

# MAINE STATE LEGISLATURE

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Date: 3-19-12

(Filing No. S-452)

**TRANSPORTATION**

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE  
SENATE  
125TH LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 421, L.D. 1367, Bill, "An Act To Restore Maine's Secondary Roads"

Amend the bill by striking out all of section 1.

Amend the bill by striking out all of sections 3 to 7 and inserting the following:

**Sec. 3. 23 MRSA §754, sub-§1**, as enacted by PL 1999, c. 473, Pt. C, §3, is amended to read:

**1. Jurisdiction.** Except as otherwise provided, all state and state aid highways within compact areas of urban compact municipalities, as defined in subsection 2, as determined by the department must be maintained in good repair by the town in which the highways are located at the expense of the town. Municipalities must be notified one year in advance of changes in compact or built-up sections that place additional maintenance responsibilities on the municipalities. Municipalities may waive the requirement of the one-year notice. When any town neglects to maintain the highways within 14 days after notice given its municipal officers by the department, the department may proceed to make necessary repairs to that way, which must be paid for by the State and the cost for the repairs must be withheld from funds due the town under the ~~Urban-Rural Initiative~~ Local Road Assistance Program, established in chapter 19, subchapter ~~VI~~ 6. The amounts collected from these towns must be added to the fund for maintenance of state and state aid highways.

**Sec. 4. 23 MRSA §1654**, as amended by PL 1985, c. 737, Pt. B, §21, is repealed.

**Sec. 5. 23 MRSA §1654-A** is enacted to read:

**§1654-A. Transfers from Highway Fund unallocated surplus**

At the close of each fiscal year, the State Controller shall transfer to the Department of Transportation, Secondary Road Program Fund, established in section 1803-C and referred to in this section as "the fund," the uncommitted balance in the Highway Fund unallocated surplus account. The amount transferred to the fund, when added to previous transfers to the fund for the fiscal year in which the uncommitted balance is transferred,

**COMMITTEE AMENDMENT**

1 may not exceed the program funding cap provided in section 1803-C, subsection 4. Any  
2 remaining uncommitted balance in the Highway Fund after the transfer to the fund must  
3 be transferred to the Department of Transportation, Highway and Bridge Capital  
4 program. The Commissioner of Transportation may allot these funds by financial order  
5 upon the recommendation of the State Budget Officer and the approval of the Governor.  
6 The transferred amounts are considered adjustments to allocations. Within 30 days after  
7 approval of the financial order, the Commissioner of Transportation shall provide to the  
8 joint standing committee of the Legislature having jurisdiction over transportation matters  
9 a report detailing the financial status of the Department of Transportation, Highway and  
10 Bridge Capital program.

11 For the purposes of this section, "uncommitted balance in the Highway Fund  
12 unallocated surplus account" or "uncommitted balance" means the amount remaining in  
13 the account at the close of the fiscal year after the deduction of all allocations, budgeted  
14 financial commitments and adjustments considered necessary by the State Controller.

15 The State Controller shall include in the State Controller's official annual financial  
16 report at the close of each fiscal year a statement showing all transfers made from the  
17 Highway Fund unallocated surplus account for the fiscal period.

18 **Sec. 6. 23 MRSA §1801**, as repealed and replaced by PL 1999, c. 473, Pt. D, §1,  
19 is amended to read:

20 **§1801. Findings and purpose**

21 Municipal transportation assistance funds must be targeted to the capital needs of  
22 rural roads and highways and must also reflect urban maintenance responsibilities on  
23 state and state aid roadways.

24 Municipal transportation assistance funds must be adjusted according to increases or  
25 decreases in Highway Fund resources available for transportation.

26 Responsibility for decisions regarding maintenance and improvement of roads must  
27 follow the principle that roads that primarily serve regional or statewide needs must be  
28 the State's responsibility, roads that primarily serve local needs must be a local  
29 responsibility and roads that primarily serve as minor collector routes and major collector  
30 routes may be improved through a partnership between municipalities and the State.

31 The Legislature recognizes that without municipal participation the State has few  
32 resources to make necessary capital improvements to state aid minor collector highways  
33 and state aid major collector highways.

34 The purpose of the ~~Urban-Rural Initiative~~ Local Road Assistance Program  
35 established in this subchapter is to provide equitable financial assistance to communities  
36 for their use in improving local roads, and maintaining state roads in urban compact  
37 areas. The purpose of the Secondary Road Program Fund established in this subchapter  
38 is to establish a partnership between communities and assisting the State in making  
39 capital improvements to state aid minor collector highways and state aid major collector  
40 highways.

1 In order to meet the purposes set out in this section, the ~~Urban Rural Initiative~~ Local  
2 Road Assistance Program has a ~~Rural Road Initiative~~ and an ~~Urban Compact Initiative~~  
3 rural road assistance and urban compact assistance funding as components.

4 **Sec. 7. 23 MRSA §1803-B**, as amended by PL 2001, c. 565, Pt. K, §1, is further  
5 amended to read:

6 **§1803-B. Local Road Assistance Program**

7 **1. Distribution and use of funds.** Funds from the ~~Urban Rural Initiative~~ Local  
8 Road Assistance Program must be distributed to each eligible municipality, county or  
9 Indian reservation ~~under the Rural Road Initiative and the Urban Compact Initiative~~  
10 through rural road assistance and urban compact assistance funding as follows.

11 A. ~~Rural Road Initiative~~ rural assistance funds must be distributed as follows.

12 (1) Funds are distributed at a rate of \$600 per year per lane mile for all rural state  
13 aid minor collector roads and all public roads maintained by a municipality  
14 located outside urban compact areas as defined in section 754, except that funds  
15 are distributed at a rate of \$300 per year per lane mile for all seasonal public  
16 roads.

17 (2) ~~Effective July 1, 2000, funds~~ Funds must be used for capital improvements  
18 as defined by this chapter, or for capital improvements to state aid minor  
19 collector roads highways and state aid major collector highways as described in  
20 ~~subsection 5~~ section 1803-C. In municipalities, counties and Indian reservations  
21 in which there are no rural state aid minor collector or major collector roads,  
22 funds may also be used for winter highway maintenance, acquisition of highway  
23 maintenance equipment or the construction of highway maintenance buildings if  
24 the governing legislative body affirmatively votes that its town ways and local  
25 bridges are in sufficiently good condition so as to not require significant repair or  
26 improvement for at least 10 years.

27 B. ~~Urban Compact Initiative~~ compact assistance funds must be distributed as  
28 follows.

29 (1) Funds are distributed at a rate of \$2,500 per year per lane mile for summer  
30 maintenance performed by municipalities on state and state aid highways in  
31 compact areas as defined in section 754. For each lane mile beyond the 2nd lane  
32 on a highway with more than 2 lanes, funds are reimbursed at a rate of \$1,250 per  
33 lane mile for summer maintenance in compact areas. Funds are distributed at a  
34 rate of \$1,700 per year per lane mile for winter maintenance performed by  
35 municipalities on state highways in compact areas as defined in sections 754 and  
36 1001 regardless of the number of lanes.

37 (2) Funds must be used only for the maintenance or improvement of public  
38 roads.

39 C. The ~~Urban Rural Initiative~~ Local Road Assistance Program payment defined as  
40 the combined ~~Urban Compact Initiative~~ urban compact assistance and ~~Rural Road~~  
41 ~~Initiative~~ rural road assistance annual payment to any municipality, county, or Indian

1 reservation may not be less than the fiscal year 1999 Local Road Assistance Program  
2 payment.

3 D. Beginning July 1, 2001, the annual funding dedicated for the ~~Urban Rural~~  
4 ~~Initiative~~ Local Road Assistance Program must bear the same percentage relationship  
5 to the sum of the General Fund and Highway Fund allocation to the ~~department~~  
6 Department of Transportation for highway purposes as was provided during fiscal  
7 year 2000-01. On July 1, 2001 and every July 1st thereafter, the ~~commissioner~~  
8 Commissioner of Transportation shall administratively adjust the base funding and  
9 the reimbursement rates per lane mile proportionately according to revenue available.

10 **2. Retention of allocation for Local Road Assistance Program.** Prior to  
11 apportioning funds to each municipality, the ~~department~~ Department of Transportation  
12 shall retain sufficient funds from the allocation for the ~~Urban Rural Initiative~~ Local Road  
13 Assistance Program to ensure equitable funds are provided for roads in unorganized areas  
14 and for administration.

15 **3. Payment of funds.** One quarter of the funds apportioned to each municipality  
16 must be paid by the State to the municipality before September 1st, December 1st, March  
17 1st and June 1st each year.

18 ~~**5. State aid minor collector capital projects.** State aid minor collector capital~~  
19 ~~projects as determined by the department are financed with contributions of Rural Road~~  
20 ~~Initiative funds not to exceed 33% of project costs with the remainder provided by the~~  
21 ~~State. Local funds other than Rural Road Initiative funds committed to the projects are~~  
22 ~~matched by state funds at the discretion of the department and at a ratio that may exceed~~  
23 ~~33% of local funds. If the department is not allocated sufficient funds to match offered~~  
24 ~~municipal funds, then the department must reject or defer any new municipal offers and~~  
25 ~~award matching funds to municipalities with pending offers based on a priority order~~  
26 ~~consistent with an established departmental 6 year plan for state aid minor collector~~  
27 ~~capital projects.~~

28 ~~**6. Municipal, county or Indian reservation administration.** Municipalities or~~  
29 ~~counties or Indian reservations may choose to administer rural minor collector capital~~  
30 ~~projects based on mutual agreement guided by policies and procedures adopted by the~~  
31 ~~department. The state share must be available prior to construction or contract.~~  
32 ~~Municipal, county or Indian reservation equipment and material contributions are~~  
33 ~~included as part of the contribution of Rural Road Initiative funds. Project cost overruns~~  
34 ~~or savings are shared by the municipality, county or Indian reservation and the State~~  
35 ~~according to the cost sharing ratio established in subsection 5. State savings must be~~  
36 ~~used for the purposes of state aid minor collector capital projects within the State.~~  
37 ~~Municipal, county or Indian reservation savings may be used for any purpose allowed~~  
38 ~~pursuant to subsection 1, paragraph A. At the discretion of the municipality, county or~~  
39 ~~Indian reservation, project cost savings including matched state funds may accrue entirely~~  
40 ~~toward additional or expanded minor collector state aid capital projects within that same~~  
41 ~~jurisdiction.~~

42 **Sec. 8. 23 MRSA §1803-C** is enacted to read:

1 **§1803-C. Secondary Road Program Fund**

2 **1. Establishment.** The Secondary Road Program Fund, referred to in this section as  
3 "the fund," is established as a dedicated account within the Department of Transportation,  
4 referred to in this section as "the department." The fund must be used for capital  
5 improvements to state aid minor collector highways and state aid major collector  
6 highways. The department shall administer the fund.

7 **2. Revenue.** The fund receives the following revenue:

8 A. Amounts that are transferred to the fund from time to time by the Treasurer of  
9 State pursuant to:

10 (1) Title 5, section 282, subsection 9; and

11 (2) Title 35-A, section 122, subsection 6-B;

12 B. Amounts from unallocated balances in the Highway Fund as provided in section  
13 1654-A; and

14 C. Other funds from any public or private source received for use for any of the  
15 purposes for which the fund has been established.

16 **3. Distribution and use of funds.** Up to 50% of project costs for a capital project  
17 on a state aid minor collector highway or state aid major collector highway as determined  
18 by the department may be financed from the fund with the remainder provided by the  
19 municipality, county or Indian reservation, except that the Commissioner of  
20 Transportation may authorize up to 80% of project costs for a capital project on a state  
21 aid minor collector highway or state aid major collector highway to be financed from the  
22 fund with the remainder provided by the municipality, county or Indian reservation if the  
23 municipality, county or Indian reservation demonstrates to the commissioner's  
24 satisfaction that the proposed project:

25 A. Addresses locations where there is a high incidence of vehicular accidents as  
26 defined by the department;

27 B. Creates a substantial number of new jobs for the region; or

28 C. Offers greater regional or statewide benefits relative to other similarly classified  
29 roads.

30 In determining local share of project costs for a capital project on a state aid minor  
31 collector highway or state aid major collector highway, the commissioner may consider  
32 the use of municipal, county or Indian reservation equipment, materials or in-kind  
33 services, an agreement to assume year-round capital and maintenance responsibilities for  
34 the project under consideration or a reduction in future Local Road Assistance Program  
35 payments.

36 A capital project on a state aid minor collector highway or state aid major collector  
37 highway may not be allotted funding from the Secondary Road Program Fund until the  
38 project and local financing is approved by a vote of the legislative body of the  
39 municipality, county or Indian reservation.

1           **4. Program funding cap.** The annual amount available for distribution under this  
2 section may not exceed \$4,000,000, and any remaining funds after all financial  
3 commitments have been made lapse to the department's Highway and Bridge Capital  
4 program within the Highway Fund at the end of each fiscal year.

5           **Sec. 9. 23 MRSA §1804**, as amended by PL 1999, c. 473, Pt. D, §5, is further  
6 amended to read:

7           **§1804. Municipal, county or Indian reservation requirements**

8           To be eligible to receive funds from the ~~Urban-Rural Initiative~~ Local Road  
9 Assistance Program, each municipality, county or Indian reservation shall, prior to  
10 August 1st each year, certify in a manner acceptable to the department that the funds are  
11 used in a manner consistent with this chapter. ~~To be guaranteed to receive state matching~~  
12 ~~funds for any Rural Road Initiative funds directed to state aid minor collector capital~~  
13 ~~projects, each municipality, county and Indian reservation, prior to May 1st of each even-~~  
14 ~~numbered year, shall submit a 6 year plan to the department describing the intended state~~  
15 ~~aid minor collector projects to be financed with funds currently available, funds provided~~  
16 ~~over the 6 year period beginning July 1st of the following year and any other funds or~~  
17 ~~financing. The report must include details sufficient to estimate needed state matching~~  
18 ~~funds, and must indicate whether the municipality intends to administer the project. The~~  
19 ~~report also must describe any funds held in reserve for future state aid minor collector~~  
20 ~~projects.~~

21           **Sec. 10. 23 MRSA §1807**, as enacted by PL 2001, c. 681, §1, is amended to read:

22           **§1807. Transit bonus payment program**

23           In order to promote the purposes of the Sensible Transportation Policy Act set forth  
24 in section 73, a transit bonus payment program is established. The program is governed  
25 by the provisions of this section.

26           **1. Application.** A municipality that increases its qualifying expenditures for transit  
27 over a base year may apply to the department for a transit bonus to the municipality's  
28 ~~Urban-Rural Initiative~~ Local Road Assistance Program payment, as ~~defined~~ described in  
29 section 1803-B.

30           **2. Qualifying expenditures for transit.** As used in this section, "qualifying  
31 expenditures for transit" means a municipality's total annual expenditures derived from  
32 municipal revenue sources that are used for the operations of a seasonal or year-round  
33 transit service that has been established for at least 3 years and that provides scheduled  
34 service for at least 3 days per week.

35           **3. Use of funds.** All funds distributed pursuant to this section must be used for the  
36 purposes set forth in sections 1801 and 1803-B.

37           **4. Program funding cap.** The annual amount available for distribution under this  
38 section may not exceed 2.5% of the annual funding dedicated for the ~~Urban-Rural~~  
39 ~~Initiative~~ Local Road Assistance Program. All funds not distributed each year lapse to  
40 the Department of Transportation, Highway and Bridge Capital program within the  
41 Highway Fund.

1           **5. Distribution of funds.** Beginning July 1, 2003, the department shall increase an  
2 ~~Urban-Rural Initiative~~ the Local Road Assistance Program payment for a municipality  
3 that applies under subsection 1 on a dollar-for-dollar basis. After the total of qualifying  
4 applications for reimbursement exceeds the annual amount available for distribution  
5 provided under subsection 4, funds must be apportioned according to the amount of each  
6 municipality's increase of qualifying expenditures, ridership or other factors determined  
7 by the department.

8           **6. Rules.** The commissioner shall adopt rules to implement this section. Rules  
9 adopted pursuant to this subsection are routine technical rules as defined in Title 5,  
10 chapter 375, subchapter ~~H-A~~ 2-A.

11           **Sec. 11. 23 MRSA §4210-C, sub-§3,** as enacted by PL 2005, c. 457, Pt. GGG,  
12 §3, is amended to read:

13           **3. Calculation.** The account is not considered a General Fund appropriation or  
14 Highway Fund allocation for highway purposes in order to calculate the annual funding  
15 for the ~~Urban-Rural Initiative~~ Local Road Assistance Program pursuant to section  
16 1803-B.'

17           Amend the bill by striking out all of sections 9 to 14 and inserting the following:

18           **'Sec. 9. 30-A MRSA §5721-A, sub-§4,** as amended by PL 2007, c. 662, §3, is  
19 further amended to read:

20           **4. Adjustment for new state funding.** If the State provides net new funding to a  
21 municipality for existing services funded in whole or in part by the property tax levy,  
22 other than required state mandate funds pursuant to section 5685 that do not displace  
23 current property tax expenditures, the municipality shall lower its property tax levy limit  
24 in that year in an amount equal to the net new funds. For purposes of this subsection,  
25 "net new funds" means the amount of funds received by the municipality from the State  
26 during the most recently completed calendar year, with respect to services funded in  
27 whole or in part by the property tax levy, less the product of the following: the amount of  
28 such funds received in the prior calendar year multiplied by one plus the growth  
29 limitation factor described in subsection 3. "Net new funds" refers to state-municipal  
30 revenue sharing and does not include changes in state funding for general assistance  
31 under Title 22, section 4311 or in state funding under the ~~Urban-Rural Initiative~~ Local  
32 Road Assistance Program under Title 23, section 1803-B if those changes are the result of  
33 the operation of the formula for calculation of state funding under that section but does  
34 include changes in funding that are the result of a statutory change in the formula for  
35 calculation of state funding under that section. If the calculation required by this  
36 subsection reveals that the municipality received a net reduction in funding, the  
37 municipality is authorized to adjust its property tax levy limit in an amount equal to the  
38 net reduction of funds. For the purpose of determining if there was a net reduction in  
39 funding, the municipality may consider only those funds that are net new funds. For  
40 purposes of this subsection, "net reduction in funding" means the amount of funds  
41 received by the municipality from the State during the calendar year immediately  
42 preceding the most recently completed calendar year less the amount of such funds  
43 received in the most recently completed calendar year. If the calculation required by this  
44 subsection yields a positive value, that value may be added to the municipality's property  
45 tax levy limit. If a municipality receives net new funds in any fiscal year for which its



1 property tax levy limit has not been adjusted as provided in this subsection, the  
2 municipality shall adjust its property tax levy limit in the following year in an amount  
3 equal to the net new funds.

4 **Sec. 10. 35-A MRSA §122, sub-§6-B** is enacted to read:

5 **6-B. Revenue from energy infrastructure corridors.** Notwithstanding subsection  
6 6-A, revenues generated from the use of statutory corridors designated under subsection  
7 1-A, paragraphs A and B owned by the Department of Transportation within energy  
8 infrastructure corridors must be deposited into the Secondary Road Program Fund  
9 established in Title 23, section 1803-C.

10 **Sec. 11. Effective date.** This Act takes effect July 1, 2013.'

11 Amend the bill by relettering or renumbering any nonconsecutive Part letter or  
12 section number to read consecutively.

### 13 SUMMARY

14 This amendment strikes from the bill the following:

15 1. The requirement that any balance remaining in the Law Enforcement Agency  
16 Reimbursement Fund at the end of the fiscal year must be transferred to the Secondary  
17 Roads Fund;

18 2. The requirement that any damages paid to the Department of Transportation must  
19 be transferred to the Secondary Roads Fund;

20 3. The requirement that any proceeds from leasing, letting or renting Department of  
21 Transportation property must be transferred to the Secondary Roads Fund;

22 4. The Commissioner of Transportation's authorization to allow, for a fee, the  
23 placement of off-premises signs within the right-of-way of an interstate highway, a state  
24 highway or state aid highway and the requirement that the fees collected by the  
25 Department of Transportation for the placement of such off-premises signs must be  
26 deposited into the Secondary Roads Fund;

27 5. The change to the proportional split between Highway Fund allocations and  
28 General Fund appropriations to the Department of Public Safety, Bureau of State Police  
29 budgetary appropriation program to 25% allocated from the Highway Fund and 75%  
30 appropriated from the General Fund and the requirement that an amount equal to 24% of  
31 state funding for the Bureau of State Police be allocated from the Highway Fund to the  
32 Secondary Roads Fund;

33 6. The increase of the annual fee for a vanity registration plate by \$10, from \$25 to  
34 \$35, to be deposited into the Secondary Roads Fund; and

35 7. The requirement that, except as otherwise provided, all fines for traffic infractions  
36 and other violations of the motor vehicle statutes accrue to the Secondary Roads Fund.

37 The bill establishes the Secondary Roads Fund as a dedicated account within the  
38 Department of Transportation for the purpose of financing capital improvements to state  
39 aid minor collector highways. This amendment changes the purpose of the Secondary  
40 Roads Fund to include financing capital improvements to state aid major collector

1 highways as well as state aid minor collector highways and changes its name to the  
2 Secondary Road Program Fund. This amendment also renames the Urban-Rural  
3 Initiative Program as the Local Road Assistance Program.

4 The bill provides that any revenue derived from the use of department land and assets  
5 for energy infrastructure development will no longer be deposited into the energy  
6 infrastructure benefits fund and will instead be deposited into the Secondary Roads Fund.  
7 This amendment clarifies that revenues generated from the use of designated statutory  
8 corridors, Interstate 295 and Interstate 95, not including that portion of Interstate 95  
9 designated as the Maine Turnpike, must be deposited into the Secondary Road Program  
10 Fund. Current law directs the Maine Turnpike Authority to negotiate with the  
11 Department of Transportation to govern the conditions under which the authority will  
12 grant an occupancy agreement for use of Maine Turnpike Authority property as part of  
13 the Interstate 95 statutory corridor.

14 This amendment changes the effective date of the bill from July 1, 2012 to July 1,  
15 2013.

FISCAL NOTE REQUIRED  
(See Attached)



# 125th MAINE LEGISLATURE

LD 1367

LR 887(02)

## An Act To Restore Maine's Secondary Roads

**Fiscal Note for Bill as Amended by Committee Amendment "A" S-452**

**Committee: Transportation**

**Fiscal Note Required: Yes**

### Fiscal Note

	FY 2011-12	FY 2012-13	Projections FY 2013-14	Projections FY 2014-15
<b>Appropriations/Allocations</b>				
Other Special Revenue Funds	\$0	\$0	\$500	\$500

#### Fiscal Detail and Notes

This legislation, which is effective July 1, 2013, establishes the Secondary Road Program Fund within the Department of Transportation. The bill includes a base allocation to the Department of Transportation of \$500 beginning in fiscal year 2013-14 to allow the department to spend any funds received.

The Fund may receive revenue derived from the use of department land and assets and designated statutory corridors for energy infrastructure development as well as any potential uncommitted balance in the Highway Fund unallocated surplus account calculated at the end of each fiscal year.