

MAINE STATE LEGISLATURE

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IMPLEMENTATION PLAN
FOR THE
MAINE TURNPIKE

By the
Maine Turnpike Authority

February 1982

Maine Turnpike Authority

17 Bishop St. — Portland, Maine 04103
Telephone (207) 797-7771

February 3, 1982

Hon. Joseph E. Brennan
Governor, State of Maine

Hon. Joseph Sewall
President of the Senate

Hon. John L. Martin
Speaker of the House

Gentlemen:

On June 19, 1981, the last day of the first session of the 110th Legislature, the Legislature enacted and the Governor subsequently approved LD 1691 - legislation to provide funding for the State's highway program. (This bill was entitled AN ACT to make Allocations from the Highway Fund and Appropriations from the General Fund for the Fiscal Years Ending June 30, 1982, and June 30, 1983; to Establish a local Road Assistance Program; to Continue the Maine Turnpike Authority; and to Adjust Highway Fund Revenue.)

Part D of LD 1691, now identified as Chapter 492 - Public Laws of 1981, contains provisions relating to the future of the Maine Turnpike and also several provisions expressing the intent of the Legislature relating to the objectives of the Maine Turnpike Authority.

The Authority, recognizing its responsibilities in this regard, did authorize as of the effective date of the act, procedures for the selection of a Consulting Engineer to review the toll schedules in effect on the Turnpike and to develop information relating to revenues and the cost of maintenance and operations for the purpose of carrying out the provisions of Chapter 492.

This report is being made to advise you of the results of the efforts of the Maine Turnpike Authority to cooperate with the Governor and the Legislature in developing a plan to implement the provisions of Chapter 492.

The members of the Maine Turnpike Authority are hopeful that information contained in the report will -

- a. assist the Governor in making a determination as to whether or not he wishes to place before the Legislature proposed legislation developed by Legal Counsel* for the Authority which provides the basis for implementing the plan proposed by the Authority; and



Hon. Joseph E. Brennan
Hon. Joseph Sewall
Hon. John L. Martin

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- b. provide information to the members of the Legislature explaining the plan by the Maine Turnpike Authority to implement Chapter 492.

If there are questions in regard to the report, the Authority would be pleased to attempt to answer such questions.

Very truly yours, ,



Harold T. Wiley, Chairman
Maine Turnpike Authority

cc: Members of the Legislature

- * See Appendix 1 for list of Legal Counsel and Consulting Engineers who developed information that was used in preparing this report.

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MAINE TURNPIKE AUTHORITY
SUMMARY OF IMPLEMENTATION PLAN

Briefly, the Maine Turnpike Authority plan provides that:

1. Present outstanding bonds of the Authority will be retired by July 1, 1982.
2. The Federal Government can be repaid directly after the existing bonds are redeemed.
3. Debt in the form of notes to Maine banks will be arranged at a reasonable level for both the amount involved and the repayment period.
4. Tolls on passenger cars and commercial vehicles will be increased for the first time since 1958 and the resulting tolls will be reasonable as compared with tolls charged on other facilities.
5. A commuter plan will be implemented which recognizes that those who commute between two toll stations on a regular basis will enjoy a distinct advantage in the matter of payment of tolls.
6. Volume discounts will be available for those with significant costs for use of the Turnpike.
7. The State Department of Transportation will receive on an annual basis \$4.7 million provided the availability of such funds can reasonably be assured by the Authority, and further provided that the criteria in regard to the basis of the monies being available can be met by the State Department of Transportation and the Authority. This should not be too difficult to comply with by the two agencies.
8. A procedure exists which recognizes the need for construction for additional access roads and interchanges in the Turnpike corridor and provides a continuing method for financing the construction of the same with revenues of the Authority.
9. There would be a continuance of the present membership of the Authority which is desirable in connection with borrowing of funds.
10. Lastly, as stated in the statement at the end of LD 1691, the plan provides funds for continued high level of maintenance of the Turnpike facilities and assures there will be no deterioration of the same.

The plan as proposed by the Maine Turnpike Authority for implementing the provisions of LD 1691 (Chapter 492 - PL 1981) has been reviewed by a leading Maine bank, Legal Counsel and Consulting Engineers for the Authority and it does appear that the plan is feasible from both legal and financial aspects.

Further outline of plan by the Maine Turnpike Authority to implement the provisions of Chapter 492 - Public Laws of 1981:

1. Payment of remaining Maine Turnpike Authority bonds by July 1, 1982.

Amount of Bonds issued in 1953	\$78,600,000
Redemption of bonds by the Authority through December 31, 1981	72,579,000
Remaining bonds to be redeemed or funds placed in escrow by July 1, 1982	6,021,000

2. Repayment to the federal government of funds used by the Maine Department of Transportation as part of the cost for construction of certain interchanges connecting the Interstate System with the Turnpike in the amount of \$8,578,000 directly after the remaining Turnpike bonds are redeemed.

Note: Repayment of the \$8,578,000 is required by federal law as a condition of permitting the continuation of the collection of tolls under the present closed system. (See Appendix 2)

3. Authorizing the borrowing of \$7.5 million by notes to Maine banks to supply part of the funds necessary for the repayment to the federal government as noted in Item 2 above. Contacts with banking officials indicate that this method of financing is feasible with an interest rate of about 12% and a repayment period of 7½ years, under a flexible rate concept

Note: This method of financing, when compared to more traditional bond financing will significantly reduce interest costs and provide increased flexibility. (See Appendix 3 for overall financial summary)

4. As anticipated in LD 1691, toll schedules would be increased by 25% for passenger cars and 35% for most commercial vehicles effective May 1, 1982. Tolls for passenger cars for a trip from York to Falmouth on the Turnpike would increase from \$1.25 to \$1.55. For commercial vehicles the increase would be:

Type of Truck	Present Toll York to Falmouth	Proposed Toll York to Falmouth
Three Axle	\$ 2.90	\$ 3.90
Four Axle	3.50	4.40
Five Axle	3.50	4.75

5. Effective the same date (May 1, 1982) authorize a commuter fare program for passenger cars. Present toll for full length trip on a per mile basis is \$0.0215 and with the proposed increase \$0.0270 per mile, while the commuter fare would be \$0.0105 per mile.

The commuter program would provide for the purchase of identification cards at an average cost of \$21.42 for a three month period. The identification card could be used in connection with carpooling and would not be limited to one vehicle.

Note: Volume discounts would also be available to trucking firms and other high volume users.

(continued)

Further outline of plan (continued)

6. The financial program contained in this report as Appendix 3 does provide for \$4.7 million to be made available annually from toll funds to be authorized by the Authority for use by the Maine Department of Transportation. However, Legal Counsel for the Authority has concluded in the letter opinion, Appendix 4, in order to make these monies available for use by the Maine Department of Transportation there must be a direct or indirect benefit accruing to those paying the fees (tolls). Legal counsel for the Authority has therefore included in the proposed legislation criteria for determining those sums to be available through the toll mechanism.
7. The financial program also outlines the ability of the Turnpike Authority to accumulate funds to be utilized for the construction of new interchanges and interconnecting access roads at appropriate locations along the Turnpike. The financial plan assumes that these improvements will be developed on a pay-as-you-go basis although the ability is retained to use debt financing if that proves to be an appropriate course of action in future years. These provisions should assure that the objectives of LD 1691 concerning interchange construction in Lewiston/Auburn can proceed with sufficient flexibility to address other interchange needs at Scarborough or such priority locations as may be recommended by the Maine Department of Transportation and approved by the Authority. \$10.6 million of funding for these capital improvement purposes should be available through 1985 alone, with additional funds accumulating in future years to assure that needs of Turnpike users and local communities along the Turnpike corridor can reasonably be accommodated.
8. Continue the present membership of the Maine Turnpike Authority until the expiration dates of the terms of the present members when they would be subject to reappointment or replacement by the Governor. By continuing the present Authority, the financial success of the operation of the Maine Turnpike over an extended period of time will help to assure that adequate financing arrangements can be developed to fulfill the objectives that the Legislature has described. In addition, assurance will be provided to the users of the Turnpike that the maintenance activities will remain at their traditional level.

Note: Governor Joseph E. Brennan approved the membership procedure as indicated in a letter dated July 22, 1981 to Harold T. Wiley, Chairman of the Turnpike Authority. (See Appendix 5)
9. The ability of the Turnpike Authority to implement the schedules previously outlined is based upon the assumption that the proposed legislation, included as Appendix 7, is enacted and signed by the Governor into law no later than March 18, 1982.

Note: While the proposed legislation may seem voluminous, the language generally represents an attempt to consolidate various Turnpike laws into one consistent, understandable chapter.

CONCLUSION -

The plan as outlined above and as further detailed in the appendices does appear to implement all of the substantial provisions of Part D of Chapter 492 P.L. 1981, with two possible exceptions -

- a. The funding to be made available to the Maine Department of Transportation for costs of maintenance and reconstruction activities would continue at the level of \$4.7 million instead of increasing to 25% of the annual revenue as previously proposed.

(continued)

Further outline of plan
Conclusion (continued)

- b. The amount of funding to be provided to the Maine Department of Transportation would be finally determined upon an analysis of the costs to the Department resulting from the existence of the Turnpike and Turnpike users.

The success of the overall Turnpike objectives developed by the Legislature will, in the final analysis, depend upon a positive and cooperative attitude existing between the Maine Department of Transportation and the Maine Turnpike Authority. This cooperation has existed historically and it is anticipated that it will continue into the future.

Individually and collectively the members of the Authority do desire to achieve the objectives of the Maine Legislature in making funds available from the revenues of the Authority for use in the general highway program of the State of Maine, within the legal and financial requirements that the Authority must observe.

APPENDIX 1

The following were employed by the Maine Turnpike Authority in developing information that was used in the preparation of this report:

Howard, Needles, Tammen & Bergendoff, Consulting Engineers
Suite 3050 - Prudential Center
Boston, Massachusetts 02199
John P. Wellington, Engineer

- - -

Wilbur Smith & Associates
155 Whitney Avenue
P. O. Box 1809
New Haven, Connecticut 06507
Norman H. Wuestefeld, Senior Vice President

Wilbur Smith & Associates were employed to develop financial and toll information which is in the report "Toll Schedule Analysis and Commuter Plan Study."

- - -

Ropes & Gray, Attorneys
225 Franklin Street
Boston, Massachusetts 02110
Warren E. Carley, Esq., Senior Partner
Frank McNamara, Esq., Associate

- - -

Verrill & Dana, Attorneys
P. O. Box 586
Two Canal Plaza
Portland, Maine 04112
Robert A. Moore, Esq., Junior Partner

- - -

Strater, Hancock & Erwin, P.A.
4A Woodbridge Road, P.O. Box 69
York, Maine 03909
Frank E. Hancock, Esq., Legal Counsel for the Maine Turnpike Authority

- - -

Mallar Development Services, Inc.
Whitten Road
Augusta, Maine 04330
Roger L. Mallar, President

Roger L. Mallar was employed by Wilbur Smith & Associates to assist in the preparation of the report referred to above, "Toll Schedule Analysis and Commuter Plan Study."

The firm was also employed by the Maine Turnpike Authority to assist the State Department of Transportation in obtaining approval of the U. S. Congress in amending the Federal Highway Law to permit continuation of the present closed system of collecting tolls on the Maine Turnpike.

THE MAINE TURNPIKE

SEC. 139. *Section 145 of the Federal-Aid Highway Act of 1978 is amended to read as follows:*

"SEC. 145. (a) *Upon satisfaction by the State of Maine or the Maine Turnpike Authority of the following conditions, the State of Maine and the Maine Turnpike Authority shall be free of all restrictions with respect to the imposition and collection of tolls or other charges on the Maine Turnpike or for the use thereof contained in title 23, United States Code, or in any regulation or agreement thereunder:*

"(1) *repayment by the State of Maine or the Maine Turnpike Authority to the Treasurer of the United States of the sum of \$8,577,900 which is the amount of Federal-aid highway funds received for construction of interchanges or connections with the Maine Turnpike at West Gardiner, Kennebec County, Maine, at York, York County, Maine, and at Scarborough-South Portland, Cumberland County, Maine. The amount to be repaid shall be deposited to the credit of the appropriation for 'Federal-Aid Highway (Trust Fund)'. Such repayment shall be credited to the unprogrammed balance of the Federal-aid highway funds of the classes determined by the Secretary to and in cooperation with the State of Maine. The amount so credited shall be in addition to all other funds then appor-*

1 *tioned to such State and shall be available for expendi-*
2 *ture in accordance with the provisions of title 23,*
3 *United States Code.*

4 *"(b) The State of Maine and the Maine Turnpike Au-*
5 *thority are deemed to be in compliance with section 129(c) of*
6 *title 23, United States Code: Provided, That the conditions*
7 *of subsection (a) are satisfied."*

- MAINE TURNPIKE AUTHORITY -

Summary of Proposed Funding

1. Complete statutory revisions to assure clear authorization of procedure by March 18, 1982.
2. Adjust tolls and establish commuter fares on May 1, 1982.
3. Assure that sufficient funding is available by May 15, 1982 to redeem outstanding bonds.
4. Redeem bonds or place funds in escrow with First National Bank of Boston by July 1, 1982.
5. Secure proceeds from bank loans in the amount of \$7.5 million, with pay-back period of seven and one-half years, at approximately 12% interest, by July 8, 1982. Interest and reserve accounts will be established for these loans.
6. Repayment of federal funds as required will be completed shortly after July 8, 1982.
7. The Turnpike will then be operated and maintained by the Turnpike Authority in accordance with State statutes and as outlined in the following tables.

MAINE TURNPIKE AUTHORITY
Estimated Finances - Calendar Year 1982

Normal Revenue	\$ 15,525,000
Fare Increase Revenue (1)	<u>2,374,000</u>
Gross Revenue	17,899,000
Total Expenses	<u>8,550,000</u>
Net Operating Income	\$ 9,349,000
Interest Earned	
Reserve Account	29,000
Interest Account	7,000
Bond Redemption Account	<u>75,000</u>
	9,460,000
Transfer for Bond Redemption	<u>2,500,000</u>
Net Income	6,960,000
Available Fund Balances (2)	<u>2,850,000</u>
	9,810,000
Transfer to MDOT - Half year	<u>2,350,000</u>
	7,460,000
Establish Accounts to Support New Loan (3)	<u>4,827,000</u>
	2,633,000
Bank Notes	<u>7,500,000</u>
	10,133,000
Federal Payback	<u>8,578,000</u>
Balance Forward	\$ 1,555,000

(1) Effective May 1, 1982
25% passenger vehicles
35% trucks

(2) Fund Balances -	
Revenue Fund	\$ 2,111,000
Res. Maint. Fund	510,000
Change Fund	11,000
Revolving Account	8,000
Accounts Receivable	210,000
Total.....	<u>\$ 2,850,000</u>

(3) Following Accounts to be established by 12/31/82 -	
Revenue Fund - (15% current budget)	\$ 1,386,000
Reserve Maint. Fund	510,000
Change Fund	11,000
Revolving Account	10,000
Accounts Receivable	210,000
Interest Account (1 year's interest on \$7,500,000 @ 12%)	900,000
Reserve Account (2 years' interest)	<u>1,800,000</u>
Total.....	\$ 4,827,000

- MAINE TURNPIKE AUTHORITY -

Estimated Finances - 1983-1990

	<u>1983</u>	<u>1984</u>	<u>1985 *</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989 *</u>	<u>1990</u>
Total Revenue	\$19,248,000	\$19,694,000	\$22,190,000	\$22,855,000	\$23,540,000	\$24,246,000	\$27,220,000	\$28,036,000
Total Expense	<u>9,240,000</u>	<u>10,160,000</u>	<u>11,180,000</u>	<u>12,300,000</u>	<u>13,530,000</u>	<u>14,880,000</u>	<u>16,370,000</u>	<u>18,010,000</u>
Net Operating Income	10,008,000	9,534,000	11,010,000	10,555,000	10,010,000	9,366,000	10,850,000	10,026,000
Interest Earned								
Reserve Account	201,000	172,000	144,000	116,000	86,000	58,000	29,000	---
Interest Account	<u>101,000</u>	<u>86,000</u>	<u>72,000</u>	<u>58,000</u>	<u>43,000</u>	<u>29,000</u>	<u>14,000</u>	<u>---</u>
	10,310,000	9,792,000	11,226,000	10,729,000	10,139,000	9,453,000	10,893,000	10,026,000
Reserve Maint. Fund	<u>1,000,000</u>	<u>1,000,000</u>	<u>1,000,000</u>	<u>1,500,000</u>	<u>2,000,000</u>	<u>2,500,000</u>	<u>2,500,000</u>	<u>3,000,000</u>
	9,310,000	8,792,000	10,226,000	9,229,000	8,139,000	6,953,000	8,393,000	7,026,000
Interest	<u>840,000</u>	<u>720,000</u>	<u>600,000</u>	<u>480,000</u>	<u>360,000</u>	<u>240,000</u>	<u>120,000</u>	<u>---</u>
	8,470,000	8,072,000	9,626,000	8,749,000	7,779,000	6,713,000	8,273,000	7,026,000
Notes Retired	<u>1,000,000</u>	<u>1,000,000</u>	<u>1,000,000</u>	<u>1,000,000</u>	<u>1,000,000</u>	<u>1,000,000</u>	<u>1,000,000</u>	<u>500,000</u>
	7,470,000	7,072,000	8,626,000	7,749,000	6,779,000	5,713,000	7,273,000	6,526,000
Transfer to MDOT	<u>4,700,000</u>	<u>4,700,000</u>	<u>4,700,000</u>	<u>4,700,000</u>	<u>4,700,000</u>	<u>4,700,000</u>	<u>4,700,000</u>	<u>4,700,000</u>
	2,770,000	2,372,000	3,926,000	3,049,000	2,079,000	1,013,000	2,573,000	1,826,000
Previous Balance Forward	<u>1,555,000</u>	<u>4,325,000</u>	<u>6,697,000</u>	<u>10,623,000</u>	<u>13,672,000</u>	<u>15,751,000</u>	<u>16,764,000</u>	<u>19,337,000</u>
Balance	\$ 4,325,000	\$ 6,697,000	\$10,623,000	\$13,672,000	\$15,751,000	\$16,764,000	\$19,337,000	\$21,163,000

* 10% Fare Increase.

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WASHINGTON, D.C. 20036
(202) 887-5734

November 9, 1981

Verrill & Dana
Two Canal Plaza
P.O. Box 586
Portland, Maine 04112

Attention: Robert A. Moore, Esq.

Re: Maine Turnpike Authority

Gentlemen:

You have asked our opinion relative to the ability of Maine Turnpike Authority to issue revenue bonds pursuant to 1941 P&S Laws, Chapter 69, as most recently amended by 1981 Public Laws, Chapter 492 (the Enabling Acts). You have also asked for our comments and suggestions with respect to said Chapter 492 insofar as it concerns the capacity of the Turnpike Authority to authorize, issue and sell additional revenue bonds.

We have examined the Enabling Acts and such other statutes and law as we deemed appropriate in order to give this opinion. Based on that examination, we conclude that we can not give our unqualified opinion approving additional bonds payable from Turnpike revenues issued under the Enabling Acts in their present form. The principal reason which compels this conclusion is the failure of Chapter 492 to meet one of the tests for determining whether tolls impose an unconstitutional burden on interstate commerce laid down in the case of Evansville-Vandenburg Airport Authority v. Delta Airlines, Inc., 405 U.S. 707 (1972). The opinion in Evansville sets forth the three standards against which the Supreme Court tests a state statute to determine whether user fees or charges impose an unconstitutional burden on interstate commerce. Those tests are First, whether the fee discriminates against interstate commerce and travel; Second, whether the charges reflect a fair, if imperfect, approximation of the use of facilities for whose benefit they are imposed; and Third, whether the fees or charges are excessive in relationship to the costs incurred by the governmental authority imposing them.

Chapter 492 passes the first Evansville test because it imposes the same charges against interstate and intrastate users of the Turnpike. The tolls are graduated according to the number of miles traveled on the Turnpike and this gets it by the second test. However, under Chapter 492 the tolls must necessarily exceed the cost of providing the facilities for the use of which these tolls are imposed because Section 316.3 of Chapter 492 not only places on the Turnpike Authority the obligation to meet all the costs connected with the operation and maintenance of the Turnpike, but also requires that the Authority provide \$4,700,000 (or one-fourth of the revenues) each year for the Highway Fund. The Highway Fund on the other hand is not charged with paying any costs of the Turnpike. It is thus clear that a portion of the Turnpike revenues are siphoned for use for off-Turnpike highway uses.

To a lesser extent, a similar result can follow from the permission granted to the Turnpike Authority [See subsection 314(P)] to use Turnpike revenues to construct, reconstruct and maintain interchanges and interconnecting highways which, as defined can include parts of the State Highway system which have slight, if any, relationship to the Turnpike. It is true that Section 316(6) of Chapter 492 presently provides that revenues be transferred to the Highway Fund for interconnecting access roads only if the Department of Transportation first determines that such roads "have or would have a sufficient relationship to the public's use of the turnpike." However, the factors guiding the Department in making that determination do not sufficiently mandate that Turnpike toll revenues be used only on roads needed to feed traffic onto, or take traffic from the Turnpike itself. [See Section 316(6)(A)-(F)]. In addition, under Chapter 492, the determination as to which roads are sufficiently related to the Turnpike to warrant the use of Turnpike revenues for their construction, reconstruction or maintenance should be made by the Turnpike Authority (which must provide the funds) and not the Department of Transportation (which benefits from their use) to discourage the natural tendency to utilize Turnpike revenues for non-related purposes to the ultimate prejudice of the holders of Turnpike bonds.

It is possible to remove some of the difficulties discussed above. A carefully drafted statute can properly provide limited but nevertheless significant help to the Department of Transportation in meeting from Turnpike revenues, costs of constructing, reconstructing and maintaining portions of the State Highway system that are

significantly related to the operation of the Turnpike. Some arbitrary limit of the length of any such highway is acceptable (Chapter 492 provides a limit of ten road miles) but in fact the distance from the Turnpike to any such highways or portions thereof will necessarily vary depending on the extent of non-Turnpike related use, the cost to the Turnpike of assisting the construction, reconstruction and maintenance and other factors which the statute should set forth.

There are other reasons for our inability to give an unqualified opinion approving additional Turnpike bonds. One concerns the effective date of Part D of Chapter 492. If new bonds are to be issued and sold to provide funds to pay to the federal government sums advanced to complete the Turnpike system, as a practical matter the Authority will need to exercise powers granted by Part D before that part of the Enabling Acts will become effective. The payment to the federal government will be required pursuant to legislation yet to be passed by Congress in order for tolls to be charged. But the right to charge tolls evaporates under federal law and the Turnpike Authority's contracts with the federal government once the outstanding Turnpike bonds are redeemed. Accordingly, the payment to the federal government should not be made until approximately the time new Turnpike revenue bonds are issued. Proceedings to authorize the issuance and sale of bonds are normally taken weeks in advance of the date when they are delivered but this can not be accomplished if Part D which authorizes those proceedings is not effective until the outstanding bonds are paid. We thus have a question as to whether Chapter 492 in its present form is workable. It is not necessary, in our opinion, to postpone the effectiveness of the whole of this necessary legislation in order to protect the holders of outstanding bonds.

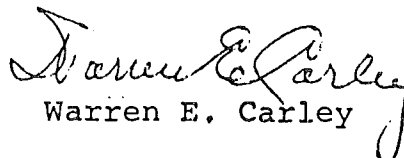
Closely related to the question of workability is the fact that the form of Chapter 492 makes for enough confusion as to create doubts as to the meaning of certain of its provisions. By way of example, Section 314(1) refers to the "Maine Turnpike Authority, as hereinafter created" and the immediately following sections are consistent with the grant of powers to a newly established entity. However, Section 16 is entitled "Termination of the Authority" and directs that "the authority shall be reorganized" It hardly seems appropriate for the existing Authority in the evening of its existence to try to authorize bonds for a successor body that is not yet in office. We think the existing Authority should continue as an entity although changes in its constituency and powers can, of course, be made.

This fundamental confusion over the status of the Authority under Chapter 492 is further compounded by confusion regarding the Authority's ability to issue bonds and for what purposes. Section 314 grants power to the newly created authority in subparagraph M to "borrow money . . . etc." Subparagraph R, however, empowers the Authority to "issue revenue bonds in accordance with 1941 P&S Laws, Chapter 69" (which relates to the presently existing Authority) for the purpose of payment to the federal government for any funds owed by the State "as a result of maintaining tolls on the turnpike . . ." etc. Not only is this confusing, but it permits the argument to be made that the only purpose for which revenue bonds of the Authority may now be issued is to repay the federal government. We are also aware of Mr. Mallar's comment that authority to issue temporary certificates and bond anticipation notes, present in the earlier statutes, has been omitted from Chapter 492.

We could offer other examples of difficulties inherent in the Enabling Acts but it seems to us that enough has been pointed out to indicate that amendments are necessary. Under the circumstances, we believe it would help to eliminate some of the confusion that now exists if the amendments took the form of a restatement of what is in effect the charter documents of the Maine Turnpike Authority so that the end result would be a single act which would set forth the Authority's powers and avoid the necessity of examining four separate chapters in order to ascertain what those powers are. Such a single piece of legislation might not, at casual glance, appear to be greatly different from Part D of Chapter 492 but speaking generally, it should (i) reenact those portions of the Enabling Acts that the Authority will need to use, (ii) make several necessary perfecting changes in addition to those discussed above, (iii) preserve all rights of existing bondholders and others contracting with the Authority, (iv) continue the existence of the present Authority and the incumbent membership (with whatever changes as to future terms of office are desired) and (v) state that the new legislation supersedes all earlier enactments except as may be specifically preserved or as may be necessary to preserve the obligations owed to bondholders and other parties whose rights may not be constitutionally impaired.

If you have questions or wish further discussion, we will do our best to respond.

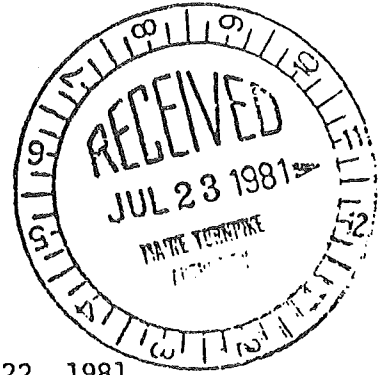
Very truly yours,


Warren E. Carley



JOSEPH E. BRENNAN
GOVERNOR

STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE
04880



July 22, 1981

Harold T. Wiley, Chairman
and Members of
The Maine Turnpike Authority
17 Bishop Street
Portland, Maine 04103

Dear Harold:


As you know, the decision to modify the legislation regarding the Maine Turnpike Authority as passed by the Legislature during the last session was made very late in that session. In the press of time, it appears that there are several issues that were not thoroughly considered in drafting the bill and should be modified. I know that your staff is specifically examining the aspect of the law dealing with Turnpike employees, and I know that concern has been expressed regarding the future of the present members of the Authority. There may be other issues that should be clarified in the law.

I have asked Commissioner Campbell to review all of the law dealing with the Turnpike Authority and to prepare suggested revisions for submission to the Legislature in January. I would welcome any suggestions you may have for consideration in this effort.

The bill as it was finally passed provides for the termination of the present Authority when the existing bonds are retired. In view of the responsibilities proposed for the Turnpike Authority as described in the new legislation, I see no need to discontinue the Authority as it is presently organized. I have specifically requested that Commissioner Campbell include provisions for continuation of the present Authority as it is presently organized in the amendments being developed.

I appreciate very much the prompt action that the Authority has taken towards implementation of the new legislation. Your willingness to move aggressively and to work cooperatively with the Department of Transportation is sincerely appreciated.

Sincerely,


JOSEPH E. BRENNAN
Governor

jeb/gr

Excerpt from Chapter 492, P.L. 1981

PART D

Sec. 1. 23 MRSA c. 7-A is enacted to read:

CHAPTER 7-A

MAINE TURNPIKE

§ 311. Maine Turnpike Authority

In order to facilitate vehicular traffic in the southern core of the State, and to carry out the purposes of this chapter, the Maine Turnpike Authority, hereinafter created shall 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, interconnecting access roads and toll facilities.

§ 312. Legislative intent

The Legislature finds that the economic and social well-being of the citizens of the State depends upon the safety, efficiency and modern functional state of the Maine Turnpike; that the turnpike should be maintained as a closed toll facility whether there are turnpike bonds outstanding or not; that toll revenues should be utilized to pay for retirement of any outstanding debt including interest, to pay for operation and maintenance of the turnpike, to pay for reconstruction of the turnpike, to pay to the Department of Transportation each year 25% of the total operating revenue of the turnpike or \$4,700,000, whichever is greater, and thereafter, to the extent possible, to pay for the costs or a portion of the cost of maintaining, constructing or reconstructing interconnecting access roads and interchanges and thereby ease the financial burden on the Department of Transportation; that safety and welfare requires the rebuilding, redesign or improvement of the existing turnpike facilities from York to Augusta to accommodate the increased traffic experienced since the opening of the turnpike and to provide turnpike facilities which are consistent with modern knowledge of safety design; that the economy of the State also requires such improvement in order to encourage travel and commerce into and out of the State; and that the Maine Turnpike Authority should be maintained to carry out the purposes of this chapter in cooperation with the Department of Transportation.

§ 313. Definitions

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

1. Authority. "Authority" means the Maine Turnpike Authority hereinafter created or, if that authority is abolished, any board, commission or officer succeeding to the principal functions of that authority, or upon whom the powers given by this chapter to that authority are given by law.

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

3. 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 Maine 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.

4. Interconnecting access roads. "Interconnecting access roads" means any and all highways, including bridges, underpasses and overpasses, within 10 miles of the turnpike, which are under the control of the Department of Transportation, which directly or indirectly connect with the turnpike.

5. Operating revenues. "Operating revenues" means funds available to the Maine Turnpike Authority from net fare revenue, rental of concessions and miscellaneous revenue and interest.

6. 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 existing facilities, traveled way, bridges, overpasses, median barriers, shoulders, embankments or interchanges which the Department of Transportation deems necessary to continuously, adequately, safely and swiftly facilitate vehicular traffic upon, to or from the Maine Turnpike, except that the traveled way shall not be enlarged, widened or expanded without the express approval of the Legislature.

7. Turnpike. "Turnpike" means the roadway constructed between York in York County and Augusta in Kennebec County pursuant to the Private and Special Laws of 1941, chapter 69, sections 1 to 20, as amended, and is deemed to include not only the roadway and all rights-of-way, bridges, overpasses and underpasses, but also all property rights, easements, leases and franchises relating thereto and deemed necessary or convenient for the construction, reconstruction, operation or maintenance of the turnpike.

§ 314. Powers of the Maine Turnpike Authority

1. Powers. The Maine Turnpike Authority, as hereinafter created, shall 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, rules and regulations governing use of the turnpike and any of the other services made available in connection with the turnpike; publish those bylaws, rules and regulations 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;

E. Acquire, hold and dispose of personal property for its purposes;

F. Acquire in the name of the authority by purchase, condemnation, lease or otherwise, real property and rights or easements therein deemed by it necessary or desirable for its purposes and use such property;

G. Acquire any such real property by the exercise of the power of condemnation in the manner provided by law;

H. Charge and collect fees, fares and tolls for the use of the turnpike and other services made available in connection with the turnpike, 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 such 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 purpose;

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 and issue negotiable notes, bonds and other evidences of indebtedness or obligations of the authority and to secure the payment of such obligation or any part thereof by pledge of any part of the revenue of the turnpike;

N. Do all other lawful things necessary and incidental to these powers. All property of the authority and all property held in the name of the State pursuant to the provisions hereof 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 hereof; 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;

O. Provide 25% of total operating revenues or \$4,700,000, whichever is greater to or for the use of the Department of Transportation each year;

P. Provide net revenues to or for the use of the Department of Transportation for the maintenance, construction or reconstruction of interconnecting access roads, or interchanges, which the department has previously determined to require that assistance;

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

R. Issue revenue bonds in accordance with the Private and Special Laws of 1941, chapter 69 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, the construction and reconstruction of access roads and interchanges and the reconstruction of the turnpike.

2. **Members of authority.** The authority shall consist of 4 members and, in addition, the Commissioner of Transportation shall be a member ex officio. The 4 members shall be appointed by the Governor and must be residents of the State at the time of their appointments and qualification, and must also at that time have been qualified voters in the State for a period of at least one year next preceding their appointments. The appointed members of the authority shall continue in office for terms of 4, 5, 6, and 7 years respectively from the dates of their appointment and until their respective successors shall be duly appointed and qualified, the term of each appointed member to be designated by the Governor at the time of his appointment. Their successors shall each be appointed for a term of 7 years except that any person appointed to fill a vacancy shall serve only for the unexpired term, and any member of the authority shall be eligible for reappointment. Immediately after such appointments, the members of the authority shall enter upon their duties. The Commissioner of Transportation shall serve 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 who for all purposes must act unanimously. 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. Before the issuance of any turnpike revenue bonds under the provisions of this chapter, the secretary and treasurer shall execute a bond in the penalty of \$100,000. Each such 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. 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.

3. **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.

§ 315. Eminent domain

1. **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 condemnation 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, for the taking of property for state and state aid highways by the Department of Transportation.

2. Title to property; payment. Title to any property condemned by the authority shall be taken in the name of the authority. The authority shall be under no obligation to accept and pay for any property condemned or any costs incidental to any condemnation proceedings and shall in any event pay for the same except from the sums provided by this chapter and in any condemnation proceedings, the court having jurisdiction of the suit, action or proceedings may make such orders as may be just to the authority and to the owners of the property to be condemned and may require an undertaking or other security to secure the owners against loss or damage by reason of the failure of the authority to accept and pay for the property; but the undertaking or security shall impose no liability upon the State, except such as may be paid from the funds provided under the authority of this chapter.

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 interests 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.

§ 316. Maintenance of 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 such 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 and regulations 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.

2. Speed limit. The authority may by regulation 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 at any point or place thereon, and may regulate the volume and weight of vehicle admitted to the turnpike.

3. Tolls. Subject to the provisions of Section 317, 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 toll, and contract with any persons, partnership, association or corporation desiring the use of any part thereof, including the right-of-way adjoining the paved portion. Such 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:

A. The cost of any debt service;

B. The cost of maintaining, repairing and operating the turnpike;

C. The cost to provide each year 25% of the total operating revenue or \$4,700,000, whichever is greater, to the Department of Transportation for purposes other than those in paragraph D; such payment to be paid on a quarterly basis; and

D. The cost to the department of maintaining, constructing or reconstructing interconnecting access roads, as determined in subsection 6 to warrant the expenditure of turnpike revenues.

4. Use of toll revenues. Tolls shall not be subject to supervision or regulation by any state commission, board or agency.

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 such use shall not constitute a taking of property without due process, provided that any structural damage to the turnpike created by such free use, ordinary deterioration or depreciation excepted, shall be compensated for at cost of repair or replacement.

6. Revenues for access roads and interchanges. The authority shall provide turnpike revenues to the department for maintenance, construction or reconstruction of interconnecting access roads or interchanges, provided that the department shall first determine that the interconnecting access roads or interchanges 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 the access roads or interchanges. In making the determination of whether a sufficient relationship exists, the department shall consider the following factors, no one of which may necessarily be determinative:

A. The relative number of vehicles using access roads on the way to or from the turnpike;

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

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

D. The probable effect of the failure of the authority to pay or assist in the payment of the costs of the maintenance, construction or reconstruction;

E. The probable availability of turnpike revenues to make such payments and such other factors, including expert opinion, that the department may, in its discretion, deem relevant; and

F. Priority shall be given to the construction of access roads or interchanges 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. The first priority for the use of available toll revenues 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 1, 1984.

In no event except as provided in subsection 3, paragraph C, shall the authority pay the whole or any portion of the cost of maintenance, construction or reconstruction of access roads for more than 10 road miles from the turnpike or for more than the extent the department determines is necessary to achieve an orderly flow of vehicular traffic to and from the turnpike over the access roads.

§ 317. Rates

The rate of toll at each facility shall be fixed and revised from time to time.

1. Commuter reductions to be established. The authority shall establish a system of commuter discounts to provide passenger vehicles with reduced rates which 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 proportionately to any other fare adjustments.

2. Volume discount. Reduce rates of fees, fares and tolls shall be made to any class of vehicle based upon volume of use.

§ 318. 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. To pay for the cost of any debt incurred by the authority;

B. Maintenance and operation of the turnpike, including any administrative costs specially incurred by the Department of Transportation or any other state agency in connection with the operation of the turnpike and its toll facilities;

C. The construction or improvement of toll facilities;

D. The construction or improvement of interchanges;

E. Maintenance, construction or reconstruction of interconnecting access roads where the maintenance, construction or reconstruction will improve vehicular access to the turnpike;

F. Construction or reconstruction to improve the turnpike to meet greater traffic demands or improve safety of operation, except that the traveled way shall not be enlarged, widened or expanded without the express approval of the Legislature;

G. Payment of the Federal Government for any funds owed by the State as the result of maintaining tolls on the turnpike; and

H. The annual payment of 25% of total operating revenue or \$4,700,000, whichever is greater to the Department of Transportation, the payment to be paid on a quarterly basis.

2. State Police activities on the Maine Turnpike. The Maine Turnpike Authority shall assume the cost of State Police activities on the Maine Turnpike and these costs shall be paid on the basis of monthly statements. Prior to December 1st of each year, the Chief of the State Police shall file a report with the Maine Turnpike Authority containing suggestions and information in regard to proposed State Police activities on the turnpike for the succeeding period. The report shall include, but not be limited to the following items:

A. Personnel, including information in regard to assignment of such personnel by shifts;

B. Vehicles and equipment, including a schedule of replacements of them; and

C. Estimated costs of paragraphs A and B with any additional information that will assist the Maine Turnpike Authority in determining the level of service of State Police activity proposed by the Chief of the State Police.

The Maine Turnpike Authority and the Chief of the State Police, or his designee, shall review the information regarding the proposed patrol activities as contained in the report and such activities will be authorized when mutually agreed to by the Maine Turnpike Authority and the Chief of the State Police.

3. Crediting of money paid during any fiscal year. Moneys paid by the Maine Turnpike Authority to the Treasurer of State during any fiscal year shall be credited proportionally to the Highway Fund and the General Fund, it being understood that the State Police personnel, the cost of which is paid by the Maine Turnpike Authority, shall be utilized exclusively for Maine Turnpike related activities, except for emergencies.

Sec. 2. 23 MRSA c. 8, as enacted by PL 1977, c. 658, § 2, is repealed.

Sec. 3. 23 MRSA § 4206, sub-§ 1, ¶I, as enacted by PL 1971, c. 593, § 16, is amended to read:

I. To accept and receive and be the sole administrator of all federal or other moneys for and in behalf of this State or any political subdivision thereof now or hereafter available for purposes of transportation or which would further the intent and specific purposes of this chapter; and

Sec. 4. 23 MRSA § 4206, sub-§ 1, ¶J, as amended by PL 1979, c. 127, § 155, is further amended to read:

J. To oversee matters relating to railroad safety, provided that jurisdiction of the commissioner shall in no way diminish, infringe upon or replace the

jurisdiction of the United States Department of Transportation, Federal Railroad Administration with regard to employee safety ~~and~~.

Sec. 5. 23 MRSA § 4206, sub-§ 1, ¶K, as enacted by PL 1977, c. 658, § 3, is repealed.

Sec. 6. 36 MRSA § 651, sub-§ 1, ¶B is amended by adding after the first sentence a new sentence to read:

Notwithstanding Title 23, section 314, subsection 1, paragraph N or any other provision of law, that property of the Maine Turnpike Authority primarily used for gasoline filling stations, service and repair stations and restaurants shall be subject to property taxes.

Sec. 7. P&SL 1941, c. 69, § 13, as repealed and replaced by PL 1977, c. 658, § 7, is repealed.

Sec. 8. P&SL 1941, c. 69, § 16, as repealed and replaced by PL 1977, c. 658, § 9, is repealed and the following enacted in its place:

Sec. 16. Termination of the authority. When all bonds outstanding on June 1, 1981, and the interest thereon have been paid or a sufficient amount for the payment of all bonds and the interest to maturity thereon shall have been set aside in trust for the benefit of the bondholders and shall continue to be held for that purpose, the authority shall be reorganized as provided by the Revised Statutes, Title 23, chapter 7-A. It is the intent of the Legislature that the provisions of this section occur on or before July 1, 1982. It is expected that tolls on the turnpike will have to be increased to implement the provisions of Title 23, chapter 7-A, as intended.

Sec. 9. Effective date. This Part shall become effective upon the date of repayment of all bonds and interest, as provided in section 8 of this Part.

PART E

Sec. 1. 29 MRSA § 57-A, first sentence, as last amended by PL 1979, c. 439, § 6, is further amended to read:

Reports of records pertaining to convictions, adjudications, accidents, suspensions, revocations and other information required by commercial users shall be furnished by the Secretary of State at a fee of ~~\$3~~ \$4 for each request upon receipt of such request from an individual, insurance company or other party requiring such information.

Sec. 2. 29 MRSA § 192, 2nd ¶, first sentence, as amended by PL 1975, c. 589, § 5, is further amended to read:

The registration plates so provided shall be issued only upon application therefor, and upon payment of an annual service fee of ~~\$10~~ \$15.

Sec. 3. 29 MRSA § 244, sub-§ 1, first ¶, as amended by PL 1975, c. 589, § 9, is further amended to read:

The fee shall be ~~\$5~~ \$7.50 for a gross weight not to exceed 2,000 pounds. The maximum fee for all farm trailers, whether semitrailers or 4-wheeled type,

AN ACT to Continue the Maine Turnpike authority.

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 of Maine, 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. 23 MRSA c. 7-B is enacted to read:

CHAPTER 7-B

MAINE TURNPIKE

§ 321. Legislative Intent

The Legislature finds that the economic and social well-being of the citizens of the State depends upon the safety, efficiency and modern functional state of the Maine Turnpike; that the turnpike should be maintained as a closed toll facility whether there are turnpike bonds outstanding or not; that toll revenues should be utilized to pay for retirement of any outstanding debt including interest, to

pay for operation, reconstruction, and maintenance of the turnpike, 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 such repayment is required in order for the authority to continue to collect tolls on the turnpike, and thereafter, to the extent practicable, to pay for the costs or a portion of the cost of maintaining, constructing or reconstructing interconnecting access roads and interchanges and thereby ease the financial burden imposed on the Department of Transportation by motor vehicle traffic to and from the turnpike; that safety and welfare requires the rebuilding, redesign or improvement of the existing turnpike facilities from York to Augusta in order to accommodate the increased traffic experienced since the opening of the turnpike and to provide turnpike facilities which are consistent with modern knowledge of safety design; that the economy of the State also requires such improvement in order to encourage travel and commerce into and out of the State; and that 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 should 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 that purpose. It is expected that tolls on the turnpike will have to be increased to implement the provisions of Title 23, chapter 7-B, as intended.

§ 322. Preservation of Rights

No provision of this chapter 7-B shall impair the rights of existing bondholders or of any other persons to whom the authority owes contractual obligations.

§ 323. Maine Turnpike Authority

In order to carry out the purposes of this chapter, the Maine Turnpike Authority, created by P&SL 1941, c. 69, shall continue in existence with the powers and duties prescribed by this chapter 7-B 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 such 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.

§ 324. 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, 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 P&SL 1941, c. 69 and continued in existence by this chapter 7-B.

3. Bond. "Bond" and the plural thereof means and includes a bond or note or other evidence of indebtedness authorized hereunder 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. Interconnecting access roads. "Interconnecting access roads" means any and all access roads or portions thereof which are under the control of the Department of Transportation and with respect to which the authority shall have made and not revoked the determinations required by § 334(3) of this chapter.

7. 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.

8. 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.

9. Turnpike. "Turnpike" means the roadway constructed between York in York County and Augusta in Kennebec County pursuant to the Private and Special Laws of 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 such 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.

§ 325. Maine Turnpike Authority; Powers; Membership

1. The Maine Turnpike Authority, as created by P&SL 1941, c. 69 and as hereby continued in existence, 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 and regulations governing use of the turnpike and any of the other services made available in connection with the turnpike; publish those bylaws, rules and regulations 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 travelled 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 such property;
- G. Acquire any such real property by the exercise of the power of eminent domain in the manner provided by Section 327 of this chapter;

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 herein, 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 such 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 herein and secure the payment of such obligation or any part thereof by pledge of all or any part of the operating revenues of the turnpike; and

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 such institutions for purposes for which bonds may be issued and to exercise with respect to such loan or security agreements all of the powers herein delineated for the issuances of bonds.

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

2. Membership of the authority.

A. Composition, appointment. The authority shall consist of four members and, in addition, the Commissioner of Transportation shall be a member ex officio. The four 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 seven 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 such vacancy only for the unexpired term of office of the member whose death, incapacity, resignation or removal created the vacancy, but such newly appointed member may be reappointed at the end of the unexpired term in accordance with the provisions of this subsection. In all events, no member shall be appointed to the authority who is not a resident of the State of Maine at the time of his appointment and qualification, or who has not been a qualified voter in the State of Maine for a period of at least one year next preceding his appointment.

B. Duties, officers, voting. 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 three 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. Security bond; compensation; removal. Before the issuance of any bonds under the provisions of this chapter, the secretary and treasurer shall execute a security bond in the penalty of \$100,000. Each such 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.

§ 326. Obligations of the Authority

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, except contracts and agreements relating to maintenance and ordinary repairs of the turnpike, must be approved by the Department of Transportation and the turnpike shall be so constructed or reconstructed under the supervision of the department.

3. Bonds not to be pledges of state. Turnpike revenue bonds issued under the provisions of this act, 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 of Maine or a pledge of the faith and credit of the State of Maine but such bonds shall be payable exclusively from the fund herein provided therefor from tolls or other operating revenues. All such bonds shall contain a statement on their face that the State of Maine shall not be obligated to pay the same or the interest thereon and that the faith and credit of the State of Maine 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 the provisions of this act shall not directly or indirectly or contingently obligate the State of Maine 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.

§ 327. Property of the Authority; Eminent Domain

1. Property of the authority. All property of the authority and all property held in the name of the State pursuant to the provisions hereof 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 hereof; 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 331 of this chapter.

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 condemnation 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 efficient operation of the turnpike in the manner provided by chapter 3, subchapter III for the taking of property for state and state aid highways by the Department of Transportation, reading such subchapter by substituting "authority" for "department" or "Department of Transportation" wherever such terms shall appear; provided that the authority shall condemn land for the purposes set forth in § 153 of such subchapter III only if condemnation for those purposes is consistent with and authorized by this chapter.

3. Title to property. Title to any property condemned by the authority shall be taken in the name of the authority.

4. Payment only from funds provided under this chapter. The authority shall be under no obligation to accept and pay for any property condemned or any costs incidental to any condemnation proceedings and shall in no event pay for the same except from the sums provided by this chapter and in any condemnation proceedings, the court having jurisdiction of the suit, action or proceedings may make such orders as may be just to the authority and to the owners of the property to be condemned and may require an undertaking or other security to secure the owners against loss or damage by reason of the failure of the authority to accept and pay for the property; but the undertaking or security shall impose no liability upon the State, except such as may be paid from the funds provided under the authority of this chapter.

5. 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.

6. Authority for transfers of land by public bodies 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.

7. Condemnation of property owned by public bodies. If reasonable and fair conditions for the acquisition of property or rights as provided in the preceding subsection cannot be agreed upon the property may be taken under condemnation proceedings in the same manner as provided in subsection (2) of this section. In the case of any property or facilities legally located within, under or upon any public street or way by franchise, permit or legislative authority, said reasonable and fair conditions for acquisition or relocation shall include the payment by the authority of either the value of said property or facilities less depreciation or the reasonable cost of relocating property or facilities exclusive of improvements made or to be made in such relocation, whichever is the lesser.

8. Security; taking of possession by the authority. Whenever the authority decides to acquire any lands, rights, easements and franchises or interest therein by condemnation as hereinbefore provided and has tendered a bond or other security in sufficient sum to secure the owner or owners for damages and the same has been accepted or if the acceptance has been refused and the same has been filed and approved by the State Claims Board or the court having jurisdiction over such condemnation proceeding, the authority shall have the right to immediate possession of the property which is the subject matter of the condemnation proceedings and may enter

thereon in the name of the authority. Upon payment by the authority of the amount of the award in accordance with chapter 3, subchapter III, the State Claims Board or the court having jurisdiction over the condemnation proceeding shall order the bond or other security to be cancelled and delivered up to the authority.

§ 328. Issuance of Bonds

The authority is hereby 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 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 such 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 constructing or reconstructing 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. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this act 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 such members or officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes the same as if such members or officers had remained in office until such delivery. The authority may in the resolution authorizing prospective issues provide as to such bonds:

1. The manner of executing the bonds and coupons;
2. The form and denomination thereof;
3. 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);
4. The interest rate or rates thereon, which may be fixed or variable or a combination of both;

5. For redemption prior to maturity and the premium payable therefor;
6. The place or places for the payment of interest and principal;
7. For registration if the authority deems such to be desirable;
8. For the pledge of all or any of the operating revenues of the turnpike for securing payment;
9. For the replacement of lost, destroyed or mutilated bonds;
10. The setting aside of reserve and sinking funds and the regulation and disposition thereof and for limitations on reserves, if any, established for capital outlay from operating revenues;
11. For limitations on the issuance of additional bonds;
12. For the procedure, if any, by which the contract with the bondholder may be abrogated or amended;
13. For the manner of sale, which may be public or private, and purchase thereof;
14. For covenants against pledging of any or certain of the operating revenues of the turnpike;
15. For covenants fixing and establishing such prices, rates and charges for the use of said turnpike and other services made available in connection with said turnpike so as to provide at all times funds which will be sufficient:
 - A. To pay all costs of operation and maintenance of said turnpike, together with the necessary repairs thereto,
 - B. To meet and pay the principal and interest of all such bonds as they severally become due and payable,
 - C. For the creation of such reserves for the principal and interest of all such bonds and for the meeting of contingencies and the operation and maintenance of said turnpike as the authority shall determine, and
 - D. To pay other lawful charges or costs for which the authority is responsible;
16. For such other covenants as to such prices, rates and charges as the authority shall determine;

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

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

19. 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;

20. For limitations upon the exercise of the powers conferred upon the authority by this act;

21. For the issuance of such 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;

22. 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 such bond anticipation notes of any or all of its powers herein delineated for the issuance of bonds; and

23. 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 such acts or things may not be enumerated herein.

§ 329. Application of Proceeds of Bonds or Notes in Anticipation thereof.

All moneys received from any bonds or bond anticipation notes issued pursuant to this Act shall be applied solely

1. to the payment of the cost of the construction and reconstruction of the turnpike,

2. 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 such repayment is required in order for the authority to continue to collect tolls on the turnpike,

3. to the payment of the costs of constructing or reconstructing interchanges.

4. to the payment of the costs of issuance of the bonds,

5. to the creation of reasonable reserves for the payment of the principal of and interest on such bonds, and to meet the cost of extraordinary repairs to or maintenance of the turnpike,

6. to the appurtenant fund, and

7. to the payment of any temporary notes of the authority the proceeds of which were used for any of the foregoing purposes;

and there shall be and hereby is created and granted a lien upon such moneys until so applied in favor of holders of such bonds or the trustee hereinafter provided for in respect of such bonds.

§ 330. 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 of Maine, 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 hereunder. Such 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 such bonds or such trust indenture or loan or other security agreement may contain such 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 such indemnity bonds or to pledge such securities as may be required by the authority. Such 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 such trust indenture may contain such other provisions as the authority may deem reasonable and proper

for the security of bond holders. All expenses incurred in carrying out such 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.

§ 331. 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 of Maine 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 assessments 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 shall the authority be required to pay any tax upon its income except as may be required by the laws of the United States of America, and the bonds or other securities and obligations issued by 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 of Maine.

§ 332. Refunding Bonds

The authority is hereby authorized to provide by resolution for the issuance of turnpike revenue refunding bonds of the authority including notes or other obligations defined as bonds hereunder 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 such 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 such 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 the same, shall be governed by the provisions of this act insofar as the same may be applicable.

§ 333. 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 such 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 and regulations 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 such services actually expended by the State Police shall be paid by the authority to the Treasurer of the State in accordance with the provisions of Section §334(5) hereof.

2. Speed limit. The authority may by regulation 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 at any point or place thereon, and may regulate the volume and weight of vehicles admitted to the turnpike.

3. Tolls. Tolls shall not be subject to supervision or regulation by any state commission, board or agency. Subject to the provisions of 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 toll, 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. Such 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 the same shall become due; and

C. The cost to the department of maintaining, constructing or reconstructing interconnecting access roads or portions thereof, as in the sole discretion of the authority are from time to time determined as provided in Section 334(3) to warrant the expenditure of turnpike revenues.

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

A. Commuter reductions to be established. The authority shall establish a system of commuter discounts to provide passenger vehicles with reduced rates which rates shall not exceed fifty percent 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. Volume discounts. 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 such use shall not constitute a taking of property without due process, provided that any structural damage to the turnpike created by such free use, ordinary deterioration or depreciation excepted, shall be compensated for at cost of repair or replacement.

§ 334. 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 limitation, reserves required or permitted by the resolutions authorizing the issuance of bonds or by the trust indentures relating to those bonds, and also 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 below, except that the

travelled way shall not be widened or expanded without the express approval of the Legislature;

D. Maintenance, construction or reconstruction of interconnecting access roads, or portions thereof, where the authority shall have made and not revoked the determinations required by subsection 3 below with respect to such interconnecting access roads or portions thereof;

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 recommended by the Department, or to accomplish other designated purposes for which the authority is authorized to issue bonds, provided that any such projects financed from reserves together with the estimated future costs thereof have been approved by the authority, and that any such projects are anticipated to be accomplished within a five year period; 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 such 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 such resolution or such trust indenture or loan or other security agreement, in a sinking fund which is pledged to, and charged with the payment of, (1) the interest upon such bonds as such interest shall fall due; (2) the principal of the bonds as the same shall fall due; (3) the necessary fiscal agency charges for paying principal and interest; and (4) any premiums upon bonds retired by call or purchase as herein provided. The use and disposition of such sinking fund shall be subject to such regulations 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 such resolution or trust indenture or loan or other security agreement, such sinking fund shall be a fund for the benefit of all bonds issued hereunder

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 such 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 forthwith be cancelled and shall not again be issued.

3. Revenues for interconnecting access roads. The authority may provide operating revenues to the department for maintenance, construction or reconstruction of interconnecting access roads, or portions thereof, provided that it shall first determine that the interconnecting access roads or portions thereof 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 a portion, as the case may be, of the cost of maintaining, constructing or reconstructing the interconnecting access roads or portions thereof. In making the determination of whether such a sufficient relationship exists or will exist, the authority shall consider the following factors, no one of which may necessarily be determinative:

- A. The recommendations of the department under subsection 4 hereof;
- B. The relative number of vehicles using or expecting to use such access roads on the way to or from the turnpike;
- C. The number of residences and businesses on such access roads or portions thereof;
- D. The road distance of such access roads or portions thereof from the nearest entrance to or exit from the turnpike;
- E. The effect such 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;
- F. The probable effect on the operation of the turnpike of the failure of the authority to pay or assist in the payment of the costs of the maintenance, construction or reconstruction;
- G. The probable availability of turnpike revenues to make such payments;

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

I. Such other factors, including legal advice and expert opinion, that the authority may, in its discretion, deem relevant.

The authority in its discretion may determine, and certify to the department for its use in connection with its recommendation under subsection (4) hereof, the maximum number of road miles from the nearest turnpike entrance or exit beyond which it believes it should not pay all or any portion, as the case may be, of the cost of construction, reconstruction and maintenance of such access roads but such maximum limit shall not be less than the length of any such access road used substantially exclusively for access to or exit from the turnpike. The authority shall not in any event pay any such costs for any access roads beyond the extent the authority determines is necessary to achieve and maintain an orderly flow of vehicular traffic to and from the turnpike over such access roads. The authority may make provisions for the prior use of operating revenues to pay debt service on bonds issued by the authority and to pay for the operation and maintenance of the turnpike before making payments on account of the costs of construction or reconstruction of interconnecting access roads, but any such provision and any determination as to the amount and times of payment on account of such construction or reconstruction shall be set forth in the bond resolution or trust indenture or loan or other security agreement pursuant to which bonds of the authority may be issued.

In addition to the factors listed in paragraphs (A) through (I) above, in determining what provision shall be made for maintenance, construction or reconstruction of interconnecting access roads, the authority may take into consideration the effect on industrial and economic development. In the case of proposals to use turnpike revenues for the construction or reconstruction of interconnecting access roads or portions thereof, priority shall be given to 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 and related use of the turnpike. The authority shall give similar consideration in respect of a determination to construct or reconstruct interchanges. In determining the extent of effect on industrial and economic development, the authority shall consider existing, committed, proposed and potential development. In this connection a first priority for the use of available operating revenues shall be for new roads or for modifications of existing roads to provide the necessary

access for the development of industrial parks in Lewiston and Auburn.

4. The department of transportation shall undertake forthwith and continue such investigation and studies as will enable the department to certify on or before each February first beginning February 1, 1983 its recommendations as to

A. those roads under its jurisdiction within the road mile distance, if any, certified under subsection 3 to the department by the authority that serve directly or indirectly to deliver vehicular traffic to or take vehicular traffic from the turnpike, all or a portion of the cost of maintenance, construction or reconstruction of which may in its opinion warrantably be born by the authority under the criteria set forth in paragraphs B through I of subsection 3 above;

B. the estimated cost of such maintenance, construction and reconstruction; and

C. the extent or percentage of such estimated cost, if less than all, to be provided from turnpike revenues.

Upon receipt of the department's recommendation, the authority shall proceed to make its determination required under subsection 3 of this section as to the amount it expects to provide from operating revenues, which amount shall in no event exceed \$4,700,000 in any fiscal year, and certify its determination to the department of transportation not later than April first of each year beginning April 1, 1983. Pending such determination, for the July 1, 1982-June 30, 1983 fiscal year the aggregate sum so to be provided from operating revenues of the authority is hereby determined to be \$4,700,000, said sum representing the estimated cost to the department of transportation of the aggregate benefit and advantages to be provided to the turnpike for said twelve month period, subject to adjustment as hereinafter provided.

In the event that the authority determines that the aggregate sum the authority actually pays under this subsection 4 to the department of transportation during the period from July 1, 1982 to June 30, 1983 exceeds or will exceed by more than ten percent the amount which the authority would otherwise pay to the department upon its determination made under subsection 3, the amount of such 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, but in the event such agreement has not been reached within six months of the determination of the amount of such excess and written

notification thereof by the authority to the department, the same shall be repaid by deducting from the sums which would otherwise be payable to the department by the authority under this subsection in each of the next succeeding five years an amount equal to one-fifth of such excess in each of those five years.

5. Payment for State Police Services on the Maine Turnpike.

A. The authority shall assume all costs incurred by the State Police in enforcing the rules and regulations of the authority, and in providing for the safety of the public travelling on the turnpike, provided that the authority has authorized the provision of such 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 twenty days of receipt of the monthly statement. The Treasurer of State shall credit such payments proportionately to the Highway Fund and the General Fund.

C. Prior to December 1st of each year, the Chief of 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 and regulations of the authority and to adequately provide for the safety of the public travelling on the turnpike:

- (i) the estimated level of personnel required for turnpike duty calculated according to the assignment of such personnel by shift;
- (ii) monthly and annual estimates of the cost of personnel required for turnpike duty;
- (iii) the estimated number of vehicles and amount of equipment required for turnpike duty, including a schedule of anticipated replacement needs;
- (iv) annual estimates of the cost of vehicles and equipment required for turnpike duty; and

- (v) 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 regulations and to provide for the safety of the public travelling on the turnpike.

§ 335. 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 same shall fall due and such 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 herein provided. Such trustee may upon the written request of the holders of 25% in principal amount of the bonds then outstanding:

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

2. bring suit upon the bonds;

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

4. by action or suit in equity require the authority to account as if it were trustee of an expressed trust for the bondholders. Such 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. Such trustees shall in addition to the foregoing have and possess all the powers necessary and appropriate for the exercise of any functions specifically set forth herein 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 bond holder 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 act.

§ 336. 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 such bonds when issued.

§ 337. Trust Funds

Subject to any agreement with the bondholders, all revenue received from the operation of said 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.

§ 338. Termination of the authority

The authority shall not be dissolved until such time as:

1. the Legislature shall provide for its termination, and
2. 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.

§ 339. Saving Clause

If any provision of this chapter or the application thereof to any person or circumstance is held invalid the remainder of this chapter and the application of such

provision to other persons or circumstances shall not be affected thereby.

§ 340. Governmental Functions

It is hereby 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.

§ 341. Penalties

1. Fines; imprisonment. Any violation of published rules and regulations 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 operates 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 herein contained shall prevent the authority from collecting payment for use of the turnpike or any other service in connection with said turnpike by action at law or in equity.

2. Criminal acts and civil violations. The provisions of 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 and regulations. This section shall not affect the power of the authority to make rules and regulations 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.

§342. Effective Date

This act shall become law as an emergency measure at such time as it shall have been passed by the Legislature and approved by the governor, 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 interconnecting access roads.

Sec. 2. P&SL 1941, c. 69, §§ 1-20, 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. 8, as enacted by PL 1977, c. 658, § 2, 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. 4. 23 MRSA c. 7-A, as enacted by PL 1981, c. 492 Part D, 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. 5. 23 MRSA § 4206, sub-§ 1, ¶I, as enacted by PL 1971, c. 593, § 16, is amended to read:

I. To accept and receive and be the sole administrator of all federal or other moneys for and in behalf of this State or any political subdivision thereof now or hereafter available for purposes of transportation or which would further the intent and specific purposes of this chapter; and

Sec. 6. 23 MRSA § 4206, sub-§ 1, ¶J, as amended by PL 1979, c. 127, § 155, is further amended to read:

J. To oversee matters relating to railroad safety, provided that jurisdiction of the commissioner shall in no way diminish, infringe upon or replace the jurisdiction of the United States Department of Transportation, Federal Railroad Administration with regard to employee safety.

Sec. 7. 23 MRSA § 4206, sub-§ 1, ¶K, as enacted by PL 1977, c. 658, § 3, is repealed.

Sec. 8. Sections 6 and 8 of PL 1981, c. 492, to the extent such sections are or were ever in effect, are repealed.

STATEMENT OF FACT

This bill combines Chapter 69, P&SL 1941 and Chapter 492 of the Public Laws of 1981 and other laws to consolidate and clarify statutory references to the Maine Turnpike Authority.

The bill also contains additional clarifying language recommended by bond counsel so that the Authority can accomplish the objectives defined by the legislature in 1981.

Bank loans are authorized to complement revenue bond authority so that the Authority can limit debt periods and interest payments.

Various features of previous legislation have been retained, such as:

1. The ability to repay the federal government for funds previously used for Interstate interchanges.
2. The provision for assuring additional interchanges along the turnpike corridor.
3. The flexibility to transfer up to \$4,700,000 annually to the Department of Transportation for turnpike-related costs.
4. A commuter fare program.
5. The ability for local communities to receive taxes on the leasehold interest from restaurants and gas stations on the turnpike.