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Final Report of the Committee to Study Appropriate Funding of the State Police

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Table of Contents

Page

Executive Summary i

I. Background 1

II. Flow of Highway Funds to DPS and BSP 3

III. The "Funding Split" 6

IV. Use of the Highway Fund to "Support" the General Fund 7

V. Recent Activities Leading to Study 8

VI. Findings and Recommendations 10

Appendices

A. Copy of Joint Order creating study
B. List of Members
C. Draft Legislation
D. Copy of Article IX, §19 of Maine Constitution (formatted for ease of reading)
E. Copy of the State law (P.L. 1931, chapter 251) that created the Highway Fund
F. Copy of 23 MRSA §§1651-1655 (General Highway Fund chapter)
G. Copy of 29-A MRSA 2602 (law directing that portion of certain fines and forfeitures for violations of traffic laws be deposited in the HF)
H. Copy of first paragraph of 5 MRSA 1589 (provision which governs lapsing balances)
I. Copy of 25 MRSA §1509 (directing 60-40 split for Bureau of State Police)
J. Copy of Sec. F-1 of LD 1790, "An Act to Secure Maine's Transportation Future" (engrossed version, establishing a Legislative intent that the GF portion of the Bureau of State Police budget be 51%)
K. Copy of Transportation Committee Letter requesting OPEGA review
L. Copy of OPEGA Report
M. Copy of Transportation Committee Letter requesting AG opinion
N. AG Opinion in response to Transportation Committee request
O. Other relevant AG opinions
P. Highway Fund Revenue, SFYs 1996-2007
Q. Highway Fund Revenue, SFYs 2002-2006 (with percentages)
R. OFPR Comparison of Funding Actions Taken by the General Fund (GF) and the Highway Fund (HF) to Support Each Other: FY 88 to FY 07
S. All Appropriation Programs within DPS that receive HF dollars, SFYs 2000-2009 (in dollars and in percentages)
T. All Appropriation Programs within DPS and the Bureau of State Police that receive HF dollars, (graphs and spreadsheet) for SFY 2007
U. Department of Public Safety responses to questions asked by this study committee during September 24, 2007 meeting
V. Meeting Summaries

EXECUTIVE SUMMARY

The issue of appropriate funding for the Bureau of State Police, in particular the use of Highway Funds to support State Police activities related to "state enforcement of traffic laws," is complex, of long standing, and of constitutional significance.

The Maine Constitution, Article IX, §19, specifies that certain revenues (e.g. from the gasoline tax and certain other fees and taxes on motor vehicle owners) be used only for certain highway purposes. Among the permitted uses of the constitutionally protected revenues is funding the "expense for state enforcement of traffic laws." In a July 2007 opinion, the Attorney General, echoing earlier opinions on the same issue, concluded that the Legislature "has a responsibility to make a good faith, fact-based determination as to the uses of Highway Fund money that comply with the limitations of Article IX, section 19 of the Maine Constitution."

In their February 2007 report, the Office of Program Evaluation and Government Accountability (OPEGA) concluded that since there is no operational definition of "state enforcement of traffic laws," it is impossible to fully ascertain which activities within the Bureau of State Police are "Highway Fund eligible." OPEGA also found that a lack of reliable activity data makes it difficult to determine which Department of Public Safety (DPS), Bureau of State Police "activities and associated costs are eligible to be paid from the Highway Fund."

Furthermore, the budgeting mechanisms which allocate Highway Fund money to the Department of Public Safety are complex. Various sources of revenue (Highway Fund, General Fund, federal funds and other special revenue) are appropriated or allocated to organizational units through various appropriation programs. Legislative debate regarding the appropriate funding of the Bureau of State Police, however, has historically focused principally on the Highway Fund and General Fund portions of one appropriation program (AP), State Police AP 0291.

The Committee to Study Appropriate Funding of the State Police was created by joint order (S.P. 725) during the First Regular Session of the 123rd Maine Legislature. The joint order directed the study committee to:

- Examine the formula for funding the Department of Public Safety, Bureau of State Police from the General Fund and the Highway Fund;
- Examine the final report of the Office of Program Evaluation and Government Accountability issued in February 2007 entitled "Highway Fund Eligibility at the Department of Public Safety - an Analysis of Select Departmental Activities;"
- Examine any other information the committee determines appropriate; and
- Develop recommendations for appropriate funding for the Department of Public Safety, Bureau of State Police.

The study committee was comprised of 13 legislators with members from three different joint standing committees: transportation, criminal justice and public safety, and appropriations and financial affairs.

The study committee did not come to a consensus. Findings and recommendations are divided into two reports: Report "A," the majority report is supported by seven members; Report "B" is supported by four members. Two members, Senator Karl Turner and Representative Kimberley Rosen, were absent at the time of the study committee's final vote.

Report "A" (Majority Report):

Findings: The majority of committee members find that:

A. The current data with regard to State Police activity related to state enforcement of traffic laws is limited and inadequate for the purposes of precisely determining appropriate funding for State Police appropriation program 0291 from the Highway Fund;

B. The current initiative underway at DPS, Bureau of State Police to collect activity data will be helpful in providing better information for determining appropriate funding levels;

C. The current 60/40 split of the Highway Fund and General Fund portions of the State Police appropriation program 0291 is not supported by currently available data, imperfect as that data may be; and

D. Currently available data, including the OPEGA report and information from DPS itself, while imprecise and imperfect, does indicate that the portion of the Bureau of State Police activities funded by appropriation program 0291 that are related to "state enforcement of traffic laws" (the portion constitutionally eligible to be funded by the Highway Fund) is less than 50% and that the General Fund portion of the funding split between the Highway Fund and General Fund for appropriation program 0291 should be greater than 50%.

Recommendations:

1. Funding ratio. The majority recommends more General Fund support of the State Police appropriation program 0291. The majority recognizes that currently available data does not allow for precision in establishing the portion of that appropriation program that is eligible for Highway Fund support; however, it estimates that the General Fund portion of State Police appropriation program 0291 is greater than 50% and would more accurately reflect the existing data than the current 60/40 split. Unless and until further data collection supports a more accurate determination of the funding split, the General Fund portion of State Police appropriation program 0291 should be greater than 50% beginning with the State fiscal years 2010-2011 biennial State budget.

2. Review. The majority recommends that the Joint Standing Committees on Appropriations and Financial Affairs, Criminal Justice and Public Safety, and Transportation review the findings and recommendations of the study committee's report

as well as available activity data reported by the State Police when developing the State Police Budget for State fiscal years 2010-2011.

Members voting for Report "A" are as follows: Senator Dennis Damon, Rep. Anne Haskell, Rep. Richard Sykes, Rep. Bill Browne, Rep. Ed Mazurek, Rep. Patrick Flood, and Rep. Ann Peoples.

Report "B" (Minority Report):

Findings: Supporters of report "B" find that:

A. The current data with regard to State Police activity related to state enforcement of traffic laws is limited and inadequate for the purposes of precisely determining appropriate funding for State Police appropriation program 0291 from the Highway Fund;

B. The current initiative underway at DPS, Bureau of State Police to collect activity data will be helpful in providing better information for determining appropriate funding levels; and

C. Current data suggests that some change in the funding split between the Highway Fund and General Fund portions of the State Police appropriation program 0291 may be appropriate, but the data is not adequate to justify any specific change in the current 60/40 split.

Recommendations:

1. Funding ratio. Supporters of report "B" recommend that the Joint Standing Committee on Transportation submit legislation during the Second Regular Session of the 123rd Maine Legislature that would direct the Governor to use the data collected by the State Police activity reporting system as a guide when developing budget proposals respecting the allocation of Highway Funds to the Bureau of the State Police, in particular proposals regarding the funding ratio between the Highway Fund and General Fund portions of State Police appropriation program 0291. The Governor should be directed to follow this guideline in developing the State fiscal years 2010-2011 biennial State budget and subsequent budget proposals.

2. Reporting. Supporters of report "B" recommend that the Joint Standing Committee on Transportation submit legislation during the Second Regular Session of the 123rd Maine Legislature directing the Department of Public Safety, Bureau of State Police to submit a report to the Joint Standing Committee on Transportation that includes the State Police activity reporting system data that has been collected. The report should be submitted in January of the First Regular Session of the 124th Maine Legislature.

Members voting for Report "B" are as follows: Senator Bill Diamond, Rep. Stanley Gerzofsky, Rep. Gary Plummer, and Rep. Margaret Craven.

I. Background

The discussion of appropriate funding of the Department of Public Safety (DPS), Bureau of State Police (BSP), or, more particularly, what proportion of the Bureau's budget should be paid from the Highway Fund, is of long standing.

The issue of State Police funding has its origins in the creation of the gasoline tax in 1923 and a policy at both the federal and State levels that revenues from that tax, as well as from other taxes on motor vehicle owners, be applied solely for highway purposes. At the federal level, the policy took form in a federal law, passed in 1934 (codified at 23 USC §126, repealed in 1998) that conditioned allocation of federal funds on a state's application of such tax revenues to highway purposes. At the State level, the policy took form in a State law passed through a citizen initiative in 1936 that directed certain revenues to be placed in the Highway Fund (created in 1931)[1] and used only for certain highway-related purposes. In 1943, the policy took a slightly altered form and was elevated to constitutional status through approval of a constitutional amendment that took effect on Oct. 27, 1944 (Maine Constitution, Article IX, §19, copy attached as **Appendix D**).

Among the permitted uses of the constitutionally protected revenues is funding the "expense for state enforcement of traffic laws."

When the gas tax was created in 1923, the State Police was called the State Highway Police and charged with enforcing motor vehicle statutes.[2] In 1925, the Legislature enlarged the agency's powers to allow it to enforce all State laws and in 1935 its name was changed to the State Police. In 1972, DPS was formed and the State Police was incorporated into the new department. Over the years, the duties and activities of the State Police have expanded. This has resulted in an on-going issue: What portion of State Police activities continues to be related to "state enforcement of traffic laws" and thus eligible to be funded using constitutionally protected funds?

The Highway Fund is not mentioned in the State Constitution. The revenues currently placed in the Highway Fund are described in statute (23 MRSA §1653, the current codified and slightly altered version of the law passed by citizen initiative in 1936, copy attached as **Appendix F**); that description is different from the list of revenues protected under the Constitution (see Table 1). Notably, the Highway Fund receives certain fines and forfeitures resulting from violations of certain highway laws, though these are not listed as protected revenue under the Constitution. Consequently, the constitutional limitations on the use of certain revenues appear to apply to some, but not all, of the revenue in the Highway Fund.[3]

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[1] P.L. 1931, chapter 251 established the Highway Fund (copy attached as **Appendix E**). The current codified General Highway Fund chapter, which is markedly different that the original 1931 law, in Title 23 §§1651 – 1655 is attached as **Appendix F**.

[2] See The History of the State Police provided on the Bureau's website at http://www.maine.gov/dps/msp/about/message.html.

[3] See Opinion of the Attorney General, July 5, 2007, attached as **Appendix N**.

Table 1. Revenue Placed in HF compared with Constitutionally Protected Revenue

Revenue Placed in Highway Fund pursuant to Statute 23 MRSA 1653	Constitutionally Protected Revenue under Maine Constitution Article IX, §19
All revenue received by the State from • the *registration* of motor vehicles and the *licensing* of operators thereof • permits granted by the department to open highways • the tax imposed on internal combustion engine fuel • fines, forfeitures and costs accruing to the State under Title 29-A, section 2602[4]	All revenues derived from fees, excises and license taxes relating to • *registration, operation and use* of vehicles on public highways (expressly excluding revenue from excise tax on motor vehicles imposed in lieu of personal property tax) • fuels used for propulsion of such vehicles

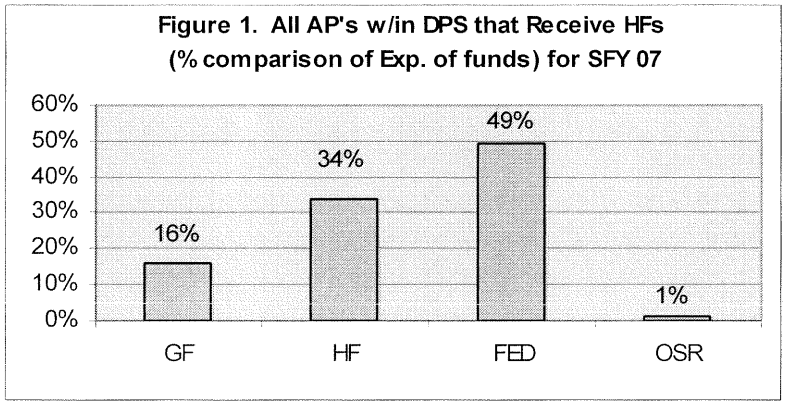
Nevertheless, the vast majority of Highway Fund revenues appear to be constitutionally protected.[5] For most purposes it is useful and sufficiently accurate to refer to and consider funds in the Highway Fund as constitutionally protected. As a result, the question of what portion of the budget of the Bureau of the State Police is eligible to receive constitutionally protected funds is often phrased: What proportion of the Bureau's budget should be paid from the Highway Fund? The answer has varied. Obviously the tasks of the State Police have changed over time. Other factors have also played a role. In addition, there are aspects of the budgeting mechanisms that make consideration of the question potentially complex and confusing.

[4] Copy of Title 29-A, §2602 is attached as **Appendix G**.

[5] In State Fiscal Year (SFY) 2007, $1,668,000 in revenues from fines, forfeits and penalties was deposited in the HF; total HF revenues amounted to $330,821,083. Thus less than 1% of the HF revenues derived from these particular revenues.

II. Flow of Highway Funds to DPS and BSP

There are various funds from which money is appropriated or allocated to DPS, i.e., General Fund, Highway Fund, other special revenue funds, and federal expenditure funds.[6] These funds are channeled to organizational units within DPS through budgetary appropriation programs. There are 19 appropriation programs that fund DPS; seven of which receive Highway Fund dollars.[7] Two of these seven appropriation programs (APs) fund organizational units outside the Bureau of State Police: the DPS administration AP 0088 and the Bureau of Highway Safety AP 0457. The breakdown of expenditures by revenue source for all seven appropriation programs that receive Highway Funds for SFY 2007 is as follows: 16% General Fund, 34% Highway Fund, 49% federal expenditure funds, and 1% other special revenue (see Figure 1).



The Bureau of State Police is an organizational unit within DPS. There are nine appropriation programs that fund the Bureau of State Police. Five of the nine appropriation programs are either partly or wholly funded by the Highway Fund (see Table 2). The breakdown of expenditures by revenue source for those five appropriation programs is as follows: 27% General Fund, 57% Highway Fund, 6% federal expenditure funds, and 10% other special revenue (see Figure 2).

As Figure 3 illustrates, a majority of the Department of Public Safety's Highway Fund expenditures are within the Bureau of State Police (in SFY 2007, approximately 97%).[8]

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[6] According to the Office of Fiscal and Program Review, appropriations are "the total amount of estimated expenditures authorized by the Legislature from unrestricted or undesignated resources of a current nature (i.e., the General Fund)." Allocations, on the other hand, are "the total amount of estimated expenditures authorized by the Legislature from resources legally restricted or otherwise designated for specific operating purposes." All non-General Fund sources are allocated including, but not limited to, the Highway Fund, other special revenue, and federal expenditure funds. Because appropriations and allocations are estimated expenditures and often differ from what has actually been expended once a fiscal year closes, data for past fiscal years are presented as actual expenditures, and not referred to as appropriations or allocations. It also should be noted that funds cannot be moved from one fund to another without specific legislative authorization. Unencumbered or unexpended balances lapse back into the fund they came from (5 MRSA §1589 governs lapsing balances; copy attached as **Appendix H**).

[7] The number of appropriation programs may vary slightly over the course of time. The number of appropriation programs for the Department of Public Safety and the Bureau of State Police are current as of the closing of SFY 2007.

[8] In SFY 2007, DPS expenditures from the HF amounted to $36,806,433; of these expenditures, $35,622,386 was expended within the Bureau of State Police.

Table 2. Appropriation Programs (APs) that fund the Bureau of State Police (SFY 2007)

AP #	AP Name	Revenue Source
0291	State Police	GF, ***HF***, FEF, OSR
0293	Liquor Enforcement	GF, OSR
0329	Motor Vehicle Inspection	***HF***
0546	Traffic Safety	***HF***
0547	Turnpike Enforcement	OSR
0712	Licensing & Enforcement	OSR
0715	Commercial Vehicle Enforcement	***HF***
0981	State Police Support	***HF***
0992	Background Checks - Certified Nursing Assistants	GF

Abbreviation Key	
GF	General Fund
HF	Highway Fund
FEF	Federal Expenditure Funds
OSR	Other Special Revenue

Table 3. All DPS APs outside BSP that receive Highway Funds (SFY 2007)

AP #	AP Name	Revenue Source
0088	DPS Administration	GF, ***HF***, FEF, OSR
0457	Bureau of Highway Safety	***HF***, FEF, OSR

Figure 2. All AP's w/in BSP that Receive HFs (% comparison of Exp. of funds) for SFY 07

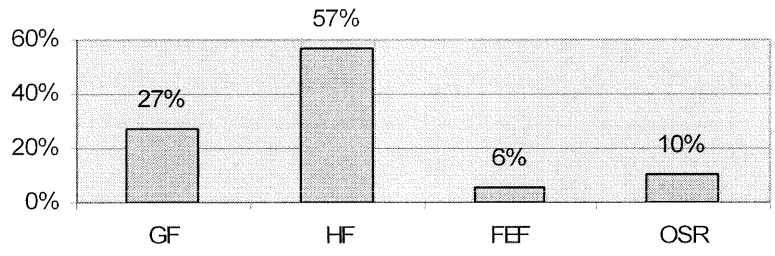
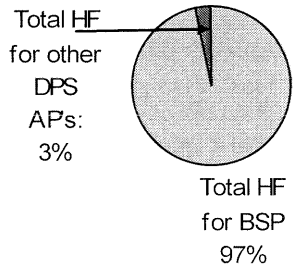


Figure 3. HF Expenditures for BSP compared to HF Expenditures for Other DPS APs (SFY 07)



For a good illustration of how money flows from the various funds to the various organizational units through appropriation programs, see the table on the third unnumbered page at the beginning of the report, "Highway Fund Eligibility at the Department of Public Safety – an Analysis of Select Departmental Activities, February 2007" (hereinafter, the "OPEGA Report"), attached as **Appendix L**.

The State Police AP 0291 is the only appropriation program within the Bureau that receives both Highway Funds and General Funds. The four other appropriation programs within the Bureau of State Police that receive Highway Fund revenue are wholly funded by the Highway Fund. The State Police AP (0291) is commonly the focus of debate with respect to the question: What proportion of the Bureau's budget should be paid from the Highway Fund?

There are several sources of funds for AP 0291 (including federal funds and other special revenue) (see Figure 4); however, in SFY 2007 the General Fund (GF) and Highway Fund (HF) together made up approximately 91% of this appropriation program.

The State Police AP 0291 receives the bulk, though not all, of Highway Funds allocated to DPS for activities related to the enforcement of traffic laws. In 2007, about 79% of Highway Funds expended by DPS were within AP 0291 (see Figure 5).

Appropriation program 0291 funds a majority of the Bureau's expenditures – approximately 81% in 2007 (see Figure 6).

Figure 4. Funding Sources for State Police AP 0291 (by % of Total Exp. for SFY 07)

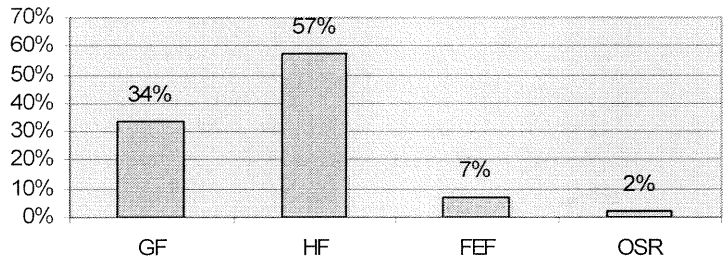


Figure 5. HF Expenditures for AP 0291 compared to HF Expenditures for Other DPS APs (SFY 07)

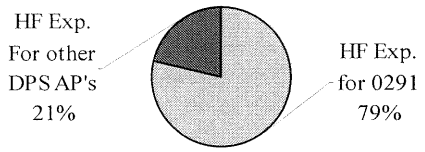
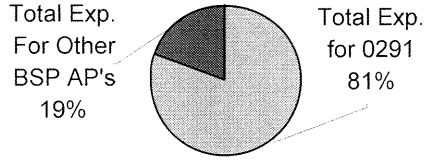
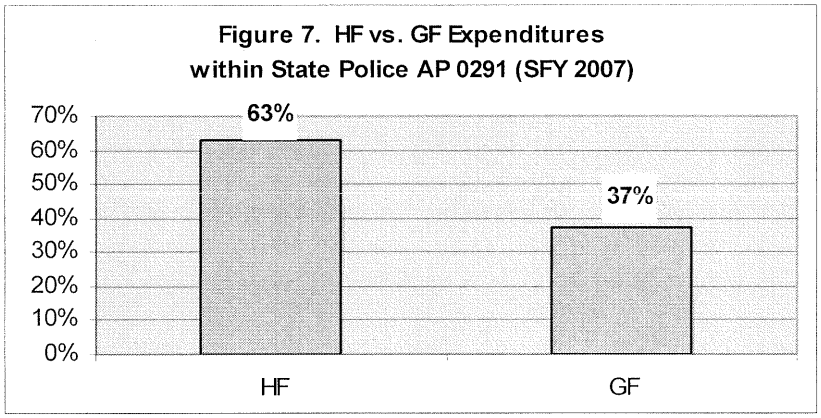


Figure 6. Total Expenditures for AP 0291 compared to Total Expenditures for Other BSP APs



III. The "Funding Split"

The legislative debate with regard to the amount of Highway Funds to support BSP historically has focused on the ratio of HF and GF portions of State Police appropriation program 0291. This is commonly referred to as the "funding split." The funding split does not take into account federal expenditure funds and other special revenue within AP 0291. It is important to keep this in mind since the Highway Fund portion of the split changes depending on what is included in the calculation. For example, as shown in Figure 4 above, in SFY 2007, the percent of *total* expenditures by funding source for the State Police appropriation program were as follows: Highway Fund at 57%, General Fund at 34%, federal expenditure funds at 7%, and other special revenue at 2%.[9] However, as shown in Figure 7 below, looking only at the split of the Highway Fund and General Fund portions of the State Police appropriation program for SFY 2007 (excluding the other funding sources), the HF was 63% and the GF was 37%.



While the actual proportion of the Bureau's budget that comes from the Highway Fund is determined during each budget process, current law (25 MRSA §1509, copy attached as **Appendix I**) directs that beginning in SFY 2007-2008, funding for Bureau of State Police should be provided as follows: 60% Highway Fund and 40% General Fund. The Legislature is not bound by its prior enactments; actual allocation of Highway Funds to the Bureau is the result of each year's budget enactment. Even before enactment of 25 MRSA §1509, however, a 60/40 split tended to be used as a sort of benchmark against which actual funding has been compared; for some time, the debate on the split has tended to start at 60/40 and then it is adjusted from there. The origin of and basis for using this particular benchmark is obscure.

As noted above, the 60/40 split has generally been applied specifically to the Highway Fund (HF) and General Fund (GF) portions of the State Police appropriation program 0291, not to the total

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[9] These percentages were rounded to the nearest whole number. The more precise percentages are as follows: Highway Fund at 57.3%, General Fund at 33.7%, Federal Expenditure Fund at 7.2%, and other special revenue at 1.8%.

funding for the Bureau of the State Police. Funding the State Police appropriation program 0291 and funding the Bureau of the State Police are not the same: in SFY 2007, 19% (see Figure 6) of the Bureau's budget came through other appropriation programs. Also, as noted above, appropriation program 0291 includes funds from sources other than the Highway Fund and the General Fund. In SFY 2007, these two funds accounted for about 91% of appropriation program 0291. In addition, it needs to be borne in mind that a significant portion of the total Highway Funds allocated to the department are allocated through other appropriation programs (about 21% of the total HF expenditures in SFY 2007 were in other appropriation programs; see Figure 5). Nevertheless, other appropriation programs that allocate funds to the department have generally not been included in the "funding split" question (though the Legislature does separately look at all appropriation programs and determine the amount of Highway Fund allocations made to each).

IV. Use of the Highway Fund to "Support" the General Fund

The discussion of the use of Highway Funds to support the State Police (or DPS more generally) has sometimes included concerns about the use of the Highway Fund to "support" the General Fund in times of budgetary need. In the context of the discussion of such concerns, the Legislature's Office of Fiscal and Program Review (OFPR) has produced a financial summary of actions taken between SFY 1988 and SFY 2007 that involve the use of the General Fund to support highway-related activities (in the summary indicated as support of the Highway Fund) and actions that could be viewed as the use of the Highway Fund to support the General Fund. The summary is attached as **Appendix R**.

It is important to note that the OFPR summary is based on certain assumptions that are indicated in the explanations provided on the summary. Each instance in which the Highway Fund is identified as "supporting" the General Fund does not represent a conclusion that the use of the Highway Fund was inappropriate or contrary to restrictions placed on the use of constitutionally protected revenues; instead, it represents a variation either from prior allocation practices or from an assumed baseline. For instance, the summary uses a 60/40 Highway Fund/General Fund split as the baseline for the State Police appropriation program 0291; instances in which the actual Highway Fund portion was over 60% are noted as "support" by the Highway Fund of the General Fund (variations in which the General Fund portion was over 40% are also noted as "support" by the General Fund of the Highway Fund). This 60/40 split, as noted earlier, has long been used as a starting point or benchmark in the debate about the appropriate split (though, again, the origin of and basis for the benchmark is obscure). The summary should not be read to suggest that a 60/40 split would have been the "correct" split in any particular year; rather, the summary simply compares the actual split determined by the Legislature with this perhaps somewhat arbitrary, though long-standing baseline.

In several instances the OFPR summary notes that Highway Funds were used to "reimburse the GF for funds provided for highway improvement projects." The summary shows that for the 19 years it analyzes, the amount of General Fund support for highway purposes, including the several General Fund transportation bonds noted at the end of the summary, exceeds the amount of reimbursement provided by the Highway Fund.

V. Recent Activities Leading to Study of Appropriate Funding of the State Police

A. OPEGA Report

In 2005, the Transportation Committee requested that the Office of Program Evaluation and Government Accountability (OPEGA) examine the "Department of Public Safety's Bureau of State Police, Bureau of Highway Safety, and Administrative Services to determine [if] the amount of State Highway Funds spent on highway related activities is warranted."[10]

In February 2007, OPEGA issued its report that, among other things, found "two critical elements" unavailable: an operational definition of Highway Fund eligibility, and activity data that is closely linked, or can easily be linked, with financial data."[11] According to the report, the lack of these elements means that "the question of which Department activities should be supported by the HF will likely continue to be argued well into the future, with HF allocations to the Department continuing to be unrelated to the actual activities performed" (OPEGA report p. 3).

Nevertheless, the OPEGA report does offer some rough estimate ranges for Highway Fund eligibility for activities funded by three appropriation programs: the State Police AP 0291, the DPS Administration AP 0088, and the Bureau of Highway Safety AP 0457. The OPEGA analysis looks only at the HF and GF portions of these three appropriation programs. OPEGA estimated that between 17% and 34% of the costs associated with activities funded by the State Police appropriation program (0291) are eligible to be paid from the Highway Fund. The report also estimated that the Bureau of Highway Safety appropriation program (0457) is eligible to receive between 82% and 100% of its State funding from the Highway Fund. Finally, OPEGA estimated the DPS Administration appropriation program (0088) is eligible to receive between 29% and 41%.[12]

The Transportation Committee reviewed the OPEGA report during the First Regular Session of the 123rd Legislature and in May of 2007 requested that the Attorney General provide an opinion with regard to the committee's and the Legislature's obligations under the Maine Constitution in light of the OPEGA report.[13]

B. Creation of the Study Committee

Also during the First Regular Session of the 123rd Legislature, the Transportation Committee reported out the joint order establishing this study. The joint order was passed in both bodies (SP 725, copy attached as **Appendix A**) and directs this committee to:

- Examine the formula for funding the Department of Public Safety, Bureau of State Police from the General Fund and the Highway Fund;

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[10] A copy of the letter making the request is attached as **Appendix K**.
[11] OPEGA Report p. 2.
[12] Ibid.
[13] A copy of the letter requesting the opinion is attached as **Appendix M**.

- Examine the final report of the Office of Program Evaluation and Government Accountability issued in February 2007 entitled "Highway Fund Eligibility at the Department of Public Safety - an Analysis of Select Departmental Activities;"
- Examine any other information the committee determines appropriate; and
- Develop recommendations for appropriate funding for the Department of Public Safety, Bureau of State Police.

C. Recent Legislation

In addition, during the First Regular Session, the 123rd Legislature took the following actions on the following legislation related to the funding of the Bureau of the State Police:

- Passed the Highway Fund budget (LD 327) which together with the General Fund budget (LD 499) resulted in the following HF/GF percentages for the three appropriation programs reviewed by OPEGA that fund or support State Police traffic enforcement activities (excludes funding sources other than the HF and GF):

	2008		2009	
Appropriation Program (AP)	**HF %**	**GF %**	**HF %**	**GF %**
State Police AP (0291)	60%	40%	60%	40%
Bureau of Highway Safety AP (0457)	81%	19%	81%	19%
DPS Administration AP (0088)	70%	30%	70%	30%

- Passed a significant new highway policy act, LD 1790, "An Act to Secure Maine's Transportation Future." The majority report of the Transportation Committee proposed the following GF/HF formula for the Bureau of the State Police: In FY 2010, a 50/50 split; over the following six years an incremental increase in the GF percentage and reduction in the HF percentage so that in FY 2016 and thereafter the GF/HF ratio would be 75/25. The bill was subsequently amended on the Appropriations Table to remove this funding formula; in its place, the following "intent of the Legislature" was inserted: that by FY 2011-2012, the percentage of State funding from the GF for the Bureau should be 51%. Certain fiscal issues were raised after the bill was enacted and the bill is currently awaiting action by the Governor; it is expected to be returned to the Legislature or recalled from the Governor's desk during the Second Regular Session of the 123rd Legislature for further action.[14]

- LD 1726, "Resolution, Proposing an Amendment to the Constitution of Maine to Guarantee the Integrity of the Highway Fund," a bill carried over in the Transportation Committee, proposes to amend the State Constitution to prohibit expenditures from the Highway Fund for any purposes other than those specifically related to highways.

[14] After the study committee completed its deliberations and finalized this report, but before printing, LD 1790 became law, P.L. 2007, chapter 470, without the Governor's signature as it was not returned to the Legislature nor recalled from the Governor's desk within three days of the reconvening of the 123rd Legislature.

D. Attorney General Opinion

In July 2007, after the end of the legislative session but prior to the convening of this study, the Attorney General issued an opinion on the question propounded by the Transportation Committee (copy of the opinion is attached as **Appendix N**). The opinion concludes that the Legislature "has a responsibility to make a *good faith, fact-based determination* as to the uses of Highway Fund money that comply with the limitations of Article IX, section 19 of the Maine Constitution." It also suggested that "the courts will likely defer to the Legislature's judgment on these factual issues *as long as there is a reasonable basis for that judgment*" (opinion p. 8, emphasis added).

VI. Findings and Recommendations

The study committee was charged with developing recommendations for appropriate funding for the Department of Public Safety (DPS), Bureau of State Police.

The committee discussed the complexities inherent in this funding issue, including the limits imposed by the Maine Constitution on the use of certain revenues to fund State Police activities and the fact that the Bureau receives funding from a variety of sources through more than one appropriation program.

As noted earlier in this report, the State Constitution restricts the use of certain revenues derived from certain fees and taxes relating to operation and use of vehicles on public highways: these revenues may only be used for certain constitutionally specified highway-related purposes. The Highway Fund is a repository for these constitutionally protected revenues.[15] The Constitution permits the use of these protected revenues to fund the costs of State enforcement of traffic laws. In the context of the use of the Highway Fund to fund the Bureau of the State Police, the constitutional issue centers on this question: What portion of Bureau's activities is related to enforcement of traffic laws?

The Bureau currently receives funding through nine appropriation programs; five of these appropriation programs receive Highway Funds. Of these five appropriation programs, four currently receive only Highway Funds (Motor Vehicle Inspection appropriation program, Traffic Safety appropriation program, Commercial Vehicle Enforcement appropriation program, and State Police Support appropriation program). The fifth appropriation program that receives Highway Funds, State Police appropriation program 0291, also receives money from the General Fund, other special revenue and federal funds.

The debate about the appropriate funding of the Bureau of the State Police has historically focused on State Police appropriation program 0291. In particular, the focus has been on the appropriate funding split between the Highway Fund and General Fund portions of State Police appropriation program 0291 (setting aside other funding sources for 0291).

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[15] As noted earlier in this report, not all revenues placed in the Highway Fund are constitutionally protected. However, it appears that less than 1% is not so protected. See page 2 above.

Consequently, the committee decided mainly to focus its attention on the HF/GF "funding split" issue with respect to State Police appropriation program 0291.

The committee has not found consensus on this issue. Findings and recommendations are divided into two reports: Report "A," the majority report, is supported by seven members and Report "B," the minority report, is supported by four members. Two members, Senator Karl Turner and Representative Kimberley Rosen, were absent at the time of the study committee's final vote.

Report "A" (Majority Report)

Findings: The majority of committee members find that:

A. The current data with regard to State Police activity related to state enforcement of traffic laws is limited and inadequate for the purposes of precisely determining appropriate funding for State Police appropriation program 0291 from the Highway Fund;

B. The current initiative underway at DPS, Bureau of State Police to collect activity data will be helpful in providing better information for determining appropriate funding levels;

C. The current 60/40 split of the Highway Fund and General Fund portions of the State Police appropriation program 0291 is not supported by currently available data, imperfect as that data may be; and

D. Currently available data, including the OPEGA report and information from DPS itself, while imprecise and imperfect, does indicate that the portion of the Bureau of State Police activities funded by appropriation program 0291 that are related to "state enforcement of traffic laws" (the portion constitutionally eligible to be funded by the Highway Fund), is less than 50% and that the General Fund portion of the funding split between the Highway Fund and General Fund for that appropriation program 0291 should be greater than 50%.

Recommendations:

1. Funding ratio. The majority recommends more General Fund support of the State Police appropriation program 0291. The majority recognizes that currently available data does not allow for precision in establishing the portion of that appropriation program that is eligible for Highway Fund support; however, it estimates that the General Fund portion of the State Police appropriation program 0291 is greater than 50% and would more accurately reflect the existing data than the current 60/40 split. Unless and until further data collection supports a more accurate determination of the funding split, the General Fund portion of State Police appropriation program 0291 should be greater than 50% beginning with the State fiscal years 2010-2011 biennial State budget.

2. Review. The majority recommends that the Joint Standing Committees on Appropriations and Financial Affairs, Criminal Justice and Public Safety, and Transportation review the findings and recommendations of this report as well as available activity data reported by the State Police when developing the State Police Budget for State fiscal years 2010-2011.

Members voting for Report "A" are as follows: Senator Dennis Damon, Rep. Anne Haskell, Rep. Richard Sykes, Rep. Bill Browne, Rep. Ed Mazurek, Rep. Patrick Flood, and Rep. Ann Peoples.

Report "B" (Minority Report)

Findings: Supporters of report "B" find that:

A. The current data with regard to State Police activity related to state enforcement of traffic laws is limited and inadequate for the purposes of precisely determining appropriate funding for State Police appropriation program 0291 from the Highway Fund;

B. The current initiative underway at DPS, Bureau of State Police to collect activity data will be helpful in providing better information for determining appropriate funding levels; and

C. Current data suggests that some change in the funding split between the Highway Fund and General Fund portions of the State Police appropriation program 0291 may be appropriate, but the data is not adequate to justify any specific change in the current 60/40 split.

Recommendations:

1. Funding ratio. Supporters of report "B" recommend that the Joint Standing Committee on Transportation submit legislation during the Second Regular Session of the 123rd Maine Legislature that would direct the Governor to use the data collected by State Police activity reporting system as a guide when developing budget proposals respecting the allocation of Highway Funds to the Bureau of the State Police, in particular proposals regarding the funding ratio between the Highway Fund and General Fund portions of State Police appropriation program 0291. The Governor should be directed to follow these guidelines in developing the State fiscal years 2010-2011 biennial State budget and subsequent budget proposals.

2. Reporting. Supporters of report "B" recommend that the Joint Standing Committee on Transportation submit legislation during the Second Regular Session of the 123rd Maine Legislature directing the Department of Public Safety, Bureau of State Police to submit a report to the Joint Standing Committee on Transportation that includes the State Police activity reporting system data that has been collected. The report should be submitted in January of the First Regular Session of the 124th Maine Legislature.

Members voting for Report "B" are as follows: Senator Bill Diamond, Rep. Stanley Gerzofsky, Rep. Gary Plummer, and Rep. Margaret Craven.

S.P. 725

ORDERED, the House concurring, that the Committee To Study Appropriate Funding of the State Police is established as follows.

1. Committee To Study Appropriate Funding of the State Police established. The Committee To Study Appropriate Funding of the State Police, referred to in this order as "the committee," is established.

2. Membership. The committee consists of the following 13 members:

A. Three members of the Senate, appointed by the President of the Senate, 2 of whom serve on the Joint Standing Committee on Transportation and one of whom serves on the Joint Standing Committee on Criminal Justice; and

B. Ten members of the House of Representatives, appointed by the Speaker of the House, 5 of whom serve on the Joint Standing Committee on Transportation and 5 of whom serve on the Joint Standing Committee on Criminal Justice.

3. Committee chairs. The first-named Senator is the Senate chair of the committee and the first-named member of the House is the House chair of the committee.

4. Appointments; convening of committee. All appointments must be made no later than 30 days following passage of this order. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been made. When the appointment of all members has been completed, the chairs of the committee shall call and convene the first meeting of the committee.

5. Duties. The committee shall examine the formula for funding the Department of Public Safety, Bureau of State Police from the General Fund and the Highway Fund. The committee shall examine the final report of the Office of Program Evaluation and Government Accountability issued in February 2007 entitled "Highway Fund Eligibility at the Department of Public Safety - an Analysis of Select Departmental Activities" and any other information the committee determines appropriate. The committee shall develop recommendations for appropriate funding for the Department of Public Safety, Bureau of State Police.

6. Staff assistance. The Legislative Council shall provide necessary staffing services to the committee.

7. Compensation. Legislative members of the committee are entitled to receive the legislative per diem and reimbursement for travel and other necessary expenses related to their attendance at authorized meetings of the committee.

8. Funding. To the extent funding for the study described in this joint order is provided from the Highway Fund by appropriate allocation or other provision of law, the committee is funded from such funds. If such funding is not provided, or if the committee requires additional funding, the committee may be funded from other available funding sources as approved by the Legislative Council.

9. Report. No later than December 5, 2007, the committee shall submit a report that includes its findings and recommendations, including suggested legislation, to the Joint Standing Committee on Transportation and the Joint Standing Committee on Criminal Justice. Pursuant to Joint Rule 353, the committee is not authorized to introduce legislation. Upon receipt of the report required by this section, the Joint Standing Committee on Transportation may, pursuant to Joint Rule 353, introduce a bill during the session in which the report is submitted to implement its recommendations on matters relating to the study.

APPENDIX B

List of Members

COMMITTEE TO STUDY APPROPRIATE FUNDING OF THE STATE POLICE

Membership List

Appointment(s) by the President:

Sen. Dennis S. Damon, Chair
Sen. Bill Diamond
Sen. Karl W. Turner

Appointment(s) by the Speaker:

Rep. Anne M. Haskell, Chair
Rep. Anne E. Peoples
Rep. William P. Browne
Rep. Margaret M. Craven
Rep. Stanley J. Gerzofsky
Rep. Richard M. Sykes
Rep. Patrick S. Flood
Rep. Edward J. Mazurek
Rep. Gary E. Plummer
Rep. Kimberley C. Rosen

STAFF:

Karen Nadeau-Drillen, Legislative Analyst
Jon Clark, Deputy Director

Office of Policy and Legal Analysis
Cross State Office Building
2nd Floor, Rm. 215

(207) 287-1670

APPENDIX C

Draft Legislation

Proposed DRAFT Legislation
To implement the Majority Report of the
Committee to Study the Appropriate Funding of the State Police

Sec. 1. 25 MRSA §1509 is amended to read:

§1509. Funding

~~Beginning in fiscal year 2007-08, state funding for the Department of Public Safety, Bureau of State Police must be provided as follows:~~ Unless activity data collected after January 1, 2008 relating to the activities funded by the State Police budgetary appropriation program clearly supports a different funding ratio, beginning in fiscal year 2010-2011, the ratio between the amount of Highway Fund allocations and the amount of General Fund appropriations to State Police budgetary appropriation program must be as follows:

1. Highway Fund. ~~Sixty percent~~ Less than fifty percent must be allocated from the Highway Fund pursuant to Title 23, section 1653; and

2. General Fund. ~~Forty percent~~ More than 50 percent must be appropriated from the General Fund.

For purposes of this section, "State Police budgetary appropriation program" means a legislative budgetary appropriation program that provides funding from both the Highway Fund and General Fund and that provides funding for activities of the Department of Public Safety, Bureau of State Police, including activities relating to the State enforcement of traffic laws.

SUMMARY

This bill, which implements the majority report of the Committee to Study the Appropriate Funding of the State Police, amends current law relating to the funding split between the Highway Fund and General Fund for the Department of Public Safety, Bureau of State Police.

Current law directs that state funding for the bureau be allocated as follows: 60% from the Highway Fund and 40% from the General Fund.

This bill provides that, unless activity data collected after January 1, 2008 relating to the activities funded by the State Police budgetary appropriation program clearly supports a different funding split, beginning in fiscal year 2010-2011, the proportional split between Highway Fund allocations and General Fund appropriations to State Police budgetary appropriation program must be as follows: less than fifty percent must be allocated from the Highway Fund and more than 50 percent must be appropriated from the General Fund. The bill also provides a definition of "State Police budgetary appropriation program."

Proposed DRAFT Legislation
To implement the Minority Report of the
Committee to Study the Appropriate Funding of the State Police

Sec. 1. 5 MRSA §1666 is amended to read:

§1666. Review and revision of estimates

The Governor-elect or the Governor, with the assistance of the State Budget Officer, shall review the budget estimates, altering, revising, increasing or decreasing the items of the estimates as may be determined necessary in view of the needs of the various departments and agencies and the total anticipated income of the State Government during the ensuing biennium. This review must cover all budgets regardless of source of funds, including, but not limited to, budgets related to the Highway Fund, the Federal Revenue Sharing Fund and other special revenue funds. The State Budget Officer, at the direction of the Governor-elect or the Governor shall then prepare a state budget document in the form required by law. The Governor-elect or the Governor is fully responsible for all budgetary recommendations made to the Legislature. The Governor shall transmit the budget document to the Legislature not later than the Friday following the first Monday in January of the first regular legislative session. At that time the Governor shall also transmit any emergency bills that authorize additional appropriations or allocations in the current fiscal year that the Governor may wish to propose. A Governor-elect elected to a first term of office shall transmit the budget document to the Legislature not later than the Friday following the first Monday in February of the first regular legislative session. At that time the Governor-elect shall also transmit any emergency bills that authorize additional appropriations or allocations in the current fiscal year that the Governor may wish to propose. [PL 2005, c. 601, § 4 (AMD).]

The Governor, when submitting the budget to the Legislature, shall submit the budget document and the General Fund and Highway Fund bills in a manner that identifies the gross amount of resources for each program. The gross unified budget bills and budget document encompass resources from the General Fund, Highway Fund, Federal Expenditures Fund, Federal Block Grant Fund, Other Special Revenue Funds, internal service funds and enterprise funds. Separate gross unified budget bills must be submitted for the General Fund and the Highway Fund. All funds except trust and agency funds, bond funds and costs of goods sold expenditures in internal service funds and enterprise funds are subject to legislative allocation. All programs with Highway Fund allocations and all internal service funds, enterprise funds and Other Special Revenue Funds accounts of the Department of Transportation are subject to legislative allocations and are presented for informational purposes only in the budget document and General Fund budget bills unless a separate Highway Fund budget is not enacted. [PL 2005, c. 601, § 4 (AMD).]

A budget document transmitted by the Governor or Governor-elect must include a part that asks the Legislature whether it wishes to continue funding each individual tax expenditure provided in the statutes. For purposes of this paragraph, "tax expenditures" means those state tax revenue losses attributable to provisions of Maine tax laws that allow a special exclusion, exemption or deduction or provide a special credit, a preferential rate of tax or a deferral of tax liability. The

part must include for each tax expenditure a statutory section reference, a brief description of each tax expenditure and the loss of revenue estimated to be incurred by funding source and fiscal year. This paragraph applies with respect to the preparation of the budget document for the 2008-2009 biennium and thereafter.

The Governor-elect or the Governor, in developing recommendations for funding the Department of Public Safety, Bureau of State Police, shall review and use as a guide available data identifying or quantifying the activities of the Department of Public Safety, Bureau of State Police that may be eligible for such funding pursuant to the Maine Constitution, Article IX, Section 19. This paragraph applies with respect to the preparation of the budget document for the 2010-2011 biennium and thereafter.

Sec. 2. 25 MRSA § 1509 is repealed.

Sec. 3. Report. The Department of Public Safety, Bureau of State Police, shall report no later than January 30, 2009 to the joint standing committee having jurisdiction over transportation matters the activity data collected by the bureau during calendar year 2008 under the tracking and reporting system it has established to track state police officers' work activity.

SUMMARY

This bill, which implements the minority report of the Committee to Study the Appropriate Funding of the State Police, requires the Governor-elect or the Governor, in developing budgetary recommendations for funding the Department of Public Safety, Bureau of State Police, to review and use as a guide available data identifying or quantifying the activities of the Department of Public Safety, Bureau of State Police that may be eligible for such funding pursuant to the Maine Constitution, Article IX, Section 19. This provision applies to the preparation of the budget document for the 2010-2011 biennium and thereafter. The bill also repeals the current provision of law that specifies a particular state funding split between the General Fund and the Highway with respect to the bureau.

The bill also requires the Department of Public Safety, Bureau of State Police, to report by January 30, 2009 to the joint standing committee having jurisdiction over transportation matters the activity data collected by bureau during 2008 under its new data reporting system designed to track police officers' work activity.

APPENDIX D

Copy of Article IX, §19 of Maine Constitution
(formatted for ease of reading)

ME CONSTITUTION ARTICLE IX, §19

Section 19. Limitation on expenditure of motor vehicle and motor vehicle fuel revenues. All revenues derived from fees, excises and license taxes relating to registration, operation and use of vehicles on public highways, and to fuels used for propulsion of such vehicles shall be expended solely for cost of administration, statutory refunds and adjustments, payment of debts and liabilities incurred in construction and reconstruction of highways and bridges, the cost of construction, reconstruction, maintenance and repair of public highways and bridges under the direction and supervision of a state department having jurisdiction over such highways and bridges and expense for state enforcement of traffic laws and shall not be diverted for any purpose, provided that these limitations shall not apply to revenue from an excise tax on motor vehicles imposed in lieu of personal property tax.

Version of same provision showing each element separated (for ease of reading)

All revenues derived from fees, excises and license taxes relating

to registration, operation and use of vehicles on public highways, and

to fuels used for propulsion of such vehicles

shall be expended solely for

cost of administration, statutory refunds and adjustments, payment of debts and liabilities incurred in construction and reconstruction of highways and bridges,

the cost of construction, reconstruction, maintenance and repair of public highways and bridges under the direction and supervision of a state department having jurisdiction over such highways and bridges and

expense for state enforcement of traffic laws

and shall not be diverted for any purpose,

provided that these limitations shall not apply to revenue from an excise tax on motor vehicles imposed in lieu of personal property tax.

APPENDIX E

Copy of the State law (P.L. 1931, chapter 251) that created the Highway Fund

1931

Chapter 251.

AN ACT to Establish a General Highway Fund, and Relating to the Construction and Maintenance of State, State Aid and Third Class Highways.

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

Sec. 1. General highway fund established. To provide funds for the construction of state aid and third class highways, for the maintenance of state and state aid highways and interstate, intrastate and international bridges, and for other items of expenditure hereinafter specified, there is hereby established a fund to be known as "the general highway fund." This fund shall include all fees received from the registration of motor vehicles and licensing of operators thereof, the receipts from the tax of one mill on the valuation of the state known as the mill tax highway fund, the receipts from the tax on gasoline and internal combustion motor fuels, the appropriation of three hundred thousand dollars provided for in section forty-two of chapter twenty-eight of the revised statutes, all fines, forfeitures and costs accruing to the state under section one hundred eighteen of chapter twenty-nine of the revised statutes, and all sums received on account of the state highway commission for permits to open highways or from other sources the disposition of which is not otherwise designated by law.

Sec. 2. Apportionment of the "general highway fund". After the payment therefrom of such sums for interest and retirement as are necessary to meet the provisions of bond issues for state highway and bridge construction, the remainder of the general highway fund shall be segregated, apportioned and expended as follows:

1. One hundred sixty thousand dollars annually for the payment of the expense of registering motor vehicles and licensing the operators thereof.

2. One hundred sixty thousand dollars annually for the maintenance of the state highway police.

3. One hundred sixty-five thousand dollars annually for the administration of the office and carrying out the duties of the state highway commission.

4. One hundred ninety thousand dollars annually for the administration of the tax on gasoline and internal combustion motor fuels and for the payments of rebates provided by said tax.

5. One hundred fifty thousand dollars annually for defraying appropriations for highway and bridge construction by special legislative resolves.

6. Two million, seven hundred thousand dollars annually for the construction of state aid roads, including roads constructed under the three towns act and the five times act, so-called; provided, however, that in the event that applications for state expenditure under this purpose exceed the available amount set up as above, allotments to the several towns shall be reduced in equal proportions on all classes of state aid highway.

7. Seven hundred thousand dollars annually for the construction of third class roads.

8. The remainder for the maintenance of state and state aid highways and interstate, intrastate and international bridges, including the state's share of the cost of snow removal.

Sec. 3. Allocation changed providing gasoline tax is increased. In the event that an act of the present legislature increasing the tax on gasoline shall become effective, there shall be segregated, apportioned and expended annually instead of the amounts set forth in section two, for the fourth purpose two hundred twenty thousand dollars, and for the sixth purpose three million two hundred thousand dollars; in addition the sum of two hundred fifty thousand dollars annually for rural free delivery roads; and the remainder of the general highway fund, including therein the proceeds of such increased tax on gasoline shall, after carrying out the first, second, third, fifth and seventh purposes, be used for maintenance according to the eighth purpose.

Sec. 4. Unexpended balances; lapses; transfers. Such unexpended balances of the general highway fund as have been set up for general construction and maintenance of highways and bridges shall be deemed non-lapsing carrying accounts. All other unexpended balances shall lapse into the general highway fund at the end of each fiscal period. Transfers from one account of the general highway fund to another account shall be made only with the approval of the governor and council.

Sec. 5. Repealing clause. All acts and parts of acts inconsistent with this act are hereby amended to conform to the provisions hereof.

Approved April 3, 1931.

APPENDIX F

Copy of 23 MRSA §§1651-1655 (General Highway Fund chapter)

23 MRSA §§1651-1655

23 § 1651. Definition

To provide funds for the construction of state, state aid and town ways, for the maintenance of state and state aid highways, and interstate, intrastate and international bridges, and for other items of expenditure specified, there is established a fund to be known as the General Highway Fund. This fund shall include all fees received from the registration of motor vehicles and licensing of operators thereof, all fees accruing to the Treasurer of State under Title 25, section 1502, the receipts from the tax on internal combustion engine fuels, and all sums received on account of the department for permits to open highways, or from other sources, the disposition of which is not otherwise designated by law. After payment from said General Highway Fund of such sums for interest and retirement as are necessary to meet the provisions of bond issues for state highway and bridge construction, the remainder of said fund shall be segregated, apportioned and expended as provided by the Legislature.

23 § 1652. Unexpended balances nonlapsing, nontransferable

Such unexpended balances of the General Highway Fund as have been set up for general construction and maintenance of highways and bridges shall be deemed nonlapsing carrying accounts. All other unexpended balances shall lapse into the General Highway Fund at the end of each fiscal period, but shall not lapse or be transferred to the General Fund in the Treasury.

Any balance of any allocation or subdivision of an allocation from the Highway Fund made by the Legislature for any department or agency, which at any time may not be required for the purposes named in that allocation or subdivision, may be transferred at any time prior to the closing of the books, to any other allocation or subdivision of an allocation from the Highway Fund made by the Legislature for the same fiscal year subject to review by the joint standing committee of the Legislature having jurisdiction over transportation. Financial orders describing these transfers shall be submitted by the Bureau of the Budget to the Office of Fiscal and Program Review 30 days before the transfer is to be implemented.

23 § 1653. Limitation on use of fund

All revenue received by the State from the registration of motor vehicles and the licensing of operators thereof, from the tax imposed on internal combustion engine fuel, from fines, forfeitures and costs accruing to the State under Title 29-A, section 2602, and from permits granted by the department to open highways must be segregated, allocated to and become part of the General Highway Fund created and existing by statute, and after payment and deduction from such fund of such sums as are necessary to meet all provisions of bond issues for state highway and bridge construction, the remainder of such fund must be apportioned and expended solely:

1. Registration and licensing. For the cost of registering motor vehicles and licensing the operators thereof;

2. State police. For maintenance of the State Police;

3. Administration of office. For administration of the office and duties of the department;

4. Administration of fuel tax. For administration of the tax on internal combustion engine fuel;

5. Rebates. For payment of rebates on said tax;

6. Highways and bridges. For the improvement, construction and maintenance of highways and bridges;

7. Snow guards. For snow guards or removal as provided by statute.

Neither the General Highway Fund, nor any fund derived from direct taxation imposed for highway construction, bridge construction or the improvement and maintenance thereof, shall be diverted or expended, permanently, for any other purpose than set forth in this section, except that funds so segregated may be used for other appropriations but only those for which anticipated income has not been received and for which financial provision has been made by the Legislature and is forthcoming. The Treasurer of State is directed and authorized to reimburse the General Highway Fund by a deposit of the funds received from such aforesaid appropriations, the receipt of which has been anticipated, to the extent of the amounts temporarily diverted therefrom. Such deposits shall be made as soon as such revenues are collected.

23 § 1654. Transfers from unallocated highway fund surplus

The Governor may allocate from the unallocated highway fund surplus account amounts not to exceed in total the sum of $1,000,000 in any 2-year budget period.

Funds may be allocated from the account to meet any emergency expense necessarily incurred under any requirement of law or to pay expenses arising out of an emergency requiring an expenditure of money not provided by the Legislature. The Governor shall determine the necessity for these allocations upon consultation with the Commissioner of Transportation and the State Budget Officer.

All such allocations from the highway fund surplus account shall be supported by a statement of facts setting forth the necessity for the allocation. A copy of each order for an allocation, together with the statement of facts, shall be provided to the Office of Fiscal and Program Review, President of the Senate and Speaker of the House of Representatives when the allocation is made.

The State Controller shall include in his official annual financial report at the close of each fiscal year a statement showing all transfers made from the highway fund surplus account for the fiscal period.

23 § 1655. Building Renovations Account

1. Account established. The Building Renovations Account, referred to in this section as the "account," is established in the Highway Fund within the department. The purpose of the account is to maintain temporary control and accountability over the receipt of funds through allocations, transfers or from other various sources that are earmarked for the building renovation project at the Department of Transportation main facility in the Capitol Complex.

2. Nonlapsing account. Any unexpended money remaining in the account at the end of a fiscal year may not lapse but must be carried forward.

3. Transfer authority. The commissioner or the Commissioner of Administrative and Financial Services may transfer funds from the account within the Department of Transportation to the Capital Construction and Improvement Reserve Fund, established in Title 5, section 1742-F, subsection 1 within the Department of Administrative and Financial Services, Bureau of General Services. Funds may be transferred and allotted by financial order upon recommendation of the State Budget Officer and approval of the Governor to be used toward the expenditures of the building renovation project.

APPENDIX G

Copy of 29-A MRSA 2602 (law directing that portion of certain fines and forfeitures for violations of traffic laws be deposited in the HF)

29A MRSA §2602

29A § 2602. Jurisdiction

1. Traffic infractions. The District Court has original and exclusive jurisdiction over prosecutions for traffic infractions.

2. Other violations. The District Court has original and concurrent jurisdiction with the Superior Court over prosecutions for other violations of this Title.

3. Class C or greater. For Class C or greater crimes, the District Court jurisdiction is subject to Title 4, section 165 and Title 17-A, section 9.

4. Fines. Except as otherwise provided in this Title, fines and forfeitures collected under this Title accrue to the General Fund, except that:

A. Six percent of fines and forfeitures collected for all traffic infractions, including fines and forfeitures collected for traffic infractions under section 561-A, accrues to the Law Enforcement Agency Reimbursement Fund established in Title 4, section 173, subsection 4-B. This paragraph does not apply to sections 525, 1767 and 2363;

B. Of the fines and forfeitures collected *for traffic infractions* under sections 511, 2354, 2356, 2360, 2380, 2387 and 2388, 7% accrues to the General Fund, 6% accrues to the Law Enforcement Agency Reimbursement Fund and the balance accrues to the General Highway Fund; and

C. Of the fines and forfeitures collected for violations *other than traffic infractions* under sections 511, 2354, 2356, 2360, 2380, 2387 and 2388, only $5 or 13%, whichever is greater, accrues to the General Fund and the balance accrues to the Highway Fund.

APPENDIX H

Copy of first paragraph of 5 MRSA 1589
(provision which governs lapsing balances)

The first paragraph of Title 5 §1589 governs lapsing balances:

5 § 1589. Appropriations and allocation balances

The State Controller may close the books as soon as practicable after the close of the fiscal year. Any bills or invoices presented after that date may be paid from appropriations or allocations for the ensuing year on the recommendation of the State Controller if within the amounts of approved allotments. At the end of each fiscal year, unencumbered appropriation and allocation balances lapse into the appropriate fund and are not available unless authorized by law. Encumbered balances may not be carried forward more than once at the end of a fiscal year, except that all encumbered balances and accounts for financial assistance and regional planning grants in accordance with Title 30-A, chapter 187 may be carried forward for 2 years beyond the year in which those balances are encumbered.

APPENDIX I

Copy of 25 MRSA §1509 (directing 60-40 split for Bureau of State Police)

Title 25, §1509, Funding

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§1509. Funding

Beginning in fiscal year 2007-08, state funding for the Department of Public Safety, Bureau of State Police must be provided as follows: [2005, c. 664, Pt. R, §1 (new).]

1. Highway Fund. Sixty percent must be allocated from the Highway Fund pursuant to Title 23, section 1653; and [2005, c. 664, Pt. R, §1 (new).]

2. General Fund. Forty percent must be appropriated from the General Fund. [2005, c. 664, Pt. R, §1 (new).]

PL 2005, Ch. 664, §R1 (NEW).

APPENDIX J

Copy of Sec. F-1 of LD 1790, "An Act to Secure Maine's Transportation Future"
(engrossed version, establishing a Legislative intent that the GF portion
of the Bureau of State Police budget be 51%)

LD 1790 – "An Act to Secure Maine's Transportation Future"

Part F of Engrossed Bill

(After the study committee completed its deliberations and finalized this report, but before printing, LD 1790 became law, P.L. 2007, chapter 470, without the Governor's signature as it was not returned to the Legislature nor recalled from the Governor's desk within three days of the reconvening of the 123rd Legislature.)

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

APPENDIX K

Copy of Transportation Committee Letter requesting OPEGA review

SENATE

DENNIS S. DAMON, DISTRICT 28, CHAIR
BILL DIAMOND, DISTRICT 12
CHRISTINE R. SAVAGE, DISTRICT 22

NICOLE A. DUBE, LEGISLATIVE ANALYST
LOCK KIERMAIER, LEGISLATIVE ANALYST
KATHIE BILODEAU, COMMITTEE CLERK

STATE OF MAINE

HOUSE

BOYD P. MARLEY, PORTLAND, CHAIR
CHARLES D. FISHER, BREWER
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SONYA G. SAMPSON, AUBURN
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ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

COMMITTEE ON TRANSPORTATION

MEMORANDUM

DATE: June 9, 2005

TO: Beth Ashcroft, Director
Office of Program Evaluation and Program Accountability

FROM: Senator Dennis Damon, Chair
Representative Boyd Marley, Chair
Joint Standing Committee on Transportation

RE: Transportation Committee Recommendations for OPEGA Review

---

In response to your April 12, 2005 survey, the Joint Standing Committee on Transportation has identified the following programs within the Office of the Secretary of State and the Department of Public Safety recommended for review:

Office of the Secretary of State

- **Bureau of Motor Vehicles**

    - *Computer Migration Project*: In 2001, the State awarded an $11.4 million contract to Keane, Inc. to transition its 30-year old mainframe computer system to a web-based computer system by 2002. The Committee is aware that the project has experienced several financial and management problems resulting in the transfer of project management back to the BMV in 2004. Given that the project has not yet been completed, the Committee feels that an independent evaluation of its efficiency and organization is critical.

    - *Branch Offices*: The committee believes a review of the efficiency of the BMV branch offices is warranted.

- **Office of Investigations**
  The Committee understands that this office performs functions that may be duplicated by other agencies and feels that an evaluation of its cost-effectiveness, efficiency and organization is warranted.

Department of Public Safety

The Committee feels that an evaluation of the Department of Public Safety's Bureau of State Police, Bureau of Highway Safety and Administrative Services to determine the amount of State Highway Funds spent on highway related activities is warranted.

Please let us know if you have any questions or would like any additional information. Thank you for your consideration of our recommendations.

Cc: Members, Joint Standing Committee on Transportation

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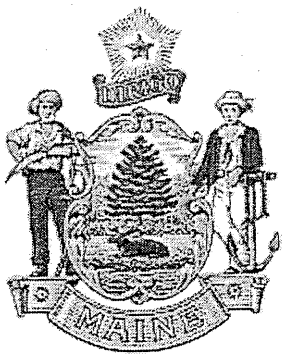
APPENDIX L

Copy of OPEGA Report

Analytical Study

FINAL REPORT

February 2007



Highway Fund Eligibility at the Department of Public Safety — an Analysis of Select Departmental Activities

Report No. SR-HFUPS-06

a report to the
Government Oversight Committee
from the
Office of Program Evaluation & Government Accountability
of the Maine State Legislature

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ABOUT OPEGA & THE GOVERNMENT OVERSIGHT COMMITTEE

The Office of Program Evaluation and Government Accountability (OPEGA) was created by statute in 2003 to assist the Legislature in its oversight role by providing independent reviews of the agencies and programs of State Government. The Office began operation in January 2005. Oversight is an essential function because legislators need to know if current laws and appropriations are achieving intended results.

Although the Maine Legislature has always conducted budget reviews and legislative studies, until OPEGA, the Legislature had no independent staff unit with sufficient resources and authority to evaluate the efficiency and effectiveness of Maine government. The joint legislative Government Oversight Committee (GOC) was established as a bipartisan committee to oversee OPEGA's activities.

OPEGA's reviews are performed at the direction of the Government Oversight Committee. Legislators, committees, or members of the public should make their requests for reviews to members of the Committee or OPEGA directly.

Copies of OPEGA's reports are free.
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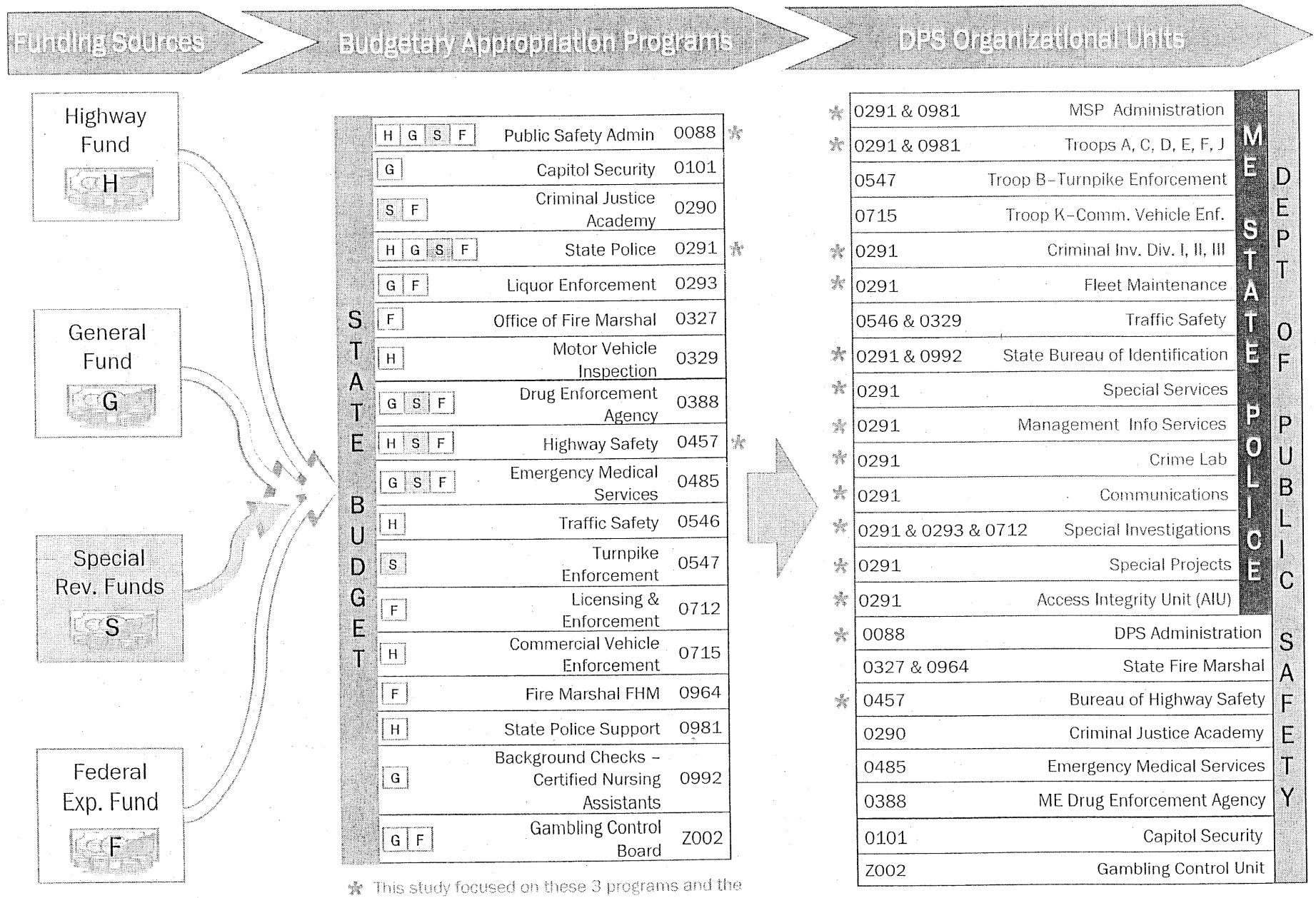
Flow of Funding from State and Federal Funds to DPS Organizational Units (as of SFY 2006)



* This study focused on these 3 programs and the corresponding DPS organizational units.

See reverse for detailed activities of MSP units.

MSP Organizational Units	Primary Activities (during SFY 2005 & 2006)
MSP Administration	Overseeing the operations of the Maine State Police
Troops A, C, D, E, F, J	Patrolling roads, responding to citizen calls, conducting traffic and criminal investigations, operating on special teams (for example: bomb team, dive team, or K-9 team)
Troop B-Turnpike Enforcement	Enforcing traffic laws on the Maine Turnpike
Troop K-Commercial Vehicle Enforcement	Enforcing State size and weight laws for commercial vehicles
Criminal Investigation Divisions I, II, III	Investigating major and complex crimes including homicides, kidnapping, child abuse, burglaries, aggravated assaults, and missing persons
Fleet Maintenance	Purchasing, maintaining, and disposing of the MSP fleet of vehicles
Traffic Safety	Coordinating focused traffic enforcement efforts throughout the State, regulating motor vehicle inspection stations, performing air search and rescue, providing aerial photography of crash or crime scenes, investigating automobile accidents, performing accident reconstruction
State Bureau of Identification	Maintaining criminal records for the State of Maine, responding to public and government criminal history requests, storing fingerprint records, maintaining the State's sex offender registry
Special Services	Overseeing the special teams (including bomb team, K-9 team, crisis negotiations team, tactical team, and dive team), providing criminal intelligence services, facilitating ongoing professional training for MSP personnel, coordinating all homeland security for the DPS, managing supplies required for uniformed MSP personnel
Management Information Systems	Providing information systems support for all MSP functions
Crime Lab	Examining and analyzing physical evidence from crash and crime scenes, performing forensic exams of seized computers, performing DNA analysis on material recovered from crash or crime scenes, identifying and processing fingerprints or other impressions left at crash or crime scenes, processing film associated with investigations
Communications	Providing emergency and business communications for a number of entities (including MSP) via dispatch, managing FBI Uniform Crime Reporting (UCR) statistics for Maine
Special Investigations	Licensing and enforcing laws regarding non-profit gaming and concealed firearms permits, licensing manufacturers, distributors, and retailers of alcohol, enforcing State liquor license laws, regulating gambling activities at the Hollywood Slots facility, protecting Maine's Governor and any other dignitaries requiring protection
Special Projects	Overseeing any special projects as needed, implementing an internal quality assurance process
Access Integrity Unit (AIU)	Providing access, support, and training for all State and federal law enforcement databases

Table of Contents

EXECUTIVE SUMMARY

Introduction — 1

Results of Analysis — 2

Conclusions — 2

FULL REPORT

Introduction — 4

Methods — 6

Analysis: Maine State Police — 10

Brief History and Current Activities — 10

Current Organization, Expenditures, and Staffing — 12

The State Police Appropriation Program — 13

Analysis of Activities Funded by the State Police Appropriation Program — 14

How Other States Fund Their State Police Forces — 16

Analysis: Bureau of Highway Safety — 17

Brief History and Current Activities — 17

Current Organization, Expenditures, and Staffing — 18

Analysis of Activities — 19

Analysis: Department of Public Safety Administration — 20

Brief History and Current Activities — 20

Current Organization, Expenditures, and Staffing — 21

Analysis of Activities — 22

Conclusions — 23

Acknowledgements — 24

APPENDICES

A. Full Text of Opinions from the Maine Attorney General — 25

EXECUTIVE SUMMARY

Highway Fund Eligibility at the Department of Public Safety – an Analysis of Select Departmental Activities

Introduction

The Maine State Legislature's Office of Program Evaluation and Government Accountability (OPEGA) has completed a study of Highway Fund eligibility of select activities at the Department of Public Safety (DPS). This study was originally requested by the Legislature's Joint Standing Committee on Transportation in the spring of 2005, and was subsequently approved by the Government Oversight Committee and added to OPEGA's annual work plan.

This study's purpose was to determine which DPS activities were eligible to be paid from the State's Highway Fund.

OPEGA's purpose in performing this study was to determine which DPS activities are eligible to be paid from the State's Highway Fund (HF). The review did not analyze all DPS activities, instead focusing only on those funded by three specific legislative appropriation programs:

1. State Police appropriation program (0291)—currently receives approximately 65% of its State funds from the Highway Fund;
2. Bureau of Highway Safety appropriation program (0457)—currently receives 100% of its State funds from a combination of the Highway Fund and Special Revenue Funds; and,
3. DPS Administration appropriation program (0088)—currently receives Highway Fund monies to support particular positions, representing approximately 64% of its total General and Highway fund appropriations.

The study focused on the activities funded by three specific appropriation programs: 0088, 0291, and 0457.

It is critical to recognize that the Legislature appropriates to "programs" that are generally abstract funding mechanisms. Appropriation programs do not directly correspond to Executive Branch activities, programs or units. Thus, as of State fiscal year 2006, DPS was funded through a total of 18 different appropriation programs, the names of which can be a source of confusion—for example, the state police appropriation program (0291) does not fund the entire Bureau of Maine State Police, only a portion of it. See the first page of this report for an overview of the relationship between appropriation programs and organizational units in the DPS.

Based primarily on State fiscal year 2005 data, OPEGA sought to answer three questions with regard to these programs:

A. Which activities that they fund are eligible to be paid from the State's Highway Fund?

B. What cost allocation method would best apply Highway Fund eligibility requirements?

C. What estimated changes in allocation between the funds would result from applying alternative allocation methods?

Results of Analysis

OPEGA gathered and analyzed SFY 2005 and 2006 activity and expenditure data for the three appropriation programs included in the scope of this review. This analysis was performed to estimate what percent of the activities funded by each appropriation program were eligible to be paid from the Highway Fund. No conclusions were drawn about how much Highway Fund money the programs should be receiving now, or in the future.

For each appropriation program, OPEGA developed a range of eligible activities based on two selected interpretations of Maine's constitutional restriction that Highway Fund monies be spent only for, among other things, "state enforcement of traffic laws". OPEGA's estimates are as follows:

- State Police appropriation program – OPEGA estimates that between 17% and 34% of the costs associated with activities funded by the state police appropriation program are eligible to be paid from the HF. Approximately 65% of this program's State funding currently comes from the HF.
- Bureau of Highway Safety appropriation program – This program currently receives 100% of its non-Special Revenue State funds from HF. OPEGA estimates that the program is eligible to receive 82%-100% of its State funding from the HF.
- DPS Administration appropriation program – This program currently receives approximately 64% of its non-Special Revenue State funds from the HF, and OPEGA estimates that the program is eligible to receive between 29% and 41%.

A detailed explanation of the estimates for each of these three programs is included in the text of the full report.

Conclusions

In the absence of a clear definition of HF eligibility and reliable activity data, it is not possible to fully and exactly determine which DPS activities are eligible to be paid from the State's Highway Fund.

It is not possible, at this time, to fully and exactly determine which DPS activities and associated costs are eligible to be paid from the State's Highway Fund. OPEGA analyzed available data to arrive at reasonable estimates of HF eligibility, but no decisive eligibility determination or supporting cost allocation can be prepared without two currently unavailable elements:

1. an operational definition of Highway Fund eligibility, and
2. activity data that is closely linked, or can easily be linked, with financial data.

The absence of these two critical elements has led to long-standing uncertainty in DPS and the Legislature about which departmental activities are eligible to be attributed to the Highway Fund. If these elements are not put in place, the question of which Departmental activities should be supported by the HF will likely continue to be argued well into the future, with HF allocations to the Department continuing to be unrelated to the actual activities performed. A long term solution to this issue would require creating an operational definition of HF eligibility and implementing a managerial cost accounting model at DPS to make activity-based cost data continuously available.

Without a clear definition of HF eligibility and reliable activity data, HF allocations to the DPS will likely continue to be unrelated to the Department's actual activities.

The goal of managerial cost accounting is to accumulate, measure, analyze, interpret, and report cost information that can be useful to internal and external parties interested in how an organization uses its resources to meet its objectives. The cost information that would result from such an approach would make the costs of specific DPS activities transparent and could significantly simplify the process of identifying the amount of Highway Fund monies that should be allocated to those activities. OPEGA has observed there may also be other State agencies which are not currently collecting this type of cost information and which perhaps could benefit from a move toward cost accounting.

Implementing managerial cost accounting would make the costs of specific DPS activities transparent and could significantly simplify the process of identifying the amount of HF monies that should be allocated to those activities.

Implementation of a cost accounting model would represent a significant effort, requiring that appropriation programs be clearly linked to activities, that account coding be developed to link costs to activities, and that associated program activity data be collected. Full implementation of these accounting practices would take considerable time, (though they could be phased in incrementally), but would provide for marked improvements in transparency and accountability.

FULL REPORT

Highway Fund Eligibility at the Department of Public Safety – an Analysis of Select Departmental Activities

Introduction

The 122nd Legislature's Joint Standing Committee on Transportation requested this study.

The Maine State Legislature's Office of Program Evaluation and Government Accountability (OPEGA) has completed a study of Highway Fund (HF) eligibility of select activities at the Department of Public Safety. This study was originally requested by the Legislature's Joint Standing Committee on Transportation in the spring of 2005, and was subsequently approved by the Government Oversight Committee and added to OPEGA's annual work plan. OPEGA conducted this study in accordance with MRSA Title 3, Ch. 37, §§991-997 and the Government Auditing Standards set forth by the United States Government Accountability Office (GAO).

This study's purpose was to determine which DPS activities were eligible to be paid from the HF.

Department of Public Safety expenditures totaled $70,175,785 and $75,965,788 respectively for State fiscal years 2005 and 2006. These expenditures were paid through a combination of the State General Fund, State Highway Fund, State Special Revenue Funds, and Federal Expenditure Funds (see Table 1 for detail). This OPEGA study attempted to determine which DPS activities were eligible to be paid from the State's Highway Fund.

Table 1. Total DPS Expenditures by Fund

Fund		SFY 2005	SFY 2006
010	State General Fund	$18,573,930	$19,471,038
012	State Highway Fund	32,460,208	35,452,644
013	Federal Expenditure Fund	7,582,058	7,776,281
014	State Special Revenue Funds	11,504,589	12,487,005
018	General Bond Fund--Arbitrage	55,000	778,820
Total for all funds		$70,175,785	$75,965,788

source: State MFASIS Data Warehouse

State HF monies paid for a little less than 50% of all DPS expenditures in SFY 2005 and 2006.

It is critical to recognize that the Legislature appropriates to "programs" that are generally abstract funding mechanisms. Appropriation programs do not directly correspond to Executive Branch activities, programs or units. As of SFY 2006, DPS was funded through a total of 18 different appropriation programs, the names of which can be a source of confusion—for example, the state police appropriation program (0291) does not fund the entire Bureau of Maine State Police, only a portion of it. (See Table 2 for an illustration of how the appropriation programs and operational units for DPS relate.)

This study did not review all DPS activities, but focused on the activities funded by three specific appropriation programs: 0088, 0291, and 0457.

This study focused only on three specific DPS legislative appropriation programs that receive Highway Fund monies:

1. State Police appropriation program (0291)—currently receives approximately 65% of its State funds from the Highway Fund;
2. Bureau of Highway Safety appropriation program (0457)—currently receives 100% of its State funds from a combination of the Highway Fund and Special Revenue Fund; and,
3. DPS Administration appropriation program (0088)—currently receives Highway Fund monies to support particular positions, representing approximately 64% of its total General and Highway Fund appropriations.

These three legislative appropriation programs had combined expenditures of $47,465,564 in SFY 2005, representing approximately 67% of total DPS expenditures. Of the total expenditures for these three appropriation programs, $26,365,319 were paid from the Highway Fund. This represents approximately 80% of all DPS Highway Fund expenditures for SFY 2005.

Table 2. Relationship Between DPS Operational Units and Appropriation Programs – SFY 2005

Executive Branch Operational Units	Legislative Appropriation Programs	
DPS Administration	0088	ADMINISTRATION - PUBLIC SAFETY
Bureau of Highway Safety	0457	HIGHWAY SAFETY DPS
Maine State Police	0291	STATE POLICE
	0293	LIQUOR ENFORCEMENT
	0329	MOTOR VEHICLE INSPECTION
	0546	TRAFFIC SAFETY
	0547	TURNPIKE ENFORCEMENT
	0712	LICENSING AND ENFORCEMENT - PUBLIC SAFETY
	0715	TRAFFIC SAFETY - COMMERCIAL VEHICLE ENFORCEMENT
	0930	FINGERPRINT AND BACKGROUND INFORMATION
	0981	STATE POLICE - SUPPORT
	0992	BACKGROUND CHECKS - CERTIFIED NURSING ASSISTANTS
State Fire Marshal	0327	FIRE MARSHAL - OFFICE OF
	0964	FHM - FIRE MARSHAL
Criminal Justice Academy	0290	CRIMINAL JUSTICE ACADEMY
Emergency Medical Service	0485	EMERGENCY MEDICAL SERVICES
Maine Drug Enforcement Agency	0388	DRUG ENFORCEMENT AGENCY
Gambling Control Unit	Z002	GAMBLING CONTROL BOARD
Capitol Security	0101	CAPITOL SECURITY - BUREAU OF

source: State MFASIS Data Warehouse

OPEGA's purpose in performing this study was to answer three questions with regard to the Maine State Police, Bureau of Highway Safety, and DPS Administration appropriation programs:

The study focused primarily on activities and expenditures from State fiscal years 2005 and 2006.

A. Which activities that they fund are eligible to be paid from the State's Highway Fund?

B. What cost allocation method would best apply Highway Fund eligibility requirements?

C. What estimated changes in allocation between the funds would result from applying alternative allocation methods?

The study focused primarily on the expenditures and activities of State fiscal year 2005, but 2006 data was also considered and analyzed as appropriate.

Methods

OPEGA began this review with the intention of executing a traditional, activity-based cost allocation analysis. We were not able to do this, however, for two specific reasons:

1. No clear operational definition of Highway Fund eligibility exists.
2. Activity data is often unavailable or unreliable.

We preface our discussion of actions taken to accomplish this review with descriptions of these conditions.

Absence of an Operational Definition of Highway Fund Eligibility

Allocation of Highway Fund money is restricted by Article IX of the Maine Constitution and by 23 MRSA §1653. Article IX of the Constitution specifically states that Highway Fund revenues should be spent

Allocation of HF money is restricted by Article IX of the Maine Constitution and by 23 MRSA §1653. However, exactly which activities can be paid from the HF is not completely clear.

> "solely for cost of administration, statutory refunds and adjustments, payment of debts and liabilities incurred in construction and reconstruction of highways and bridges, the cost of construction, reconstruction, maintenance and repair of public highways and bridges under the direction and supervision of a state department having jurisdiction over such highways and bridges and *expense for state enforcement of traffic laws and shall not be diverted for any purpose.*" (emphasis added)

However, Maine statute specifies that after highway and bridge construction bond provisions have been met, the remainder of the Highway Fund money may be expended only for:

1. Registration and licensing. For the cost of registering motor vehicles and licensing operators thereof;
2. *State Police. For maintenance of the State Police;* (emphasis added)
3. Administration of office. For administration of the office and duties of the department;
4. Administration of fuel tax. For administration of the tax on internal combustion engine fuel;
5. Rebates. For payment of rebates on said tax;
6. Highways and bridges. For the improvement, construction and maintenance of highways and bridges; and,
7. Snow guards. For snow guards or removal as provided by statute.

AG's opinions conclude that HF revenues may fund only those State Police costs associated with "enforcement of the traffic laws."

OPEGA sought clarification from the Attorney General's (AG's) Office concerning Highway Fund eligibility of public safety expenses, and was provided some prior AG's opinions regarding appropriate uses of the Highway Fund to support State programs.[1] The opinions conclude that "Highway Fund revenues may fund only that portion of the State Police budget which is utilized for the enforcement of the traffic laws."[2] Furthermore, they state that the Legislature is constitutionally obligated to make a good faith inquiry and estimate of the portion of State program expenses attributable to this purpose, and then to allocate Highway Fund monies to those programs in accordance with it's factual findings.

Although the AG's opinions are informative, they do not refine the constitutional or statutory provisions to the level of an operational definition. An operational definition of "enforcement of traffic laws" would specify the individual activities or operations of the Maine State Government that are deemed to qualify as state enforcement of traffic laws. In order to facilitate objective analysis of Highway Fund (HF) eligible costs, an operational definition would need to address two specific questions:

1. What types of activities are reasonably considered enforcement activities?
2. Which laws are considered traffic laws?

While answers to these questions may seem self-evident, OPEGA found that there are diverse interpretations in use by various parties of interest.

There is currently no statewide consensus regarding what types of activities are considered "enforcement activities."

There is no single, generally accepted definition of enforcement. The term may be considered narrowly to include only patrol activities carried out by state police troopers, or more broadly to include activities aimed at educating the public about the laws in question and encouraging compliance. For example, the use of rollover machines to convince drivers of the importance of seatbelt usage would likely fit the broad definition of enforcement, and therefore be considered eligible for HF money, but would not qualify under the narrow definition.

1 See Appendix A for the full text of all three opinions.
2 Op. Me. Att'y Gen. 81-16.

Maine has Titles 29 and 29-A concerning Motor Vehicles, but there is no body of law in statute entitled "traffic law."

Similarly, there is currently no body of law in Maine statute called "traffic law," leaving this phrase open to debate.[3] Traffic laws could be interpreted as only those laws regarding the operation of vehicles on Maine's public roadways, or could be regarded more broadly to include all laws involving vehicles and roads. While the broader definition makes costs incurred in locating stolen vehicles, for instance, eligible for payment from the Highway Fund, the narrower definition arguably would not.

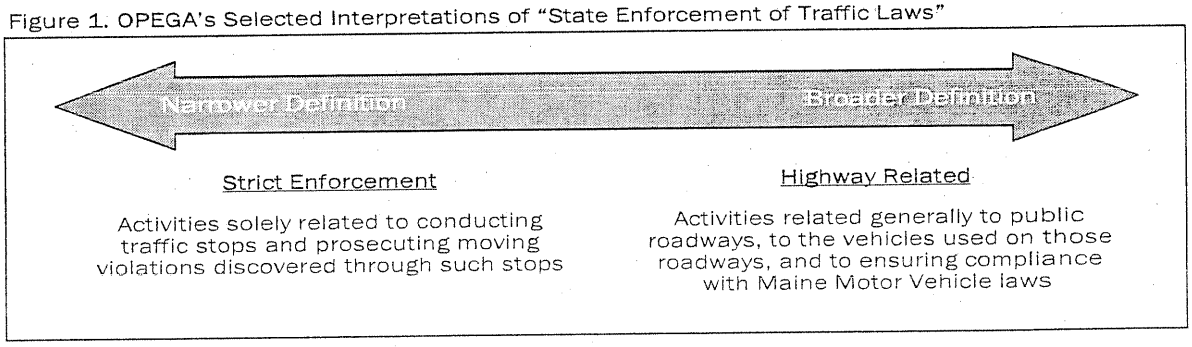
Titles 29 & 29-A of the Maine Revised Statutes concern Motor Vehicles.

OPEGA used two possible interpretations of "state enforcement of traffic laws" to guide our data collection and analysis.

Faced with the absence of a clear operational definition of Highway Fund eligibility, OPEGA selected two possible interpretations of "state enforcement of traffic laws," that in OPEGA's opinion represent the two most extreme, though still reasonable, interpretations of the constitutional language. We used the two definitions to perform the data collection and analysis required for this review and will refer to them throughout this report as:

1. Strict Enforcement — activities solely related to conducting traffic stops and prosecuting moving violations discovered through such stops.
2. Highway Related — activities related generally to public roadways, to the vehicles used on those roadways, and to ensuring compliance with Maine Motor Vehicle Law.

Figure 1. OPEGA's Selected Interpretations of "State Enforcement of Traffic Laws"



OPEGA selected these two extreme definitions intentionally, in order to provide a reasonable range within which readers can compare their own preferred definitions and associated costs.

Unavailable or Unreliable Activity Data

The second factor that prevented OPEGA from performing a rigorous cost allocation analysis was the lack of reliable activity data, specifically regarding the

3 Maine does have a section of statute entitled "Motor Vehicle Law" (Title 29-A). The laws included in that section fall within the broader definition of traffic law.

Reliable activity data was not readily available at the Maine State Police (MSP).

Maine State Police. A standard activity-based cost allocation would use activity data to identify the total costs or resource usage associated with individual activities. Without reliable activity data, this study was severely limited in the level of accuracy that could be achieved in connecting activities to their full costs.

OPEGA noted that MSP did not have a history of regularly collecting or using activity data. However, current State Police leadership has recognized the necessity of activity data in being able to show what has been accomplished with taxpayer resources. There are new initiatives underway within the MSP to begin collecting activity data, but these initiatives were too new to provide useful information about the period of study for this review (SFY 2005 and 2006).

MSP has new initiatives underway to begin collecting useful activity data.

Most of the activity data that was available for SFY 2005 was deemed unreliable by OPEGA because data collection had not been standardized or controlled adequately. For example, state police troopers had to record the number of hours worked on "patrol," but they had not been given a standard definition of the activities that were considered "patrol." This left them to form their own interpretations: some recorded only time spent seeking and stopping speeders, others recorded all time spent traveling between complaints, and some avoided recording any "patrol" time at all because they didn't know what it meant. This rendered the patrol data meaningless for the purposes of this review.

Specific Actions Taken to Accomplish this Review

Despite the issues noted, OPEGA was able to develop eligibility estimates that may shed light on future discussions of Highway Fund allocations to the three appropriation programs included in this review. To arrive at reasonable estimates, OPEGA:

OPEGA's methods for this study included interviews, focus groups, data analysis, literature research, and a survey of other states.

- identified the individual functional units and their expenditures;
- conducted interviews and focus groups to become familiar with the activities funded by each appropriation program;
- reviewed all provided activity, expenditure, and FTE (full-time equivalent) data;[4]
- worked with DPS contacts to identify appropriate data sources that could be used for estimating an allocation; and,
- allocated expenditures based on the selected data sources.

Additional work performed to develop the context for this report included:

- interviews with staff from the legislative Office of Fiscal & Program Review (OFPR) and the legislative Office of Policy & Legal Analysis (OPLA);

4 OPEGA noted some irregularities in expenditure and FTE data, and reported these irregularities to both DPS and the Office of the State Controller (OSC). OSC's Internal Audit team researched the irregularities and provided reasonable explanations.

- research conducted with the assistance of the Law and Legislative Reference Library;
- survey of other states; and,
- review of other states' reports.

OPEGA focused specifically on those activities currently being supported by the State's Highway and/or General Funds.

Although all three of the appropriation programs within the scope of this review received some level of federal, or other non-state funding, OPEGA focused specifically on those activities currently being supported by the State's Highway and/or General Funds. Activities supported by federal funds were not considered for Highway Fund eligibility.

Analysis: Maine State Police

Brief History and Current Activities

Over the last 70 years, the Maine State Police has undergone significant organizational and functional change in response to evolution in Maine's laws, social concerns, and demographics.

The Maine State Police has its roots in the State Highway Police, first established under the State Highway Commission in 1921 with just 34 personnel. The State Highway Police were initially tasked with enforcing motor vehicle laws and collecting automobile registration and driver's license fees. They were moved under the supervision of the Secretary of State a few years before their name was officially changed to the Maine State Police by the Legislature in 1935.

Over the next 70 years, the Bureau of Maine State Police (MSP) would undergo significant organizational and functional change in response to the State of Maine's growing body of laws, evolving social concerns, and increasing population. Their once straightforward mission of collecting driving-related fees and enforcing motor vehicle laws has changed considerably. While they are no longer responsible for the collection of driver's license and auto registration fees, their responsibilities have expanded to include a wide range of activities:

MSP now provides a broad range of services for Maine's citizens.

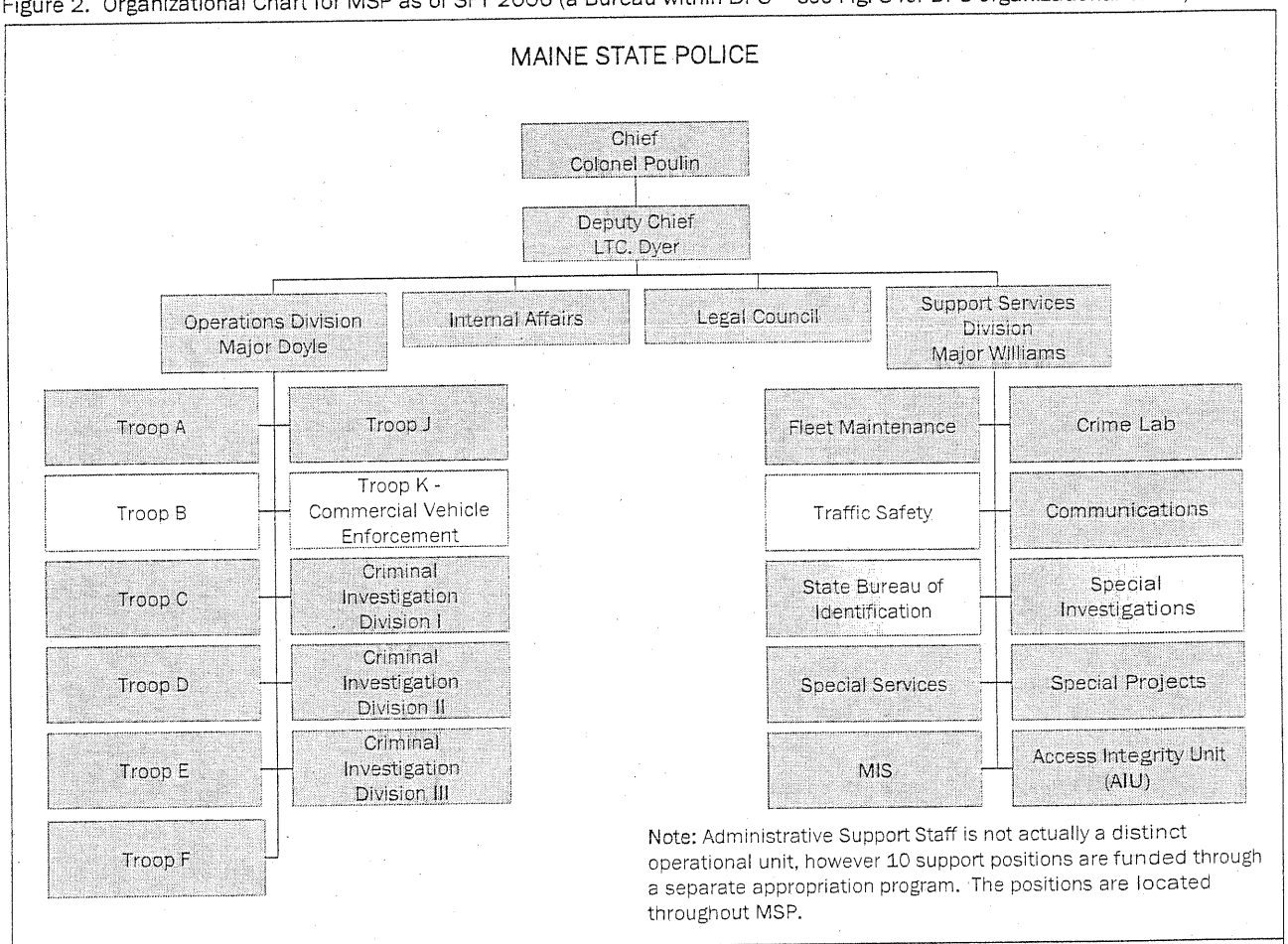
- patrolling rural areas of Maine without organized police departments for the purpose of preventing and investigating criminal activity;
- enforcing traffic safety laws in rural areas, and on the Maine Turnpike and Interstate System;
- overseeing the Motor Vehicle Inspection Program and enforcing Maine's Commercial Motor Vehicle laws and rules;
- investigating homicides, child abuse cases, and other violent crimes;
- providing crime laboratory services to all law enforcement agencies throughout the State;
- acting as a repository for criminal history and records information;
- providing specialized administrative, licensing, and enforcement activities (such as the State's liquor licensing program); and

- ensuring the security of the Governor and his family on a 24-hour basis.

Maine State Police activities are inherently response-oriented and highly dependent on the current needs of the State's citizens. Active state troopers describe multifaceted workdays in which they may find themselves patrolling a section of roads to begin with, then responding to a smashed mailbox complaint, next being called to participate in an underwater recovery effort, and finally assisting in a homeland security event before stopping on the way home to help at the scene of an auto accident.

In order to successfully accomplish this broad range of activities, the MSP has needed to develop a host of specialized support functions. These support functions, housed under the Bureau's Support Services Division, include fleet maintenance, training, communications, records management, the crime laboratory, information systems, and the bureau of identification (see Figure 2 for the MSP organizational chart).

Figure 2. Organizational Chart for MSP as of SFY 2006 (a Bureau within DPS – see Fig. 8 for DPS organizational chart)



Key: Units colored green are funded by the state police appropriation program (0291) and were included in the scope of this review. Partially green units are funded partially by 0291 and also by other appropriation programs. White units receive no funding from the 0291 appropriation program.

Current Organization, Expenditures, and Staffing

As of State fiscal year (SFY) 2005 the Maine State Police had 548 authorized full-time equivalent positions, of which 336 were sworn positions ranging from trooper to colonel. The entire Bureau's expenditures were $55,048,112 and $58,515,056 respectively in SFY 2005 and 2006, but only the portion of these expenditures assigned to the state police appropriation program (0291) were within the scope of this review.

Table 3. MSP Expenditures

Fund	SFY 2005	SFY 2006
General Fund (010)	$15,159,004	$15,441,422
Highway Fund (012)	31,317,867	34,441,813
Special Revenue Fund (014)	6,061,082	6,082,677
Federal Fund (013)	2,510,159	2,549,144
Total for all Funds	$55,048,112	$58,515,056

Source: State of Maine MFASIS Data Warehouse

MSP's funding is not directly aligned with its organizational units. Instead it is funded through ten appropriation programs.

MSP is divided into two primary functional divisions—the Operations Division and the Support Services Division—each of which include between 10 and 11 distinct operational units. Unfortunately, the Bureau's funding is not directly aligned with its functions (see org. chart at Figure 2). It receives funding from 10 different appropriation programs, some of which fund single functions, some of which fund broad operations across functions, and some of which fund only a very narrow band of activities within a function (see Table 4 for all of the appropriation programs that fund MSP).[5]

Table 4. Appropriation Programs that Fund the Maine State Police

Appropriation Programs		SFY2005 Expenditures			
		General Fund (010)	Highway Fund (012)	Other Funds	Total
0291	STATE POLICE	$13,927,652	$25,222,979	$3,577,095	$42,727,726
0293	LIQUOR ENFORCEMENT	681,441		4,121	685,562
0329	MOTOR VEHICLE INSPECTION		976,109		976,109
0546	TRAFFIC SAFETY		874,747		874,747
0547	TURNPIKE ENFORCEMENT			4,255,684	4,255,684
0712	LICENSING AND ENFORCEMENT - PUBLIC SAFETY			734,341	734,341
0715	TRAFFIC SAFETY - COMMERCIAL VEHICLE ENFORCEMENT		3,815,735		3,815,735
0930	FINGERPRINT AND BACKGROUND INFORMATION	503,041			503,041
0981	STATE POLICE - SUPPORT		428,297		428,297
0992	BACKGROUND CHECKS - CERTIFIED NURSING ASSISTANTS	46,870			46,870
TOTAL		$15,159,004	$31,317,867	$8,571,241	$55,048,112

5 See inset in the front cover of this report for a more detailed mapping of appropriation programs to operational units within MSP.

Although MSP is funded through 10 appropriation programs, only the 0291 program was analyzed for this study. The 0291 program receives approximately 80% of all HF dollars for MSP.

The distinction between the Maine State Police as an operational entity and the state police appropriation program (0291) is critical to understanding the results of OPEGA's analysis. For the remainder of this report the phrase "Maine State Police," or the acronym MSP, will be used only to refer to the broader operational entity. The phrase "state police appropriation program" will be used to refer to the activities that are funded within that specific appropriation program (0291). Note that references to the appropriation program will not be capitalized in the text in order to further distinguish the two.

The State Police Appropriation Program

The 0291 program gets its funding primarily from a combination of State Highway and General Funds. The proportion of each has historically been determined by a ratio.

The majority of Maine State Police's overall expenditures—approximately 79% annually—are funded by the state police appropriation program. This appropriation program channels Federal Expenditure funds, Special Revenue funds, and State General and Highway funds to MSP. State General and Highway funds make up approximately 92% of the funds distributed through the appropriation program, and these two funds have historically shared the funding of this appropriation program through a ratio that is negotiated with each biennial budget. The ratio for SFY 2005 was 63% Highway Fund and 37% General Fund (GF). SFY 2006 had a ratio of 65% Highway Fund and 35% General Fund.

Figure 3. Funding for MSP Activities

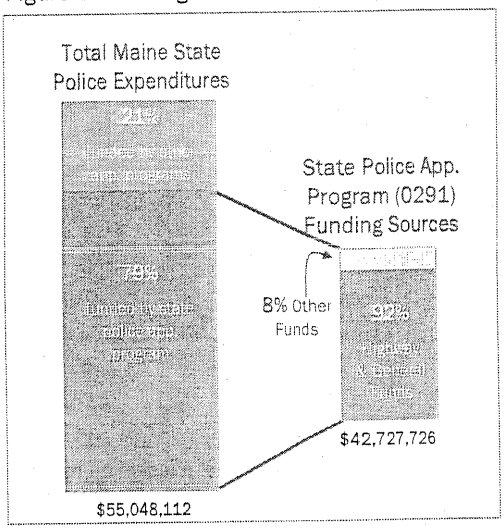


Table 5. State Police App. Program (0291) Ratio 1946–2006

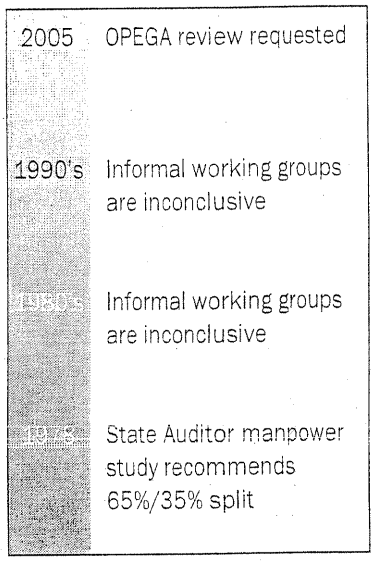
State Fiscal Years	% General Fund	% Highway Fund
1946 - 1957	10%	90%
1958 - 1961	50%	50%
1962 - 1989	25%	75%
1990 - 1990	50%	50%
1991 - 1991	23%	77%
1992 - 1992	26%	74%
1993 - 1993	13%	87%
1994 - 1994	12%	88%
1995 - 1995	13%	87%
1996 - 1996	15%	85%
1997 - 1997	20%	80%
1998 - 2001	40%	60%
2002 - 2005	37%	63%
2006 - 2006	35%	65%

Source: Maine Public Laws

Of the state police appropriation program (0291) funding provided by a combination of Highway Fund and General Fund, the Highway Fund has paid anywhere from 50% to 90% over the past fifty years (see Table 5). There has often been contentious debate over what the appropriate General Fund to Highway Fund ratio (often referred to as "the split") is, but the legislative record provides little insight into the reasoning behind shifts in the split. There is a general feeling, in both the Executive and Legislative branches, that the ratio has no relation to the actual split of state police activities, and that changes in the ratio are most directly related to the changes in the financial condition of the two funds.

There has been interest, in the past, in whether the ratio of HF to GF truly reflected the mix of activities funded. Most attempts to address this question have been inconclusive.

In the past, the Legislature's Joint Standing Committee on Transportation has made formal and informal attempts to estimate the portion of activities that can reasonably be attributed to the Highway Fund, but little documentation of these attempts exists. The only formal record of such an attempt is in an AG's opinion from 1980 in which the office refers to a manpower study recently completed by the State Department of Audit at the Legislature's request. The Department of Audit had found, in a letter dated September 26, 1978, that the ratio should be changed from the then existing ratio of 75% Highway Fund to 25% General Fund to a ratio of 65% to 35%.[6] Unfortunately, the AG's opinion is the only remaining record of this study, so no further information is available about the methods used or basis for conclusions.



Since the Department of Audit's effort, there have been a few informal working groups—made up primarily of Transportation Committee members and Maine State Police staff—that have attempted to estimate what percentage of state police activities are eligible to be paid from the HF, but those attempts have generally been described as ending inconclusively because of failure to agree on essential definitions.

Analysis of Activities Funded by the State Police Appropriation Program (0291)

This study was completed during a time of significant change within the Maine State Police.

OPEGA's analysis of Maine State Police activities funded by the state police appropriation program represents a point-in-time estimate based on available data, and on two possible interpretations of HF eligibility. This analysis was completed during a time of significant change within the Maine State Police as it experienced:

- internal reorganization of operational units;
- movement of financial and human resource activities to the new Service Center model;
- development of the State's first regional consolidated communications centers;
- transfer of previously internal information systems staff and responsibilities to the State's new Office of Information Technology; and,
- acquisition and implementation of new software for activity-based time reporting and records management.

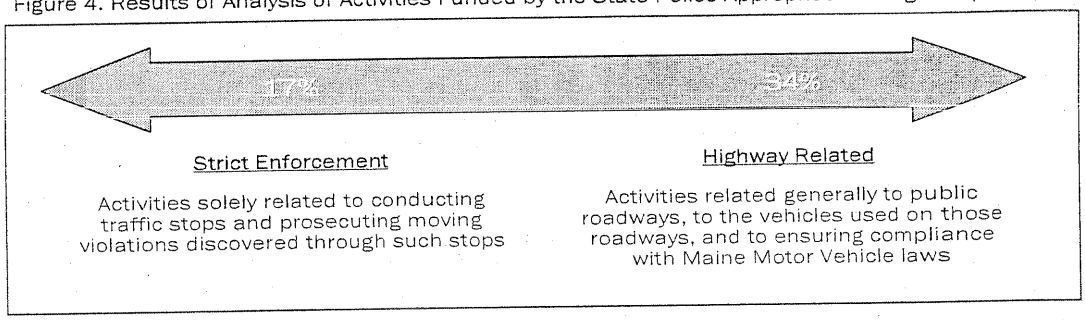
6 Op. Me. Att'y Gen. 80-41

Given this, the results of OPEGA's analysis for SFY 2005 and 2006 should not be seen to represent other past or future fiscal years with equal accuracy. In addition, it must be understood that this study only analyzed activities performed for those two fiscal years. There was no attempt to use trending or forecasting to anticipate what Maine State Police activities may be in future fiscal years. Any attempt to forecast future activities would be complicated by the need to consider the response-oriented nature of MSP work, and the built-in capacity and flexibility of MSP to adapt its activities to current needs.

OPEGA estimates that 17%-34% of MSP activities funded through the 0291 appropriation program were eligible to be paid from the HF.

OPEGA analyzed the activities funded by the state police appropriation program (0291) during SFY 2005 and 2006, and found that between 17% and 34% were constitutionally eligible to be paid from the Highway Fund (see Figure 4). These two percentages represent estimated minimum and maximum HF contribution levels based on the definitions of HF eligibility that OPEGA used in this analysis. Of course, estimates based on definitions of HF eligibility other than the ones OPEGA used could result in different minimum and maximum levels.

Figure 4. Results of Analysis of Activities Funded by the State Police Appropriation Program (0291)



The gap between the two percentages is primarily due to three types of activities that are included in the broader definition, but excluded from the narrower. These types of activities are:

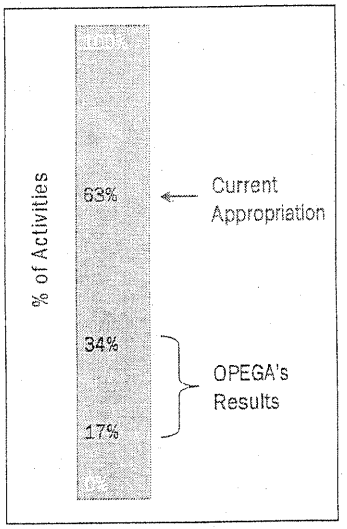
1. responses to auto thefts;
2. motor vehicle accident responses; and
3. responses that may have been initiated with a traffic stop, but then required additional action that may not have been traffic related.

An example of the third activity type would be when a trooper pulls a motorist over for speeding and finds the motorist in possession of illegal narcotics. The traffic stop itself may have only taken 15 minutes, but the trooper may have to spend an additional 8 hours fully investigating, documenting, and prosecuting the narcotics possession. Only the 15 minute traffic stop would be considered eligible for HF money under OPEGA's strict enforcement definition, but the entire 8 hours and 15 minutes would be eligible under the broader highway related definition. These multi-event activities are common in MSP work.

Under the current ratio, the HF is paying for approximately 63% of the activities funded by the 0291 appropriation program.

It is clear from OPEGA's analysis that, under both the narrowest and broadest definitions of HF eligibility, the level of activities attributable to the Highway Fund during SFY 2005 and 2006 was significantly less than the 63% the state police appropriation program received during those fiscal years (see Figure 5).

Figure 5. State Police HF Eligibility



A few specific MSP operational units had HF eligibility levels during SFY 2005 and 2006 that differed noticeably from the actual appropriation levels. These few units actually do very little work that seems to meet the constitutional restriction for Highway Fund expenditures, and when they are factored into the state police appropriation program, they lower the program's overall HF eligibility. They are the Criminal Investigation Divisions, the Crime Lab, and the Special Investigations Unit (including liquor enforcement, gambling control, and executive protection).

Table 6. Estimated HF Eligibility for Specific MSP Operational Units

MSP Units	SFY05 Unit HF & GF Combined Costs	% Strict Enforcement Activity	% Highway Related Activity	Existing Appropriation
Criminal Investigation Divisions (CIDs I, II, III)	$4,611,637	<1% *	<1% *	63%
Field Troops (A,C,D,E,F,J)	16,943,024	18%	44%	63%
Crime Lab	1,610,927	<1% *	3%	63%
Bureau of Identification	2,038,846	15%	15%	63%
Special Investigations	1,282,740	<1% *	<1% *	63%
Management Information Systems	2,640,551	31%	44%	63%
Administration	2,122,559	31%	44%	63%
Fleet Maintenance	2,013,272	24%	37%	63%
Communications	3,860,607	21%	48%	63%
Special Services	1,483,640	16%	30%	63%
Access Integrity Unit (AIU)	542,828	31%	44%	63%
Total Costs	$39,150,631			
Percent Eligibility Weighted By Costs		17%	34%	63%

* Although this unit's primary purpose does not include strict enforcement or highway related work, the unit has the capacity to perform that work as needed. We could not quantify how much eligible work the unit does.

How Other States Fund Their State Police Forces

OPEGA sought information from the National Council of State Legislatures (NCSL), the International Association of Chiefs of Police (IACP), and the New England State Police Administrative Conference (NESPAC) about how other

Some states have highway patrols that are funded entirely with state transportation funds. These highway patrols do not perform the same complex array of services that MSP does.

states fund their state police forces. We found that state police funding mechanisms varied greatly from one state to another, in large part because of differences in the structure of the state police functions, and in the handling of states' transportation related funds.

Many states in the western part of the country have state patrols that are funded entirely with state transportation funds (equivalent to Maine's Highway Fund). However, these states do not usefully compare to Maine because their state patrols—also known as highway patrols—do not perform the same array of complex duties performed by Maine's State Police. Instead, they focus primarily on traffic safety and enforcement.

Some other states do not have a dedicated Highway Fund. Instead, the revenues that would normally go to a Highway Fund simply go to their General Fund.

Alternately, some states that do have complex state police forces, like Maine's, do not struggle with how much transportation funding to appropriate to their state police forces because they either do not have a dedicated Highway Fund, or they handle Highway Fund monies very differently than Maine. A few states avoid having a dedicated Highway Fund by collecting all revenues in their General Funds. In a completely different approach, one state statutorily requires that state agencies requiring transportation funds (including the state police) contract with the state's Department of Transportation for the transportation monies needed.[7] The contract must include a description of the services to be financed by transportation funds and cost allocation methods and rationale for the portion of costs allocated to those funds.

Analysis: Bureau of Highway Safety

Brief History and Current Activities

The Bureau of Highway Safety (BHS) originated as the Department of Transportation's Bureau of Safety in 1974. It was moved under the supervision of the Department of Public Safety in 1980, and had its name changed to the current title in 1990. BHS exists to manage the State's highway safety program by working with other State and local agencies to coordinate information about highway safety programs and to provide technical and financial assistance in developing and executing those programs.

The Bureau of Highway Safety (BHS) is funded primarily through federal highway safety grants.

Because the Bureau is funded primarily through federal highway safety grants, much of its work varies according to changes in federal highway safety objectives. Its current State and federal efforts include:

- Occupant protection—including observational studies to measure seatbelt usage; safety belt education and enforcement campaigns; tools provided to driver safety programs to simulate impaired driving; and, the Maine Driving Dynamics defensive driving program.

7 Michigan Office of the Auditor General, Performance Audit: Use of Transportation Related Funding, Report No. 07-629-05, 2005.

- Speed enforcement—funding dedicated speed enforcement details conducted by State, municipal, and county law enforcement agencies; and assisting law enforcement agencies in acquiring enforcement equipment including lasers, radars, and speed display screens.
- Alcohol and other drug countermeasures—supporting the state funded Implied Consent program that tests drivers suspected of driving under the influence of drugs or alcohol; funding dedicated roadblocks and patrols; training drug recognition experts; and, making Intoxilyzers available statewide.
- Child passenger safety—providing income-eligible vouchers for child safety seats, child safety seat fitting stations, and child passenger safety education.
- Pupil transportation—helping schools acquire safety related equipment for school buses.
- Police traffic services/training—training law enforcement personnel in accident investigation, accident reconstruction, data collection, and evidential breath testing instruments.
- Traffic and accident records systems—collecting and managing traffic and accident data, most notably the ME Crash Reporting System and the federally funded Fatal Analysis Recording System (FARS).

Current Organization, Expenditures, and Staffing

As of SFY 2005 the Bureau of Highway Safety had a staff of five, 3.5 of which were federally funded positions. Total expenditures were $1,747,597 in SFY 2005, of which $533,540 was paid from State Highway and Special Revenue Funds, and $2,435,149 in SFY 2006, of which $757,870 was paid from State funds (see Table 7 below).

Table 7. BHS Expenditures

Fund	SFY 2005	SFY 2006
Highway Fund (012)	$384,104	$412,688
Special Revenue Fund (014)	149,436	345,182
Federal Fund (013)	1,214,057	1,677,279
SFY Total	$1,747,597	$2,435,149

Source: State of Maine MFASIS Data Warehouse

The Bureau of Highway Safety received approximately $384,000, or 22% of it's total funds, from the HF in SFY 2005.

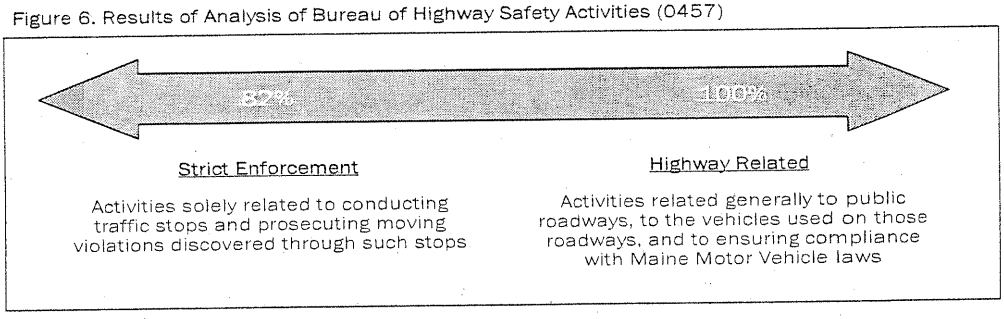
The Bureau of Highway Safety receives its non-federal funds solely and completely through the Highway Safety DPS appropriation program (0457). Maine's Legislature has traditionally appropriated Highway Fund monies to cover 100% of the BHS expenditures that cannot be paid from Federal or Special Revenue Funds. This Highway Fund money is generally enough to cover one full-time position and the State mandated Implied Consent program.

Analysis of Activities

OPEGA estimates that for SFY 2005 and 2006 between 82% and 100% of the BHS's state-funded activities were eligible to be paid from the Highway Fund.

OPEGA found that for SFY 2005 and 2006 between 82% and 100% of the Bureau of Highway Safety's state-funded activities were eligible to be paid from the Highway Fund (see Figure 6).

Figure 6. Results of Analysis of Bureau of Highway Safety Activities (0457)

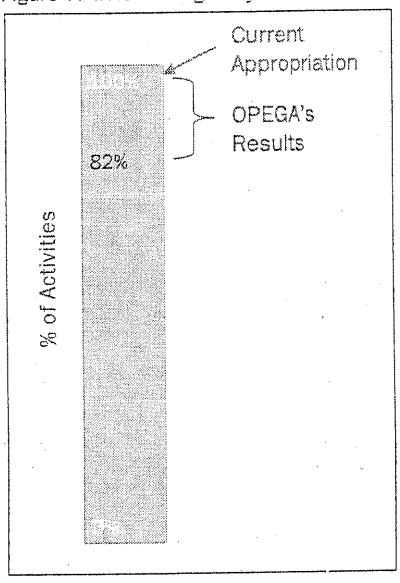


These two percentages represent estimated minimum and maximum HF contribution levels based on the definitions of HF eligibility that OPEGA used in this analysis.

The gap between the two percentages is primarily due to variation in definitions of the word "enforcement." Maine's Constitution requires that HF monies be expended only for state enforcement of traffic laws, but what activities constitute enforcement is not clearly specified. Enforcement activities may have traditionally been viewed as only those activities that directly involved catching and prosecuting violations of the law, and this is the definition of enforcement used in OPEGA's narrower, strict enforcement analysis. However, as enforcement efforts have evolved, they have begun to encompass a broader range of activities including educational and deterrent activities. OPEGA's highway related definition of HF eligibility relied on this broader view of enforcement for its analysis.

Currently, the HF is paying for 100% of all BHS activities that can not be paid for with Federal or Special Revenue Funds.

Figure 7. BHS HF Eligibility



Although OPEGA's narrower definition indicates that BHS's SFY 2005 and 2006 activities were eligible for slightly less Highway Fund money than the Bureau actually received, the broader definition allowed that all activities currently being paid from the HF were, in fact, eligible (see Figure 7).

Analysis: Department of Public Safety Administration

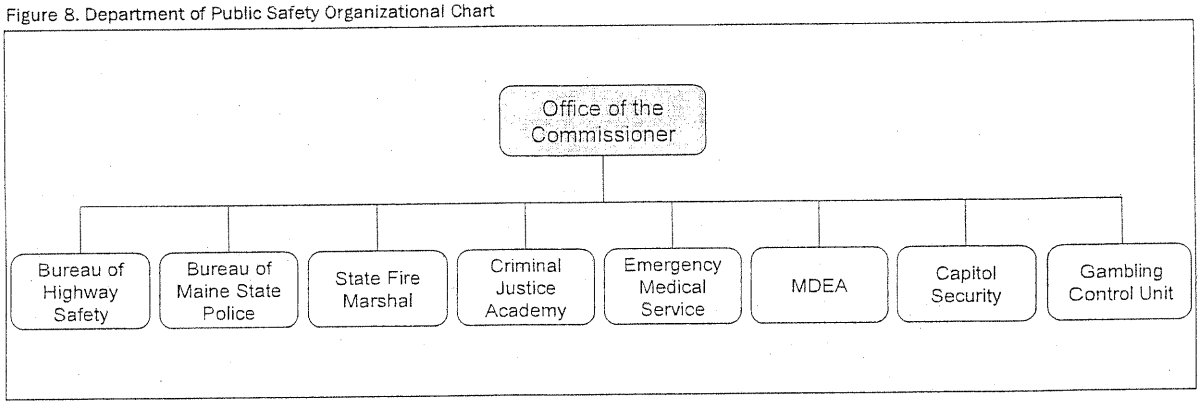
Brief History & Current Activities

The Department of Public Safety's administrative unit consists primarily of the Office of the Commissioner and is responsible for overseeing all 8 of the Department's bureaus.

The Department of Public Safety was established in 1971 and has a current mission of preserving public order and protecting the persons, property, rights, and privileges of all people in the State. The Department's administration consists primarily of the Office of the Commissioner, which is responsible for overseeing, coordinating and supporting the activities of the Department's eight bureaus:

1. Maine State Police – the State's largest police agency.
2. Bureau of Highway Safety – promotes programs and projects that make Maine highways safer.
3. Maine Drug Enforcement Agency – the State's leading agency for coordinated drug enforcement operations.
4. Capitol Security – provides round-the-clock security for most State buildings in Augusta, including the Capitol complex, Riverview facility, and Stevens facility in Hallowell.
5. Maine Criminal Justice Academy – the central training facility for State, county and municipal law enforcement officers and corrections personnel.
6. Office of the State Fire Marshal – Maine's leading fire investigation, prevention and fire research organization.
7. Gambling Control Unit – licenses, registers, inspects, and monitors Hollywood Slots gambling facility in Bangor.
8. Maine Emergency Medical Services – regulates, coordinates, and oversees the State's emergency medical services system.

Figure 8. Department of Public Safety Organizational Chart



DPS administration historically provided all financial and human resource services for the Department's bureaus, but in the fall of 2005 these responsibilities were

transferred to the newly formed Service Center B in Maine's Department of Administrative and Financial Services.

Current Organization, Expenditures, and Staffing

Total expenditures for DPS Administration (appropriation program 0088) were $2,990,241 in SFY 2005, of which $758,236 was paid from the Highway Fund.

As of SFY 2005, the DPS Office of the Commissioner had a staff of seven, 2.5 of whom were supported by the State's Highway Fund. Total expenditures were $2,990,241 in SFY 2005, of which $758,236 was paid from the Highway Fund, and $2,660,932 in SFY 2006, of which $598,142 was paid from the HF (see Table 8).

Table 8. DPS Administration Expenditures

Fund	SFY 2005	SFY 2006
General Fund (010)	$326,267	$324,744
Highway Fund (012)	758,236	598,142
Special Revenue Fund (014)	359,582	194,881
Federal Fund (013)	1,546,156	1,543,165
SFY Total	$2,990,241	$2,660,932

Source: State of Maine MFASIS Data Warehouse

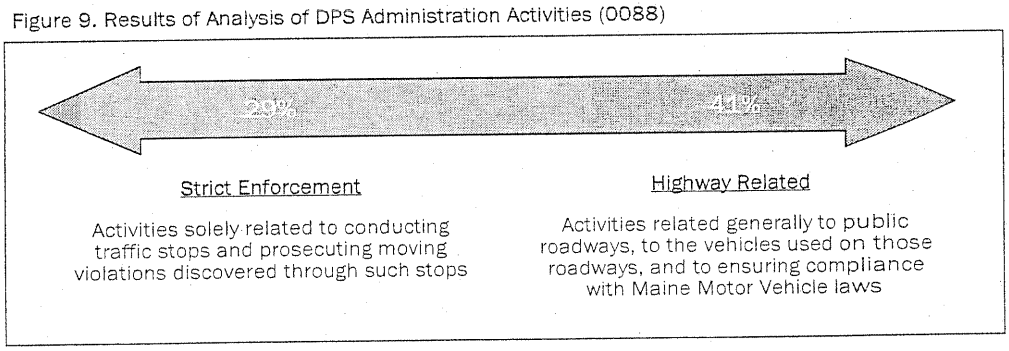
DPS's Office of the Commissioner is funded solely and completely through the administration—public safety appropriation program (0088). This appropriation program currently receives Highway Fund monies to cover two and a half staff positions and some portion of administrative expenditures such as rent and service center charges. Although DPS administration's Highway Fund appropriation is not generally figured as a percentage of total State funds appropriated, in SFY 2005 and 2006 the HF accounted for approximately 64% of the total expenditures that could not be paid for with Federal or Special Revenue Funds.

Analysis of Activities

For SFY 2005 and 2006 OPEGA estimates that 29%-41% of the DPS Administration's state-funded activities were eligible to be paid from the Highway Fund.

OPEGA found that for SFY 2005 and 2006 between 29% and 41% of DPS Administration's state-funded activities were eligible to be paid from the Highway Fund (see Figure 9). As in the analysis for the other two appropriation programs included in this review, these two percentages represent estimated minimum and maximum HF contribution levels based on the definitions of HF eligibility that OPEGA used in this analysis.

Figure 9. Results of Analysis of DPS Administration Activities (0088)

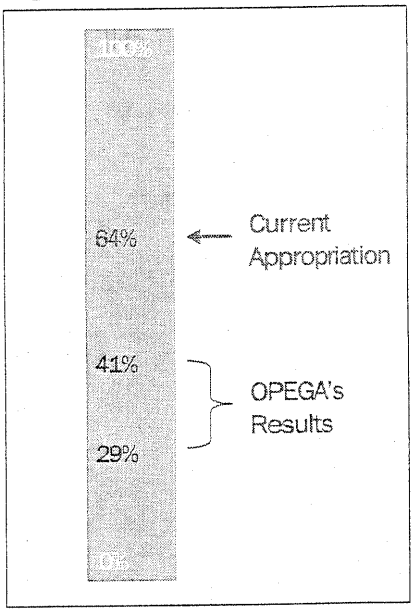


Currently the DPS Administration receives HF monies to pay approximately 64% of all expenditures that can not be paid for with Federal or Special Revenue Funds.

The gap between the two percentages in this case is due simply to the variation that comes from applying the two alternate definitions to the Department's bureaus. Because this appropriation program is concerned with administering the activities of other underlying units, its level of HF eligibility is dependent entirely on the eligibility of those underlying units.

Under the narrower definition, about 29% of DPS Administration's SFY 2005 and 2006 activities were eligible to be paid with Highway Fund money, and under the broader definition 41% were found to be eligible. In this case, both definitions result in a HF eligibility level that is lower than the 64% actually paid with HF in fiscal years 2005 and 2006 (see Figure 10).

Figure 10. DPS Admin. HF Eligibility



Conclusions

In the absence of a clear definition of HF eligibility and reliable activity data, it is not possible to fully and exactly determine which DPS activities are eligible to be paid from the State's Highway Fund.

It is not possible, at this time, to fully and exactly determine which DPS activities and associated costs are eligible to be paid from the State's Highway Fund. OPEGA analyzed available data to arrive at reasonable estimates of HF eligibility, but no decisive eligibility determination or supporting cost allocation can be prepared without two currently unavailable elements:

1. an operational definition of Highway Fund eligibility, and
2. activity data that is closely linked, or can easily be linked, with financial data.

The absence of these two critical elements has led to long-standing uncertainty in DPS and the Legislature about which departmental activities are eligible to be attributed to the Highway Fund. If these elements are not put in place, the question of which Departmental activities should be supported by the HF will likely continue to be argued well into the future, with HF allocations to the Department continuing to be unrelated to the actual activities performed. A long term solution to this issue would require creating an operational definition of HF eligibility and implementing a managerial cost accounting model at DPS to make activity-based cost data continuously available.

Implementing managerial cost accounting would make the costs of specific DPS activities transparent, and could significantly simplify the process of identifying the amount of HF monies that should be allocated to those activities.

The goal of managerial cost accounting is to accumulate, measure, analyze, interpret, and report cost information that can be useful to internal and external parties interested in how an organization uses its resources to meet its objectives. The cost information that would result from such an approach would make the costs of specific DPS activities transparent and could significantly simplify the process of identifying the amount of Highway Fund monies that should be

allocated to those activities. OPEGA has observed there may also be other State agencies which are not currently collecting this type of cost information and which perhaps could benefit from a move toward cost accounting.

The federal government began implementing managerial cost accounting practices across-the-board in the 1990's with the goal of developing the cost information needed to improve federal financial management and decision making. Statement of Federal Financial Accounting Standards (SFFAS) No. 4, Managerial Cost Accounting Concepts and Standards for the Federal Government, described cost information as essential in five areas:

Budgeting and Cost Control	Program activity costs can be used to estimate future costs, and in preparing and reviewing budgets. Cost information provides feedback to executed budgets and can help control and reduce costs and find and avoid waste.
Performance Measurement	Measuring costs facilitates improvements in program efficiency and effectiveness.
Determining Reimbursements and Setting Fees	Cost information is a critical factor in making informed decisions about reimbursement rates and appropriate fees.
Program Evaluation	Costs of resources required by specific programs are an important consideration in making policy decisions concerning authorization, modification, or discontinuation of those programs.
Economic Choice Decisions	Activity costs can assist agencies in making decisions that require cost comparisons among alternatives, such as to perform an activity in-house or contract it out.

Full implementation of a cost accounting model would take time, but could be phased in incrementally, to facilitate significant improvements in transparency and accountability.

Many federal documents exist that describe the steps required to successfully implement managerial cost accounting in a government environment. This would represent a significant effort for the State of Maine, requiring that appropriation programs be clearly linked to activities, that account coding be developed to link costs to activities, and that the associated program activity data be collected. Full implementation would take considerable time, but could be phased in incrementally and would provide for marked improvements in transparency and accountability.

Acknowledgements

OPEGA would like to thank the many individuals within the Department of Public Safety and Department of Administrative and Financial Services' Service Center B who shared their time, knowledge, and experience during the course of this review. Their cooperation and eagerness to help us in this effort provided for much more valuable results.

Appendix A. Full Text of Opinions of the Maine Attorney General

91-8

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THOMAS D. WARREN
DEPUTY, LITIGATION
STEPHEN L. WESSLER
DEPUTY, CONSUMER/ANTITRUST
BRIAN MACMASTER
DIRECTOR, INVESTIGATIONS

June 5, 1991

Senator N. Paul Gauvreau, Chair
Representative Patrick E. Paradis, Chair
Joint Standing Committee on Judiciary
State House Station 115
Augusta, Maine 04333

Dear Senator Gauvreau and Representative Paradis:

You have inquired whether it would be consistent with the provisions of Article IX, Section 19 of the Maine Constitution for the Legislature to appropriate funds from the General Highway Fund to cover the expenses of the District Attorneys' offices in the prosecution of traffic offenses. For the reasons which follow, it is the opinion of this Department that the utilization of the General Highway Fund for this purpose would not be unconstitutional.

Article IX, Section 19 of the Maine Constitution provides:

> All revenues derived from fees, excises and license taxes relating to registration, operation and use of vehicles on public highways, and to fuels used for the propulsion of such vehicles shall be expended solely for cost of administration, statutory refunds and adjustments, payment of debts and liabilities incurred in construction and reconstruction of highways and bridges, the cost of construction, reconstruction, maintenance and repair of public highways and bridges under the

> direction and supervision of a state department having jurisdiction over such highways and bridges and expense for state enforcement of traffic laws and shall not be diverted for any purpose, provided that these limitations shall not apply to revenue from an excise tax on motor vehicles imposed in lieu of personal property tax.

The question which you raise is whether the costs of prosecuting traffic violations by the District Attorneys' offices can be considered an "expense for State enforcement of traffic laws" within the meaning of this provision.

This question is similar to one which was posed to this Department twice before, when it was asked whether the General Highway Fund could be used to fund the expenses of the State Police. In response to those inquiries, the Department indicated that the activities of the State Police in enforcing the State traffic laws clearly fell within the purview of the constitutional provision, and that the General Highway Fund could be used to cover the expenses of the State Police, but only to the extent that those expenses were attributable to such enforcement. Op. Me. Att'y Gen. 81-16; Op. Me. Att'y Gen. 80-41 (copies attached).

There does not appear to be any difference for purposes of the constitutional provision between the activities of the State Police in enforcing the traffic laws of the State and the activities of the District Attorneys' offices in bringing traffic prosecutions, in which the complaining officer may very well be a member of the State Police. That being the case, this Department can see no reason why the General Highway Fund could not be used to fund such expenses.

It should be emphasized, however, that, consistent with the attached prior Opinions of this Department, the constitutional ability of the Legislature to fund the District Attorneys' offices out of the General Highway Fund is limited to that portion of the District Attorneys' budgets which are fairly attributable to traffic law enforcement. Thus, if the Legislature determines to use the General Highway Fund for this purpose, it is constitutionally obligated to make a good faith inquiry and estimate of the portion of the District Attorneys' expenses attributable to this purpose, just as it has done with regard to the budget of the State Police. In making this judgment, the Legislature should be mindful of the fact that the Supreme Judicial Court has on several occasions been quite firm that the General Highway Fund may not be utilized for purposes which are not directly related to those enumerated in

Article IX, Section 19. Opinion of the Justices, 157 Me. 104, 110-111 (1961); Opinion of the Justices, 155 Me. 138-139 (1959); Opinion of the Justices, 152 Me. 449, 455-456 (1957).

I hope the foregoing answers your question. Please feel free to reinquire if further clarification is necessary.

Sincerely,

MICHAEL E. CARPENTER
Attorney General

MEC:sw

81-16

JAMES E. TIERNEY
ATTORNEY GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

February 11, 1981

The Honorable George A. Carroll
State Representative
State House
Augusta, Maine 04333

Dear Representative Carroll:

This will respond to your inquiry regarding the activities of the State Police which may be financed from the General Highway Fund.

The question you raise was answered in an opinion issued by this Office last year. See Op. Atty. Gen. #80-41. As noted in that opinion, Section 19 of Article IX of the Maine Constitution requires that General Highway Fund revenues "be expended solely" for specifically enumerated purposes including the "expense for state enforcement of traffic laws" and "not be diverted for any [other] purpose. . . ." The constitutional mandate is thus quite clear. General Highway Fund revenues may fund only that portion of the State Police budget which is utilized for the enforcement of the traffic laws.

You have also expressed concern regarding the implementation of the constitutional requirement with respect to the State Police. Put most simply, a determination of the percentage of the State Police budget actually utilized for traffic enforcement is a question of fact which cannot be resolved in a legal opinion. In our view, the Constitution contemplates that the Legislature will make a good faith resolution of this question and that the appropriations from the Highway Fund will be in accordance with its factual conclusions. In short, insuring compliance with art. IX, § 19 of the Maine

Constitution is in the first instance the responsibility of the Legislature.

A copy of our prior opinion, which deals with these questions in more detail, is enclosed. I hope this information is helpful.

Sincerely,

James E. Tierney

JAMES E. TIERNEY
Attorney General

Enclosure

cc: Honorable David G. Huber, Chairman
Honorable Michael D. Pearson, Chairman
Joint Standing Committee on Appropriations and Financial Affairs

80-41

RICHARD S. COHEN
ATTORNEY GENERAL

STEPHEN L. DIAMOND
JOHN S. GLEASON
JOHN M.R PATERSON
ROBERT J. STOLT
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

February 21, 1980

Senator Jerome Emerson, Chairman
Representative George Carroll, Chairman
Joint Committee on Transportation
State House
Augusta, Maine 04333

Re: Allocations from the General Highway Fund for the State Police

Gentlemen:

This responds to your February 15, 1980 request for an opinion from this office as to whether the Legislature is required, by reason of Article IX, Section 19 of the Maine Constitution, to adjust the existing funding ratio for the State Police as between the General Highway Fund and the General Fund. For the reasons explained below, we are of the opinion that the Legislature is required to adjust the present ratio if, but only if, it determines that the proportion of expenses of the State Police presently funded from the General Highway Fund exceeds those attributable to state enforcement of traffic laws.

As you point out, Section 19 of Article IX of the Maine Constitution provides that General Highway Fund revenues "shall be expended solely for" specifically enumerated purposes including the "expense for state enforcement of traffic laws" and "shall not be diverted for any [other] purpose . . . ." This constitutional provision has been strictly construed by our Supreme Judicial Court, which has refused to allow uses of highway funds even where those uses were indirectly related to a highway construction program. See, Opinion of the Justices, 152 Me. 449, 455-56 (1957); Opinion of the Justices, 155 Me. 125, 138-139 (1959) and Opinion of the Justices, 157 Me. 104, 110-111 (1961). Because we are dealing with a provision of the Maine Constitution, the Legislature is obviously bound to adhere to the prohibition against diverting General Highway Funds to unauthorized purposes.

However, the question you have raised, as we understand it, is not what the Constitution means or whether the Legislature must comply with it, but how it should be implemented. You explain in your letter that the 108th Legislature directed the State Auditor

to "evaluate and determine the portion of State Police activities related to highway transportation" so that the Legislature "could consider on a factual basis that portion of the State Police budget which should be supported from the Highway Fund and General Fund respectively." P.L. 1977, ch. 423, Part B, §5. Pursuant to this direction, the State Auditor determined, by letter dated September 26, 1978, that the then existing ratio for State Police funding of 75% General Highway Fund to 25% General Fund should be changed to 65%/35% as a result of a manpower study of the State Police.

The essence of the question posed in your letter, we think, is whether the Committee on Transportation is constitutionally bound by the State Auditor's determination. In our opinion it is not. It is clear that the Legislature (not the State Auditor) has the responsibility of how to allocate revenues from the General Highway Fund. 23 M.R.S.A. §1651. In our opinion the 108th Legislature did not delegate this responsibility to the State Auditor. Rather, we interpret the 1977 law as directing the State Auditor to assist the Legislature to better enable the Legislature to make a determination.

Moreover, even if one were to interpret P.L. 1977, c. 423 as delegating to the State Auditor the determination of how much of the revenues of the General Highway Fund should be allocated for State Police activities, we do not consider that delegation to be binding on the 109th Legislature. It is well established that the Legislature may enact any law of any character or on any subject unless prohibited by the Constitution. Baxter v. Waterville Sewerage District, 146 Me. 211, 215, 79 A.2d 585, 588 (1951); Jones v. Maine State Highway Comm., Me., 238 A.2d 226, 230 (1968). A corollary to the foregoing is that "a legislature cannot, through the enactment of statutes, preclude future legislatures from altering or repealing those statutes. In short, the Legislature clearly has broad authority to depart from self-imposed restrictions." Op. Atty. Gen., April 12, 1979 at 15. Baxter v. Waterville Sewerage District, supra; Jones v. Maine State Highway Comm., supra. Thus the 109th Legislature has the constitutional power to alter any delegation which may have been made by a previous legislature with respect to allocations from the General Highway Fund revenues.

In the final analysis, then, it is the task of the 109th Legislature to determine whether adjustments are needed to the present funding ratios for the State Police in order to comply with Section 19 of Article IX of the Maine Constitution. If the Legislature determines in good faith that the State Auditor's judgment concerning the allocation of the expenses of the State Police is not accurate and that the existing ratio continues to be appropriate, then it is fully within the power of the Legislature to make that determination. If, on the other hand, the Legislature determines that the State Auditor's evaluation of the funding ratios is accurate, then the Legislature, in conformity with Article IX, Section 19, should change the existing funding ratios.

Please call upon me if I can be of any further assistance in this matter.

Sincerely yours,

RICHARD S. COHEN
Attorney General

RSC:jg

cc: Honorable Joseph E. Brennan
David G. Huber, Chairman Appropriations Committee
Michael D. Pearson, Chairman Appropriatons Committee

APPENDIX M

Copy of Transportation Committee Letter requesting AG opinion

SENATE

DENNIS S. DAMON, DISTRICT 28, CHAIR
BILL DIAMOND, DISTRICT 12
CHRISTINE R. SAVAGE, DISTRICT 22

KAREN NADEAU-DRILLEN, LEGISLATIVE ANALYST
LOCK KIERMAIER, LEGISLATIVE ANALYST (OFPR)
KATHIE BILODEAU, COMMITTEE CLERK

STATE OF MAINE

HOUSE

BOYD P. MARLEY, PORTLAND, CHAIR
CHARLES D. FISHER, BREWER
GEORGE W. HOGAN, SR., OLD ORCHARD BEACH
EDWARD J. MAZUREK, ROCKLAND
ANN E. PEOPLES, WESTBROOK
CHARLES KEN THERIAULT, MADAWASKA
WILLIAM P. BROWNE, VASSALBORO
DOUGLAS A. THOMAS, RIPLEY
RICHARD M. CEBRA, NAPLES
KIMBERLEY C. ROSEN, BUCKSPORT

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

COMMITTEE ON TRANSPORTATION

30 May 2007

Honorable G. Steven Rowe, Attorney General
State House Station #6
Augusta, ME 04333-0006

Dear Attorney General Rowe:

We are writing to request your opinion on a matter relating to Art IX, §19 of the Maine Constitution. As you know, that provision requires that certain revenues (Highway Fund revenues) be expended solely for certain limited purposes, including construction and reconstruction of highways and bridges and for state enforcement of traffic laws.

The Office of Program Evaluation and Government Accountability (OPEGA) issued a report in February 2007 titled Highway Fund Eligibility at the Department of Public Safety; this report made certain factual findings with regard to the eligibility of certain Department of Public Safety programs for Highway Fund funding under Art IX, §19. Among its findings is that "between 17% and 34% of the costs of associated with activities funded by the state police appropriation program are eligible to be paid from the HF."

Your office has in the past (e.g., opinions 81-16 and 80-41) suggested that the Legislature must make a good faith determination concerning the allocation of Highway Funds to the State Police. We would request your opinion as to this committee's and the Legislature's obligations under the Maine Constitution in light of the conclusions presented to us in the OPEGA report.

Sincerely,

Dennis S. Damon
Senate Chair

Boyd P. Marley
House Chair

cc: Members of the Joint Standing Committee on Transportation

G:\COMMITTEES\TRA\CORRESP\123rd\1st R\AG opinion on OPEGA.doc(5/30/2007 5:47:00 PM)

APPENDIX N

AG Opinion in response to Transportation Committee request

G. STEVEN ROWE
ATTORNEY GENERAL

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July 5, 2007

Hon. Dennis Damon, Senate Chair
Hon. Boyd Marley, House Chair
Joint Standing Committee on Transportation
100 State House Station
Augusta, ME 04333-0100

Dear Senator Damon, Representative Marley, and Members of the Committee:

You have asked for my opinion as to the obligations of both the Committee on Transportation and the Legislature as a whole with respect to the allocation of Highway Funds to the State Police in the budget. Your question arises in the context of certain conclusions reached by the Office of Program Evaluation and Government Accountability ("OPEGA") in a report it issued in February 2007 entitled, "Highway Fund Eligibility at the Department of Public Safety—an Analysis of Select Departmental Activities" ("OPEGA Report").

This Office has previously opined that the Legislature has a responsibility to make a good faith, fact-based determination as to the uses of Highway Fund money that comply with the limitations of Article IX, section 19 of the Maine Constitution ("section 19") (*see* discussion in Part II, below). We have also opined that in making this determination, the Legislature was not bound to accept the factual findings of the State Auditor concerning the proper allocation of Highway Fund money to the State Police. Op. Me. Att'y Gen. 80-41. We believe that these conclusions are equally applicable in the instant circumstances. The Legislature is obligated to make a good faith effort to determine what portion of the State Police budget can be allocated to activities that come within the limitations of section 19, but in making that determination neither the Transportation Committee nor the Legislature is bound by the conclusions reached by the OPEGA Report. Since it is the Legislature that bears the responsibility for deciding how to

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allocate Highway Fund revenues, it is within the Legislature's power to decide whether the conclusions presented in the OPEGA Report provide a sufficient factual basis upon which to make that allocation.

We begin with a description of the history of section 19. We then outline the case law and prior opinions of the Attorney General that are relevant to your question.

I. The Highway Fund in the Maine Constitution, Article IX, Section 19

Article IX, section 19 of the Maine Constitution reads:

> All revenues derived from fees, excises and license taxes relating to registration, operation and use of vehicles on public highways, and to fuels used for propulsion of such vehicles shall be expended solely for cost of administration, statutory refunds and adjustments, payment of debts and liabilities incurred in construction and reconstruction of highways and bridges, the cost of construction, reconstruction, maintenance and repair of public highways and bridges under the direction and supervision of a state department having jurisdiction over such highways and bridges and expense for state enforcement of traffic laws and shall not be diverted for any purpose, provided that these limitations shall not apply to revenue from an excise tax on motor vehicles imposed in lieu of personal property tax.

The Law Court discussed the history of section 19 in *Portland Pipe Line Corp. v. Environmental Improvement Commission,* 307 A.2d 1, 16-22 (Me. 1973). While section 19 was adopted by the people in 1943, the motor vehicle fuels tax ("gas tax") began in 1923.

> The plan of the "gasoline tax" was to focus on those who derived benefits as users of the highway system as the class subject to the tax. While the entire tax has never been subject to an exemption, that part imposed without exemption was rationalized as a minimum payment by otherwise exempt users for residual benefits derived from good roads. The minimum gasoline tax collected from otherwise exempt users has also been expended for purposes other than specified in Article IX, Section 19. It is apparent to this Court that the gasoline tax statutes are intended to result in taxation of highway users.

Id. at 19 (footnotes omitted).

The Court goes on to note that in 1934 Congress enacted a requirement that federal highway funds be withheld from any state that did not apply gasoline taxes and other taxes on motor vehicle owners and operators to highway purposes.[1] In response, an initiated bill "reserving for highway purposes the taxes derived from the 'tax imposed on internal combustion fuel'" was approved by the people at the general election held in November 1936. *Id.* at 21.

[1] This federal statute, subsequently codified at 23 U.S.C. § 126, was repealed in 1998.

This citizen initiated measure has remained in statute since then in very nearly its original language, and appears now at 23 M.R.S.A. § 1653 ("the Highway Fund statute").[2] A side-by-side comparison of the initiated law and the Highway Fund statute is set forth in Attachment A to this opinion. Since its inception, this statutory language has provided that the General Highway Fund is to be used first to satisfy obligations arising from state highway and bridge construction bonds, with the remainder to be "apportioned and expended solely" for: 1) "the cost of registering motor vehicles and licensing the operators thereof;" 2) "maintenance of the State highway police" (1936) or "State Police" (current version); 3) "administration of the office and duties" of the State Highway Commission (in 1936), and subsequently the Department of Transportation; 4) "administration of the tax on internal combustion engine fuel;" 5) "payment of rebates on said tax;" 6) "improvement, construction and maintenance of highways and bridges;" and 7) "snow guards or removal." 1937 Laws of Maine 737 and the Highway Fund statute.

Thus, since 1936, the statute has specifically authorized the use of the Highway Fund to support the State Police. The statute was not repealed or modified when Article IX, section 19 was adopted in 1943. It should be noted that the language of section 19 (quoted on page 2 above) is different from that of the Highway Fund statute (Attachment A hereto) in two respects. First, some of the permitted uses of the Highway Fund are described in a slightly different manner. For example, instead of the specific reference in the Highway Fund statute to the State Police, section 19 refers to "expense for state enforcement of traffic laws."

The other distinction between the language of section 19 and the Highway Fund statute is that in describing the revenues that are subject to its terms, section 19 does not include fines, forfeitures and costs accruing to the State for motor vehicle violations under 29-A M.R.S.A. § 2602 (Attachment B hereto).[3] As a result, these fines, forfeitures and costs are not subject to the spending restrictions of section 19, and the Legislature is constitutionally free to spend them for other purposes. It is our understanding that fines, forfeitures and penalties that go into the Highway Fund under the Highway Fund statute are treated the same as those revenues whose use is restricted by section 19. However, while these revenues are not treated differently for spending purposes than other revenues to the Highway Fund, fines, forfeitures and penalties are separately accounted for as a source of revenue to the Highway Fund.[4] In other words, the Legislature could identify these funds and choose to spend them differently if it wished.

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[2] In 1937, the Legislature amended the statute to allow these funds to be used temporarily for other than highway purposes pending collection of general revenues. Other than this, and updating the statutory cross-reference and name of the Department of Transportation, the statute remains the same as that approved by the voters in 1936.

[3] While revenues from this source are directed into the Highway Fund under the Highway Fund statute, section 2602 carves out portions of these same revenues and directs that they be deposited in the General Fund.

[4] *See, e.g.*, Highway Fund Revenue, Revenue Forecasting Committee Recommendations—March 2007, http://www.maine.gov/legis/ofpr/2007-Mar-HF.pdf.

II. Case Law and Opinions on Constitutional Uses of the Highway Fund

The principles governing the interpretation of a provision of the Constitution are discussed in the *Portland Pipe Line*[5] case as follows:

> The rules which guide this Court in determining the meaning of constitutional provisions are set forth in *Opinion of the Justices, 142 Me. 409, 60 A.2d 903 (1947).* There we said [,] '[t]he fundamental rule of construction of statutory and constitutional provisions is that the language shall be interpreted in accordance with the intention with which it was used, if that result may be accomplished by giving words their ordinary and usual significance.' And further, '[i]t is proper in construing constitutional language to give decisive weight to the history of its development.'... The Supreme Judicial Court of Massachusetts, in construing a constitutional amendment, stated that the amendment ... 'was written to be understood by the voters to whom it was submitted for approval. It is to be interpreted in the sense most obvious to the common intelligence.'

Id., 307 A.2d at 18 (*quoting Opinion of the Justices,* 142 Me. 409, 60 A.2d 903 (1947), and *Yont v. Secretary of Commonwealth,* 275 Mass. 365, 366, 176 N.E. 1, 2 (1931).

The Justices of the Supreme Judicial Court have on two occasions offered their views about the constitutional limits on uses of the Highway Fund.[6] In the first of these opinions, the use of Highway Fund money to cover the cost of relocating utility facilities due to interstate construction was challenged. Five of the Justices concluded that although the state had the authority to pay for the cost of relocating such facilities if it chose, it could not constitutionally use Highway Funds for this purpose because the relocation could not be construed as construction or reconstruction of a highway within the meaning of Article IX, section 19. "The language of the Constitution should not, in our view, be extended beyond its plain and ordinary meaning." *Opinion of the Justices,* 152 Me. 449, 456, 132 A.2d 440 (1957). However, one Justice declined to find that section 19 prohibited use of Highway Funds for this purpose, finding that interpretation too narrow.

> I am satisfied that the limitation placed upon the expenditure of highway funds was designed and intended to prevent raids on those funds for purposes entirely unrelated to the highway program. In my view expenditures which may reasonably be considered incidental to the construction or reconstruction of highways may properly be met out of highway funds whenever the Legislature elects.

152 Me. at 456.

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[5] The issues on the merits in this case are not relevant to your question. The Court decided that a license fee on over-the-water transfers of petroleum products was not covered by section 19 and thus not subject to its revenue restrictions.

[6] "Advisory opinions provided by the individual justices pursuant to Article VI, section 3 are not binding decisions of the Supreme Judicial Court sitting as the Law Court. Such opinions are expressed 'without the benefit of full factual development, oral argument, or full briefing by all interested parties.'" *Opinion of the Justices,* 680 A.2d 444, 447 (Me. 1996), quoting *Opinion of the Justices,* 673 A.2d 693, 695 (Me. 1996). However, "such opinions provide guidance on present and future controversies." *Opinion of the Justices,* 2002 ME 169, ¶ 7, 815 A.2d 791,795.

Considering the same issue in the same year, the Justices of the New Hampshire Supreme Court took the position that drew the support of only one Maine Justice, concluding that the cost of relocating utility facilities required because of the relocation of a highway could appropriately be paid out of revenues governed by a constitutional provision worded in a manner very similar to Maine's. *Opinion of the Justices,* 132 A.2d 613 (N.H. 1957). These disparate results highlight the difficulty in construing section 19: in the absence of definitions of the prescribed Highway Fund uses, there is room for reasonable interpretations to differ on issues such as whether reasonably incidental expenses can be included. [7]

We have found no Maine cases that specifically address how to determine the appropriate extent of Highway Fund support for a program that does not fall wholly within the purposes specified in section 19. The Legislature has historically demonstrated its judgment on this issue through appropriations to such programs. With respect to funding the State Police, the OPEGA Report contains data reflecting Highway Fund funding levels of the major appropriation directed to the State Police that are predominantly in the range from 74-90% for the period from 1946 to 1997, with dips to 50% for 1958-1961 and the year 1990. Since 1998, Highway Fund support for this same appropriation has ranged from 60-65%. *See* Table 5, State Police App. Program (0291) Ratio 1946-2006, OPEGA Report at 13.

The Justices of the New Hampshire Supreme Court have addressed the funding the State Police using that state's Highway Trust Fund in this way:

> In our opinion the express language of pt. II, art. 6-a 'including the supervision of traffic thereon' authorizes the expenditure of such funds for the enforcement of traffic laws and the patrolling of the highways. This is consistent with the constitutional convention history of the article. *See* Jour. N.H. Const. Conv. 148-49 (May 25, 1938). We note that a substantial part of the budget of the division of state police for the communication and traffic bureaus is and has been funded from revenues drawn from the highway trust fund. Such funding does not violate pt. II, art. 6-a provided the amount of funding from highway trust funds is in the proportion that the work of a particular bureau relates to the supervision of traffic, including the enforcement of traffic laws.

Opinion of the Justices, 371 A.2d 1189, 1190-1 (N.H. 1977).[8]

As discussed above, since its original approval by the voters, the Highway Fund statute has identified the State Police as an appropriate recipient of Highway Fund money to support its operations. The question of how to properly allocate the State Police budget between the Highway Fund and other funding sources has been addressed by this Office in a prior opinion

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[7] There is one other opinion concerning section 19, but it sheds no light on the issue we address here. In *Opinion of the Justices,* 157 Me. 104, 170 A.2d 647 (1961), the Justices agreed that a resolve to reimburse an auto agency and repair shop for loss of business during bridge and road construction could not be funded by Highway Fund money. This conclusion is based on the fact that the contemplated award would not fall within the language "payment of debts and liabilities incurred in construction" since it would constitute an outright grant.

[8] The Court also commented on a statutory provision similar to Maine's requiring that motor vehicle fines be paid into the Highway Trust Fund, saying: "Because these funds are not revenues from the sources set forth in pt. II, art. 6-a, N.H. Constitution, they do not in our opinion fall within the restrictions of that article." *Id.,* at 1191.

that also considers the question of whether the Legislature is bound by findings of fact made by the State Auditor concerning the portion of State Police activities that are appropriate to support with Highway Funds.[9] The Legislature had provided:

> The Department of Audit shall evaluate and determine the portion of State Police activities related to highway transportation and that portion related to other responsibilities. The purpose is to consider on a factual basis that portion of the State Police budget which should be supported from the Highway Fund and General Fund respectively.

P.L. 1977, c. 423, § 5.

The Auditor provided his conclusions by letter stating that the existing State Police funding ratio of 75% Highway Fund and 25% General Fund should be changed to 65% and 35%, respectively, based on a manpower study of the State Police. The then chairs of the Transportation Committee then asked the Attorney General whether the Legislature was required to make this adjustment.[10]

> The essence of the question posed in your letter, we think, is whether the Committee on Transportation is constitutionally bound by the State Auditor's determination. In our opinion it is not. It is clear that the Legislature (not the State Auditor) has the responsibility of how to allocate revenues from the General Highway Fund. 23 M.R.S.A. § 1651. In our opinion the 108th Legislature did not delegate this responsibility to the State Auditor. Rather, we interpret the 1977 law as directing the State Auditor to assist the Legislature to better enable the Legislature to make a determination.

Op. Me. Att'y Gen. 80-41.

Having concluded that the Legislature would not have been bound by the State Auditor's determinations even if it had intended to delegate this responsibility, the opinion describes the Legislature's responsibility as follows:

> In the final analysis, then, it is the task of the 109th Legislature to determine whether adjustments are needed to the present funding ratios for the State Police in order to comply with Section 19 of Article IX of the Maine Constitution. If the Legislature determines in good faith that the State Auditor's judgment concerning the allocation of the expenses of the State Police is not accurate and that the existing ratio continues to be appropriate, then it is fully within the power of the Legislature to make that determination. If, on the other hand, the Legislature determines that the State Auditor's evaluation of the funding ratios is accurate, then the Legislature, in conformity with Article IX, Section 19, should change the existing funding ratios.

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[9] These opinions, provided to the OPEGA staff, are Appendix A to the OPEGA Report.
[10] These facts are recited in the opinion. We have not been able to locate the Auditor's letter.

Addressing the same question in a subsequent opinion, the Attorney General stated:

> Put most simply, a determination of the percentage of the State Police budget actually utilized for traffic enforcement is a question of fact which cannot be resolved in a legal opinion. In our view, the Constitution contemplates that the Legislature will make a good faith resolution of this question and that the appropriations from the Highway Fund will be in accordance with its factual conclusions. In short, insuring compliance with art. IX, § 19 of the Maine Constitution is in the first instance the responsibility of the Legislature.

Op. Me. Att'y Gen. 81-16.

As with the State Auditor's report described in the 1980 Attorney General's opinion, the OPEGA Report is the result of a study requested by the Legislature's Transportation Committee. It is based on available information, and utilizes a detailed analytical framework that incorporates certain specified assumptions. As we pointed out in our 1980 opinion, assessment of the facts and conclusions reached in such a report is a fact-based matter that is within the province of the Legislature, and cannot be made in a legal opinion. This is also the approach taken by the Justices of the New Hampshire Supreme Court when confronted with a challenge to the proper allocation of costs where funds dedicated to highways were involved.

There are numerous factual issues that could be deemed relevant to the ultimate conclusion of how much Highway Fund support can be given to the programs of the State Police, and how much reliance to place on OPEGA's conclusions. The approach taken by OPEGA was to select three specific appropriation programs that fund portions of the Department of Public Safety, focusing primarily on expenditures and activities in state fiscal year 2005. OPEGA Report at 5-6. With respect to the State Police, the appropriation that OPEGA selected accounts for 79% of total expenditures. *Id.*, at 13. State Police activities supported by federal funds were not evaluated for Highway Fund eligibility. *Id.*, at 10. Other valid approaches that might produce different results for purposes of comparison would include reviewing all State Police expenditures and/or including more years of data.

Perhaps more importantly, OPEGA discovered that it could not carry out its intention of undertaking a traditional, activity-based cost allocation analysis due to the absence of 1) a clear definition of what constitutes Highway Fund eligibility and 2) State Police activity data that either is or can be closely linked with financial data. *Id.*, at 2, 6-10. As a result, OPEGA qualifies its analysis at the outset of its report by explaining that it is unable to reach any definitive conclusion in the absence of these elements. *Id.*, at 2.

Of these two issues, the lack of a specific definition of activities eligible for Highway Fund support may be the less problematic from a legal perspective. As a practical matter, the Legislature's budget enactments reflect its determination (whether explicit or implicit) of what activities are properly supported by the Highway Fund. Moreover, while adopting a definition of eligible activities would be a useful policymaking exercise, any definition that might be provided by the Legislature would not bind its successors to the same interpretation. In contrast, the lack of reliable activity data presents a significant obstacle to any fact-based assessment. *See* OPEGA Report at 8-10.

It is our understanding that the State Police plan to collect more detailed data for the Committee's consideration in the future. As we have previously opined, the Legislature has a responsibility to make a good faith, fact-based determination as to the uses of Highway Fund money that comply with the limitations of Article IX, section 19 of the Maine Constitution. It is the prerogative of the Legislature to decide what information it requires to undertake that analysis, and to make the policy judgments necessary to determine what activities are appropriate to charge against the Highway Fund. In our opinion, the courts will likely defer to the Legislature's judgment on these factual issues as long as there is a reasonable basis for that judgment.

I hope this information is helpful.

Sincerely,

G. STEVEN ROWE
Attorney General

COMPARISON OF 1937 INITIATED LAW AND 2007 STATUTE GOVERNING USE OF HIGHWAY FUND MONEY

Initiative Approved by the Voters, 1937 Laws of Maine 736	23 M.R.S.A. § 1653
All revenues received by the State from the registration of motor vehicles, and the licensing of operators thereof, from the tax imposed on internal combustion engine fuel, from fines, forfeitures and costs accruing to the State under Section 118 of Chapter 29 of the Revised Statutes, as amended, and from permits granted by the State Highway Commission to open highways, shall be segregated, allocated to and become a part of the general highway fund created and existing by Chapter 251 of the Public Laws of 1931 and Chapter 175 of the Public Laws of 1933; and after payment and deduction from such fund of such sums as are necessary to meet all provisions of bond issues for State highway and bridge construction, the remainder of such fund shall be apportioned and expended solely for the cost of registering motor vehicles and licensing the operators thereof, for maintenance of the State highway police, for administration of the office and duties of the State Highway Commission, for administration of the tax on internal combustion engine fuel and payment of rebates on said tax, and for the improvement, construction and maintenance of highways and bridges, and for snow guards or removal as provided by statute. Neither the general highway fund, nor any fund derived from direct taxation imposed for highway construction, bridge construction, or the improvement and maintenance thereof, shall be diverted or expended, either temporarily or permanently, for any other purpose than set forth in this act, except for the establishment f an aeronautical fund as provided by Section 89A of Chapter 12 of the Revised Statutes.	**§1653. Limitation on use of fund** All revenue received by the State from the registration of motor vehicles and the licensing of operators thereof, from the tax imposed on internal combustion engine fuel, from fines, forfeitures and costs accruing to the State under Title 29-A, section 2602, and from permits granted by the department to open highways must be segregated, allocated to and become part of the General Highway Fund created and existing by statute, and after payment and deduction from such fund of such sums as are necessary to meet all provisions of bond issues for state highway and bridge construction, the remainder of such fund must be apportioned and expended solely: 1. **Registration and licensing.** For the cost of registering motor vehicles and licensing the operators thereof; 2. **State police.** For maintenance of the State Police; 3. **Administration of office.** For administration of the office and duties of the department; 4. **Administration of fuel tax.** For administration of the tax on internal combustion engine fuel; 5. **Rebates.** For payment of rebates on said tax; 6. **Highways and bridges.** For the improvement, construction and maintenance of highways and bridges; 7. **Snow guards.** For snow guards or removal as provided by statute. Neither the General Highway Fund, nor any fund derived from direct taxation imposed for highway construction, bridge construction or the improvement and maintenance thereof, shall be diverted or expended, permanently, for any other purpose than set forth in this section, except that funds so segregated may be used for other appropriations but only those for which anticipated income has not been received and for which financial provision has been made by the Legislature and is forthcoming. The Treasurer of State is directed and authorized to reimburse the General Highway Fund by a deposit of the funds received from such aforesaid appropriations, the receipt of which has been anticipated, to the extent of the amounts temporarily diverted therefrom. Such deposits shall be made as soon as such revenues are collected.

Title 29-A, §2602, Jurisdiction

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§2602. Jurisdiction

1. Traffic infractions. The District Court has original and exclusive jurisdiction over prosecutions for traffic infractions.

[1993, c. 683, Pt. A, §2 (new); Pt. B, §5 (aff).]

2. Other violations. The District Court has original and concurrent jurisdiction with the Superior Court over prosecutions for other violations of this Title.

[1993, c. 683, Pt. A, §2 (new); Pt. B, §5 (aff).]

3. Class C or greater. For Class C or greater crimes, the District Court jurisdiction is subject to Title 4, section 165 and Title 17-A, section 9.

[1999, c. 731, Pt. ZZZ, §38 (amd); §42 (aff).]

4. Fines. Except as otherwise provided in this Title, fines and forfeitures collected under this Title accrue to the General Fund, except that:

A. Six percent of fines and forfeitures collected for all traffic infractions, including fines and forfeitures collected for traffic infractions under section 561-A, accrues to the Law Enforcement Agency Reimbursement Fund established in Title 4, section 173, subsection 4-B. This paragraph does not apply to sections 525, 1767 and 2363; [2001, c. 565, Pt. F, §3 (amd).]

B. Of the fines and forfeitures collected for traffic infractions under sections 511, 2354, 2356, 2360, 2380, 2387 and 2388, 7% accrues to the General Fund, 6% accrues to the Law Enforcement Agency Reimbursement Fund and the balance accrues to the General Highway Fund; and [2003, c. 498, §6 (amd); §12 (aff).]

C. Of the fines and forfeitures collected for violations other than traffic infractions under sections 511, 2354, 2356, 2360, 2380, 2387 and 2388, only $5 or 13%, whichever is greater, accrues to the General Fund and the balance accrues to the Highway Fund. [2003, c. 498, §6 (amd); §12 (aff).]

[2003, c. 498, §6 (amd); §12 (aff).]

PL 1993, Ch. 683, §A2 (NEW).
PL 1993, Ch. 683, §B5 (AFF).
PL 1997, Ch. 750, §A3 (AMD).
PL 1999, Ch. 731, §ZZZ38 (AMD).
PL 1999, Ch. 731, §ZZZ42 (AFF).
PL 2001, Ch. 565, §F3 (AMD).
PL 2003, Ch. 498, §12 (AFF).
PL 2003, Ch. 498, §6 (AMD).

APPENDIX O

Other relevant AG opinions

*1183 Office of the Attorney General
State of Maine

Opinion No. 80-41
February 21, 1980

Re: Allocations from the General Highway Fund for the State Police

Senator Jerome Emerson
Chairman

Representative George Carroll
Chairman
Joint Committee on Transportation
State House
Augusta, Maine 04333

Gentlemen:

This responds to your February 15, 1980 request for an opinion from this office as to whether the Legislature is required, by reason of Article IX, Section 19 of the Maine Constitution, to adjust the existing funding ratio for the State Police as between the General Highway Fund and the General Fund. For the reasons explained below, we are of the opinion that the Legislature is required to adjust the present ratio if, but only if, it determines that the proportion of expenses of the State Police presently funded from the General Highway Fund exceeds those attributable to state enforcement of traffic laws.

As you point out, Section 19 of Article IX of the Maine Constitution provides that General Highway Fund revenues "shall be expended solely for" specifically enumerated purposes including the "expense for state enforcement of traffic laws" and "shall not be diverted for any [other] purpose . . . ." This constitutional provision has been strictly construed by our Supreme Judicial Court, which has refused to allow uses of highway funds even where those uses were indirectly related to a highway construction program. See, Opinion of the Justices, 152 Me. 449, 455-56 (1957); Opinion of the Justices, 155 Me. 125, 138-139 (1959) and Opinion of the Justices, 157 Me. 104, 110-111 (1961). Because we are dealing with a provision of the Maine Constitution, the Legislature is obviously bound to adhere to the prohibition against diverting General Highway Funds to unauthorized purposes.

However, the question you have raised, as we understand it, is not what the Constitution means or whether the Legislature must comply with it, but how it should be implemented. You explain in your letter that the 108th Legislature directed the State Auditor to "evaluate and determine the portion of State Police activities related to highway transportation" so that the Legislature "could consider on a factual basis that portion of the State Police budget which should be supported from the Highway Fund and General Fund respectively." P.L. 1977, ch. 423, Part B, § 5. Pursuant to this direction, the State Auditor determined, by letter dated September 26, 1978, that the then existing ratio for State Police funding of 75% General Highway Fund to 25% General Fund should be changed to 65%/35% as a result of a manpower study of the State Police.

The essence of the question posed in your letter, we think, is whether the Committee on Transportation is constitutionally bound by the State Auditor's determination. In our opinion it is not. It is clear that the Legislature (not the State Auditor) has the responsibility of how to allocate revenues from the General Highway Fund. 23 M.R.S.A. § 1651. In our opinion the 108th Legislature did not delegate this responsibility to the State Auditor. Rather, we interpret the 1977 law as directing the State Auditor to assist the Legislature to better enable the Legislature to make a determination.

Moreover, even if one were to interpret P.L. 1977, c. 423 as delegating to the State Auditor the determination of how much of the revenues of the General Highway Fund should be allocated for State Police activities, we do not consider that delegation to be binding on the 109th Legislature. It is well established that the Legislature may enact any law of any character or on any subject unless prohibited by the Constitution. Baxter v. Waterville Sewerage District,

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146 Me. 211, 215, 79 A.2d 585, 588 (1951); Jones v. Maine State Highway Comm., Me., 238 A.2d 226, 230 (1968). A corollary to the foregoing is that "a legislature cannot, through the enactment of statutes, preclude future legislatures from altering or repealing those statutes. In short, the Legislature clearly has broad authority to depart from self-imposed restrictions." Op. Atty. Gen., April 12, 1979 at 15. Baxter v. Waterville Sewerage District, supra; Jones v. Maine State Highway Comm., supra. Thus the 109th Legislature has the constitutional power to alter any delegation which may have been made by a previous legislature with respect to allocations from the General Highway Fund revenues.

***1184** In the final analysis, then, it is the task of the 109th Legislature to determine whether adjustments are needed to the present funding ratios for the State Police in order to comply with Section 19 of Article IX of the Maine Constitution. If the Legislature determines in good faith that the State Auditor's judgment concerning the allocation of the expenses of the State Police is not accurate and that the existing ratio continues to be appropriate, then it is fully within the power of the Legislature to make that determination. If, on the other hand, the Legislature determines that the State Auditor's evaluation of the funding ratios is accurate, then the Legislature, in conformity with Article IX, Section 19, should change the existing funding ratios.

Please call upon me if I can be of any further assistance in this matter.

Sincerely yours,

Richard S. Cohen

Attorney General

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*947 Office of the Attorney General
State of Maine

Opinion No. 81-16
February 11, 1981

The Honorable George A. Carroll
State Representative
State House
Augusta, Maine 04333

Dear Representative Carroll:

This will respond to your inquiry regarding the activities of the State Police which may be financed from the General Highway Fund.

The question you raise was answered in an opinion issued by this Office last year. See Op.Atty.Gen. #80-41. As noted in that opinion, Section 19 of Article IX of the Maine Constitution requires that General Highway Fund revenues "be expended solely" for specifically enumerated purposes including the "expense for state enforcement of traffic laws" and "not be diverted for any [other] purpose...." The constitutional mandate is thus quite clear. General Highway Fund revenues may fund only that portion of the State Police budget which is utilized for the enforcement of the traffic laws.

You have also expressed concern regarding the implementation of the constitutional requirement with respect to the State Police. Put most simply, a determination of the percentage of the State Police budget actually utilized for traffic enforcement is a question of fact which cannot be resolved in a legal opinion. In our view, the Constitution contemplates that the Legislature will make a good faith resolution of this question and that the appropriations from the Highway Fund will be in accordance with its factual conclusions. In short, insuring compliance with art. IX, § 19 of the Maine Constitution is in the first instance the responsibility of the Legislature.

A copy of our prior opinion, which deals with these questions in more detail, is enclosed. I hope this information is helpful.

Sincerely,

James E. Tierney

Attorney General

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APPENDIX P

Highway Fund Revenue, SFYs 1996-2007

Table HF-1 Highway Fund Revenue
Fiscal Years 1996 - 2007

REVENUE SOURCE	1996 $	1997 $	1998 $	1999 $	2000 $	2001 $	2002 $	2003 $	2004 $	2005 $	2006 $	2007 $
Gasoline Tax	$117,679,527	$118,471,766	$121,456,054	$133,571,769	$143,128,178	$145,147,127	$148,160,900	$151,498,395	$172,209,713	$175,084,215	$176,769,409	$181,018,162
Special Fuel & Road Use Taxes	$26,703,576	$26,705,908	$28,893,590	$33,187,463	$31,563,077	$37,354,970	$36,572,099	$36,402,613	$40,391,130	$45,400,514	$44,805,900	$45,805,856
Motor Veh. & Operator's Lic. Fees												
Motor Vehicle & Truck Registration Fees	$47,239,018	$47,608,914	$48,893,535	$50,020,216	$56,513,525	$57,204,786	$59,723,645	$62,532,625	$64,943,438	$66,429,971	$66,330,219	$65,645,050
Title Fees	$3,431,802	$3,770,481	$6,088,298	$6,168,630	$6,345,995	$7,061,837	$11,365,187	$9,962,698	$10,308,628	$10,946,453	$10,327,181	$9,697,812
Special Registration Plates	$1,225,763	$1,407,692	$1,528,808	$2,561,632	$1,103,268	$1,436,504	$1,563,693	$1,680,071	$1,844,741	$1,898,295	$1,938,192	$2,051,391
Motor Vehicle Dealer Fees	$167,997	$169,920	$179,670	$181,446	$195,749	$184,615	$197,705	$193,348	$197,871	$185,292	$179,991	$177,507
Motor Vehicle Inspection Fees	$1,118,718	$1,110,160	$1,147,198	$1,530,047	$1,747,935	$1,712,783	$2,681,419	$3,043,561	$3,117,787	$3,097,165	$3,099,930	$3,103,044
Special Permit Fees	$591,071	$491,798	$543,805	$551,042	$816,526	$713,679	$659,627	$1,051,457	$1,513,600	$1,088,888	$1,201,407	$1,168,585
Truck Excise Tax Program	$0	$44,859	$486,500	$1,130,373	$1,164,366	$1,358,020	$1,417,092	$0	$0	$0	$0	$0
Motor Vehicle Operator's License Fees	$7,296,853	$6,737,308	$2,840,454	$2,989,055	$7,501,778	$7,787,391	$7,765,383	$7,361,744	$3,776,502	$3,718,578	$7,395,115	$7,907,249
Operator's License Restoration Fees	$840,573	$903,228	$1,166,704	$1,244,910	$1,254,885	$1,284,605	$1,252,309	$1,301,936	$1,506,575	$1,466,834	$1,488,264	$1,812,865
Driver Education Licensing Fees	$10,600	$53,242	$58,261	$57,279	$61,035	$65,355	$71,080	$74,755	$76,810	$74,006	$72,355	$70,890
MV & Operator's Lic. Fees - Subtotal	$61,922,395	$62,297,602	$62,933,233	$66,434,630	$76,705,061	$78,809,574	$86,697,140	$87,202,194	$87,285,952	$88,905,481	$92,032,654	$91,634,392
Misc. Taxes, Fees & Assessments	$12,491	($6,176)	$2,192	$7,644	($3,842)	$2,629	$1,356	($5,527)	$0	($15,393)	($1,072)	($9,200)
From Federal Government	$16,372	$0	$0	$0	$0	$0	$0	$0	$0	($5)	$0	$0
From Local Governments	$24,901	$74,950	$74,217	$40,795	$85,190	$114,063	$40,227	$41,634	$18,318	$19,138	$11,280	$11,182
From Private Sources	$45,213	$92	$20	($2)	$24,264	$1,119	$40	($1,444)	$0	$0	$0	$0
Service Charges for Current Services	$4,205,887	$2,747,797	$4,270,438	$4,047,089	$4,179,574	$3,966,475	$4,396,775	$5,105,169	$4,793,994	$4,811,988	$5,223,443	$5,270,563
Contributions & Transfers from Other Funds	$88,363	$0	$0	$334,666	$2,262	$425	$0	$1,852,792	$1,860,604	$1,599,006	$1,739,426	$1,989,389
State Cost Allocation Program Transfers	$1,334,246	$1,370,240	$874,825	$1,336,545	$746,901	$835,181	$737,187	$1,669,827	$1,705,287	$1,726,662	$1,750,557	$1,890,585
Sales & Comp. for Loss of Property	$135,734	$294,201	$84,089	$134,736	$344,691	$546,773	$562,732	$609,945	$935,706	$5,414,407	$347,302	$217,945
Fines, Forfeits & Penalties	$1,868,492	$2,022,436	$1,766,368	$1,952,025	$2,145,602	$2,097,609	$1,958,350	$2,531,692	$1,918,703	$1,518,580	$1,809,813	$1,668,000
Earnings on Investments	$1,477,667	$966,740	$1,521,246	$3,031,603	$3,997,979	$4,241,955	$2,857,209	$1,338,794	$720,046	$1,440,739	$1,833,806	$1,105,987
From Maine Turnpike Authority	$38,700,055	$5,997,061	$0	$85,000	$0	$0	$0	$0	$188,532	$172,823	$223,637	$218,222
Total - Highway Fund Revenue	**$254,214,918**	**$220,942,617**	**$221,876,271**	**$244,163,962**	**$262,918,938**	**$273,117,902**	**$281,984,017**	**$288,246,084**	**$312,027,986**	**$326,078,155**	**$326,546,157**	**$330,821,083**

Prepared by the Office of Fiscal and Program Review
Updated: 09/14/2007

APPENDIX Q

Highway Fund Revenue, SFYs 2002-2006 (with percentages)

Table HF-1 Highway Fund Revenue
Fiscal Years 2002 - 2006

REVENUE SOURCE	2002 $	2002 % of Total	2003 $	2003 % of Total	2004 $	2004 % of Total	2005 $	2005 % of Total	2006 $	2006 % of Total
Gasoline Tax	$148,160,900	52.54%	$151,498,395	52.56%	$172,209,713	55.19%	$175,084,215	53.69%	$176,769,409	54.13%
Special Fuel & Road Use Taxes	$36,572,099	12.97%	$36,402,613	12.63%	$40,391,130	12.94%	$45,400,514	13.92%	$44,805,900	13.72%
Motor Veh. & Operator's Lic. Fees										
Motor Vehicle & Truck Registration Fees	$59,723,645	21.18%	$62,532,625	21.69%	$64,943,438	20.81%	$66,429,971	20.37%	$66,330,219	20.31%
Title Fees	$11,365,187	4.03%	$9,962,698	3.46%	$10,308,628	3.30%	$10,946,453	3.36%	$10,327,181	3.16%
Special Registration Plates	$1,563,693	0.55%	$1,680,071	0.58%	$1,844,741	0.59%	$1,898,295	0.58%	$1,938,192	0.59%
Motor Vehicle Dealer Fees	$197,705	0.07%	$193,348	0.07%	$197,871	0.06%	$185,292	0.06%	$179,991	0.06%
Motor Vehicle Inspection Fees	$2,681,419	0.95%	$3,043,561	1.06%	$3,117,787	1.00%	$3,097,165	0.95%	$3,099,930	0.95%
Special Permit Fees	$659,627	0.23%	$1,051,457	0.36%	$1,513,600	0.49%	$1,088,888	0.33%	$1,201,407	0.37%
Truck Excise Tax Program	$1,417,092	0.50%	$0	0.00%	$0	0.00%	$0	0.00%	$0	0.00%
Motor Vehicle Operator's License Fees	$7,765,383	2.75%	$7,361,744	2.55%	$3,776,502	1.21%	$3,718,578	1.14%	$7,395,115	2.26%
Operator's License Restoration Fees	$1,252,309	0.44%	$1,301,936	0.45%	$1,506,575	0.48%	$1,466,834	0.45%	$1,488,264	0.46%
Driver Education Licensing Fees	$71,080	0.03%	$74,755	0.03%	$76,810	0.02%	$74,006	0.02%	$72,355	0.02%
MV & Operator's Lic. Fees - Subtotal	$86,697,140	30.75%	$87,202,194	30.25%	$87,285,952	27.97%	$88,905,481	27.27%	$92,032,654	28.18%
Misc. Taxes, Fees & Assessments	$1,356	0.00%	($5,527)	0.00%	$0	0.00%	($15,393)	0.00%	($1,072)	0.00%
From Federal Government	$0	0.00%	$0	0.00%	$0	0.00%	($5)	0.00%	$0	0.00%
From Local Governments	$40,227	0.01%	$41,634	0.01%	$18,318	0.01%	$19,138	0.01%	$11,280	0.00%
From Private Sources	$40	0.00%	($1,444)	0.00%	$0	0.00%	$0	0.00%	$0	0.00%
Service Charges for Current Services	$4,396,775	1.56%	$5,105,169	1.77%	$4,793,994	1.54%	$4,811,988	1.48%	$5,223,443	1.60%
Contributions & Transfers from Other Funds	$0	0.00%	$1,852,792	0.64%	$1,860,604	0.60%	$1,599,006	0.49%	$1,739,426	0.53%
State Cost Allocation Program Transfers	$737,187	0.26%	$1,669,827	0.58%	$1,705,287	0.55%	$1,726,662	0.53%	$1,750,557	0.54%
Sales & Comp. for Loss of Property	$562,732	0.20%	$609,945	0.21%	$935,706	0.30%	$5,414,407	1.66%	$347,302	0.11%
Fines, Forfeits & Penalties	$1,958,350	0.69%	$2,531,692	0.88%	$1,918,703	0.61%	$1,518,580	0.47%	$1,809,813	0.55%
Earnings on Investments	$2,857,209	1.01%	$1,338,794	0.46%	$720,046	0.23%	$1,440,739	0.44%	$1,833,806	0.56%
From Maine Turnpike Authority	$0	0.00%	$0	0.00%	$188,532	0.06%	$172,823	0.05%	$223,637	0.07%
Total - Highway Fund Revenue	**$281,984,017**	**100.0%**	**$288,246,084**	**100.0%**	**$312,027,986**	**100.0%**	**$326,078,155**	**100.0%**	**$326,546,157**	**100.0%**

APPENDIX R

OFPR Comparison of Funding Actions
Taken by the General Fund (GF) and the Highway Fund (HF) to Support Each
Other: FY 88 to FY 07

Comparison of Funding Actions Taken By the General Fund (GF) and the Highway Fund (HF) to Support Each Other: FY 88 to FY07

(Reflects Actions through the 122nd Legislature)

Fiscal Year	*Public Law/ Requirement*	*Agency; Purpose*	*GF action to Support HF*	*HF action to Support GF*	*Explanation*
FY 88	PL 1987, c.793	TRANSPORTATION; Highway and Bridge Construction from Maine Rainy Day Fund	$12,000,000		Funds transferred from the MRDF for highway purposes
FY 88	PL 1987, c.793	TRANSPORTATION; Salt & Sand Storage from Maine Rainy Day Fund	$1,200,000		Funds transferred from the MRDF for highway purposes
FY 88	State Police Funding	PUBLIC SAFETY; State Police funding split (GF 25% / HF 75%)		$3,077,713	The difference between what the HF paid for State Police costs and what the HF would have paid at 60% of the total costs
FY 89	State Police Funding	PUBLIC SAFETY; State Police funding split (GF 25% / HF 75%)		$2,952,621	The difference between what the HF paid for State Police costs and what the HF would have paid at 60% of the total costs
FY 90	PL 1989, c. 501	SECRETARY OF STATE; Motor Vehicle Building from Maine Rainy Day Fund	$6,000,000		Funds transferred from the MRDF for highway purposes
FY 90	PL 1989, c. 501	TRANSPORTATION; Capital Construction and Repairs	$900,000		Funds transferred from the MRDF for highway purposes
FY 90	State Police Funding	PUBLIC SAFETY; State Police funding split (GF 50% / HF 50%)	$2,429,037		The difference between what the HF paid for State Police costs and what the HF would have paid at 60% of the total costs
FY 91	PL 1989, c. 501	TRANSPORTATION; Capital Construction and Repairs from Maine Rainy Day Fund	$100,000		Funds transferred from the MRDF for highway purposes

Fiscal Year	*Public Law/ Requirement*	*Agency; Purpose*	*GF action to Support HF*	*HF action to Support GF*	*Explanation*
FY 91	PL 1991, c.9	TRANSPORTATION; Highway and Bridge Construction	($736,212)		Funds that were deappropriated from available balance forward
FY 91	State Police Funding	PUBLIC SAFETY; State Police funding split (GF 23% / HF 77%)		$3,971,030	The difference between what the HF paid for State Police costs and what the HF would have paid at 60% of the total costs
FY 92	Total allocations	AGRICULTURE; Public Service		$30,297	Funds that were allocated from the HF to support what had been a cost totally borne by GF
FY 92	District Attorneys' Salaries	ATTORNEY GENERAL; District Attorneys' salaries		$487,500	Funds that were allocated from the HF to support what had been a cost totally borne by GF
FY 92	HF interest to GF	not applicable		$397,972	PL 1991, c. 622 required that HF interest earnings must be credited to GF; repealed by PL 1995, c. 368
FY 92	State Police Funding	PUBLIC SAFETY; State Police funding split (GF 26% / HF 74%)		$3,242,248	The difference between what the HF paid for State Police costs and what the HF would have paid at 60% of the total costs
FY 93	Weights and Measures	AGRICULTURE; Public Service - funding for Weights and Measures Inspector positions		$31,345	Funds that were allocated from the HF to support what had been a cost totally borne by GF
FY 93	District Attorneys' Salaries	ATTORNEY GENERAL; District Attorneys' salaries		$473,063	Funds that were allocated from the HF to support what had been a cost totally borne by GF
FY 93	State Police Funding	PUBLIC SAFETY; State Police funding split (GF 13% / HF 87%)		$6,102,406	The difference between what the HF paid for State Police costs and what the HF would have paid at 60% of the total costs
FY 93	HF interest to GF	HF interest credited to the GF		$277,833	PL 1991, c. 622 required that HF interest earnings must be credited to GF; repealed by PL 1995, c. 368

Fiscal Year	*Public Law/ Requirement*	*Agency; Purpose*	*GF action to Support HF*	*HF action to Support GF*	*Explanation*
FY 94	Total allocations	AGRICULTURE; Public Service		$42,623	Funds that were allocated from the HF to support what had been a cost totally borne by GF
FY 94	Total allocations	ATTORNEY GENERAL; District Attorneys' salaries		$901,596	Funds that were allocated from the HF to support what had been a cost totally borne by GF
FY 94	PL 1993, c. 707	TRANSPORTATION; Highway Maintenance	($200,000)		Funds that were deappropriated from available balance forward
FY 94	State Police Funding	PUBLIC SAFETY; State Police funding split (GF 12% / HF 88%)		$6,594,929	The difference between what the HF paid for State Police costs and what the HF would have paid at 60% of the total costs
FY 94	Interest Earnings	HF interest credited to the GF		$635,428	PL 1991, c. 622 required that HF interest earnings must be credited to GF; repealed by PL 1995, c. 368
FY 95	Weights and Measures	AGRICULTURE; Public Service - funding for Weights and Measures Inspector positions		$41,610	Funds that were allocated from the HF to support what had been a cost totally borne by GF
FY 95	Total allocations	ATTORNEY GENERAL; District Attorneys' salaries		$964,653	Funds that were allocated from the HF to support what had been a cost totally borne by GF
FY 95	State Police Funding	PUBLIC SAFETY; State Police funding split (GF 13% / HF 87%)		$6,501,531	The difference between what the HF paid for State Police costs and what the HF would have paid at 60% of the total costs
FY 95	HF interest to GF	HF interest credited to the GF		$1,689,372	PL 1991, c. 622 required that HF interest earnings must be credited to GF; repealed by PL 1995, c. 368
FY 96	Weights and Measures	AGRICULTURE; Public Service - funding for Weights and Measures Inspector positions		$45,790	Funds that were allocated from the HF to support what had been a cost totally borne by GF

Fiscal Year	*Public Law/ Requirement*	*Agency; Purpose*	*GF action to Support HF*	*HF action to Support GF*	*Explanation*
FY 96	District Attorneys' Salaries	ATTORNEY GENERAL; District Attorneys' salaries		$1,271,455	Funds that were allocated from the HF to support what had been a cost totally borne by GF
FY 96	State Police Funding	PUBLIC SAFETY; State Police funding split (GF 15% / HF 85%)		$6,526,484	The difference between what the HF paid for State Police costs and what the HF would have paid at 60% of the total costs
FY 97	Weights and Measures	AGRICULTURE; Public Service - funding for Weights and Measures Inspector positions		$49,757	Funds that were allocated from the HF to support what had been a cost totally borne by GF
FY 97	District Attorneys' Salaries	ATTORNEY GENERAL; District Attorneys' salaries		$1,365,282	Funds that were allocated from the HF to support what had been a cost totally borne by GF
FY 97	State Police Funding	PUBLIC SAFETY; State Police funding split (GF 20% / HF 80%)		$5,141,202	The difference between what the HF paid for State Police costs and what the HF would have paid at 60% of the total costs
FY 98	PL 1997, c. 643	TRANSPORTATION; Highway Maintenance	$177,238		Funds that were appropriated from the GF to support what had been a cost totally borne by HF
FY 98	PL 1997, c. 643	TRANSPORTATION; Highway & Bridge Improvement	$12,000,000		Funds that were appropriated from the GF to support what had been a cost totally borne by HF
FY 98	PL 1997, c. 643	TRANSPORTATION; Highway & Bridge Improvement	$12,766		Funds that were appropriated from the GF to support what had been a cost totally borne by HF
FY 98	State Police Funding	PUBLIC SAFETY; State Police funding split (GF 40% / HF 60% - GF slightly above 40%)	$47,773		The difference between what the GF paid for State Police costs and what the GF would have paid at 40% of the total costs
FY 99	State Police Funding	PUBLIC SAFETY; State Police funding split (GF 40% / HF 60% - GF slightly above 40%)	$23,157		The difference between what the GF paid for State Police costs and what the GF would have paid at 40% of the total costs

Fiscal Year	*Public Law/ Requirement*	*Agency; Purpose*	*GF action to Support HF*	*HF action to Support GF*	*Explanation*
FY 00	State Police Funding	PUBLIC SAFETY; State Police funding split (GF 40% / HF 60% - HF slightly above 60%)		$98,297	The difference between what the HF paid for State Police costs and what the HF would have paid at 60% of the total costs
FY 00	PL 1999, c.401	TRANSPORTATION; Highway & Bridge Improvement	$5,773,969		Funds that were appropriated from the GF to support the HF
FY 00	PL 1999, c.401	TRANSPORTATION; Highway & Bridge Improvement	$150,000		Funds to cover Personal Services costs that can not be covered by bond proceeds
FY 01	State Police Funding	PUBLIC SAFETY; State Police funding split (GF 40% / HF 60% - GF slightly above 40%)	$45,233		The difference between what the GF paid for State Police costs and what the GF would have paid at 40% of the total costs
FY 01	PL 1999, c. 731, Part F-6	Establishment of the Transportation Funding Reserve	$4,044,139		Lapsed GF Personal Services funds from FY 99; to be used for HF purposes (see PL 1999, c. 737, pt A and PL 1999, c. 731, pt F-7)
FY 01	PL 1999, c.401	TRANSPORTATION; Highway & Bridge Improvement	$150,000		Funds to cover Personal Services costs that can not be covered by bond proceeds
FY 01	PL 1999, c. 731, Part F-7	Transfer from GF Unappropriated Surplus	$20,650,000		Unappropriated GF surplus to be used for various HF purposes (see PL 1999, c. 737, pt A and PL 1999, c. 731, pt F-8)
FY 01	PL 2001, c. 1, Part C-3	Transfer from GF Unappropriated Surplus	$500,000		To help correct an accounting error to balance the HF
FY 02	State Police Funding	PUBLIC SAFETY; State Police funding split (GF 37% / HF 63%)		$1,203,531	The difference between what the HF paid for State Police costs and what the HF would have paid at 60% of the total costs
FY 02	PL 2001, c.559, Part M-1	Transfer from HF Unallocated Surplus		$500,000	To reimburse the GF for the costs of the $500,000 appropriation made in PL 2001, c.1

Fiscal Year	*Public Law/ Requirement*	*Agency; Purpose*	*GF action to Support HF*	*HF action to Support GF*	*Explanation*
FY 02	PL 2001, c.358	TRANSPORTATION; Highway & Bridge Improvement	$153,297		Funds to cover Personal Services costs that can not be covered by bond proceeds
FY 03	State Police Funding	PUBLIC SAFETY; State Police funding split (GF 37% / HF 63%)		$1,725,444	The difference between what the HF paid for State Police costs and what the HF would have paid at 60% of the total costs
FY 03	PL 2001, c.358	TRANSPORTATION; Highway & Bridge Improvement	$162,022		Funds to cover Personal Services costs that can not be covered by bond proceeds
FY 03	Pl 2001, c.680	TRANSPORTATION; Highway & Bridge Improvement	$10,000		Funds for the Town of Raymond for a Community Gateways project
FY 03	Pl 2001, c.714	TRANSPORTATION; Highway & Bridge Improvement	($10,000)		Deappropriation of funds for the Town of Raymond for a Community Gateways project
FY 03	Pl 2001, c.714, Part B-12	Transfer from HF Unallocated Surplus		$9,300,000	To reimburse the GF for funds provided for highway improvement projects
FY 03	Pl 2001, c.714, Part B-14	Transfer from HF Personal Services savings		$622,356	HF savings from furlough days transferred to GF
FY 03	PL 2003, c. 2, Part EE	Transfer from HF Unallocated Surplus		$7,271,841	To reimburse the GF for funds provided for highway improvement projects
FY 04	PL 2003, c. 20, Part KK	Transfer from HF Unallocated Surplus		$5,000,000	To reimburse the GF for funds provided for highway improvement projects
FY 04	PL 2003, c. 20, Part AAA	Transfer from HF to Local Government Fund		$13,570,000	One-time HF Revenue Sharing transfer to replace GF revenue transfer

Fiscal Year	*Public Law/ Requirement*	*Agency; Purpose*	*GF action to Support HF*	*HF action to Support GF*	*Explanation*
FY 04	PL 2003, c. 20, Part B	PUBLIC SAFETY; change in State Police funding ratio from 40/60 to 37/63		$1,316,441	Changing the funding ratio for State Police from 40/60 to 37/63.
FY 04	PL 2003, c. 20, Part B	PUBLIC SAFETY; change in State Police funding ratio from 40/60 to 37/63		$6,931	Changing the funding ratio for State Police from 40/60 to 37/63 for one State Police Lieutenant position.
FY 04	PL 2003, c. 20, Part R-8	PUBLIC SAFETY; Repeal of the statutory provision which credits the HF with a proportional share of fees charged by the Bureau of Investigation.		$214,500	Repeal of the statutory provision which credits the HF with a proportional share of fees charged by the Bureau of Investigation.
FY 04	PL 2003, c.20. Part A	TRANSPORTATION; Highway & Bridge Improvement	$140,705		Funds to cover Personal Services costs that can not be covered by bond proceeds; total shown represents net funding amount.
FY 05	PL 2003, c. 20, Part KK	Transfer from HF Unallocated Surplus		$3,000,000	To reimburse the GF for funds provided for highway improvement projects
FY 05	PL 2003, c. 20, Part AAA	Transfer from HF to Local Government Fund to GF		$9,600,000	One-time HF Revenue Sharing transfer to replace GF revenue transfer
FY 05	PL 2003, c. 20, Part B	PUBLIC SAFETY; change in State Police funding ratio from 40/60 to 37/63		$1,328,332	Changing the funding ratio for State Police from 40/60 to 37/63.
FY 05	PL 2003, c. 20, Part R-8	PUBLIC SAFETY; Repeal of the statutory provision which credits the HF with a proportional share of fees charged by the Bureau of Investigation.		$214,500	Repeal of the statutory provision which credits the HF with a proportional share of fees charged by the Bureau of Investigation.
FY 05	PL 2003, c. 20, Part B	PUBLIC SAFETY; change in State Police funding ratio from 40/60 to 37/63		$6,912	Changing the funding ratio for State Police from 40/60 to 37/63 for one State Police Lieutenant position.
FY 05	PL 2003,c.673; Part SS-2	TRANSPORTATION; Transfer from HF to GF		$5,000,000	HF revenue realized from the sale of the Payne Rd. Bridge in Scarborough is transferred to the GF.

Fiscal Year	*Public Law/ Requirement*	*Agency; Purpose*	*GF action to Support HF*	*HF action to Support GF*	*Explanation*
FY 05	PL 2003,c.673; Part SS-6	TRANSPORTATION; Transfer from HF to GF		$6,400,000	DOT purchases the Transportation Building from DAFS resulting in a transfer of funds from the HF to the GF for the value of the building.
FY 05	PL 200, c. 673, part K-4	TRANSPORTATION; Transfer from GF to HF	$4,818,560		Transfer of funds to reflect the ending of the payment equity project ("Anthem Swap").
FY 05	PL 2003, c.20. Part A	TRANSPORTATION; Highway & Bridge Improvement	$140,135		Funds to cover Personal Services costs that can not be covered by bond proceeds; total shown represents net funding amount.
FY 06	State Police Funding	PUBLIC SAFETY; State Police funding split (GF 35% / HF 65%)		$2,210,637	The difference between what the HF paid for State Police costs and what the HF would have paid at 60% of the total costs
FY 06	PL 2005, c.457; Part GGG	TRANSPORTATION; Marine Highway Transportation		$3,177,250	The HF assumes responsibility from the GF for providing an operating subsidy to the Maine State Ferry Service.
FY 07	State Police Funding	PUBLIC SAFETY; State Police funding split (GF 37% / HF 63%)		$1,559,079	The difference between what the HF paid for State Police costs and what the HF would have paid at 60% of the total costs
FY 07	PL 2005, c.457; Part GGG	TRANSPORTATION; Marine Highway Transportation		$3,354,808	The HF assumes responsibility from the GF for providing an operating subsidy to the Maine State Ferry Service.
FY 07	PL 2005, c.519; Part HHH-2	TRANSPORTATION; Transfer from GF to HF	$15,000,000		Transfer of funds on a one-time basis to provide supplemental funding for highway and bridge improvement projects.
		Total	$85,681,819 *	$129,496,599	

* Does not reflect GF bond issues for highway purposes.
P&S 1997, c.56 was a GF bond issue which included $23,800,000 for state and local bridges.
P&S 2001, c.38 was a GF bond issue which included $37,400,000 for highway and bridge improvements.
P&S 2003, c. 33 was a GF bond issue which included $29,000,000 for highway and bridge improvements.

APPENDIX S

All Appropriation Programs within DPS that receive HF dollars,
SFYs 2000-2009 (in dollars and in percentages)

All Appropriation Programs within the Department of Public Safety that receive Highway Funds
(in dollars - FY 2000 to FY 2009)

Prog #	Fund	2000	2001	2002	2003	2004	2005	2006	2007	2008 (Budget)	2009 (Budget)
0088	ADMINISTRATION - PUBLIC SAFETY										
	GF	$365,762.79	$403,167.09	$415,945.92	$452,343.09	$316,836.09	$326,267.03	$324,744.27	$326,557.69	$346,855	$349,549
	HF	$527,329.84	$572,076.74	$610,556.87	$686,867.51	$671,990.78	$758,235.98	$598,142.46	$741,873.97	$822,238	$827,565
	FED			$1,472,148.67	$1,283,119.18	$1,533,438.26	$1,546,156.40	$1,543,164.80	$1,191,693.70	$1,549,185	$1,552,442
	OSR	$308,953.17	$289,579.45	$366,342.41	$244,678.93	$307,823.66	$359,582.32	$194,880.98	$215,155.03	$251,574	$254,044
0088 Total		$1,202,045.80	$1,264,823.28	$2,864,993.87	$2,667,008.71	$2,830,088.79	$2,990,241.73	$2,660,932.51	$2,475,280.39	$2,969,852	$2,983,600
0291	STATE POLICE										
	GF	$11,857,646.72	$12,817,540.11	$13,003,852.68	$14,190,544.59	$13,302,141.97	$13,927,652.29	$14,712,244.19	$17,076,762.24	$18,543,494	$18,770,780
	HF	$17,776,476.46	$19,104,349.38	$22,143,316.36	$25,425,173.27	$25,962,946.10	$25,222,978.73	$27,874,015.12	$29,034,507.62	$27,819,926	$28,500,773
	FED	$537,437.85	$782,065.92	$2,449,761.02	$2,597,499.66	$1,331,002.96	$2,510,158.69	$2,549,143.64	$3,637,166.65	$2,426,821	$2,443,173
	OSR	$454,537.16	$657,502.75	$1,400,575.05	$1,058,442.71	$1,417,473.40	$1,066,936.39	$1,082,749.20	$888,289.51	$1,077,072	$1,106,356
0291 Total		$30,626,098.19	$33,361,458.16	$38,997,505.11	$43,271,660.23	$42,013,564.43	$42,727,726.10	$46,218,152.15	$50,636,726.02	$49,867,313	$50,821,082
0329	MOTOR VEHICLE INSPECTION										
	GF										
	HF	$1,030,788.80	$857,692.43	$1,174,582.96	$1,139,351.03	$782,871.68	$976,109.20	$1,007,979.67	$940,925.42	$1,284,519	$1,317,278
0329 Total		$1,030,788.80	$857,692.43	$1,174,582.96	$1,139,351.03	$782,871.68	$976,109.20	$1,007,979.67	$940,925.42	$1,284,519	$1,317,278
0457	HIGHWAY SAFETY DPS										
	HF	$614,756.59	$455,778.78	$519,398.66	$544,729.24	$374,834.34	$384,104.36	$412,687.91	$442,172.44	$443,658	$446,345
	FED	$1,984,138.77	$2,414,000.77	$2,292,404.81	$1,017,828.22	$973,123.15	$1,214,057.31	$1,677,279.18	$1,418,720.25	$1,945,442	$1,954,785
	OSR	$93,443.65	$74,634.18	$422,506.01	$160,432.48	$95,880.65	$149,436.30	$345,181.60	$55,843.03	$338,557	$339,044
0457 Total		$2,692,339.01	$2,944,413.73	$3,234,309.48	$1,722,989.94	$1,443,838.14	$1,747,597.97	$2,435,148.69	$1,916,735.72	$2,727,657	$2,740,174
0546	TRAFFIC SAFETY										
	GF										
	HF	$745,576.34	$778,967.16	$1,059,480.33	$931,043.84	$744,268.35	$874,746.85	$891,424.08	$1,068,088.15	$950,787	$965,966
0546 Total		$745,576.34	$778,967.16	$1,059,480.33	$931,043.84	$744,268.35	$874,746.85	$891,424.08	$1,068,088.15	$950,787	$965,966
0715	TRAFFIC SAFETY - COMMERCIAL VEHICLE ENFORCEMENT										
715	HF				$3,447,594.27	$4,179,100.33	$3,815,735.18	$4,212,057.69	$4,100,716.88	$4,775,004	$4,977,609
	OSR	$2,539,216.59	$3,031,484.20	$3,517,816.22	$396.82						
0715 Total		$2,539,216.59	$3,031,484.20	$3,517,816.22	$3,447,991.09	$4,179,100.33	$3,815,735.18	$4,212,057.69	$4,100,716.88	$4,775,004	$4,977,609
0909	SEX OFFENDER REGISTRATION - STATE MANDATE REIMBURSEMENT										
909	HF		$719.93								
0909 Total			$719.93								
981	HF					$399,705.80	$428,297.32	$456,336.71	$478,148.42	$534,529	$547,834
0981 Total						$399,705.80	$428,297.32	$456,336.71	$478,148.42	$534,529	$547,834

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Updated: 09/14/2007

All Appropriation Programs within the Department of Public Safety that receive Highway Funds
(in percentages - FY 2000 to FY 2009)

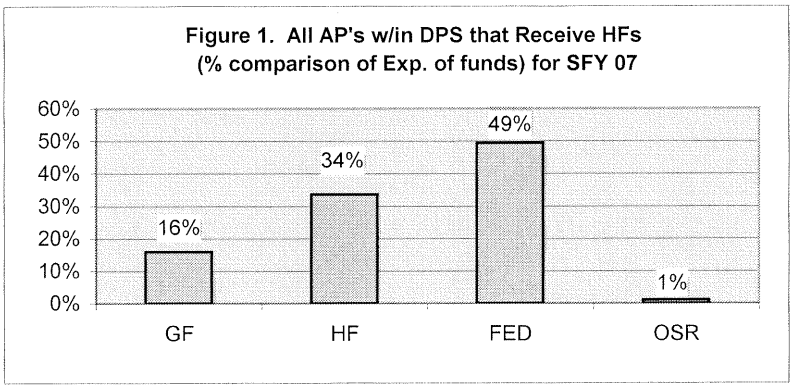
Prog #	Fund	2000	2001	2002	2003	2004	2005	2006	2007	2008 (Budget)	2009 (Budget)
0088	ADMINISTRATION - PUBLIC SAFETY										
	GF	30.4%	31.9%	14.5%	17.0%	11.2%	10.9%	12.2%	13.2%	11.7%	11.7%
	HF	43.9%	45.2%	21.3%	25.8%	23.7%	25.4%	22.5%	30.0%	27.7%	27.7%
	FED	0.0%	0.0%	51.4%	48.1%	54.2%	51.7%	58.0%	48.1%	52.2%	52.0%
	OSR	25.7%	22.9%	12.8%	9.2%	10.9%	12.0%	7.3%	8.7%	8.5%	8.5%
0088 Total		100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
0291	STATE POLICE										
	GF	38.7%	38.4%	33.3%	32.8%	31.7%	32.6%	31.8%	33.7%	37.2%	36.9%
	HF	58.0%	57.3%	56.8%	58.8%	61.8%	59.0%	60.3%	57.3%	55.8%	56.1%
	FED	1.8%	2.3%	6.3%	6.0%	3.2%	5.9%	5.5%	7.2%	4.9%	4.8%
	OSR	1.5%	2.0%	3.6%	2.4%	3.4%	2.5%	2.3%	1.8%	2.2%	2.2%
0291 Total		100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
0329	MOTOR VEHICLE INSPECTION										
	GF	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
	HF	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
0329 Total		100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
0457	HIGHWAY SAFETY DPS										
	HF	22.8%	15.5%	16.1%	31.6%	26.0%	22.0%	16.9%	23.1%	16.3%	16.3%
	FED	73.7%	82.0%	70.9%	59.1%	67.4%	69.5%	68.9%	74.0%	71.3%	71.3%
	OSR	3.5%	2.5%	13.1%	9.3%	6.6%	8.6%	14.2%	2.9%	12.4%	12.4%
0457 Total		100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
0546	TRAFFIC SAFETY										
	GF	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
	HF	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
0546 Total		100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
0715	TRAFFIC SAFETY - COMMERCIAL VEHICLE ENFORCEMENT										
715	HF	0.0%	0.0%	0.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
	OSR	100.0%	100.0%	100.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
0715 Total		100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
0909	SEX OFFENDER REGISTRATION - STATE MANDATE REIMBURSEMENT										
	HF		100.0%								
0909 Total			100.0%								
981	HF					100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
0981 Total						100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

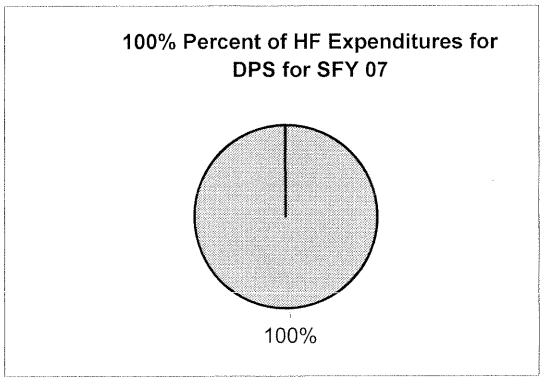
APPENDIX T

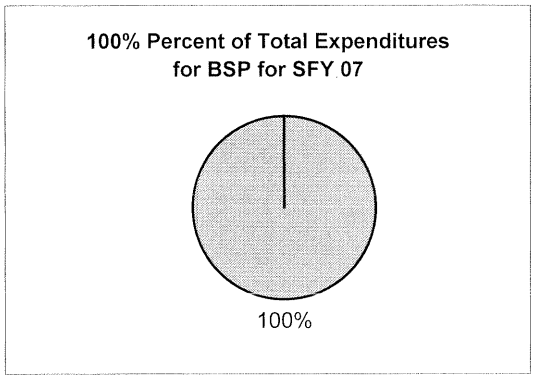
All Appropriation Programs within DPS and the Bureau of State Police that receive HF dollars, (graphs and spreadsheet) for SFY 2007

An Analysis of Appropriation Programs that fund the Department of Public Safety (DPS) that receive Highway Funds (SFY 2007)

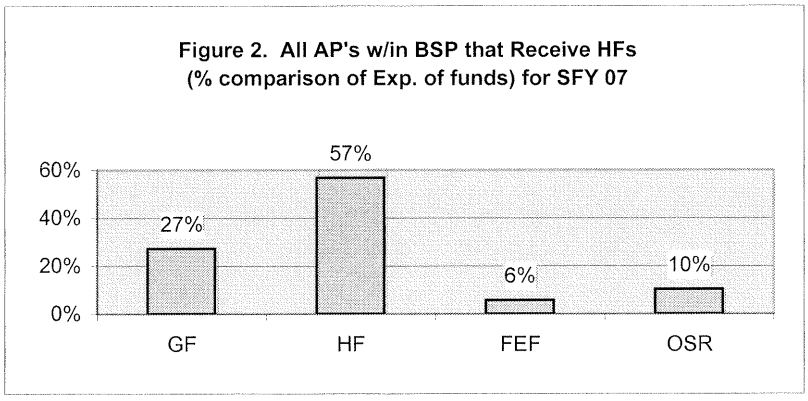
1. All Appropriation Programs that fund DPS that Receive HFs (SFY 07 Expenditures)

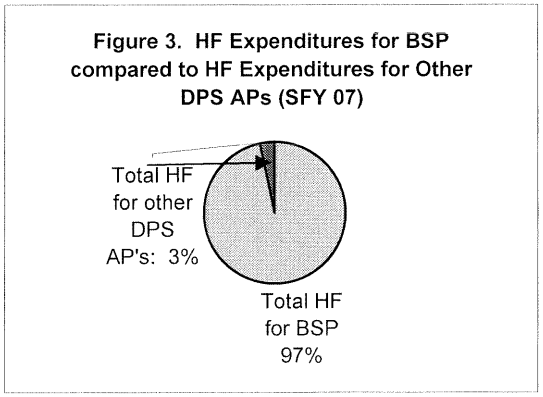


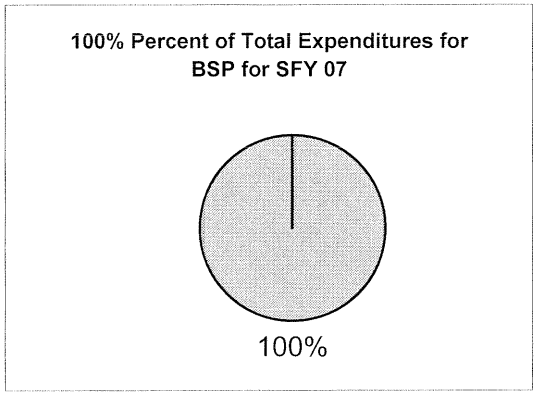




2. All Appropriation Programs that fund BSP that Receive HFs (SFY 07 Expenditures)







3. Sources of Revenue for State Police Appropriation Program (0291) (SFY 07 Exepnditures)

Figure 4. Funding Sources for State Police AP 0291 (by % of Total Exp. for SFY 07)

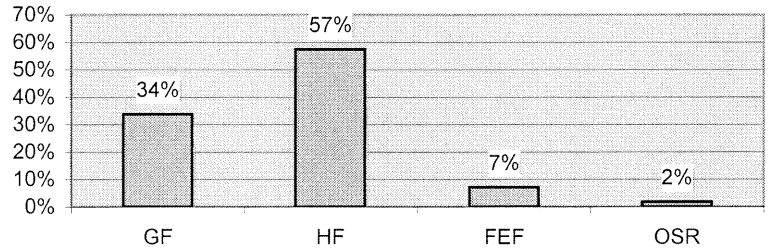


Figure 5. HF Expenditures for AP 0291 compared to HF Expenditures for Other DPS APs (SFY 07)

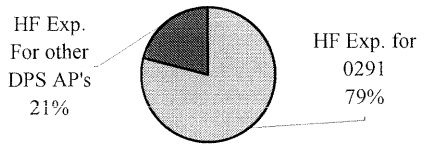
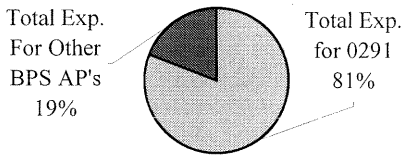
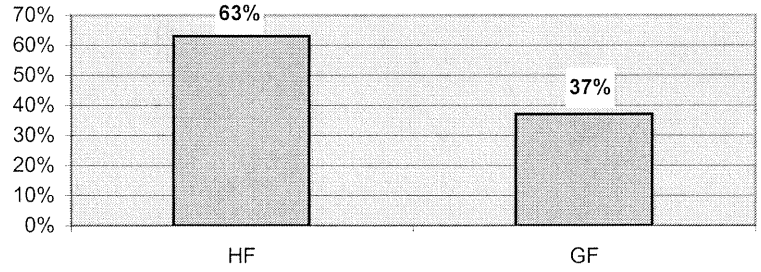


Figure 6. Total Expenditures for AP 0291 compared to Total Expenditures for Other BPS APs

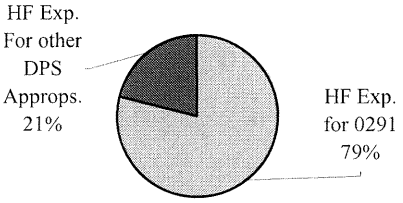


4. HF vs. GF Expenditures within 0291 Appropriation Program (SFY 07)

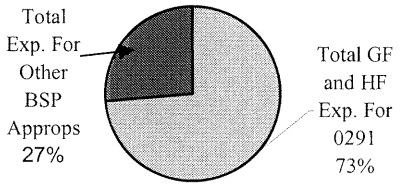
Figure 7. HF vs. GF Expenditures within State Police AP 0291 (SFY 2007)



HF Expenditures forAP 0291 compared to HF Expenditures for Other DPS APs (FY 07)



Total GF and HF Expenditures for AP 0291 compared to Total Expenditures for Other BSP APs (FY 07)



All Appropriation Programs that fund the Department of Public Safety that Receive State Highway Funds (SFY 07 Expenditures)

Appropriation Program	Revenue Source	Dollars	Percent
0088	ADMINISTRATION - PUBLIC SAFETY		
	GF	$326,557.69	13%
	HF	$741,873.97	30%
	FED	$1,191,693.70	48%
	OSR	$215,155.03	9%
0088 Total		$2,475,280.39	100%
0291	STATE POLICE		
	GF	$17,076,762.24	34%
	HF	$29,034,507.62	57%
	FED	$3,637,166.65	7%
	OSR	$888,289.51	2%
0291 Total		$50,636,726.02	100%
0329	MOTOR VEHICLE INSPECTION		
	GF		
	HF	$940,925.42	100%
0329 Total		$940,925.42	100%
0457	HIGHWAY SAFETY DPS		
	HF	$442,172.44	23%
	FED	$1,418,720.25	74%
	OSR	$55,843.03	3%
0457 Total		$1,916,735.72	100%
0546	TRAFFIC SAFETY		
	GF		
	HF	$1,068,088.15	100%
0546 Total		$1,068,088.15	100%
0715	TRAFFIC SAFETY - COMMERCIAL VEHICLE ENFORCEMENT		
715	HF	$4,100,716.88	100%
	OSR		
0715 Total		$4,100,716.88	100%
0909	SEX OFFENDER REGISTRATION - STATE MANDATE REIMBURSEMENT		
909	HF		0%
0909 Total			0%
981	HF	$478,148.42	100%
0981 Total		$478,148.42	100%
TOTALS	**GF**	**$17,403,319.93**	28%
	HF	**$36,806,432.90**	60%
	FED	**$6,247,580.60**	10%
	OSR	**$1,159,287.57**	2%
	Total DPS Programs with HF	**$61,616,621.00**	100%

Prepared by the Office of Policy and Legal Analysis

Expenditure information provided by the Office of Fiscal and Program Review

All Appropriation Programs that fund the Bureau of State Police that Receive State Highway Funds (SFY 07 Expenditures)

Appropriation Program	Revenue	Dollars	Percent
BACKGROUND CHECKS - CERTIFIED NURSING ASSISTANTS (992)			
	GF	$53,076.78	100%
	Total	$53,076.78	
LICENSING AND ENFORCEMENT - PUBLIC SAFETY (712)			
	OSR	$790,319.95	100%
	Total	$790,319.95	
LIQUOR ENFORCEMENT (293)			
	GF	$748,671.40	100%
	FEF		
	OSR	$2,563.00	0%
	Total	$751,234.40	
MOTOR VEHICLE INSPECTION (329)			
	GF		
	HF	$940,925.42	100%
	Total	$940,925.42	
STATE POLICE - SUPPORT (981)			
	HF	$478,148.42	100%
	Total	$478,148.42	
STATE POLICE (291)			
	GF	$17,076,762.24	34%
	HF	$29,034,507.62	57%
	FEF	$3,637,166.65	7%
	OSR	$888,289.51	2%
	Total	$50,636,726.02	100%
TRAFFIC SAFETY - COMMERCIAL VEHICLE ENFORCEMENT (715)			
	HF	$4,100,716.88	100%
	OSR		
	Total	$4,100,716.88	100%
TRAFFIC SAFETY (546)			
	GF		
	HF	$1,068,088.15	100%
	Total	$1,068,088.15	100%
TURNPIKE ENFORCEMENT (547)			
	OSR	$4,730,785.57	100%
	Total	$4,730,785.57	100%
Total BSP Pograms with HF			
	GF	$17,878,510.42	28%
	HF	$35,622,386.49	56%
	FEF	$3,637,166.65	6%
	OSR	$6,411,958.03	10%
	Total BSP with HF	**$63,550,021.59**	100%

Sources of Revenue for Appropriation Program 0291 within Department of Public Safety
(SFY 07 Expenditures)

Program Title (#)	Fund	2007	Percent
STATE POLICE (291)			
	GF	$17,076,762.24	34%
	HF	$29,034,507.62	57%
	FEF	$3,637,166.65	7%
	OSR	$888,289.51	2%
	Total	$50,636,726.02	100%
Total 0291			
	GF	$17,076,762.24	34%
	HF	$29,034,507.62	57%
	FEF	$3,637,166.65	7%
	OSR	$888,289.51	2%
	TOTAL 0291	**$50,636,726.02**	100%

HF and GF Portions of Appropriation Program 0291 within Department of Public Safety (SFY 07 Expenditures)

Program Title (#)	Fund	2007	Percent
STATE POLICE (291)			
	GF	$17,076,762.24	37%
	HF	$29,034,507.62	63%
	Total	$46,111,269.86	100%
Total 0291 HF and GF			
	GF	$17,076,762.24	37%
	HF	$29,034,507.62	63%
	TOTAL GF and HF for 0291	**$46,111,269.86**	100%

APPENDIX U

Department of Public Safety responses to questions
asked by this study committee during September 24, 2007 meeting

Department of Public Safety
Responses to Questions Raised at the September 26th Meeting of the
Joint Select Committee to Study Appropriate Funding of the State Police

1) State Police Activity Reporting System

The new State Police Activity Reporting System is designed to track an officers work activity by period of work. The work periods are Regular, Call Out D, Call Out B, Extended Shift and Special Detail.

Regular	Regular 8 or 10 hour shift assigned
Call Out D	Called out while on call before the start of the shift.
Call Out B	Called out for an emergency outside of the 12-hour block.
Extended Shift	Worked beyond the end of the shift.
Special Detail	Work activity planed in advance outside of the 12-hour block.

*All Officers are assigned a 12-hour block. They work either 8 or 10 regular hours during the block and are on call the remaining hours of the block.

The work is broken down into five major categories: Commercial Vehicle, Traffic, Criminal, Public Service/Civil and Support/Other. Each category is broken down into type of work performed within the category (see list on next page.) Within each type there is the option to put one of five Output Types and Description of the Output Type.

Output Types:
Arrest
Defects
Investigation
Warning
Summons

The Description of Output Type would indicate what categories of summons or warning was given, such as inspection violations, license violations, assaults, theft, etc.

We have not determined the smallest work units to be reported, but it is doubtful it would be less than a 15-minute increment and possibly a 30-minute increment.

The five Categories and their corresponding type of work are listed below.

Department of Public Safety
Responses to Questions Raised at the September 26th Meeting of the Joint Select Committee to Study Appropriate Funding of the State Police

Commercial Vehicle
- MCSAP Inspection
- Trucks weighed – fixed
- Trucks weighed – Portable Scales
- Trucks weighed – Semi- Portable
- Trucks weighed – Wims

Criminal
- Alcohol violations
- Crime against person
- Crime against property
- Crime against society
- Drug violations
- Warrant arrest

Other/Support
- Assist other
- Court
- Equipment
- Report writing
- Security detail
- Speaking engagement
- Special detail non-traffic
- Special?
- Supervision
- Training

Public Service/Civil
- Animal
- Attempt to locate
- Child custody
- Citizen request assistance
- Domestic Escort
- Landlord/tenant
- Paper service
- Property dispute
- Suspicious event
- Welfare check/evaluation

Traffic
- Assist to motorist
- Crash – fatal
- Crash – nonreportable
- Crash – PI/PD
- Criminal traffic
- Interstate/pike patrol
- Rural patrol
- Traffic control
- Traffic hazard
- Vehicle escort

Department of Public Safety
Responses to Questions Raised at the September 26th Meeting of the
Joint Select Committee to Study Appropriate Funding of the State Police

2) State Police Alcohol Related Work Activity

Below are the statistics for operating under the influence of alcohol and drugs and zero tolerance. Zero tolerance is better known as teen OUI.

	OUI Alcohol	OUI Drugs	Zero Tolerance	Total
2006	1009	32	60	1101
2007 year to date	929	25	30	984

In addition to Operating Under the Influence cases we also respond to calls from the public of reports of people driving under the influence.

	Report of OUI
2006	820
2007 year to date	716

We do not have readily available the number of OUI patrol details* or OUI roadblocks we perform throughout the year.

The statement was made that 25% of our work is some how related to alcohol and/or drugs. The 25% refers to all of our work in general. Twenty five percent of our highway related work is not related to alcohol and/or drugs.

* OUI patrol details are details that Troopers are assigned to that specifically patrol and look for drunk drivers.

3) Fines Levied vs Fines Collected

4) Percentage of Fines from Commercial Vehicle Summons

(The Traffic Division is working with the violations bureau within the Administrative Office of the Courts to compile these numbers. It is uncertain when this information will be available.)

APPENDIX V

Meeting Summaries

Committee to Study Appropriate Funding of the State Police
Monday, September 24, 2007
MEETING SUMMARY

Members in attendance: Senator Dennis Damon (co-chair), Representative Anne Haskell (co-chair), Senator Bill Diamond, Senator Karl Turner, Rep. Ann Peoples, Rep. Bill Browne, Rep. Margaret Craven, Rep. Stanley Gerzofsky, Rep. Richard Sykes, Rep. Ed Mazurek, Rep. Gary Plummer, and Rep. Kimberley Rosen.
Members absent: Rep. Patrick Flood

1. **Review of S.P. 725 – Duties of the Committee:**
   The Committee shall:
   - Examine the formulas for funding the Department of Public Safety, Bureau of State Police from the General Fund (GF) and the Highway Fund (HF).
   - Examine the final report of the Office of Program Evaluation and Government Accountability (OPEGA) issued in February 2007 entitled, "Highway Fund Eligibility at the Department of Public Safety – an Analysis of Select Departmental Activities" and any other information the Committee determines appropriate.
   - Develop recommendations for appropriate funding for the Department of Public Safety (DPS), Bureau of State Police.

2. **Brief Background**
   Office of Policy and Legal Analysis (OPLA) staff provided a brief chronology regarding both the constitutional and statutory limitations on the use of Highway Funds. OPLA also summarized events which led to the establishment of the State Police Funding Study.

3. **Public Comment Period General Discussion**
   The Chairs provided an opportunity for members of the public to provide comment. No members of the public testified.

4. **OPEGA Presentation**
   OPEGA Analyst Jennifer Reichenbach presented February 2007 report entitled, "Highway Fund Eligibility at the Department of Public Safety – an Analysis of Select Departmental Activities." Beth Ashcroft, Director of OPEGA, was also present.

   The study's main purpose was to determine which DPS costs are eligible to be paid from the State's Highway Fund. The study focused on three appropriation programs: 0088 (Administration – Public Safety); 0291 (State Police); and 0457 (Highway Safety DPS). OPEGA discussed the study's key limitations:
   - The study is a snapshot of a point in time: SFY 05-06.
   - Activities funded by federal dollars were not considered.
   - The study did not encompass all DPS or all Maine State Police activities.

Under the following appropriation programs (APs), OPEGA estimated the percentage of activities that are HF eligible:

- 17 – 34 % of State Police AP (0291)
- 82 – 100% of Bureau of Highway Safety AP (0457)
- 29 – 41 % of DPS Administration AP (0088)

In FY 05-06:

- The State Police AP received approximately 65% of its State Funds from the HF;
- The Bureau of Highway Safety AP received 100% of its State Funds from the HF and other Special Revenue Funds; and
- DPS Administration AP received 64% of its State Funds from the HF.

OPEGA indicated that it is impossible to determine exactly what portion of DPS costs are eligible to be paid from the Highway Fund for two reasons:

- reliable activity data is not available; and
- a clear definition of Highway Fund eligibility does not exist.

5. Department of Public Safety, Bureau of State Police Remarks Regarding OPEGA Report

Janet Richards from the DPS Commissioner's Office and Lt. Colonel Bob Williams from the Bureau of State Police were present. DPS indicated that "they have no issues" with OPEGA's findings. Prior to the completion of the OPEGA study, DPS estimated that approximately 30 % of State Police activities are Highway Fund eligible.

DPS explained the difficulty of tracking activity data over the course of a State trooper's day. Law enforcement is largely response-oriented. It is not uncommon for a traffic stop to become a criminal investigation. Initiatives are currently underway to improve collection of activity data.

6. Office of the Attorney General Presentation of July 2007 Opinion Regarding Constitutional Requirements With Respect to Allocation of HF to the Maine State Police

Linda Pistner, Chief Deputy of the Office of the Attorney General, presented the July 5, 2007 AG opinion. The opinion indicates that, "the Legislature has a responsibility to make a good faith, fact-based determination as to the uses of the Highway Fund money that comply with the limitations of Article IX, section 19 of the Maine Constitution."

Linda noted that it is up to the Legislature to determine the information it needs and how reliable any particular information is; once it makes its determination of the facts, it must make a good faith determination of what activities qualify for constitutionally protected funds. It would be acceptable, she indicated, for the Legislature to come up with a range of funding levels that it believed to be reasonable and then to allocate funding within that range.

Linda also mentioned that, as noted in the opinion, certain fines and forfeitures that now go into the Highway Fund are not protected under the constitution.

7. Information requests for next meeting

Department of Public Safety, Bureau of State Police follow-up:

a) Further information about electronic activity reports. What are the five general areas of activity data and the definitions of each area? What are the activities covered under each general area?
b) For traffic-related activities, what is the difference between fines levied versus fine collected?
c) DPS indicated that the Maine State Police collects approximately $5 million in fines each fiscal year. What portion of that total (in dollars and in percentages) are commercial vehicle fines?
d) Lt. Colonel Williams estimated that approximately 25% of all traffic stops are OUI-related. The Committee requested more information regarding the number of OUI traffic stops and OUI-related road and highway crashes.

Accounting and Fiscal Information:

a) List of all sources of revenue that go into the HF (last 10 years).
b) All sources of revenue and amounts that go to the Bureau of State Police (last 10 years), if possible to break out.
c) List (last 5 years, SFY 03-07) of federal funds that go to the Bureau of State Police, if possible to break out.
d) Listing of historical transfers from the HF to the GF and vice versa.
e) Breakdown of funding sources (in dollars and percentages) for the Bureau of State Police, if possible to break out.
f) What happens to unencumbered or unexpended HFs? Do they lapse to the GF? Can they be "swept" into another fund?

Other

a) In addition to July 2007 AG opinion, all other relevant AG opinions or court opinions or decisions.

8. Next Steps

Representative Haskell posed three questions:

- If the funding split is based on budget needs and negotiations, what is the value of having a separate Highway Fund?
- Should the committee
  - Define the eligible activities and live with the consequences? or
  - Define a percentage and live with those consequences?

Future Meeting Dates
• Monday, October 22, 2007, Room 126, State House, Augusta • Monday, November 5, 2007, Room 126, State House, Augusta

Staff:
Jon Clark, OPLA, 287-1670, email: jon.clark@legislature.maine.gov
Karen Nadeau-Drillen, OPLA, 287-1670, email: karen.nadeaudrillen@legislature.maine.gov

Committee to Study Appropriate Funding of the State Police
Monday, October 22, 2007
MEETING SUMMARY

Members in attendance: Senator Dennis Damon (co-chair), Representative Anne Haskell (co-chair), Senator Karl Turner, Rep. Ann Peoples, Rep. Patrick Flood, Rep. Bill Browne, Rep. Margaret Craven, Rep. Stanley Gerzofsky, Rep. Richard Sykes, Rep. Ed Mazurek, Rep. Gary Plummer, and Rep. Kimberley Rosen.
Members absent: Senator Bill Diamond

1. Department of Public Safety presentation

Commissioner Anne Jordan, Deputy Commissioner Janet Richards, and Lieutenant Colonel Bob Williams were in attendance on behalf of the Department of Public Safety and Bureau of Maine State Police.

In response to questions raised at the September 24th meeting of the study committee, Lieutenant Colonel Williams described the new State Police activity reporting system. The system is currently being developed and is expected to be fully implemented by the beginning of 2008. It is designed to track state troopers' activity by work period. Work activities are categorized as follows: commercial vehicle, traffic, criminal, public service/civil, and support/other. Within each type of activity are various output types: arrest, defects, investigation, warning, and summons. In terms of time increments, Lieutenant Colonel Williams said the Bureau has not decided how finely troopers will be required to break down activity data.

According to Lieutenant Colonel Williams, there are 2,000 sworn police officers in the State of Maine. Three-hundred-fifty of those are full-time State Police officers; the remaining are either local or county officers.

2. Office of Fiscal and Program Review (OFPR) presentation

Grant Pennoyer, Director of OFPR, provided a Highway Fund Budget overview and accounting information for appropriation programs within the Department of Public Safety that receive Highway Funds. According to OFPR, the 60/40 split of the Highway Fund and General Fund portions of the State Police appropriation program 0291 has been used as a benchmark for a number of years. The source of the 60/40 calculation is obscure.

3. Public Comment Period

As with the study committee's September meeting, the Chairs provided an opportunity for members of the public to provide comment.

John Melrose spoke on behalf of the Maine Better Transportation Association (MBTA), an organization which advocates for funding for Maine's transportation infrastructure. MBTA strongly supports protecting the integrity of the Highway Fund. According to Mr. Melrose, the State of Maine is overly dependent on the Highway Fund for bridge and road improvement. Highway user fees, such as the fuel excise tax and motor vehicle registration fees, are relied on

heavily. At the same time, according to Mr. Melrose, Maine has the ninth highest motor fuel tax rate in the nation.

Mr. Melrose posed the question: what does the study committee think the priorities of the Highway Fund ought to be? What should the priorities of the State Police be? MBTA does not believe it should be driven by the fact that there is not enough money in the General Fund. According to Mr. Melrose, Maine is a leader in the nation for bad roads and bridges; and asks what should the State's policy or priorities be?

4. Committee Work Session

After some discussion, each committee member was asked to provide comment on where they stood individually with regards to the primary charge of the study, which is to develop recommendations for appropriate funding for the Department of Public Safety, Bureau of State Police.

Members discussed the Highway Fund and General Fund split of the State Police appropriation program. While some members felt that a specific ratio should be proposed; others were not comfortable with this idea based on their finding that the data presented thus far is insufficient.

At least one member thought that a better working definition of "enforcement of traffic laws" should be developed.

Many members agreed that the current State Police activity data is inadequate. However, some believed an attempt should be made toward reasonable activity accounting; while others were not comfortable with burdening the State Police with activity accounting.

Some members considered the idea of asking the State Police to prioritize their activities based on whether the activity was Highway-Fund-eligible or not. Others argued that activity prioritization should be avoided and that all activities are important.

At least one member proposed that other revenue sources should be considered – particularly dedicated revenue.

Finally, a few members suggested that the focus should be on the larger issue, which is that the Highway Fund is unable to meet transportation infrastructure needs.

5. Next Steps

OPLA staff was asked to summarize committee members' preliminary thoughts and ideas to serve as a framework for the next committee meeting which will be held on November 5, 2007. The purpose of the next meeting is to develop findings and recommendations with regard to the appropriate funding of the Bureau of State Police.

Staff:
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Karen Nadeau-Drillen, OPLA, 287-1670, email: karen.nadeaudrillen@legislature.maine.gov

Committee to Study Appropriate Funding of the State Police
Monday, November 5, 2007
MEETING SUMMARY

Members in attendance: Senator Dennis Damon (co-chair), Senator Bill Diamond, Senator Karl Turner, Rep. Ann Peoples, Rep. Patrick Flood, Rep. Bill Browne, Rep. Margaret Craven, Rep. Stanley Gerzofsky, Rep. Richard Sykes, Rep. Ed Mazurek, Rep. Gary Plummer, and Rep. Kimberley Rosen.
Members absent: Representative Anne Haskell (co-chair)

1. Staff Presentation

At the October 22nd meeting, each committee member was asked to comment on his or her preliminary thoughts and ideas as they pertain to the primary charge of the study, which is to develop recommendations for appropriate funding for the Department of Public Safety, Bureau of State Police. Staff presented a summary of members' preliminary comments from the October meeting to serve as a framework for the work session on findings and recommendations.

In addition, staff presented an analysis of fiscal information for State Fiscal Year 2007. Graphs depicted all appropriation programs that receive Highway Fund support within the Department of Public Safety and the Bureau of State Police. The information was provided to illustrate that funding the State Police appropriation program and funding the Bureau of State Police are not precisely the same and to explain that the 60/40 split pertains to the Highway Fund and General Fund portions of the State Police appropriation program only.

2. Committee Work Session

The committee discussed, at length, its findings and recommendations, and did not come to consensus on the matter. Findings and recommendations were divided into three reports. The committee directed staff to summarize these reports and to provide members with a preliminary draft in advance of the next meeting.

2. Next Steps

The study committee will hold its fourth and final meeting on Monday, December 3, 2007. The purpose of the meeting will be to review the preliminary draft of the study committee's report.

Staff:
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Karen Nadeau-Drillen, OPLA, 287-1670, email: karen.nadeaudrillen@legislature.maine.gov

Committee to Study Appropriate Funding of the State Police
Thursday, January 3, 2008
MEETING SUMMARY

Members in attendance: Senator Dennis Damon (co-chair), Representative Anne Haskell (co-chair), Senator Bill Diamond, Rep. Ann Peoples, Rep. Patrick Flood, Rep. Bill Browne, Rep. Margaret Craven, Rep. Stanley Gerzofsky, Rep. Richard Sykes, Rep. Ed Mazurek, and Rep. Gary Plummer.
Members absent: Senator Karl Turner and Rep. Kimberley Rosen.

1. Finalize Committee Report

The purpose of the study committee's fourth and final meeting was to review and finalize the draft report. A final vote was taken and the study committee's findings and recommendations can be found in both the executive summary and the body of the report.

Staff:
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