

MAINE STATE LEGISLATURE

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EMERGENCY
(Governor's Bill)
FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 752

S. P. 270

In Senate, February 10, 1981

Referred to the Committee on Transportation. Sent down for concurrence and ordered printed.

MAY M. ROSS, Secretary of the Senate

Presented by Senator Emerson of Penobscot.

Cosponsors: Senator Usher of Cumberland and Representative Carroll of Limerick

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

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, and to Establish a Local Road Assistance Program.

Emergency preamble. Whereas, Acts passed by 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, 1981; and

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

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

PART A

Sec. 1. Allocation of Highway Fund. Undedicated income to the Highway Fund for the next fiscal years from July 1, 1981, to June 30, 1982, and from July 1, 1982, to June 30, 1983, shall be segregated, apportioned and expended as designated in the following schedules:

	ALLOCATION FROM HIGHWAY FUND	
	1981-82	1982-83
DEPARTMENT OF BUSINESS REGULATION		
State Claims Board		
Unallocated	\$ 100,753	\$ 99,484
DEPARTMENT OF PUBLIC SAFETY		
Public Safety — Motor Vehicle Inspection		
Unallocated	\$ 328,168	\$ 241,092
DEPARTMENT OF TRANSPORTATION		
Transportation — Accounting, Auditing & Other Services		
Unallocated	\$ 300,000	\$ 300,000
POLICY AREA		
UMBRELLA IDENTITY		
Program	1981-82	1982-83
Transportation — Compensation for Injuries		
Unallocated	\$ 1,200,000	\$ 1,200,000
Transportation — Amortization — Office Building		
Unallocated	585,000	585,000
Transportation — Planning & Services		
Unallocated	433,000	450,000
Transportation — Special Resolves		
Unallocated	960	960
Highway — Administration		
Unallocated	3,061,600	3,100,000
Highway — Topographic Mapping		
Unallocated	10,000	10,000
Highway — Island Town Refunds		
Unallocated	19,000	19,000
Highway — Local Road Assistance Program		
Unallocated		9,100,000
Highway — Summer Maintenance		
Unallocated	25,880,000	30,250,000
Highway — Traffic Services		
Unallocated	2,578,259	2,578,259

POLICY AREA UMBRELLA IDENTITY Program	ALLOCATION FROM HIGHWAY FUND	
	1981-82	1982-83
Highway — Bridge Maintenance Unallocated	4,334,275	4,334,275
Highway — Radio Operations Unallocated	190,387	200,000
Highway — Winter Maintenance Unallocated	19,210,000	19,000,000
Highway — Bond Interest Unallocated	3,519,477	3,220,402
Highway — Bond Retirement Unallocated	5,860,000	5,710,000
Highway — Highway and Bridge Improvements Unallocated	400,000	2,550,000
	<hr/>	<hr/>
Sub-Totals	\$68,010,879	\$82,948,472

**DEPARTMENT OF THE SECRETARY OF
STATE**

Motor Vehicles — Administration Unallocated	\$5,424,902	—
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DEPARTMENT OF PUBLIC SAFETY

State Police Unallocated	\$10,167,743	—
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Sub-Total	15,592,645	—
Total Allocations	\$83,603,524	\$82,948,472

Amounting to \$83,603,524 for the fiscal year ending June 30, 1982, and \$82,948,472 for the fiscal year ending June 30, 1983.

Sec. 2. Allocation for special state aid construction. Funds allocated for fiscal years 1979-80 and 1980-81 for special state aid construction shall lapse on July 1, 1981.

Sec. 3. PL 1979, c. 439, § 13 is repealed.

Sec. 4. 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 montly 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:

1. Personnel, including information in regard to assignment of such personnel by shifts;
2. Vehicles and equipment, including a schedule of replacements of them; and
3. Estimated cost of items 1 and 2 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.

Moneys paid by the Maine Turnpike Authority to the Treasurer of State during fiscal year 1982 shall be credited 75% to the Highway Fund and 25% to 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.

PART B

Appropriations. There is appropriated from the General Fund, to the following departments, the following sums:

	APPROPRIATION FROM GENERAL FUND	
	1981-82	1982-83
DEPARTMENT OF THE SECRETARY OF STATE		
Motor Vehicles — Administration		
Unallocated	—	\$5,424,463
DEPARTMENT OF PUBLIC SAFETY		
State Police		
Unallocated	—	10,057,763
		<hr style="width: 100%;"/>
Total General Fund Appropriations — Part B		\$15,482,226

PART C

Sec. 1. 23 MRSA § 1, as amended by PL 1971, c. 593, § 22, is further amended to read:

§ 1. Objectives

The objectives of chapters 1 to 19 are to establish a Department of Transportation; to provide for an interlocking system of state and state aid

highways; to furnish state aid for ~~important~~ county and town highways and bridges; to provide for the continuous maintenance of all highways and bridges to the improvement of which the State has contributed or shall hereafter contribute unless otherwise provided by law; to provide for the equitable distribution of the proceeds of state bonds issued for the construction of highways and bridges; and to cooperate with the Federal Government in the construction of highways and bridges.

Sec. 2. 23 MRSA § 53, as amended by PL 1971, c. 593, § 22, is further amended to read:

§ 53. Classification of highways

The department shall cause charts and maps to be made showing the location and mileage of all highways in the State, and shall classify the highways of the State, and may from time to time amend such classification, namely: ~~1st, First~~ **1st, First** state highways, which shall mean a system of connected main highways throughout the State **which primarily serve arterial or through traffic**; ~~2nd, state aid highways, which shall mean such highways not included in the system of state highways as shall be thoroughfares between principal settlements, or between settlements and their market or shipping point and in so far as practicable feeders to the state highway~~ **2nd, state aid highways, which shall mean such highways not included in the system of state highways as shall be thoroughfares between principal settlements, or between settlements and their market or shipping point and in so far as practicable feeders to the state highway which primarily serve as collector and feeder routes connecting local service roads to the arterial state highway system**; ~~3rd, town ways, which shall mean all other highways not included in the first 2 classes, which are maintained by the towns and primarily serve as local service roads providing access to adjacent land.~~

Sec. 3. 23 MRSA § 71, as enacted by PL 1973, c. 671, is repealed.

Sec. 4. 23 MRSA § 702 is repealed.

Sec. 5. 23 MRSA § 705, as amended by PL 1971, c. 593, § 22, is further amended to read:

§ 705. Culverts

Whenever it is deemed necessary by an abutter on ~~an improve~~ a state highway or state aid highway that a culvert be installed to provide an entrance to his property, he shall petition the department for such an installation and the department may install the same, provided that the abutter, at his own expense, furnish a culvert satisfactory to the department. Such culvert shall be thereafter maintained by the department ~~or the town, whichever has the responsibility for the maintenance of the highway.~~

Sec. 6. 23 MRSA § 754, as last amended by PL 1975, c. 133, is further amended to read:

§ 754. Town maintenance in compact areas

Except as otherwise provided, all state and state aid highways within compact or built-up sections of towns having a population of 5,000 and over, as determined

by the department, shall be maintained in good repair by the town wherein the same are located at the expense of the town. Municipalities shall be notified one year in advance of changes in compact or built-up sections which place additional maintenance responsibilities on said municipalities. Whenever any town shall neglect so to maintain within 14 days after notice given its municipal officers by the department, the department may proceed to make necessary repairs to such way, which shall be paid for by the State and the cost thereof shall be collected and paid as provided in section 1106 withheld from funds due the town under chapter 19, subchapter VI, Local Road Assistance Program. The amounts so collected from such towns shall be added to the fund for maintenance of state and state aid highways. The department may take over the maintenance of such portions of controlled access highways within compact sections as it deems advisable. The department may in respect thereto grant such towns such financial assistance as it deems advisable.

Sec. 7. 23 MRSA § 802, as amended by PL 1971, c. 593, § 22, is further amended to read:

§ 802. Maintenance by State

~~Improved state~~ State aid highways shall be continually maintained under the direction and control of the department at the expense of the State. ~~This section shall apply only to those state aid highways constructed and improved by the State under chapters 1 to 19, except for the maintenance of secondary federal aid roads, and to such other portions of designated state aid highways, to the improvement of which the State has heretofore contributed, as the department may hereafter indicate as taken over by it, and the department shall as rapidly as it deems advisable so take over such highways for the purpose of maintenance~~

Sec. 8. 23 MRSA §§ 851 and 852, as amended by PL 1971, c. 593, § 22, are repealed.

Sec. 9. 23 MRSA c. 13, sub-c. V, as amended by PL 1973, c. 593, § 22, is repealed.

Sec. 10. 23 MRSA § 1001, last ¶, as last amended by PL 1971, c. 593, § 22, is further amended to read:

The maintenance provisions of ~~this section and sections 705, 751, 1001, 1002~~ 1003 and ~~1005 1005-A 1008 and 1011~~ shall not apply to those compact or built-up sections of state highway in cities or towns whose population according to the last U.S. United States census exceeds 5,000 inhabitants, ~~except for maintenance of secondary federal aid projects~~ and the snow removal provisions shall not apply to those compact or built-up sections, and "compact areas" as determined by the department, in which compact sections are intermittent and separated by a short interval or intervals of sections that are not compact, of state highway in cities or towns whose population according to the last U.S. United States census exceeds 2,500 inhabitants. The department may take over the snow removal on such portions of controlled access highways within compact sections as it deems advisable.

Sec. 11. 23 MRSA § 1002, as last amended by PL 1977, c. 363, § 1, is repealed.

Sec. 12. 23 MRSA § 1003, as last amended by PL 1977, c. 363, § 2, is further amended to read:

§ 1003. Towns to keep routes clear of snow; sanding

~~Towns through which extends such a system of winter routes approved and accepted by the department in accordance with section 1002 shall through and by their board of municipal officers keep said state aid highways and town ways cleared of snow during the winter season or such part of the year as the department may direct, so that they may be reasonably usable by motor vehicles. Snow on such state aid highways and town ways shall be removed to the outside edges of the shoulders of the road, and in a manner satisfactory to the department whose judgment shall be final. The towns shall sand the state aid highways and town ways to the satisfaction of the department, and in case the towns fail to sand the highways to the satisfaction of the department, the said department shall be authorized to make arrangements for the proper sanding and the cost of such sanding done by the department shall be paid by the towns and the State shall reimburse the towns on the same basis as other snow removal and sanding accounts.~~

Sec. 13. 23 MRSA § 1004 is amended to read:

§ 1004. Towns authorized to raise money

To carry into effect ~~sections 1002 and~~ section 1003, towns are authorized to raise and appropriate money therefor.

Sec. 14. 23 MRSA § 1005, as last amended by PL 1979, c. 541, Pt. A, §§ 159 and 160, is repealed.

Sec. 15. 23 MRSA § 1005-A is enacted to read:

§ 1005-A. Accidents; snow fences; appeals

1. Accidents. The State or the town shall not be liable for accidents while the road surface is covered with snow or ice.

2. Snow fences. The Department of Transportation, the county commissioners or the municipal officers of any city or town may provide snow guards or snow fences along any state highways, state aid highways or town ways for the prevention of snow from encumbering the highways or town ways.

The officials may erect snow guards or fences upon private property adjacent to highways or town ways. If they do not agree with the owner of the property with relation to the location of the guards or fences, the compensation to be paid to the owner or the time the guards or fences shall be maintained, the officials, before erecting the snow guards or snow fences upon the private property, shall give written notice of their intentions, to be posted for 7 days in 2 public places in the city or town in the vicinity of the location proposed for the erection of the guards or fences, describing the location and the time intended for the maintenance of the

snow guards or fences, with such definiteness that the location may be understood readily.

Within 5 days after a hearing thereon, the officials shall make a written return of their proceedings and findings to the registry of deeds in the county in which the location is situated, provided that they have therein decreed that any such snow guards or snow fences shall be maintained thereon permanently, or to the clerk of the city or town in which the location is situated, provided that they have therein decreed that the snow guards or snow fences shall be maintained during the winter season only for which they propose to erect them. In return, they shall state the amount of damages awarded the owner and the amount shall be paid within 30 days after return, by the State, city or town whose officials have authorized the construction or erection of the guards or fences.

In case the owner of the property is aggrieved with the award of damages so made, or with any part of the decrees, within 30 days after the filing of the return, he may take an appeal therefrom by filing, in the Superior Court in the county where the guard or fence is located, a complaint requesting a new award or assessment of damages, and the court, after ordering such notice as it sees fit, shall thereupon determine the amount of damages sustained by the owners. The court may make any other change in the decree deemed proper. An appeal to the Superior Court vacates the original awards.

If the officials determine that the fences are to remain for the winter season only, and not permanently, then the fences shall be erected not before the 15th day of November nor remain occupying private property later than the next April 1st. Particular regard shall be exercised in the location of the fences so that the owners of private property shall be incommoded, as to view and otherwise, to as small a degree as possible.

Sec. 16. 23 MRSA § 1006, as amended by PL 1971, c. 593, § 22, is repealed.

Sec. 17. 23 MRSA § 1007, as amended by PL 1971, c. 593, § 22, is repealed and the following enacted in its place:

§ 1007. Roads kept open by State; expense deducted from moneys due town

When any town, in the judgment of the Department of Transportation, unreasonably fails to either raise, appropriate or pay the cost of snow removal, or without cause fails to keep open any state or state aid highways as required in section 1001 or 1003, the department shall cause the highway to be kept open at the expense of the State. The Treasurer of State may withhold a sufficient amount from any funds due or to become due the town, to cover the payment in whole of the expense of the snow removal, and the amount collected shall be added to the State Highway Maintenance Account.

Sec. 18. 23 MRSA §§ 1008, 1009 and 1011 are repealed.

Sec. 19. **Effective date.** Sections 10 to 18 of this Part shall take effect on July 1, 1981, for towns having a population of 5,000 and over, and shall take effect on July 1, 1982, for towns having a population of less than 5,000.

Sec. 20. 23 MRSA c. 13, sub-c. IX, as amended, is repealed.

Sec. 21. Effective date. Section 20 of this Part shall take effect on July 1, 1981. It is the intent of the Legislature that to the extent funds are available in the State Aid Account, 5733.0, projects shall be honored in the following priority order:

1. To match state aid units raised and paid by the towns to the State prior to January 1, 1981;
2. To complete projects under agreement with the department prior to January 1, 1981;
3. To match all state aid units raised for construction purposes prior to January 1, 1981;
4. To match all state aid units raised for reconstruction purposes for specific road projects identified prior to January 1, 1981 functionally classified as local service roads; and
5. To match all state aid units raised for reconstruction purposes for specific road projects identified prior to January 1, 1981, and within compact areas of communities having population greater than 5,000.

Sec. 22. 23 MRSA § 1502, as amended by PL 1971, c. 593, § 22, is repealed.

Sec. 23. 23 MRSA § 1503 is repealed.

Sec. 24. 23 MRSA c. 19, sub-c. V, as amended, is repealed.

Sec. 25. Effective date. Section 24 of this Part shall take effect on July 1, 1981, provided that any balance unexpended by the towns on July 1, 1981, shall remain to their credit until June 30, 1983, at which time the funds shall lapse.

Sec. 26. 23 MRSA c. 19, sub-c. VI is enacted to read:

SUBCHAPTER VI

LOCAL ROAD ASSISTANCE PROGRAM

§ 1801. Findings and purpose

Categorical programs deny the State and municipalities flexibility to rationally set and address priority highway maintenance and improvement needs.

Categorical programs require significant administrative effort on the part of the State and municipalities.

Responsibility for decisions regarding maintenance and improvement of roads should follow the principle that roads which primarily serve regional or statewide needs should be the state's responsibility and roads which primarily serve local need should be a local responsibility.

Approximately 11% of all highway travel occurs on local rural roads. Therefore,

at least 11% of state revenue derived from highway user fees credited to the Highway Fund should be made available for the maintenance and improvement of local roads.

The distribution of funds for the maintenance and improvement of local roads should be based on a formula which recognizes needs and tax effort.

The purpose of the Local Road Assistance Program is to provide equitable financial assistance to communities for their use in maintaining and improving local roads in lieu of categorical assistance programs.

§ 1802. Definitions

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

1. **Population.** "Population" means the population as determined by the latest Federal Decennial Census or the population as determined and certified by the Department of Human Services in accordance with the requirements of Title 30, section 5055, subsection 4, paragraph A, whichever is later.

2. **Property tax burden.** "Property tax burden" means the total real and personal property taxes assessed in the most recently completed fiscal year divided by the latest state valuation certified to the Secretary of State.

§ 1803. **Distribution.** Funds to be distributed to each municipality shall be as follows:

A. Forty-five percent in proportion to the miles of road maintained by the municipality in the winter times the property tax burden of the municipality;

B. Thirty percent in proportion to the miles of road maintained by the municipality in the summer times the property tax burden of the municipality; and

C. Twenty-five percent in proportion to the population of the municipality times the property tax burden of the municipality.

2. **Minimum reimbursement.** No municipality may receive less than:

A. Ten percent more than the sum of snow removal reimbursements received in 1980, plus town road improvement funds received in 1980, plus the maximum state funds received for state aid construction in either 1978, 1979 or 1980; or

B. \$1,000 per mile of road maintained by the municipality in the summer up to a maximum of 5 miles.

3. **Retention of allocation for Local Road Assistance Program.** Prior to apportioning funds to each municipality, the department shall retain up to 10% of the allocation for the Local Road Assistance Program to assure equitable funds are provided for roads in unorganized areas, administration and hardship cases.

4. **Payment of funds.** One-quarter of the funds apportioned to each

municipality shall be paid by the State to the municipality before September 1st, December 1st, March 1st and June 1st each year.

§ 1804. Municipal requirements

To be eligible to receive funds from the Local Road Assistance Program, each municipality shall, prior to August 1st each year, certify in a manner acceptable to the department that:

1. **Use of funds.** The funds will be used only for the maintenance or improvement of public roads; and
2. **Appropriation of local funds.** The municipality has appropriated local funds in an amount equal to or greater than 50% of the formula allocation.

§ 1805. Permitted use of funds

Funds provided for the Local Road Assistance Program shall be used only for the maintenance or improvement of public roads. If the municipality proposes to expend funds on state or state aid highways maintained by the department, these funds shall be expended under the direction of the department.

Sec. 27. Effective date. Section 26 of this Part shall take effect on July 1, 1982.

Sec. 28. Studies required.

1. **Reclassification of highways.** Prior to July 1, 1982, the department shall complete a reclassification of all highways in the State in accordance with the Maine Revised Statutes, Title 23, section 53. The department shall hold a series of public hearings throughout the State to provide an opportunity for municipalities to comment on the proposed classifications.

2. **Cost allocation; needs.** Prior to July 1, 1983, the department shall conduct a comprehensive analysis of the department's needs to adequately maintain the system of roads that the State is responsible for maintaining and improving, based on the reclassification of all highways required by section 1. This study shall include an analysis of the necessary personnel, equipment and facilities to adequately maintain the revised system. In addition, the department should conduct a cost allocation study to carefully assess the cost responsible for the public highway system. The study should include an analysis of the various highway user taxes in relation to the benefit derived by users, as well as cost impacts by users for the cost of maintaining and improving the system. The results of the study effort shall include recommendations for revised tax structures and shall be reported to the 11th Legislature.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect July 1, 1981, except as otherwise specified.

FISCAL NOTE

APPROPRIATION OR ALLOCATION

PART	GENERAL FUND		HIGHWAY FUND	
	1981-82	1982-83	1981-82	1982-83
A	—	—	\$83,603,524	\$82,948,472
B	—	\$15,482,226	—	—

REVENUES

PART	GENERAL FUND		HIGHWAY FUND	
	1981-82	1982-83	1981-82	1982-83
A	—	—	\$3,317,136	\$3,874,790

STATEMENT OF FACT

The purpose of Part A of this bill is to allocate funds from the Highway Fund.

The purpose of Part B of this bill is to appropriate funds from the General Fund for the State Police and Motor Vehicles Division in the 2nd year of the biennium.

The purpose of Part C of this bill is to provide equitable financial assistance to municipalities for their use in maintaining and improving local roads in lieu of current categorical assistance programs. The bill repeals provisions relating to the snow removal reimbursement, state aid construction and town road improvement programs and amends other provisions relating to state and state aid highways. The bill also establishes a Local Road Assistance Program.