget Officer. The pledge and certificate must contain
28 provisions that dedicate and pledge receipt of future federal
transportation funds to secure the payment of the GARVEE bonds,
including principal, interest and issuance costs. The terms of
30 the GARVEE bonds, their repayment schedule and other provisions
to facilitate their creditworthiness are determined by the bank
in consultation with the Department of Transportation and the
34 State Budget Officer. The pledge and certificate are a part of
the contract with the holders of the GARVEE bonds to be
36 authorized.

38

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

44

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

50

205

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

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

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

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

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

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

14 C. Lease the qualified transportation projects to the State
16 or any agency, political subdivision, instrumentality or
18 department of the State to further the purposes of this
20 Part, as long as the obligation of the State or of any such
22 agency, political subdivision, instrumentality or department
24 to make any rental or other payments are considered
executory only to the extent of funds paid by the United
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.

26 **3. Pledge of federal highway funds.** The Department of
28 Transportation is authorized to transfer, assign or pledge any or
30 all of the funds paid to it, directly or indirectly, by the
32 Federal Highway Administration with respect to the qualified
34 transportation projects, together with any matching funds of the
36 State as necessary and legally available that are allocated for
38 such purpose on an annual basis by the Department of
40 Transportation in its sole discretion. Any such pledge does not
42 constitute a debt or liability on behalf of the State or of any
44 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.

46 **4. Contracts are subject to continuing federal**
48 **appropriations of federal transportation funds.** Every contract
50 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

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L.D. 1974

2 the State in regard to the portion of the principal of and
interest on such bonds or notes and the related costs and
4 expenses that may be paid from federal transportation funds
pursuant to federal law and any agreement between the Federal
6 Highway Administration or any agency of the Federal Highway
Administration and the Department of Transportation that is or is
8 to be the initial recipient of such federal transportation funds
are subject to continuing federal appropriations of federal
10 transportation funds at a level equal to or greater than the
amount needed to pay the federal share of principal, interest and
12 costs and expenses on such bonds or notes.

14 **5. State agency powers.** Each agency, instrumentality,
department or other political subdivision of the State, for the
16 purpose of aiding and cooperating in the financing, construction,
operation or maintenance of the qualified transportation
18 projects, has the power:

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

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

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

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

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

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

8 C. Fix and prescribe any form of application or procedure
10 to be required of the State or of any agency, political
12 subdivision, instrumentality or department of the State with
14 respect to the qualified transportation projects and fix the
16 terms and conditions of the qualified transportation
18 projects and may enter into agreements with the State or any
20 agency, political subdivision, instrumentality or department
22 of the State or of any political subdivision of the State in
24 connection with the qualified transportation projects.

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

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

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

42 **10. Agreements with financial institutions.**
44 Notwithstanding the provisions of the Maine Revised Statutes,
46 Title 30-A, section 6019, the bank may enter into any agreements
48 or contracts with any commercial banks, trust companies or
50 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.

RMS

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

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

23 **Sec. R-6. Referendum for ratification; submission at general election;
24 form of question; effective date.** This Part must be submitted to the
25 legal voters of the State of Maine at the next general election
26 in the month of November following passage of this Act. The
27 municipal officers of this State shall notify the inhabitants of
28 their respective cities, towns and plantations to meet, in the
29 manner prescribed by law for holding a general election, to vote
30 on the acceptance or rejection of this Part by voting on the
31 following question:
32

33 "Do you favor the issuance of \$45,000,000 in revenue bonds
34 to be used to improve existing roads and bridges statewide
35 to be repaid with federal transportation funds?"
36

37 The legal voters of each city, town and plantation shall
38 vote by ballot on this question and designate their choice by a
39 cross or check mark placed within a corresponding square below
40 the word "Yes" or "No." The ballots must be received, sorted,
41 counted and declared in open ward, town and plantation meetings
42 and returns made to the Secretary of State in the same manner as
43 votes for members of the Legislature. The Governor shall review
44 the returns and, if a majority of the legal votes are cast in
45 favor of this Part, the Governor shall proclaim the result
46 without delay, and this Part becomes effective 30 days after the
47 date of proclamation.
48

RMS

2 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.

4
6 **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
8 by financial order upon the recommendation of the State Budget
Officer and the approval of the Governor. The transferred
10 amounts are considered adjustments to allocations.'

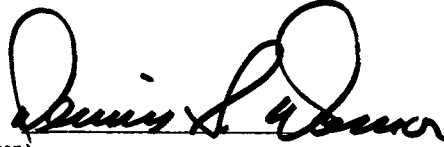
12 Further amend the amendment by relettering or renumbering
any nonconsecutive Part letter or section number to read
14 consecutively.

16
18 **SUMMARY**

20 This amendment directs the State Controller to transfer up
to \$15,000,000 from the available unappropriated surplus of the
General Fund at the close of fiscal year 2005-06 to the
22 Department of Transportation, Highway and Bridge Improvement
Highway Fund account. The amendment states the intent of the
24 transfer is to provide additional resources on a one-time basis
to address the Highway Fund shortfall. The amendment further
26 provides that the amount transferred may be allotted by financial
order upon the recommendation of the State Budget Officer and is
28 to be considered an adjustment to allocations in fiscal year
2006-07.

30 This amendment also authorizes, subject to approval of the
32 voters in a statewide referendum, the Maine Municipal Bond Bank
to issue \$45,000,000 in federally authorized grant anticipation
34 revenue vehicle debt financing, or GARVEE, revenue bonds to be
repaid with federal transportation funds, the proceeds of which
36 will be used by the Department of Transportation to improve
existing highways and bridges statewide.

38
40 **FISCAL NOTE REQUIRED**
42 **(See attached)**

44
46 SPONSORED BY: 
(Senator DAMON)

48 COUNTY: Hancock

50



122nd MAINE LEGISLATURE

LD 1974

LR 3082(40)

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 "H" to Committee Amendment "B"

Sponsor: Sen. Damon

Fiscal Note Required: Yes

Fiscal Note

Potential transfer of unbudgeted unappropriated surplus - General Fund

Potential current biennium cost increase - Highway Fund

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 authorization of the transfer of up to \$15,000,000 from the unappropriated surplus of the General Fund to the Highway and Bridge Improvement Highway Fund account in fiscal year 2006-07 will depend on whether any unbudgeted balance of the unappropriated surplus of the General Fund exists to effect the transfer. Highway Fund allocations for the Highway and Bridge Improvement program in fiscal year 2006-07 will be increased by the amount of any transfer that does take place.

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.