

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

SECOND REGULAR SESSION
January 2, 2008 to March 31, 2008

FIRST SPECIAL SESSION
April 1, 2008 to April 18, 2008

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
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Penmor Lithographers
Lewiston, Maine
2008

PUBLIC LAWS OF THE STATE OF MAINE
AS PASSED AT
THE SECOND REGULAR SESSION OF THE
ONE HUNDRED AND TWENTY-THIRD LEGISLATURE
2007

CHAPTER 470
S.P. 634 - L.D. 1790

**An Act To Secure Maine's
Transportation Future**

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

PART A

Sec. A-1. Legislative purpose. The Legislature declares that it is the purpose of this Act to augment the State's transportation capital improvement needs by:

1. Establishing quantifiable capital goals and reporting procedures to enhance accountability;
2. Establishing stable, reliable, long-term capital funding sources including rational and predictable transportation debt policy for planning purposes;
3. Establishing stable, reliable, long-term operational funding for transit;
4. Setting priorities that maximize the benefit to transportation users and that focus on corridors of regional economic significance for transportation; and
5. Providing additional transportation capital resources from transportation-related user fees and taxes.

PART B

Sec. B-1. 23 MRSA §73, sub-§6 is enacted to read:

6. Capital goals and reporting. To provide a capital transportation program that is geographically balanced and that addresses urban and rural needs, the department shall include the following goals as part of its multimodal transportation capital improvement planning and program delivery. The goals are to:

- A. Improve and modernize the interstate system to a good condition or better condition than on July 1, 2007 so as to maintain a free and safe flow of traffic;
- B. By 2022, reconstruct those principal and minor arterial highways that are not built to nationally accepted design standards;
- C. By 2027, reconstruct those state highway major collectors that are not built to the department's state design standards;

D. Reconstruct state aid minor collector highways in partnership with municipalities, to the extent municipalities elect to undertake such reconstruction pursuant to chapter 19, subchapter 6;

E. By 2027, achieve an even distribution of the service life remaining before the arterial and state highway major collector inventory needs major rehabilitation of drainage or structural features;

F. By 2027, achieve an even distribution of the service life remaining before bridges need major rehabilitation or replacement, excepting extraordinary-cost bridges as determined by the department or low use bridges or redundant bridges as defined in section 562; and

G. Maximize the benefit of capital improvements to freight and passenger transportation users while mitigating, to the extent practicable, energy and environmental impacts.

The department shall report to the joint standing committee of the Legislature having jurisdiction over transportation matters by January 15th of each odd-numbered year quantifying progress realized and time that has elapsed since the goals were established. The department shall recommend any remedial actions, including additional funding or revisions to the goals, that the department determines to be necessary or appropriate.

Sec. B-2. Extraordinary corridor investments for transportation and the economy. The Department of Transportation shall consider the appropriate scope, priorities, schedule for community consensus and funding plans for significant new capacity projects of all modes and extraordinary bridge replacement, removal or rehabilitation projects. Such projects must be considered significant if they are estimated to exceed \$10,000,000 in cost. The department shall take into consideration all available funding options including federal funds, bonds, tolling and public-private partnerships. The department shall consider at a minimum partnerships with the Maine Turnpike Authority, the Maine Port Authority and the Northern New England Passenger Rail Authority.

The department shall consider significant new capacity projects of all modes, which must include at least the following: Aroostook North-South Highway; East-West corridor improvements; Gorham connector; I-295 South Portland to Brunswick capacity improvements; I-295 Brunswick to Gardiner rehabilitation; I-95 Bangor capacity and modernization improve-

ments; Lewiston-Auburn I-95 to downtown connector; Portland to Brunswick passenger rail; the Lewiston-Auburn rail corridor; Sanford connector; Wiscasset bypass; and the department's 3-port strategy including the ports of Eastport, Searsport and Portland.

The department also shall consider extraordinary bridge replacement, removal or rehabilitation projects, which must include at least the following: Carlton Bridge in Bath; Route 1 West approach in Bath; Beals Island Bridge in Beals; Knickerbocker Bridge in Boothbay; Frank J. Wood Bridge in Brunswick; Sibley Pond Bridge in Canaan; Aroostook River Bridge in Caribou; Deer Isle-Sedgwick Bridge in Deer Isle; International Bridge in Fort Kent; Turner Center Bridge in Greene; Bailey Island Bridge in Harpswell; Penobscot River Bridge in Howland; Piscataquis River Bridge in Howland; Memorial Bridge in Kittery; Sarah Mildred Long Bridge in Kittery; St. John Border Crossing in Madawaska; Covered Bridge in Norridgewock; Martin's Point Bridge in Portland; Waldo-Hancock Bridge removal in Prospect; Maine Kennebec Bridge in Richmond; Kennebec River Bridge in Skowhegan; Veterans Memorial Bridge in South Portland; and New Bridge in York.

The department shall submit a report to the Joint Standing Committee on Transportation by January 15, 2008 that includes the department's recommendations as to the appropriate scope, schedule for community consensus, additional study needs, priority and funding plans for significant new capacity projects and extraordinary bridge replacement, removal or rehabilitation projects. Such funding plans must seek to avoid disruption in the achievement of goals set forth in the Maine Revised Statutes, Title 23, section 73, subsection 6.

PART C

Sec. C-1. 23 MRSA §1604 is enacted to read:

§1604. Transportation debt policy for capital planning purposes

Due to the capital intensive nature of transportation investment and the dedicated nature of transportation revenue streams, the Department of Transportation shall plan its capital transportation program based upon the following assumed debt policies. Neither this section nor planning undertaken pursuant to this section authorizes the issuance of any debt. Debt may be issued only in accordance with applicable authorizing law.

1. Highway Fund general obligation bonding. The rolling, 3-year average ratio of Highway Fund general obligation debt service payments to Highway Fund revenue must be assumed to be not more than 10%. Highway Fund general obligation bond terms must be assumed to be 10 years.

2. GARVEE bonding. The rolling, 3-year average ratio of GARVEE bond debt service payments to funds received from the Federal Highway Administration must be assumed to be not more than 15%, except that sufficient debt service capacity must be assumed to be reserved under the 15% level for a \$25,000,000 GARVEE bond issuance for extraordinary, unprogrammed needs. GARVEE bonds must be assumed to have terms of not more than 15 years and to be available only for capital projects that have an anticipated useful life of at least 20 years. GARVEE bonds must be authorized by the Legislature as provided in section 1612. For purposes of this section, "GARVEE bond" has the same meaning as in section 1611.

3. TransCap revenue bonding. The level of TransCap revenue bonding as authorized by Title 30-A, section 6006-G is limited by the level of revenue authorized and exclusively dedicated to the Maine Municipal Bond Bank for debt service for such bonds. TransCap bonds must be assumed to have terms of not more than 15 years and to be available only for capital projects that have an anticipated useful life of at least 5 years greater than the bond term. TransCap bonds must be authorized by the Legislature as provided in Title 30-A, section 6006-G.

PART D

Sec. D-1. 30-A MRSA §6006-G is enacted to read:

§6006-G. TransCap Trust Fund

1. Establishment; purposes. The TransCap Trust Fund, referred to in this section as "the fund," is established in the custody of the bank to provide transportation capital investment for the Department of Transportation and municipalities in accordance with this section. The purpose of the fund is to provide financial assistance for the planning, design, acquisition, reconstruction and rehabilitation of transportation capital improvements of all modes including improvements that will forward the capital goals set forth in Title 23, section 73, subsection 6.

2. Administration. The bank shall administer the fund. The fund must be invested in the same manner as permitted for investment of funds belonging to the State or held in the State Treasury. The fund must be established and held separate from any other funds or money of the State or the bank and used and administered exclusively for the purpose of this section. The fund consists of the following:

A. Sums that are transferred to the fund from time to time by the Treasurer of State pursuant to Title 36, section 2903, subsection 5 and Title 36, section 3203, subsection 4;

B. Sums transferred to the fund from time to time by the Treasurer of State pursuant to Title 29-A, section 159; and

C. Other revenues or funds including:

- (1) Principal and interest received from the repayment of loans made from the fund;
- (2) Capitalization grants and awards made to the State or an instrumentality of the State by the Federal Government for any of the purposes for which the fund has been established. These amounts must be paid directly into the fund without need for appropriation by the State;
- (3) Interest earned from the investment of fund balances;
- (4) Private gifts, bequests and donations made to the State for any of the purposes for which the fund has been established;
- (5) The proceeds of notes or bonds issued by the State for the purpose of deposit in the fund;
- (6) The proceeds of notes or bonds issued by the bank for the purpose of deposit in the fund; and
- (7) Other funds from any public or private source received for use for any of the purposes for which the fund has been established.

3. Bond terms; authorized levels. Bonds issued pursuant to this section may not have terms of more than 15 years. Commencing with the budget presented for the fiscal year beginning July 1, 2009, each new authorization of TransCap revenue bonding must be presented for review and approval by the Legislature as part of the Highway Fund budget.

4. Uses. Revenues deposited in the fund from sources enumerated in the Constitution of Maine, Article IX, Section 19 may be used or applied only in accordance with that provision. Within this limitation, the fund may be used for one or more of the following purposes:

- A. To make grants and loans to the Department of Transportation and municipalities under this section, except that such bonds may be used only for capital projects that have an anticipated useful life of at least 5 years greater than the bond term;
- B. To guarantee or insure, directly or indirectly, the payment of notes or bonds issued or to be issued by the State for the purpose of financing capital improvements that will forward the capital goals set forth in Title 23, section 73, subsection 6;
- C. To guarantee or insure, directly or indirectly, funds established by municipalities for the purpose of financing any capital improvements described in Title 23, section 1803-B;

D. To invest available fund balances and to credit the net interest income on those balances to the fund;

E. To invest as a source of revenue or security for the payment of principal and interest on general or special obligations of the bank if the proceeds of the sale of the obligations have been deposited in the fund or loaned to eligible participants in the programs financed with the fund or as a source of revenue to subsidize municipal loan payment obligations; and

F. To pay the costs of the bank associated with the administration of the fund and projects financed by it as long as no more than 2% of the aggregate of the highest fund balance in any fiscal year is used for these purposes.

5. Establishment of accounts. The bank may establish accounts and subaccounts within the fund as it determines desirable to effectuate the purposes of this section, including, but not limited to, accounts to segregate a portion of the fund for grants and as security for bonds issued by the bank for deposit in the fund and to be invested for the benefit of specified projects receiving financial assistance from the fund.

PART E

Sec. E-1. 36 MRSA §2903, sub-§5 is enacted to read:

5. Deposit to trust fund. Beginning January 1, 2009 the Treasurer of State shall deposit monthly into the TransCap Trust Fund established in Title 30-A, section 6006-G 7.5% of the excise tax after the distribution of taxes pursuant to section 2903-D imposed under subsection 1.

Sec. E-2. 36 MRSA §3203, sub-§4, as enacted by PL 1997, c. 738, §10, is amended to read:

4. Highway Fund. All taxes and fines collected under this chapter must be credited to the Highway Fund, except that beginning January 1, 2009 the Treasurer of State shall deposit monthly into the TransCap Trust Fund established in Title 30-A, section 6006-G 7.5% of the excise tax imposed under subsection 1.

PART F

Sec. F-1. Funding for state police. It is the intent of the Legislature that by fiscal year 2011-12 the percentage of state funding appropriated from the General Fund for the Department of Public Safety, Bureau of State Police be 51%.

Sec. F-2. State operating subsidy; Downeaster commuter rail service. It is the intent of the Legislature that by July 1, 2009 the State pay a state operating subsidy from the General Fund for the Downeaster commuter rail service.

PART G**Sec. G-1. Appropriations and allocations.**

The following appropriations and allocations are made.

MUNICIPAL BOND BANK, MAINE**TransCap Trust Fund N031**

Initiative: Allocates funds to authorize transfers to the TransCap Trust Fund at the Maine Municipal Bond Bank.

OTHER SPECIAL REVENUE FUNDS	2007-08	2008-09
All Other	\$0	\$10,416,878
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$10,416,878
MUNICIPAL BOND BANK, MAINE		
DEPARTMENT TOTALS	2007-08	2008-09
OTHER SPECIAL REVENUE FUNDS	\$0	\$10,416,878
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$10,416,878

**TRANSPORTATION, DEPARTMENT OF
Highway and Bridge Improvement 0406**

Initiative: Deallocates funds on a one-time basis to maintain a balanced budget.

HIGHWAY FUND	2007-08	2008-09
Capital Expenditures	\$0	(\$1,742,635)
HIGHWAY FUND TOTAL	\$0	(\$1,742,635)
TRANSPORTATION, DEPARTMENT OF		
DEPARTMENT TOTALS	2007-08	2008-09
HIGHWAY FUND	\$0	(\$1,742,635)
DEPARTMENT TOTAL - ALL FUNDS	\$0	(\$1,742,635)
SECTION TOTALS	2007-08	2008-09
HIGHWAY FUND	\$0	(\$1,742,635)

OTHER SPECIAL REVENUE FUNDS	\$0	\$10,416,878
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SECTION TOTAL - ALL FUNDS	\$0	\$8,674,243
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See title page for effective date.

CHAPTER 471**H.P. 1505 - L.D. 2125**

**An Act Relating to Mortgage
Lending and Credit
Availability**

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

Whereas, some provisions of Public Law 2007, chapter 273, which enacted restrictions on predatory lending practices, took effect January 1, 2008; and

Whereas, there are a number of questions regarding the intent of that Act that need to be clarified as quickly as possible to avoid future problems in lending practices; 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. 9-A MRSA §1-202, sub-§8, ¶A, as amended by PL 2007, c. 273, Pt. C, §1, is further amended to read:

A. With respect to advances of additional funds on the loan or credit sale made more than 30 days after the initial advance, this exclusion applies only to advances made:

- (1) Pursuant to the terms of a construction financing agreement;
- (2) To protect the security or to perform the covenants of the consumer;
- (3) As negative amortization of principal under the terms of the financing agreement;
- (4) From funds withheld at consummation pending the resolution of matters that otherwise would tend to delay or prevent closing, including, without limitation, remedy of title defects or repairs to meet appraisal standards; or