

MAINE STATE LEGISLATURE

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STATE OF MAINE
SENATE
124TH LEGISLATURE
FIRST REGULAR SESSION

SENATE AMENDMENT "B" to COMMITTEE AMENDMENT "A" to H.P. 269, L.D. 333, Bill, "An Act Making Unified Highway Fund and Other Funds Allocations for the Expenditures of State Government and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2010 and June 30, 2011"

Amend the amendment by striking out all of Part W and inserting the following:

PART W

Sec. W-1. 36 MRSa §2903, sub-§1, as amended by PL 2001, c. 688, §1, is further amended to read:

1. Excise tax imposed. ~~An~~ Beginning July 1, 2008 and ending June 30, 2009, an excise tax is imposed on internal combustion engine fuel used or sold within this State, including sales to the State or a political subdivision of the State, at the rate of 22¢ 28.4¢ per gallon, except that the rate is 3.4¢ per gallon on internal combustion engine fuel, as defined in section 2902, bought or used for the purpose of propelling jet or turbojet engine aircraft. The tax rate provided by this section is subject to annual inflation adjustment pursuant to section 3321 except with respect to the tax imposed upon fuel bought or used for the purpose of propelling jet or turbojet engine aircraft. Beginning July 1, 2009 and ending March 31, 2010, an excise tax is imposed on internal combustion engine fuel used or sold within this State, including sales to the State or a political subdivision of the State, at the rate of 32¢ per gallon, except that the rate is 3.4¢ per gallon on internal combustion engine fuel bought or used for the purpose of propelling jet or turbojet engine aircraft. Beginning April 1, 2010, an excise tax is imposed on internal combustion engine fuel used or sold within this State, including sales to the State or a political subdivision of the State, at the rate of 34.5¢ per gallon, except that the rate is 3.4¢ per gallon on internal combustion engine fuel bought or used for the purpose of propelling jet or turbojet engine aircraft. Any fuel containing at least 10% internal combustion engine fuel is subject to the rate of tax imposed by this section.

Sec. W-2. 36 MRSa §3203, sub-§1-B, as enacted by PL 2007, c. 650, §2, is amended to read:

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1-B. Generally; rates. Except as provided in section 3204-A, beginning July 1, 2008 and ending June 30, 2009, an excise tax is levied and imposed on all suppliers of distillates sold, on all retailers of low-energy fuel sold and on all users of special fuel used in this State for each gallon of distillate at the rates provided in this subsection rate of 29.6¢ per gallon. Beginning July 1, 2009 and ending March 31, 2010, an excise tax is levied and imposed on all suppliers of distillates sold, on all retailers of low-energy fuel sold and on all users of special fuel used in this State for each gallon of distillate at the rate of 32¢ per gallon. Beginning April 1, 2010, an excise tax is levied and imposed on all suppliers of distillates sold, on all retailers of low-energy fuel sold and on all users of special fuel used in this State for each gallon of distillate at the rate of 34.5¢ per gallon. Tax rates for each gallon of low-energy fuel are based on the British Thermal Unit, referred to in this subsection as "BTU," energy content for each fuel as based on gasoline gallon equivalents or the comparable measure for distillates. The gasoline gallon equivalent is the amount of alternative fuel that equals the BTU energy content of one gallon of gasoline. In the case of distillates, the tax rate provided by this section is subject to annual inflation adjustment pursuant to section 3321. For purposes of this subsection, "base rate" means the rate in effect for gasoline or diesel on July 1st of each year as indexed under section 3321. A biodiesel blend containing less than 90% biodiesel fuel is subject to the rate of tax imposed on diesel.

A. This paragraph establishes the applicable BTU values and tax rates based on gasoline gallon equivalents.

Fuel type based on gasoline	BTU content per gallon or gasoline gallon equivalent	Tax rate formula (BTU value fuel/BTU value gasoline) x base rate
Gasoline	115,000	100% x base rate
Propane	84,500	73% x base rate
Compressed Natural Gas (CNG)	115,000	100% x base rate
Methanol	56,800	49% x base rate
Ethanol	76,000	66% x base rate
Hydrogen	115,000	100% x base rate
Hydrogen Compressed Natural Gas	115,000	100% x base rate

B. This paragraph establishes the applicable BTU values and tax rates based on distillate gallon equivalents.

SENATE AMENDMENT

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Fuel type based on diesel	BTU content per gallon or gallon equivalent	Tax rate formula (BTU value fuel/BTU value diesel) x base rate diesel
Diesel	128,400	100% x base rate
Liquified Natural Gas (LNG)	73,500	57% x base rate
Biodiesel	118,300	92% x base rate

C. The conversion factors established in this paragraph must be used in converting to gasoline gallon equivalents.

(1) For compressed natural gas, BTUs per 100 standard cubic feet is 93,000, and there are 123.66 standard cubic feet per gasoline gallon equivalent.

(2) For hydrogen, BTUs per 100 standard cubic feet is 27,000, and there are 425.93 standard cubic feet per gasoline gallon equivalent.

(3) For hydrogen compressed natural gas, BTUs per 100 standard cubic feet is 79,800, and there are 144.11 standard cubic feet per gasoline gallon equivalent.

Sec. W-3. 36 MRSA §3203-C, as amended by PL 2003, c. 390, §15, is further amended to read:

§3203-C. Inventory tax

On the date that any increase in the rate of tax imposed under this chapter takes effect, an inventory tax is imposed upon all distillates that are held in inventory by a supplier or retail dealer as of the end of the day prior to that date on which the tax imposed by section 3203, subsection 1 has been paid. The inventory tax is computed by multiplying the number of gallons of tax-paid fuel held in inventory by the difference between the tax rate already paid and the new tax rate. Suppliers and retail dealers that hold such tax-paid inventory shall make payment of the inventory tax on or before the 15th day of the next calendar month, accompanied by a form prescribed and furnished by the State Tax Assessor. In the event of a decrease in the tax rate, the supplier or retail dealer is entitled to a refund or credit, which must be claimed on a form designed and furnished by the assessor.

Sec. W-4. 36 MRSA §3208, first ¶, as amended by PL 2007, c. 438, §78, is further amended to read:

Every user subject to the tax imposed by section 3203 is entitled to a credit on the tax, equivalent to the then current rate of taxation per gallon imposed by section 3203 as adjusted pursuant to section 3321, on all special fuel purchased by that user from a supplier or retailer licensed in accordance with section 3204 upon which the tax imposed by section 3203 has been paid. Evidence of the payment of that tax, in a form required by or satisfactory to the State Tax Assessor, must be furnished by each user claiming the credit. When the amount of the credit to which any user is entitled for any quarter exceeds the amount of the tax for which that user is liable for the same quarter, the excess may be allowed as a credit on the tax for which that user would be otherwise liable for another quarter or quarters. Upon application to the assessor, the excess may be refunded

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1 if the applicant has paid to another state or province under a lawful requirement of that
2 jurisdiction a tax similar in effect to the tax imposed by section 3203 on the use or
3 consumption of that fuel outside the State, at the same rate per gallon that tax was paid in
4 this State, but in no case to exceed the then current rate per gallon of the tax imposed by
5 section 3203 as adjusted pursuant to section 3321. Upon receipt of the application the
6 assessor, if satisfied after investigation that a refund is justified, shall so certify to the
7 State Controller. The refund must be paid out of the Highway Fund. This credit lapses at
8 the end of the last quarter of the year following that in which the credit arose.

9 **Sec. W-5. 36 MRSA c. 465**, as amended, is repealed.

10 **Sec. W-6. Effective date.** This Part takes effect July 1, 2009, except that the
11 section of this Part that repeals the Maine Revised Statutes, Title 36, chapter 465 takes
12 effect June 30, 2009.

13 Amend the amendment in Part X in section 2 in the 5th line (page 80, line 41 in
14 amendment) by striking out the following: "\$10,000,000" and inserting the following:
15 '\$30,000,000'

16 Amend the amendment by inserting after Part X the following:

17 **'PART Y**

18 **Sec. Y-1. Appropriations and allocations.** The following appropriations and
19 allocations are made.

20 **TRANSPORTATION, DEPARTMENT OF**

21 **Highway and Bridge Capital 0406**

22 Initiative: Allocates funding from the return of a portion of the 7.5% of fuel taxes
23 previously transferred to the Maine Municipal Bond Bank TransCap Trust Fund.

24	OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
25	Capital Expenditures	\$9,446,124	\$12,086,594
26			
27	OTHER SPECIAL REVENUE FUNDS TOTAL	\$9,446,124	\$12,086,594

28 **Highway and Bridge Capital 0406**

29 Initiative: Provides funding for capital projects utilizing the \$30,000,000 Maine
30 Municipal Bond Bank TransCap Trust Fund revenue bond in Part X.

31	OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
32	Capital Expenditures	\$10,000,000	\$20,000,000
33			
34	OTHER SPECIAL REVENUE FUNDS TOTAL	\$10,000,000	\$20,000,000

35 **Highway and Bridge Capital 0406**

1 Initiative: Provides funding for Capital Expenditures.

2	HIGHWAY FUND	2009-10	2010-11
3	Capital Expenditures	\$1,511,760	\$4,699,573
4			
5	HIGHWAY FUND TOTAL	<u>\$1,511,760</u>	<u>\$4,699,573</u>

6 **Highway and Bridge Light Capital Z095**

7 Initiative: Provides funding for Capital Expenditures projects.

8	HIGHWAY FUND	2009-10	2010-11
9	Capital Expenditures	\$18,000,000	\$22,925,000
10			
11	HIGHWAY FUND TOTAL	<u>\$18,000,000</u>	<u>\$22,925,000</u>

12 **Urban-Rural Initiative Program 0337**

13 Initiative: Restores funding on a one-time basis to the Urban-Rural Initiative Program
 14 deallocated in Part A by allocating funding from the return of a portion of the 7.5% of
 15 fuel taxes previously transferred to the Maine Municipal Bond Bank TransCap Trust
 16 Fund.

17	HIGHWAY FUND	2009-10	2010-11
18	All Other	\$0	\$5,000,000
19			
20	HIGHWAY FUND TOTAL	<u>\$0</u>	<u>\$5,000,000</u>

21 **Urban-Rural Initiative Program 0337**

22 Initiative: Adjusts funding on a one-time basis for the Urban-Rural Initiative Program at
 23 the correct proportioned rate per the Maine Revised Statutes, Title 23, section 1803-B.

24	HIGHWAY FUND	2009-10	2010-11
25	All Other	\$2,079,569	\$2,944,235
26			
27	HIGHWAY FUND TOTAL	<u>\$2,079,569</u>	<u>\$2,944,235</u>

28 **TRANSPORTATION, DEPARTMENT OF**
 29 **DEPARTMENT TOTALS**

30		2009-10	2010-11
31	HIGHWAY FUND	\$21,591,329	\$35,568,808
32	OTHER SPECIAL REVENUE FUNDS	\$19,446,124	\$32,086,594

R. 018

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DEPARTMENT TOTAL - ALL FUNDS

\$41,037,453 \$67,655,402

Amend the amendment by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment does the following.

- 1. It changes the tax rates proposed in Committee Amendment "A" by:
 - A. Beginning July 1, 2009, establishing a tax rate of 32¢ per gallon for both gasoline and diesel fuel and providing for a further increase to 34.5¢ per gallon on April 1, 2010 on both gasoline and diesel fuel. The tax on gasoline and diesel fuel was scheduled to increase by 1.1¢ July 1, 2009 due to indexing, so the net effect of this amendment is to impose 2 separate 2.5¢ increases; and
 - B. Repealing the indexing of the fuel tax to the rate of inflation, effective June 30, 2009, prior to the date the indexing was to be done, since the indexing is accounted for in the new rate imposed as of July 1, 2009.
- 2. It increases the amount of TransCap Trust Fund revenue bonds that the Maine Municipal Bond Bank is authorized to issue from \$10,000,000 to \$30,000,000.
- 3. It adds an allocations and appropriations section to ensure that all funds at the Maine Municipal Bond Bank TransCap Trust Fund are used for capital projects having a useful life of at least 10 years.

FISCAL NOTE REQUIRED

(See attached)

SPONSORED BY: Walter Gooley
 (Senator GOOLEY)
 COUNTY: Franklin

**124th MAINE LEGISLATURE**

LD 333

LR 824(09)

An Act Making Unified Highway Fund and Other Funds Allocations for the Expenditures of State Government and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2010 and June 30, 2011

Fiscal Note for Senate Amendment "B" to Committee Amendment "A"

Sponsor: Sen. Gooley of Franklin

Fiscal Note Required: Yes

Fiscal Note

	2009-10	2010-11	Projections 2011-12	Projections 2012-13
Net Cost (Savings)				
General Fund	(\$28,460)	(\$45,212)	(\$40,512)	(\$34,368)
Highway Fund	\$0	\$0	(\$31,570,056)	(\$26,467,554)
Appropriations/Allocations				
Highway Fund	\$21,591,329	\$35,568,808	\$0	\$0
Other Special Revenue Funds	\$19,446,124	\$32,086,594	\$0	\$0
Revenue				
General Fund	\$28,460	\$45,212	\$40,512	\$34,368
Highway Fund	\$21,591,329	\$35,568,808	\$31,570,056	\$26,467,554
Other Special Revenue Funds	\$2,249,211	\$3,675,979	\$2,638,101	\$2,597,280

Fiscal Detail and Notes

This amendment increases Highway Fund revenue by \$21,591,329 in fiscal year 2009-10 and \$35,568,808 in fiscal year 2010-11 and increases Highway Fund allocations by the same amount. This amendment will have no net effect on Highway Fund budgeted balance and a balanced budget is maintained through the 2010-2011 Biennium.