

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
ONE HUNDRED AND THIRTEENTH LEGISLATURE

**FIRST SPECIAL SESSION**

October 9, 1987 to October 10, 1987

**SECOND SPECIAL SESSION**

October 21, 1987 to November 20, 1987

and the

**SECOND REGULAR SESSION**

January 6, 1988 to May 5, 1988

PUBLISHED BY THE REVISOR OF STATUTES  
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 163-A, SUBSECTION 4.

---

Twin City Printery  
Lewiston, Maine  
1988

---

---

**PUBLIC LAWS**

OF THE

**STATE OF MAINE**

AS PASSED AT THE  
FIRST AND SECOND SPECIAL SESSIONS  
and  
SECOND REGULAR SESSION  
of the  
ONE HUNDRED AND THIRTEENTH LEGISLATURE  
1987

---

---

consolidate any hearing under this section with another hearing concerning railroad service by the same entity in the same area.

Sec. 2. 23 MRSA c. 615 is enacted to read:

CHAPTER 615

RAIL SERVICE

§7101. Major modifications in rail service

1. Findings. The Legislature finds that it is in the public interest that the State be promptly informed of any proposed major modifications to the rail service in this State.

2. Notice required. Any railroad which files a petition or proposal with the United States Interstate Commerce Commission concerning the sale, merger, abandonment or embargo of any railroad line in this State shall concurrently file a copy of the petition or proposal with the department. Any person, corporation or other entity which proposes to acquire or construct an additional railroad line in this State or provide rail transportation over or by means of an extended or additional railroad line and which files a petition or proposal with the United States Interstate Commerce Commission to do so shall concurrently file a copy of the petition or proposal with the department, and shall include information on the fitness and ability, including management, financial condition and employee complement, of the entity proposing to provide the rail service to provide safe, efficient and reliable rail service.

3. Review; report. The department shall review any petition or proposal for major modification to the rail service in the State filed under subsection 2. Upon conclusion of its review, the department shall report to the Governor and the Legislature if the proposal has a major effect on rail service in the State.

4. Failure to notify. Any entity which fails to file notice with the department required by this section, shall not be approved to receive financial assistance from the State, as defined in section 4211-A, subsection 1, for one year next following the date the notice is required to be filed.

Sec. 3. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1988-89
<u>TRANSPORTATION, DEPARTMENT OF</u>	
Railroad Assistance Program	
Personal Services	\$21,000
All Other	1,700
Total	\$22,700

Provides funds for a half-time project attorney position to promulgate rules in accordance with the Maine Administrative Procedure Act, Maine Revised Statutes, Title 5, chapter 375.

Effective August 4, 1988.

**CHAPTER 793**

**H.P. 1799 — L.D. 2463**

**AN ACT to Fund a Supplemental Highway Program and to Establish a Program to Fund the Construction of Extraordinary Bridges.**

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

Whereas, the State is experiencing an unanticipated loss of federal highway construction funds of approximately \$20,000,000 this biennium due to federal budget cuts; and

Whereas, the State's highway system is in need of considerable improvements to reach safe, modern standards; and

Whereas, the State is faced with the need to construct or reconstruct several bridges of unusual size and complexity; 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:

**PART A**

Sec. 1. 5 MRSA §1513, sub-§4, as enacted by PL 1987, c. 349, Pt. H, §4, is amended to read:

4. Exception. Notwithstanding any other provision of law, for the period starting July 1, 1988, and ending June 30, 1989, the fund may exceed \$25,000,000 but not more than \$48,000,000 and expenditures may be appropriated from the fund by the 2/3 vote of the Legislature upon recommendation of the Governor only for the purpose of paying to the Maine State Retirement System such amounts as may be deemed appropriate after the conclusion of the study authorized in Public Law 1987, chapter 68 and for purposes set out in subsection 2. In addition, during the period starting July 1, 1987 and ending June 30, 1988, the sum of \$13,200,000 may be appropriated from the fund by the 2/3 vote of the Legislature only for the purpose of paying to the Department of Transportation \$12,000,000 for highway and bridge construction and \$1,200,000 to fund state as-

sistance to municipalities for salt and sand storage facilities. In the event that federal highway funds are restored in sufficient amount that no additional fuel tax increase is made effective in fiscal year 1988-89, after receipt of the funds, the excess over \$7,600,000 in restored funds, but not more than \$12,000,000, shall be transferred to the Rainy Day Fund or, if that fund is at its ceiling, to the General Fund and no additional payment from the Highway Fund shall be required. This subsection shall be repealed June 30, 1989.

Sec. 2. 23 MRSA §§610-H to 610-J are enacted to read:

§610-H. Legislative findings

The Legislature finds that the construction or replacement of several extraordinary bridges is vital to the economic well-being of the State and necessary to the movement of vehicular traffic.

The Legislature further finds that, due to the size and complexity of these structures, the costs associated with construction or replacement of these extraordinary bridges are so high that special funding provisions are warranted.

§610-I. Extraordinary bridges

For the first regular session of each Legislature, the department shall prepare a work program for the construction or major reconstruction of bridges that the department considers to be extraordinary bridges. Extraordinary bridges are those bridges which are a vital part of the State's arterial highway system and of such a size and complexity that they are extraordinarily expensive to construct or reconstruct. The work program shall be presented to the joint standing committee of the Legislature having jurisdiction over transportation and shall include estimates of scope of work, cost estimates and estimated completion dates.

§610-J. Extraordinary Bridge Construction Reserve

1. Deposit of funds. Such funds as are made available for the purpose of extraordinary bridge construction shall be deposited by the Treasurer of State in a separate reserve within the Highway Fund to be known as the Extraordinary Bridge Construction Reserve.

2. Legislative approval of budget. Expenditures from the Extraordinary Bridge Construction Reserve are subject to legislative approval in the same manner as any other expenditures from the Highway Fund.

3. Use of funds. Money in the Extraordinary Bridge Construction Reserve may only be used to defray the costs associated with the construction or major reconstruction of bridges identified pursuant to section 610-I as extraordinary bridges. Permissible costs shall include preliminary engineering, right-of-way acquisition, construction and major reconstruction.

Sec. 3. 23 MRSA §1803-A is enacted to read:

§1803-A. One-time stipend

In fiscal year 1989, a one-time stipend payment shall be distributed to municipalities and counties as follows.

1. Supplementary stipend. The supplementary stipend for each municipality or county shall be 22% of the amount paid to the municipality or county under section 1803 in fiscal year 1988.

2. Payment. The supplementary stipend shall be paid to each municipality or county in a single payment in January 1989.

3. Sunset. This section is repealed June 30, 1989.

Sec. 4. 23 MRSA §1851, first ¶, as enacted by PL 1987, c. 473, is amended to read:

The department may administer bond-issue funds for the construction of municipal or county salt and sand storage facilities in order to reduce salt pollution of ground and surface waters. Any bonds issued under this section shall be paid for out of the Highway Fund. In administering these funds, the department shall provide reimbursement to municipal and county governmental entities for approved projects according to the order of priority established biannually by the Department of Environmental Protection. Allocation of funds shall be based upon 1.25 times the ratio of miles of state and state-aid roads maintained for winter maintenance, as described in sections 1001 and 1003, to all miles maintained for winter maintenance by the municipality, quasi-municipal agency or county. The department shall establish guidelines to reimburse eligible local government entities in a consistent and timely manner.

Sec. 5. 23 MRSA §1852 is enacted to read:

§1852. Salt and sand storage facilities

In addition to the provisions of section 1851, and prior to calculating reimbursement under that section, the department shall reimburse each municipality and county for 25% of the expenses permitted under section 1851 and incurred for the construction of salt and sand storage facilities approved under section 1851.

Sec. 6. 23 MRSA §1961, as amended by PL 1987, c. 457, §1, is repealed and the following enacted in its place:

§1961. Legislative findings; cooperation with the Department of Transportation; bonds; governmental function

1. Legislative findings. The Legislature makes the following findings of fact. The economic and social well-being of the citizens of the State require that the transportation system be developed in a comprehensive manner and depend upon the safety, efficiency and modern

functional state of the turnpike. The turnpike should be maintained as a closed toll facility whether or not there are turnpike bonds outstanding. 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 of the turnpike, 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.

2. Cooperation with the Department of Transportation. The Department of Transportation shall be provided each year a maximum amount of \$8,700,000 of the total annual operating revenue after money has been put aside to pay operating expenses and to meet the requirements of any resolution authorizing bonds of the Maine Turnpike Authority. Any funds received by the department under this provision in excess of \$4,700,000 shall be expended for highway and bridge improvements within counties which contain turnpike mileage. These amounts are deemed necessary for use by the department for construction, reconstruction, operation and maintenance of access roads on the state highway system which serve and benefit users of the turnpike by providing direct and indirect access to and from the turnpike as part of the 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 be 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.

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

4. Governmental function. 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.

Sec. 7. 23 MRSA §1965, sub-§1, ¶0, as enacted by

PL 1981, c. 595, §3, is repealed and the following enacted in its place:

O. Provide an annual amount not to exceed a maximum of \$8,700,000 subject to the limitations in section 1961 as the department shall request and the authority shall determine pursuant to section 1974, subsection 4, to be necessary for the use of the department each year for the construction, operation and maintenance of access roads and costs related thereto, after money has 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;

Sec. 8. 23 MRSA §1974, sub-§4, as amended by PL 1981, c. 698, §105, is further amended to read:

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 Department 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, reconstruction, 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, operation and 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~~ \$8,700,000. 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 authority; the financial impact of ~~that the~~ maintenance, construction and reconstruction of access roads; 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.~~

Sec. 9. 36 MRS §2903, sub-§1, as enacted by PL 1983, c. 852, §4, is amended to read:

1. Excise tax levied. Except as provided in subsection 2, an excise tax is levied and imposed at the rate of ~~14¢~~ 16¢ per gallon upon internal combustion engine fuel sold or used within this State, including these sales when made to the State or any political subdivision thereof, for any purpose whatsoever, except the internal combustion engine fuel sold or used in such form and under such circumstances as shall preclude the collection of this tax by reason of the laws of the United States, or sold wholly for exportation from the State, or brought into the State in the ordinary standardized equipment fuel tank attached to and forming a part of a motor vehicle and used in the operation of that vehicle within the State, except that no tax may be levied upon internal combustion engine fuel, as defined in section 2902, bought or used by any person, association of persons, firm or corporation for the purpose of propelling jet or turbojet engine aircraft, or sold wholly for exportation from the State, or brought into the State in the fuel tanks of an aircraft, or on or after July 1, 1983, sold in bulk to any political subdivision of the State. On the same fuel only one tax shall be paid to the State, for which tax the distributor first receiving the fuel in the State shall be primarily liable to the State, except when that fuel has been sold and delivered to a licensed exporter wholly for exportation from the State, or to another distributor in the State, in which case the purchasing distributor shall be primarily liable to the State for the tax.

~~Internal combustion fuel, as defined in section 2902, which is held by retailers at the close of March 31, 1983, shall be subject to the 14¢ per gallon tax rate. Retailers, as defined in section 1752, subsection 10, shall be liable for the difference between the 14¢ per gallon tax rate and the 9¢ per gallon tax rate in effect prior to April 1, 1983. Payment shall be made to the State Tax Assessor before May 15, 1983, and it shall be accompanied by the appropriate completed form described by the State Tax Assessor.~~

Sec. 10. 36 MRS §2903-A, as amended by PL 1985, c. 481, Pt. A, §81, is further amended to read:

§2903-A. Finding of fact

The Legislature makes a finding of fact that the percentage relationship of "gasoline tax" paid by that segment of the nonhighway gasoline user, the motorboat user, is not less than ~~1.25%~~ 2.00% of the total "gasoline tax" revenue, but certainly is more than the 1.25% referred to. Based on this legislative "finding of fact" there is set aside ~~1.25%~~ 2.00% of the total excise tax, not to exceed \$2,000,000, on internal combustion engine fuel sold or used within the State, but not including internal combustion engine fuel sold for use in the propulsion of aircraft. From this ~~1.25%~~ 2.00% allocation shall

be deducted the refunds paid out under section 2908 to purchasers and users of internal combustion engine fuel for commercial motorboats; 20% of the balance of ~~1.25%~~ 2.00% after paying out such refunds shall be paid to the Treasurer of State to be made available to the Commissioner of Marine Resources for the purpose of conducting research, development and propagation activities by the department, and it is the responsibility of the Commissioner of Marine Resources to select activities and projects that will be most beneficial to the commercial fisheries of the State as well as the development of sports fisheries activities in the State; the remaining 80% of the balance of ~~1.25%~~ 2.00% after paying out such refunds shall be credited to the Boating Facilities Fund, established under Title 38, section 322, within the Maine State Bureau of Parks and Recreation. The State Tax Assessor shall certify to the State Controller, on or before the 15th day of each month, the amounts to be credited under the previous sentence, as of the close of the State Controller's records for the previous month. When refunds paid to purchasers and users of internal combustion engine fuel for commercial motorboats in any month exceed ~~1.25%~~ 2.00% of gasoline tax revenues for that month, such excess shall be carried forward in computing amounts to be credited to the Department of Marine Resources and to the Boating Facilities Fund under this section for the succeeding month or months. Funds credited to the Department of Marine Resources shall be allocated by the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs.

Sec. 11. 36 MRSA §2916 is enacted to read:

§2916. Inventory tax; internal combustion fuel

Internal combustion engine fuel which is held by retailers, as defined in section 1752, at 12 midnight, April 30, 1988, shall be subject to a 16¢ per gallon excise tax. Retailers shall be liable for the difference between the 16¢ per gallon tax rate existing on May 1, 1988, and the 14¢ per gallon tax rate in effect prior to May 1, 1988. Payment shall be made to the State Tax Assessor before June 15, 1988, accompanied by the appropriate completed form prescribed by the State Tax Assessor.

Sec. 12. 36 MRSA §3203 as repealed and replaced by PL 1987, c. 402, Pt. A, §185, is amended to read:

§3203. Tax levied

An excise tax is levied and imposed upon all suppliers of special fuel sold and on all users of special fuel used in this State on each gallon of distillate at the rate ~~prescribed in section 2903 of 14¢ per gallon and, beginning July 1, 1988, at the rate prescribed in section 2903, plus 3¢ per gallon and, on each gallon of low-energy fuel at the rate prescribed in section 2903, less 1 cent, except sales of special fuel made to the State or any political subdivision of the State; the special fuel sold or used in such form and under such circumstances as shall preclude~~

the collection of this tax by reasons of the laws of the United States; sold only for exportation from this State; delivered into a tank used solely for heating or cooking purposes, sold for resale to a licensed or registered supplier; and sold to a person for the generation of power for resale or manufacturing. When special fuel is delivered by a supplier on a consignment basis to a consumer or to a retail outlet, whether the retail outlet is wholly owned by the supplier or not, it shall be considered to have been "sold" within the meaning of the Special Fuel Tax Act. All taxes collected under this section shall be credited to the Highway Fund. When kerosene is delivered into a separate tank for retail sale, the excise tax is not to be collected by the supplier, rather licensed users shall remit the tax in accordance with section 3207.

Sec. 13. 36 MRSA §3223 is enacted to read:

§3223. Inventory tax; special fuel

Special fuel subject to tax under this chapter, which is held by retailers, as defined in section 1752, at 12 midnight, June 30, 1988, shall be subject to a 19¢ per gallon excise tax. Retailers shall be liable for the difference between the 19¢ per gallon tax rate existing on July 1, 1988, and the 14¢ per gallon tax rate in effect prior to July 1, 1988. Payment shall be made to the State Tax Assessor before August 15, 1988, accompanied by the appropriate completed form prescribed by the State Tax Assessor.

Sec. 14. **Study of the Local Road Assistance Program.** The Joint Standing Committee on Transportation, with the assistance of the Department of Transportation, the Maine Municipal Association and other interested parties shall study the distribution of funds among municipalities and counties under the Local Road Assistance Program and report its findings and recommendations, including any proposed legislation to the Legislature on or before December 6, 1988. The committee shall establish a 5-member subcommittee to conduct the study and shall hold a public hearing in the course of the study. Members of the Joint Standing Committee on Transportation shall receive the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, for each day of attendance at meetings of the study, and shall receive reimbursement for expenses upon application to the Executive Director of the Legislative Council. Staff assistance shall be requested from the Legislative Council.

Sec. 15. **Additional study of gross vehicle weight.** In the event of any statutory change creating new authority for any vehicle or combination vehicle to be operated or authorized to be operated in this State with a maximum gross weight of 100,000 pounds, the Department of Transportation shall include within the cost allocation study presently underway, a determination of the cost to the State resulting from the additional road and bridge consumption caused by this additional weight allowance. This study and analysis shall be completed prior to the issuance under that new authority of any per-



mit allowing operation with a maximum gross weight of 100,000 pounds. Permits issued under the existing authority of the Maine Revised Statutes, Title 29, section 1655, shall be subject to this section on or after November 1, 1989.

**Sec. 16. Study of overweight enforcement; and the highway maintenance and safety implications of heavy trucks.** The Joint Standing Committee on Transportation, with the assistance of the Department of Transportation, the Department of Public Safety and other interested parties shall study the impacts and implications of overweight trucks on highway safety, highway and bridge consumption and trucking competition and the enforcement of truck weight limits and report its findings and recommendations, including any proposed legislation to the Legislature, on or before December 6, 1988. The committee shall establish a 5-member subcommittee to conduct the study and shall hold a public hearing in the course of the study. Members of the Joint Standing Committee on Transportation shall receive the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, for each day of attendance at meetings of the study and shall receive reimbursement for expenses upon application to the Executive Director of the Legislative Council. Staff assistance shall be requested from the Legislative Council.

#### PART B

**Sec. 1. 36 MRS §2903, sub-§1-A** is enacted to read:

1-A. Excise tax levied. Except as provided in subsection 2, an excise tax is levied and imposed at the rate of 17¢ per gallon upon internal combustion engine fuel sold or used within this State on or after April 1, 1989, including these sales when made to the State or any political subdivision thereof, for any purpose whatsoever, except the internal combustion engine fuel sold or used in such form and under such circumstances as shall preclude the collection of this tax by reason of the laws of the United States, or sold wholly for exportation from the State, or brought into the State in the ordinary standardized equipment fuel tank attached to and forming a part of a motor vehicle and used in the operation of that vehicle within the State, except that no tax may be levied upon internal combustion engine fuel, as defined in section 2902, bought or used by any person, association of persons, firm or corporation for the purpose of propelling jet or turbojet engine aircraft, or sold wholly for exportation from the State, or brought into the State in the fuel tanks of an aircraft, or on or after July 1, 1983, sold in bulk to any political subdivision of the State. On the same fuel only one tax shall be paid to the State, for which tax the distributor first receiving the fuel in the State shall be primarily liable to the State, except when that fuel has been sold and delivered to a licensed exporter wholly for exportation from the State, or to another distributor in the State, in which case the purchasing distributor shall be primarily liable to the State for the tax.

This subsection shall take effect on April 1, 1989, and subsection 1 is to be repealed on April 1, 1989, if the Commissioner of Transportation certifies to the Governor that the Federal Government has not appropriated to the State all federal highway funds anticipated in fiscal year 1989 based on the United States Highway Authorization Act and in addition has restored the \$10,000,000 which was withheld in federal fiscal year 1988. This subsection is repealed April 1, 1989, if it does not take effect.

**Sec. 2. 36 MRS §2916-A** is enacted to read:

§2916-A. Inventory tax; internal combustion fuel

Internal combustion engine fuel which is held by retailers, as defined in section 1752, at 12 midnight, March 30, 1989, shall be subject to a 17¢ per gallon excise tax. Retailers shall be liable for the difference between the 17¢ per gallon tax rate existing on April 1, 1989, and the 16¢ per gallon tax rate in effect prior to April 1, 1989. Payment shall be made to the State Tax Assessor before May 15, 1989, accompanied by the appropriate completed form prescribed by the State Tax Assessor. Section 2916 is repealed on April 1, 1989.

This section shall take effect on April 1, 1989, and section 2916 is repealed on April 1, 1989, if the Commissioner of Transportation certifies to the Governor that the Federal Government has not appropriated to the State all federal highway funds anticipated in fiscal year 1989 based on the United States Highway Authorization Act and in addition has restored the \$10,000,000 which was withheld in federal fiscal year 1988. This section is repealed April 1, 1989 if it does not take effect.

**Sec. 3. 36 MRS §3223-A** is enacted to read:

§3223-A. Inventory tax; special fuel

Special fuel subject to tax under this chapter, which is held by retailers, as defined in section 1752, at 12 midnight, March 30, 1989, shall be subject to a 20¢ per gallon excise tax. Retailers shall be liable for the difference between the 20¢ per gallon tax rate existing on April 1, 1989, and the 19¢ per gallon tax rate in effect prior to April 1, 1989. Payment shall be made to the State Tax Assessor before May 15, 1988, accompanied by the appropriate completed form prescribed by the State Tax Assessor. Section 3223 is repealed on April 1, 1989.

This section shall take effect on April 1, 1989, and section 3223 is repealed on April 1, 1989 if the Commissioner of Transportation certifies to the Governor that the Federal Government has not appropriated to the State all federal highway funds anticipated in fiscal year 1989 based on the United States Highway Authorization Act and in addition has restored the \$10,000,000 which was withheld in federal fiscal year 1988. This section is repealed April 1, 1989 if it does not take effect.

**Sec. 4. Funding for Bureau of State Police.** The Legislature determines that, beginning July 1, 1989, fund-

ing for the Department of Public Safety, Bureau of State Police, shall be provided as follows: Fifty percent shall be appropriated from the General Fund and 50% shall be allocated from the Highway Fund.

**Sec. 5. Highway cost allocation.** On or before January 1, 1989, the Department of Transportation shall report to the Governor and the Legislature the results of the Highway Cost Allocation Study being conducted in 1988, and if necessary, in order to maintain equity among various classes of motor vehicles, the Governor shall recommend legislation to modify the provisions of the Maine Revised Statutes, Title 36, as they apply to special fuel.

**PART C**

**Sec. 1. Appropriation.** Notwithstanding the Maine Revised Statutes, Title 5, section 1513, subsection 2, the following sums are appropriated from the General Fund to carry out the purposes of this Act.

1987-88

FINANCE, DEPARTMENT OF

Maine Rainy Day Fund Program

Unallocated (\$13,200,000)

TRANSPORTATION, DEPARTMENT OF

Highway Maintenance — Summer

All Other \$ 1,200,000

Provides funds to assist municipalities and counties with sand and salt storage facilities. These funds shall not lapse but shall be carried forward for the purposes identified.

Highway and Bridge Improvement

All Other \$ 1,050,000  
Capital Expenditures 10,950,000

Total \$12,000,000

Provides \$7,000,000 in All Other and Capital Expenditures to be used for the construction or reconstruction of extraordinary bridges in accordance with the Maine Revised Statutes, Title 23, section 610-J, and \$5,000,000 for Capital Expenditures for highway improvements. These funds shall not lapse, but shall be carried forward for the purposes identified.

TOTAL APPROPRIATIONS \$ 0

**Sec. 2. Allocation.** The following funds are allocated from the Highway Fund to carry out the purposes of this Act.

1988-89

TRANSPORTATION, DEPARTMENT OF

Local Road Assistance Program

All Other \$ 3,500,000

Total \$3,500,000

Provides funds to local communities through the Local Road Assistance Program as a one-time stipend payment during January 1989.

Highway and Bridge Improvement

Positions (4)  
Personal Services \$ 85,750  
All Other 3,407,881  
Capital Expenditures 16,397,244

Total \$19,890,875

Allocates funds for a supplemental highway construction program. In addition, this allocation includes 4 assistant engineer positions.

Highway and Bridge Improvement

All Other \$ 600,000  
Capital Expenditures 3,400,000

Total \$ 4,000,000

Allocates anticipated funds from the Maine Turnpike Authority for highway and bridge improvements within counties that contain turnpike mileage.

DEPARTMENT OF TRANSPORTATION TOTAL \$27,390,875

LEGISLATURE

Study Commission — Funding

Personal Services \$ 1,815  
All Other 9,000

Provides funds for per diem, travel and related expenses of the members of the Joint Standing Committee on Transportation involved in the study of the Local Road Assistance Program. Funds are also provided to contract for staff assistance.

Study Commission — Funding

Personal Services \$ 1,815  
All Other 9,000

Provides funds for per diem, travel and related expenses of the members of the Joint Standing Committee on Transportation involved in the study of the impact of truck weight on the highways. Funds are also provided to contract for staff assistance.

LEGISLATURE TOTAL \$ 21,630

SECRETARY OF STATE, DEPARTMENT OF

Division of Motor Vehicles

An amount not to exceed \$1,000,000 from any available surplus funds in the Division of Motor Vehicles as of June 30, 1988 shall not lapse, but shall be carried forward and is hereby allocated to be used for preliminary Division of Motor Vehicles' building construction — related items such as land acquisition, architectural design and permit application and processing expenditures in fiscal year 1988-89.

Administration — Motor Vehicles

Capital Expenditures	(\$750,000)
Unallocated	750,000

Transfers funds allocated for the purchase of a computer hardware system into unallocated reserve. These funds shall only be allotted in an amount sufficient to make up the difference between the surplus carried forward from fiscal year 1988 for preliminary Division of Motor Vehicles' building construction-related items and the \$1,000,000 required for these purposes.

DEPARTMENT OF SECRETARY OF STATE	\$	0
TOTAL		

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect May 1, 1988.

Effective May 1, 1988.

**CHAPTER 794**

H.P. 1747 — L.D. 2396

**AN ACT to Create the Railroad Preservation and Assistance Act and to Provide for Annual Track Inspections.**

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

Sec. 1. 23 MRSA c. 615 is enacted to read:

CHAPTER 615

STATE RAILROAD PRESERVATION AND ASSISTANCE ACT

§7101. Short title

This chapter shall be known and may be cited as the "State Railroad Preservation and Assistance Act."

§7102. Findings of fact

The Legislature makes a finding of fact that a viable and efficient rail transportation system is necessary to the economic well-being of the State.

The Legislature makes a further finding of fact that the State must take active steps to protect and promote rail transportation in order to further the general welfare.

§7103. Railroad Preservation and Assistance Fund

1. Fund created. There is created the "Railroad Preservation and Assistance Fund" which shall receive revenue derived from the tax levied pursuant to Title 36, chapter 361, except that no more than \$150,000 from this revenue shall be deposited in the fund in any fiscal year. The fund shall also be eligible to receive grants from other sources. The Treasurer of State shall receive and deposit all revenue to the fund in a separate account to be known as the Railroad Preservation and Assistance Fund.

2. Legislative approval of budget. Expenditures from the Railroad Preservation and Assistance Fund are subject to legislative approval in the same manner as appropriations from the General Fund.

3. Use of funds. Subject to the Civil Service Law, money in the fund may be expended to hire employees and to defray other costs authorized by law for the Department of Transportation, Bureau of Transportation Services as follows:

A. To conduct studies relating to the economic impact of rail transportation on the State including cost-benefit analyses associated with the possible retention or loss of individual rail lines;

B. To conduct periodic condition surveys of rail track and other related facilities; and

C. To acquire, lease and maintain rail lines when these actions are determined to be in the best interest of the State.

4. Balance carried forward. Any balance in the fund in excess of that required for the purposes of this section shall not lapse, but shall be carried forward. Any allocation of this balance shall be identified as to source.

5. Other fund sources. The fund may accept funds from the Federal Rail Administration in carrying out the provisions of this chapter.

**Sec. 2. Allocation.** The following funds are allocated from the Railroad Preservation and Assistance Fund to carry out the purposes of this Act.

1988-89

TRANSPORTATION, DEPARTMENT OF

Railroad Assistance Program	
All Other	\$150,000
Provides funds to conduct studies and surveys and other purposes specified in the Maine Revised Statutes, Title 23, section 7103, subsection 3.	

Effective August 4, 1988.