

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND TENTH LEGISLATURE

SECOND SPECIAL SESSION

September 25, 1981

AND

THIRD SPECIAL SESSION

December 9, 1981

AND

SECOND REGULAR SESSION

January 6, 1982 to April 13, 1982

AND AT THE

FOURTH SPECIAL SESSION

April 28, 1982 to April 29, 1982

AND AT THE

FIFTH SPECIAL SESSION

May 13, 1982

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 164, SUBSECTION 6.

J.S. McCarthy Co.
Augusta, Maine
1981

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
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1981

Sec. 1. 32 MRSA §503, sub-§3, ¶L, as amended by PL 1979, c. 663, §209, is repealed.

Sec. 2. 32 MRSA §3286, first and 2nd ¶¶, as enacted by PL 1971, c. 591, §1, are repealed.

Effective July 13, 1982.

CHAPTER 595

H.P. 2165 - L.D. 2064

AN ACT to Amend the Maine Turnpike Authority Statutes.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the 90-day period will not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses incident to the operation of departments and agencies will become due and payable on or immediately after July 1, 1982; and

Whereas, the continued existence of the Maine Turnpike Authority is necessary to operate, reconstruct and maintain the Maine Turnpike in a manner which adequately protects the safety of the public and which furthers the economic and social well-being of the citizens of the State, and is also necessary to collect tolls and issue bonds to provide for such operation, reconstruction and maintenance; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 5 MRSA §1092, sub-§14, ¶E, as enacted by PL 1977, c. 658, §1, is repealed.

Sec. 2. 23 MRSA c. 7-A, as enacted by PL 1981, c. 492, Pt. D, §1, is repealed, except insofar as the provisions of such chapter are expressly preserved herein, or are necessary to preserve the obligations owed to bondholders and other persons whose rights may not be constitutionally impaired.

Sec. 3. 23 MRSA c. 24 is enacted to read:

CHAPTER 24

MAINE TURNPIKE

§1961. Legislative findings

The Legislature makes the following findings of fact. The economic and social well-being of the citizens of the State requires that the state's transportation system be developed in a comprehensive manner and depends upon the safety and efficiency and modern functional state of the turnpike. The turnpike should be maintained as a closed toll facility whether there are turnpike bonds outstanding or not. Toll revenues should be utilized: To pay for retirement of any outstanding debt, including interest thereon; to pay for operation and maintenance of the turnpike; to pay for reconstruction of the turnpike; and to repay the Federal Government for grants or loans, the proceeds of which were used for the construction or reconstruction of the turnpike or portions thereof, interchanges and certain interconnecting access roads, but only to the extent that the repayment is required as a result of maintaining tolls on the turnpike. The Department of Transportation shall be provided each year a maximum amount of \$4,700,000 of the total annual operating revenue after moneys have been put aside to pay operating expenses and to meet the requirements of any resolution authorizing bonds of the authority, which amount is deemed necessary for use by the department to maintain, construct and reconstruct access roads on the state highway system which serves and benefits users of the turnpike by providing direct and indirect access to and from the turnpike as part of the state's integrated highway system. Due to the utilization of the state highway system by users of the turnpike, the turnpike 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 of Transportation to incur costs for the construction, operation and maintenance of the state highway system, which provides direct and indirect access to and from the turnpike to areas in the State for which the State may properly and should be compensated from the tolls to be collected. The Maine Turnpike Authority should be maintained to carry out the purposes of this

chapter in cooperation with the Department of Transportation.

It is the expectation of the Legislature that on or before July 1, 1982 all bonds outstanding on June 1, 1981 and the interest thereon will be paid or a sufficient amount for the payment of all bonds and the interest to maturity thereon will be set aside in trust for the benefit of the bondholders and shall continue to be held for the purpose. It is expected that tolls on the turnpike will have to be increased to implement this chapter.

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

§1962. Preservation of rights

No provision of this chapter may impair the rights of existing bondholders or of any other persons to whom the authority owes contractual obligations.

§1963. Maine Turnpike Authority

In order to carry out the purposes of this chapter, the Maine Turnpike Authority, created by Private and Special Law 1941, chapter 69, shall continue in existence with the powers and duties prescribed by this chapter until such time as the Legislature shall provide for its termination and all outstanding indebtedness of the authority shall be repaid, or an amount sufficient to repay that indebtedness shall be set aside in trust. The authority shall continue to operate and maintain the turnpike from a point at or near York in York County to a point at or near Augusta in Kennebec County, together with connecting tunnels, bridges, overpasses, underpasses, interchanges and toll facilities.

§1964. Definitions

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

1. Access roads. "Access roads" means any and all roads or highways in the state highway system, including bridges, overpasses and underpasses, which directly or indirectly connect with the turnpike and which shall have been designated as such by the Department of Transportation.

2. Authority. "Authority" means the Maine Turnpike Authority, created by Private and Special Law 1941, chapter 69, and continued in existence by this chapter.

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

4. Department. "Department" or "Department of Transportation" means the State Department of Transportation or its successor.

5. Interchange. "Interchange" means a system of interconnecting roadways in conjunction with one or more points of separation, providing for the interchange of traffic between 2 or more roadways or highways, one of which is the turnpike and includes sufficient lengths of intersecting roadways required for conformance with then current road design standards or standards acceptable to the Department of Transportation.

6. Operating revenues. "Operating revenues" means funds available to the Maine Turnpike Authority from fees, fares, tolls, rental of concessions and miscellaneous revenue and interest not otherwise pledged or dedicated.

7. Reconstruct or reconstruction. "Reconstruct" or "reconstruction" means any and all activities undertaken to maintain the Maine Turnpike, or any part thereof, as a modern, safe and efficient facility and includes, but is not limited to, any rebuilding, redesign, improvement or enlargement of the turnpike or any part thereof which the authority deems necessary to continuously, adequately, safely and swiftly facilitate vehicular traffic upon, to or from the Maine Turnpike.

8. State highway system. "State highway system" or "state highways" shall include all classes of roads set forth in section 53.

9. Turnpike. "Turnpike" means the roadway constructed between York in York County and Augusta in Kennebec County pursuant to Private and Special Law 1941, chapter 69, sections 1 to 20, as amended, and is deemed to include not only the roadway and all rights-of-way, bridges, tunnels, overpasses, underpasses and interchanges either upon the roadway or connected or connecting therewith, but also all buildings, toll facilities and other equipment, median barriers, shoulders, embankments, property rights, easements, leases and franchises relating thereto and deemed necessary or convenient for the construction, reconstruction, operation or maintenance of the turnpike.

§1965. Maine Turnpike Authority; powers; membership

1. Powers. The Maine Turnpike Authority, as created by Private and Special Law 1941, chapter 69 and as continued in existence by this chapter, is and shall continue to be a body both corporate and politic in the State and may:

A. Sue and be sued;

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

C. Adopt from time to time and amend bylaws covering its procedure and rules governing use of the turnpike and any of the other services made available in connection with the turnpike; publish those bylaws, rules as publication is necessary or advisable and cause records of its proceedings to be kept;

D. Construct, maintain, reconstruct and operate a toll turnpike from a point at or near York in York County to a point at or near Augusta in Kennebec County, except that the traveled way shall not be widened or expanded without the express approval of the Legislature;

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 therein deemed by it 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 1967;

H. Charge and collect fees, fares and tolls for the use of the turnpike and other services made available in connection with the turnpike and use the proceeds of such fees, fares and tolls for the purposes provided in this chapter, both as subject to and in accordance with such 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 existing therein, private corporations, partnerships, associations and individuals;

J. Accept grants and the cooperation of the United States or any agency thereof in the construction, maintenance, reconstruction, operation and financing of

the turnpike and do any and all things necessary in order to avail itself of that aid and cooperation and repay any such grant or portion thereof;

K. Employ such assistants, agents and servants, engineering, traffic, architectural and construction experts and inspectors and attorneys and such other employees as it deems necessary or desirable for its purposes;

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

M. Borrow money, make, issue and sell at public or private sale negotiable notes, bonds and other evidences of indebtedness or obligations of the authority for the purposes set forth in this chapter and secure the payment of that obligation or any part thereof by pledge of all or any part of the operating revenues of the turnpike;

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

O. Provide an annual amount not to exceed a maximum of \$4,700,000 as the department shall request and the authority shall determine pursuant to section 1974, subsection 4, after moneys have been set aside, or adequate provision has been made, to pay operating expenses and to meet the requirements of any resolution authorizing bonds of the authority, to be necessary for the use of the department each year for the construction, operation and maintenance of access roads and costs related thereto;

P. Provide from revenues to or for the use of the department funds for the maintenance, construction or reconstruction of interchanges determined pursuant to section 1974, subsection 3, for which the authority has not otherwise provided;

Q. Use toll revenues to provide payment of obligations, if any, as may be due to the United States in order to continue the use of the turnpike as a toll type facility;

R. Issue revenue bonds in accordance with this chapter for the purpose of payment to the Federal Government for any funds owed by the State as the result of maintaining tolls on the turnpike and issue additional revenue bonds for the construction and reconstruction of interchanges and related access roads and the reconstruction of the turnpike. The additional revenue bonds so issued shall not exceed \$20,000,000 in aggregate principal amount outstanding at any one time, excluding bonds issued to refund outstanding bonds;

S. Prior to the issuance of any bonds, the authority may issue interim certificates in such manner and with such conditions as the authority may determine to be exchanged for those bonds when issued; and

T. Take all other lawful action necessary and incidental to these powers.

2. Membership of the authority. The membership of the authority shall be as follows.

A. The authority shall consist of 4 members and, in addition, the Commissioner of Transportation shall be a member ex officio. The 4 members holding office on the effective date of this chapter shall continue in office until the expiration of the terms of office for which they were originally appointed, and until their successors are duly appointed and qualified. Upon the expiration of the term of office of any member, the Governor shall appoint a new member who shall serve in office for a term of 7 years and until his successor is duly appointed and qualified, and any member of the authority shall be eligible for reappointment. In the event of a vacancy in the membership 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. In all events, no member may be appointed to the authority who is not a resident of the State at the time of his appointment and qualification, or who has not been a qualified voter in the State for a period of least one year next preceding his appointment.

B. Immediately after their appointments, the members of the authority shall enter upon their duties. The Governor shall name one of the appointed members as chairman of the authority. The authority shall elect a

secretary and treasurer who need not be a member of the authority, and shall elect an executive director or general manager who is not a member of the authority. Three members of the authority shall constitute a quorum and 3 votes shall be required for the authority to act on any matter, although a lesser number may adjourn. No vacancy in the authority impairs the right of a quorum of the members to exercise all the rights and perform all the duties of the authority.

C. Before the issuance of any bonds under this chapter, the secretary and treasurer shall execute a security bond in the penalty of \$100,000. Each security bond must be approved by the Attorney General and shall be conditioned upon the faithful performance of the duties of his office, which bond shall be filed in the office of the State Auditor. Each member of the authority shall receive \$50 for each day in attendance at an official meeting and be reimbursed for necessary expenses incurred in the performance of his duties. The Governor may remove a member from the authority only for gross misconduct.

§1966. Obligations of the authority

The authority shall operate as follows.

1. General. All expenses incurred in carrying out this chapter shall be paid solely from funds provided under the authority of this chapter, and no liability or obligation may be incurred under this chapter beyond the extent to which money shall have been provided under the authority of this chapter.

2. Contracts for construction or reconstruction. All contracts and agreements relating to the construction or reconstruction of the turnpike and the construction or reconstruction of connecting tunnels and bridges, overpasses, underpasses, interchanges and toll facilities must be approved by the Department of Transportation and the turnpike and connecting tunnels and bridges, overpasses, underpasses, interchanges and barriers shall be constructed or reconstructed under the supervision of the department.

3. Bonds not to be pledges of State. Turnpike revenue bonds issued under this chapter, including any notes or other evidences of indebtedness or obligations defined to be bonds under this chapter, shall not be deemed to be a debt of the State or a pledge of the faith and credit of the State, but these bonds shall be payable exclusively from the fund provided in this chapter for that purpose from tolls or other operating revenues. All these bonds shall contain

a statement on their face that the State shall not be obligated to pay the same or the interest thereon and that the faith and credit of the State shall not be pledged to the payment of the principal of or interest or premium on such bonds. The issuance of bonds or refunding bonds under this chapter shall not directly or indirectly or contingently obligate the State to levy or to pledge any form of taxation whatever therefor or to make any appropriation for the payment thereof or the interest or premium thereon.

§1967. Property of the authority; eminent domain

The authority shall hold and acquire property as follows.

1. Property of the authority. All property of the authority and all property held in the name of the State pursuant to the provisions of this chapter shall be exempt from levy and sale by virtue of any execution, and no execution or other judicial process may be a lien upon its property held pursuant to the provisions of this chapter; provided that the authority shall not lease, sell or otherwise convey, or allow to be used, any of its real or personal property or easements therein, franchises, buildings or structures, with access to any part of the turnpike or its approaches, for commercial purposes, with the exception of such gasoline filling stations, service and repair stations and restaurants as it deems necessary to service the needs of the traveling public while using the turnpike, except that the authority may permit the erection or installation of electric power, telegraph, telephone, water, sewer or pipeline facilities; and provided also that the leasehold interests in such gasoline filling stations, service and repair stations and restaurants shall be subject to taxation as provided in section 1971.

2. Use of eminent domain. Whenever a reasonable price cannot be agreed upon for the purchase or lease of real property found necessary for the purposes of the authority or whenever the owner is legally incapacitated or is absent or is unable to convey valid title or is unknown, the authority may acquire by eminent domain any such real property whether wholly or partly constructed or interest or interests therein and any land, rights, easements, franchises and other property deemed necessary or convenient for the construction or reconstruction or the efficient operation of the turnpike, its connecting tunnels, or bridges, overpasses, underpasses or interchanges, or both, in the manner provided by chapter 3, subchapter III. Title to any property taken by eminent domain shall be in the name of the authority.

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

4. Authority for transfers of interest in land to the authority. All counties, cities, towns and other political subdivisions or municipalities and all public agencies and commissions of the State, and all public service corporations and districts, notwithstanding any contrary provisions of law, may lease, lend, grant or convey to the authority, upon its request, upon such terms and conditions as the proper authorities of the counties, cities, towns, political subdivisions, other municipalities, agencies, commissions, public service corporations and districts deem reasonable and fair and without the necessity for any advertisement, order of court or other action or formality other than the regular and formal action of the authorities concerned, any real or personal property or rights therein which may be necessary or convenient to the effectuation of the authorized purposes of the authority, including real and personal property or rights therein already devoted to public use. As used in this subsection, the term "public service corporation" includes every public utility as defined in Title 35 and every corporation referred to in Title 13-A.

§1968. Issuance of bonds

The authority may issue bonds as follows.

1. General. The authority is authorized to provide by resolution from time to time for the issuance of turnpike revenue bonds, including notes or other evidences of indebtedness or obligations defined to be bonds under this chapter, but not exceeding \$20,000,000 in the principal amount at any one time outstanding exclusive of refundings, for the purpose of paying the cost of constructing, reconstructing or making extraordinary repairs to the turnpike and the location thereof, for the purpose of repaying grants or loans from the Federal Government the proceeds of which were used to construct or reconstruct the turnpike or portions thereof or access roads or portions thereof, but only to the extent repayment is required in order for the authority to continue to collect tolls on the turnpike and, with the approval of the Department of Transportation, for the purpose of paying the cost, or a portion of the cost, of construction or reconstruction of interchanges, or portions thereof. The bonds of the authority shall not constitute a debt of the State or of any agency or political subdivision thereof, but shall be payable solely from the operating

revenues of the turnpike. Notwithstanding any provision of any law, any bonds issued pursuant to this chapter shall be fully negotiable. In case any of the members or officers of the authority whose signatures appear on the bonds or coupons, if any, shall cease to be members or officers before the delivery of the bonds, the signature shall, nevertheless, be valid and sufficient for all purposes the same as if the members or officers had remained in office until that delivery.

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

It is the intention of this chapter that any pledge made by the authority in respect of the bonds or notes shall be valid and binding from the time when the pledge is made; that the moneys or property so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether those parties have notice thereof. Neither the resolution, trust indenture nor any other instrument by which a pledge is created need be recorded.

2. Bonds. The authority may in the resolution authorizing prospective issues provide as to those bonds:

- A. The manner of executing the bonds and coupons;
- B. The form and denomination of the bonds;
- C. Maturity dates not more than 25 years from the date or dates of issuance, excluding the period, if any, during which bond anticipation notes are outstanding;
- D. The interest rate or rates on the bonds, which may be fixed or variable or a combination of both;
- E. For the redemption prior to maturity and the premium payable for the bonds;
- F. The place or places for the payment of interest and principal;

G. For registration if the authority deems it to be desirable;

H. For the pledge of all or any of the operating revenues of the turnpike for securing payment;

I. For the replacement of lost, destroyed or mutilated bonds;

J. The setting aside of revenue and sinking funds and the regulation and disposition of these revenues and funds and for limitations on reserves, if any, established for capital outlay from operating revenues;

K. For limitations on the issuance of additional bonds;

L. For the procedure, if any, by which the contract with the bondholders may be abrogated or amended;

M. For the manner of sale, which may be public or private, and purchase of the bonds;

N. For covenants against pledging any or certain of the operating revenues of the turnpike;

O. For covenants fixing and establishing the prices, rates and charges for the use of the turnpike and other services made available in connection with the turnpike so as to provide at all times funds which will be sufficient:

(1) To pay all costs of operation and maintenance of the turnpike, together with the necessary repairs thereto;

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

(3) For the creation of these reserves for the principal and interest of all such bonds and for the meeting of contingencies and the operation and maintenance of the turnpike as the authority shall determine; and

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

P. For such other covenants as to such prices, rates and charges as the authority shall determine;

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

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

S. For covenants as to the use of its property and the maintenance and replacement thereof and the insurance to be carried thereon 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 bond anticipation notes of any or all of its powers delineated in this chapter for the issuance of bonds; and

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

§1969. Application of proceeds of bonds or notes in anticipation thereof

Bonds shall be applied as follows.

1. Application. All moneys received from any bonds or bond anticipation notes issued pursuant to this chapter shall be applied solely:

A. To the payment of the cost of the construction and reconstruction of the turnpike;

B. To the repayment of the Federal Government for its costs incurred in connection with the construction and reconstruction of the turnpike, but only to the extent

that that repayment is required in order for the authority to continue to collect tolls on the turnpike;

C. To the payment of the costs of constructing or reconstructing interchanges;

D. To the payment of the costs of issuance of the bonds;

E. To the creation of reasonable reserves for the payment of the principal of and interest on those bonds, and to meet the cost of extraordinary repairs to or maintenance of the turnpike;

F. To the appurtenant fund; and

G. To the payment of any temporary notes of the authority the proceeds of which were used for any of the foregoing purposes.

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

§1970. Bonds; how secured

In the discretion of the authority, bonds may be secured by a trust indenture by and between the authority and a corporate trustee which may be any trust company or bank having the powers of a trust company within or outside of the State, or by a loan or other security agreement with a lender or with such a trustee containing provisions which may be included in a bond resolution or trust indenture under this chapter. The trust indenture or loan or other security agreement may pledge or assign tolls or revenues to be received, but shall not convey or mortgage the turnpike or any part thereof. Either the resolution providing for the issuance of the bonds or the trust indenture or loan or other security agreement may contain provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the acquisition of properties and the construction, maintenance, operation and repair and insurance of the turnpike and the custody, safeguarding and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of this State, to act as depositories of the proceeds of the bonds or revenues and to furnish the indemnity bonds or to pledge such securities as may be required by the authority. That indenture or loan or other security agreement may set forth the

rights and remedies of the bondholders or other lenders and of the trustee, if any, and may restrict the individual right of action of bondholders or other lenders as is customary in trust indentures securing bonds and debentures of corporations. In addition to the foregoing, the trust indenture may contain such other provisions as the authority may deem reasonable and proper for the security of bondholders. All expenses incurred in carrying out the trust indenture or loan or other security agreement may be treated as a part of the cost of maintenance, operation and repair of the turnpike.

§1971. Exemption from taxes

The accomplishment by the authority of the authorized purpose stated in this chapter being for the benefit of the people of the State and for the improvement of their commerce and prosperity in which accomplishment the authority will be performing essential governmental functions, the authority shall not be required to pay any taxes or assessment on any property acquired or used by it for the purposes provided in this chapter, except that restaurants, fuel and service facilities, leased or rented by the authority to business entities, shall be subject to taxation, and assessments shall be made against the tenant in possession based upon the value of the leasehold interest, both real and personal, nor may the authority be required to pay any tax upon its income except as may be required by the laws of the United States, and the bonds or other securities and obligations issued from the authority, their transfer and the income therefrom, including any profits made on the sale thereof, shall at all times be free from taxation within the State.

§1972. Refunding bonds

The authority is authorized to provide by resolution for the issuance of turnpike revenue refunding bonds of the authority, including notes or other obligations defined as bonds under this chapter for the purpose of refunding any bonds then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of these bonds; and, if deemed advisable by the authority, for any additional purpose for which bonds authorized by this chapter may be issued. The issuance of the bonds, the maturities and other details thereof, the rights of the holders thereof and the rights, duties and obligations of the authority in respect of those rights, duties and obligations, shall be governed by this chapter insofar as these rights, duties and obligations may be applicable.

§1973. Maintenance of the turnpike

1. Maintenance and repair. The turnpike shall be maintained and repaired by and under the control of the authority and, at the discretion of the authority, the services of the Department of Transportation, as far as the services are available or expedient, may be utilized for this purpose. All charges and costs for maintenance and repairs actually expended by the department shall be paid to it by the authority. The turnpike shall be operated by such force of toll takers and other operating employees as the authority may in its discretion employ. The authority may utilize the services of the State Police to enforce the rules of the authority with respect to tolls, volume, weight and speed of traffic and with respect to such other matters of enforcement as it may in its discretion require, and all charges and costs for those services actually expended by the State Police shall be paid by the authority to the Treasurer of State in accordance with section 1974, subsection 5.

2. Speed limit. The authority may by rule prescribe a maximum limitation on the speed of vehicles using the turnpike, but not exceeding 55 miles per hour or such maximum speed as is permitted on similar roads in the State, and so limit the speed at any point or place thereon, and may regulate the volume and weight of vehicles admitted to the turnpike.

3. Tolls. Tolls, or the fixing of tolls, shall not be considered rulemaking and shall not be subject to supervision or regulation by any state commission, board or agency. Subject to subsection 4, the authority may fix and revise from time to time tolls for the use of the turnpike and the different parts or sections thereof, and charge and collect the tolls, and contract with any person, partnership, association or corporation desiring the use of any part thereof, including the right-of-way adjoining the paved portion. The tolls shall be so fixed and adjusted as to provide a fund at least sufficient with other revenues of the turnpike, if any, to pay for each fiscal year:

A. The cost of maintaining, repairing and operating the turnpike, and providing and maintaining reasonable reserves therefor;

B. The bonds and the interest thereon, and all sinking fund requirements, and other requirements provided by the resolution authorizing issuance of the bonds or by the trust indenture or loan or a security agreement as they shall become due;

C. Those sums for the purpose of maintaining, constructing or reconstructing access roads or portions thereof as shall have been requested by the department and as in the sole discretion of the authority are from time to time determined in subsection 4, to warrant the expenditure to turnpike revenues; and

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

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

A. The authority shall establish a system of commuter discounts to provide passenger vehicles with reduced rates which rates shall not exceed 50% of the normal passenger vehicle toll in effect on June 1, 1981, except that after July 1, 1985, commuter fares may be adjusted generally proportionately to any other fare adjustments.

B. Reduced rates of fees, fares and tolls shall be made to any class of vehicle based upon volume of use.

5. Use by military. The turnpike may be used at any and all times by the Armed Forces of the United States, the State or any of their allies for defense purposes or preparations therefor free of all tolls and charges, and that use shall not constitute a taking of property without due process, provided that any structural damage to the turnpike created by that free use, ordinary deterioration or depreciation excepted, shall be compensated for at cost of repair or replacement.

§1974. Use of turnpike revenues

1. Expenditures. Expenditure of all tolls collected from the Maine Turnpike toll facilities and all other revenues derived from the turnpike operations after the effective date of this chapter shall be limited to the following purposes:

A. Maintenance, repair and operation of the turnpike and the establishment of reserves required therefor including, without limitations, reserves required or permitted by the resolutions authorizing the issuance of bonds or by the trust indentures relating to those bonds, and including any costs specially incurred by the Department of Transportation or any other state agency in connection with the operation of the turnpike;

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

C. Construction or reconstruction to improve the turnpike to meet greater traffic demands or improve safety of operation, including reserves therefor, as authorized in paragraph E, except that the traveled way shall not be widened or expanded without the express approval of the Legislature;

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

E. Payments to reserve or sinking funds established by the authority to meet anticipated future costs of constructing or reconstructing designated interchanges or portions thereof submitted by the department, or to accomplish other designated purposes for which the authority is authorized to issue bonds, provided that the funding for those projects financed from reserves, together with the estimated future costs thereof, have been approved by the authority; and

F. Repayment to the Federal Government for grants or loans the proceeds of which were used in connection with the construction or reconstruction of any portion of the turnpike or of any interconnecting access roads, but only to the extent that the repayment is required in order for the authority to continue to collect tolls on the turnpike.

2. Sinking fund for payment of bonds. The tolls and all other revenues derived from the turnpike, except such part thereof as may be required to pay the cost of maintaining, repairing and operating the turnpike and to provide such reserves therefor as may be provided for in a resolution authorizing the issuance of the bonds or in the related trust indenture or loan or other security agreement, shall be set aside at such regular intervals as may be provided in the resolution or trust indenture or loan or other security agreement, in a sinking fund which is pledged to, and charged with, the payment of:

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

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

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

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

The use and disposition of the sinking fund shall be subject to such rules as may be provided in the resolution authorizing the issuance of bonds or in the related trust indenture or loan or other security agreement, but, except as may otherwise be provided in that resolution or trust indenture or loan or other security agreement, the sinking fund shall be a fund for the benefit of 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 moneys 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 shall immediately be canceled and shall not again be issued.

3. Revenues for additional interchanges. In addition to interchanges which have been incorporated into the turnpike, the authority shall authorize turnpike revenues to be utilized for interchanges determined pursuant to the terms and conditions of this chapter, provided that the department shall request use of revenues by submitting a proposed program for additional interchanges or improvements to existing interchanges, and provided that the authority shall have and exercise sole discretion to set the level of revenues, and provided further that the additional interchanges or improvements have or would have a sufficient relationship to the public's use of the turnpike and the orderly regulation and flow of vehicular traffic using the turnpike so that the use of the turnpike revenues is warranted to pay all or any portion of the cost of maintaining or constructing such additional interchanges or improvements and all or a portion of the access roads required in connection therewith. 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:

A. The existing road network;

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

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

D. The relative number of vehicles using or expecting to use those access roads on the way to or from the turnpike;

E. The road distance of those access roads or portions thereof from the nearest entrance to or exit from the turnpike;

F. The effect the construction or reconstruction will have on the flow of traffic to, from and on the turnpike, and in diverting vehicular traffic off or away from the turnpike;

G. The probable availability of turnpike revenues to make the payments;

H. The availability of alternative roads to or from the turnpike;

I. Priority shall be given to the construction or improvement of interchanges and related access roads which will promote industrial and economic development of communities adjacent to or near the turnpike, whose present lack of access tends to discourage that development. In determining the extent of effect on industrial and economic development, the department and the authority shall consider existing, committed, proposed and potential development. The first priority for the use of available toll revenues for interchanges shall be for new or a modification of present interchanges and access roads to provide the necessary access for the development of industrial parks in Lewiston and Auburn. The authority and the department shall make every effort to begin construction or modification of interchanges by January 2, 1984;

J. Financial condition of the turnpike and financial impact of maintenance, improvement and construction;

K. The existence of any seasonal interchanges which with nominal capital expenditure could be placed into year-round operation; and

L. Such other factors deemed relevant, including, but not limited to, expert opinion.

4. Revenues for access roads and the state highway system. Subject to the terms and conditions of this chapter, the authority, semi-annually on July 1st and January 1st of each fiscal year commencing July 1, 1983, shall, upon making the determination referred to in this subsection, authorize turnpike revenues to be transferred to the Depart-

ment of Transportation for the costs of construction, reconstruction, operation and maintenance of access roads provided, first, that the department provide certification as to the utilization of all or a part of the state highway system by turnpike users with respect to the benefit received by the turnpike and its users and the costs incurred by the department for the construction, operation and maintenance of the access roads caused by the turnpike and its users and supporting the transfer of turnpike revenues for each 2-year period. The department shall not request and the authority shall not approve a transfer of turnpike revenues under this subsection in any year that exceeds the cost to the department for construction, reconstruction or maintenance of access roads fairly attributable to vehicular traffic traveling to or from the turnpike. Based on the certification and such other information as the authority deems necessary, the authority shall determine whether or not the turnpike and users thereof are so benefited by the system, and thereupon the authority shall have and exercise sole discretion to determine the level of revenues to be so transferred to the department, but that transfer annually shall not exceed \$4,700,000. In making its report, the department, as a basis for requesting those revenues, and the authority in determining the level of revenues to be transferred, may consider the following factors, no one of which may necessarily be determinative:

- A. The existing access roads and the state highway system;
- B. The traffic impact of the maintenance, construction or reconstruction on the existing road network;
- C. Total cost of the state highway system;
- D. The probable change in departmental expenditures resulting from maintenance, construction or reconstruction;
- E. The relative number of vehicles using or expecting to use the access roads on the way to or from the turnpike;
- F. The road distance or average road distance of the access roads or portions thereof from the nearest entrance to or exit from the turnpike;
- G. The effect that maintenance, construction or reconstruction will have on the flow of traffic to, from and on the turnpike, and in diverting vehicular traffic off or away from the turnpike;

H. Proportionate usage of the state highway system by vehicles using the turnpike and vehicles not using the turnpike;

I. Vehicle classification and travel characteristics;

J. Origins and destinations of trips;

K. Fuel type and consumption;

L. Financial condition of the turnpike; the financial impact of that maintenance, construction and reconstruction; and the probable availability of turnpike revenues to make these payments;

M. Existing sources of revenue; or

N. Such other factors deemed relevant including, but not limited to, expert opinion.

The authority shall cooperate with the department in any surveys or studies required to provide this report, the costs of which shall be borne by the department.

Pending the department's first report, which shall be submitted by May 1, 1983, for the period ending June 30, 1983, it is determined that for the current period the aggregate sum to be transferred to the department from operating revenues of the authority for benefits received and costs incurred by the department caused by turnpike users due to their utilization of the turnpike, is \$4,700,000. In the event the authority subsequently determines that the aggregate sum transferred to the department during the period ending July 1, 1982 to June 30, 1983, exceeds by more than 10% the amount the authority would otherwise pay to the department under the provisions of this subsection, an amount equal to the amount of that excess shall be repaid by the department to the authority in such manner and at such times as may be agreed upon by the authority and the department, provided that, if within 6 months after the determination, the authority and the department have not so agreed and written notice thereof shall have been given to the department, the excess amount shall be repaid in 5 equal annual installments in each of the 5 years next succeeding.

5. Payment for State Police services on the Maine Turnpike. Payment for State Police services on the Maine Turnpike shall be as follows.

A. The authority shall assume all costs incurred by the State Police in enforcing the rules of the authority, and in providing for the safety of the public

traveling on the turnpike, provided that the authority has authorized the provision of those services by the State Police, and provided also that the services of any State Police personnel whose costs are so assumed shall be utilized only for turnpike-related activities, except in the event of emergency.

B. The Chief of the State Police shall submit monthly statements of costs incurred in connection with the turnpike, 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 shall credit those payments proportionately to the Highway Fund and the General Fund.

C. Prior to December 1st of each year, the Chief of the State Police shall file a report with the authority containing the following information with respect to the level of State Police services required in the following fiscal year to adequately enforce the rules of the authority and to adequately provide for the safety of the public traveling on the turnpike:

- (1) The estimated level of personnel required for turnpike duty calculated according to the assignment of that personnel by shift;
- (2) Monthly and annual estimates of the cost of personnel required for turnpike duty;
- (3) The estimated number of vehicles and amount of equipment required for turnpike duty, including a schedule of anticipated replacement needs;
- (4) Annual estimates of the cost of vehicles and equipment required for turnpike duty; and
- (5) Any other information which will aid the authority in determining the required level of State Police services and the cost thereof.

D. The authority shall review the information provided in the annual report of the Chief of the State Police and shall authorize the provision of such patrol and other services as it shall deem necessary to enforce its rules and to provide for the safety of the public traveling on the turnpike.

§1975. Provisions in case of default on bonds

Except as may otherwise be provided in a bond resolution or trust indenture or loan or security agreement, in

the event that the authority shall default in the payment of principal or interest on any of its bonds after the principal or interest falls due and that default shall continue for a period of 60 days or shall default in any other agreement with the bondholders or with a trustee under a trust indenture or loan or security agreement, the holders of 25% in aggregate principal amounts of the bonds then outstanding by instrument filed in the office of the Secretary of State duly acknowledged may appoint a trustee to represent the bondholders for the purpose provided in this section. The trustee may upon the written request of the holders of 25% in principal amount of the bonds then outstanding:

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

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

3. Enjoinment of acts or other things. Enjoin any acts or other things which may be unlawful or in violation of the rights of the bondholders; or

4. Require accounting. By action or suit in equity require the authority to account as if it were trustee of an expressed trust for the bondholders. The trustee shall be entitled, as a right, to the appointment of a receiver who may, to the extent that the authority could itself do, enter and take possession of the facilities of the authority or any part thereof, the revenue or receipts from which are or may be applicable to the payment of the bonds so in default, and operate and maintain the same and collect and receive all revenue thereafter arising therefrom in the same manner as the authority might do and shall deposit all such moneys in a separate account and apply the same in such manner as the court shall direct. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and the receiver, if any, and all costs and disbursements allowed by the court shall be a first charge on any revenues and receipts derived from the turnpike, the revenues and receipts from which are or may be applicable to the payment of the bonds so 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 shall have the right by mandamus or other suit, action or proceeding in law or in equity to enforce his 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.

§1976. Interim certificates

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

§1977. Trust funds

Subject to any agreement with the bondholders, all revenue received from the operation of the turnpike after deducting expenditures required for the construction, reconstruction, operation and maintenance of the turnpike and for the payment of the principal and the interest on the bonds of the authority or otherwise in accordance with the provisions thereof, shall be held and invested by the authority to establish trust funds for reserve and sinking funds for the retirement of bonded indebtedness.

§1978. Termination of the authority

The authority shall not be dissolved until such time as:

1. Legislature provide for termination. The Legislature shall provide for its termination; and

2. Payment of bonds, premiums and interest. All bonds, the premium, if any, and the interest thereon shall have been paid or a sufficient amount for the payment of all bonds and the interest to maturity or prior redemption date thereon shall have been irrevocably set aside in trust for the benefit of the bondholders.

§1979. Governmental functions

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

§1980. Penalties

Regulatory rules and laws shall be observed as follows.

1. Fines; imprisonment. Any violation of published rules relating to the turnpike or its use or services shall be deemed a traffic infraction and shall be punishable by a fine of not more than \$250, except that any person who oper-

ates a motor vehicle at a speed which exceeds, by 30 miles an hour or more, the speed fixed by the authority shall be guilty of a misdemeanor and shall 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 turnpike shall be deemed a misdemeanor and shall be punishable by a fine of not more than \$500 or by imprisonment for not more than 30 days, or by both. Nothing contained in this section may prevent the authority from collecting payment for use of the turnpike or any other service in connection with the turnpike by action at law or in equity.

2. Criminal acts and civil violations. The Revised Statutes, and amendments thereto, and the decisions of the courts of the State, shall apply to criminal acts and civil violations committed on the turnpike.

3. Rules. This section shall not affect the power of the authority to make rules governing use of the turnpike, or the power to prescribe limitations on the speed, volume and weight of vehicles using the turnpike, as granted to the authority by this chapter.

§1981. Effective date

This chapter shall take effect when approved, except that the authority may not, at any time before any bonds outstanding on the effective date and the interest thereon shall have been paid or a sufficient amount for the payment of any such bonds, premium, if any, and the interest to maturity or prior redemption date thereon shall have been irrevocably set aside in trust for the benefit of the bondholders, provide any funds to the Department of Transportation for the construction, reconstruction, maintenance or repair of access roads.

Sec. 4. PL 1981, c. 492, Pt. D, §§6 and 9 are repealed.

Sec. 5. P&SL 1941, c. 69, as amended, is repealed, except insofar as the provisions of such chapter are expressly preserved herein, or are necessary to preserve the obligations owed to bondholders and other persons whose rights may not be constitutionally impaired.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.