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GOVERNOR

STATE OF MAINE
DEPARTMENT OF TRANSPORTATION
16 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0016

Bruce A. Van Note
COMMISSIONER

**Testimony of
Bruce A. Van Note, Commissioner
Maine Department of Transportation**

in Support of

**LD 162
The Highway Fund Supplemental Budget
for the Fiscal Year Ending June 30, 2021**

**Presented to the
Joint Standing Committee on Transportation**

February 11, 2021

Senator Diamond, Representative Martin, and other distinguished members of the Committee, I am Bruce A. Van Note, Commissioner for the Maine Department of Transportation (MaineDOT). I appear before you today in support of the Governor's proposed Highway Fund (HF) supplemental budget and, specifically, those portions that pertain to the MaineDOT. To provide context for this specific budget bill, my testimony is divided into three major sections: Broader Fiscal Context and Trends, Overview of This Budget, and an Explanation of the Fifteen MaineDOT-Related Budget Initiatives.

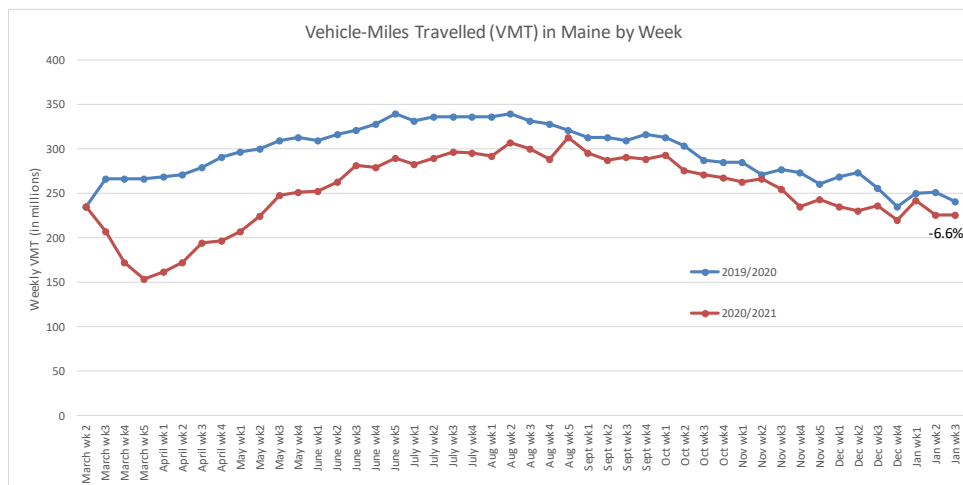
A. Broader Fiscal Context and Trends

As you know, state supplemental budgets are very focused on the changes to individual budget line items. Experience shows that this focus on individual items without context can make it difficult to understand how this budget fits into a larger fiscal picture. Therefore, with leave of the Chairs, I will first highlight some higher-level information to provide context for this budget.

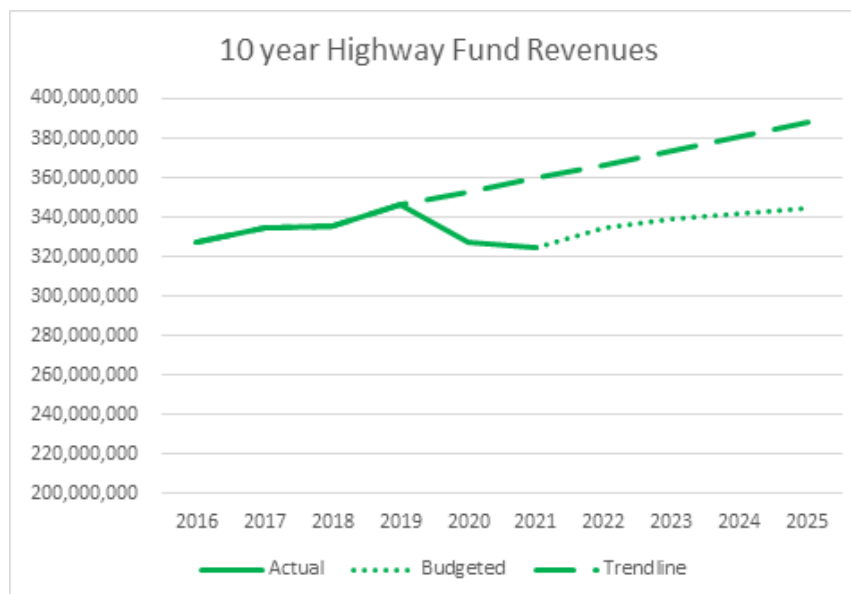
1. Highway Fund Revenue Is Down

COVID-19 has impacted everything, including Maine's Highway Fund (HF) budget. About two-thirds of state HF revenues come from fuel taxes on gasoline and diesel, with the rest coming mostly from vehicle fees (registration, title, and driver license).

Obviously, fuel tax receipts are impacted by how much people drive. As a result of the pandemic, vehicle-miles-traveled (VMT) plummeted in Maine and across the country in March and April of 2020. At its lowest, VMT was down by almost half – an astounding drop, much greater than any other drop in memory including what Maine experienced during the Great Recession of 2008-09. Thankfully, highway travel rebounded last summer, but we are still down about 5 to 10% most weeks from last year, as shown by the graph below.



The statutorily-created Revenue Forecasting Committee establishes the revenue estimates used during state budget discussions. That Committee met in July 2020, soon after VMT plummeted, and in November 2020, after travel and HF revenues had recovered. Based upon the latest revenue forecasting estimates of December 1, 2020, Highway Fund revenues for this biennium (FY20 - FY21) – which this LD 162 amends – are projected to be \$652 million, a drop of \$ 28.6 million or more than 4% from the previous biennium (FY18 - FY19). This is huge drop from a historical perspective. Normally, Highway Fund revenues have been increasing about 1½% from year to year, or more than 3% for the biennium. The impact of this pandemic-induced drop can be seen on the graph showing Highway Fund revenue below.



2. Overview of Sources and Uses of All MaineDOT Funding

As we presented during our previous communications this session, MaineDOT sources of funding of all types – Highway Fund, federal, bonding, multimodal, etc. – vary, but currently average about \$830 million dollars per year. For context, pie charts showing state budget sources and uses of MaineDOT funding on an average annual basis are attached as Appendix A.

State Highway Fund revenues are a critical part of MaineDOT funding, but not the only one. Highway Fund allocations account for approximately 32% of MaineDOT funding in the state budget. State TransCap residual cash – which originates from HF revenue sources and is transferred by the Maine Municipal Bond Bank to MaineDOT to provide funding for our Light Capital Paving (LCP) program – adds another, important 2%. These are the sources that are primarily impacted by this supplemental budget.

B. Overview of this Supplemental Budget (LD 162)

Governor Mills' supplemental budget proposals for Fiscal Year 2021 and biennial budget proposals for Fiscal Years 2022-2023 focus on maintaining vital services and increasing savings without creating new programs. The budgets are balanced as required by the Constitution and include efficiencies, good fiscal management and curtailments to cover projected revenue shortfalls for all three fiscal years. The budgets do not change Maine tax rates and do not dip into the Budget Stabilization Fund; in fact, they add to the state's savings in order to plan for a future made unpredictable due to the ongoing pandemic. The proposed budgets focus on combating COVID-19 by continuing to rebuild the state's public health infrastructure and protecting essential health care, education, and life-saving services.

As we summarized in emails to Transportation Committee members of the 129th Maine Legislature last year, the Governor, DAFS, MaineDOT, and all of state government took immediate steps to manage the financial impacts of COVID-19 in FY20. At MaineDOT, we reduced hiring, reduced other spending where we prudently could, and made use of bond funds made available from the sooner-than-usual July referendum vote. This budget largely consists of implementing curtailments by the Governor and state agencies. If the Governor, DAFS, and MaineDOT had not taken these steps, the HF challenge would have been a significantly bigger one.

The overall purpose of this supplemental budget (LD 162) is to (1) make adjustments to the Highway Fund budget that will account for the \$28.6-million revenue shortfall noted above and balance the FY20-FY 21 Highway Fund budget as required by the Maine Constitution and (2) generate a balance forward of a little more than \$15 million to help balance the FY22-FY23 biennial Highway Fund budget, which the Committee will consider later (LD 161). In sum, if you act on this supplemental budget as we recommend below, there will be a net reduction in HF allocations totaling \$ 44.8 million, which will balance the biennial budget and set us up to do the same next biennium.

C. Explanation of MaineDOT-Related Budget Initiatives in LD 162

There are fifteen (15) MaineDOT-related initiatives in the FY21 Highway Fund supplemental budget (LD 162). The majority of these were contained in the curtailment order signed by Governor Mills last fall. Many are relatively routine for MaineDOT. Some require more detailed explanation. Each initiative is outlined below. The Ref # and page number of each refer to the document distributed by Suzanne Voynik, OFPR, on February 4, 2020. Except as otherwise noted with a request to move OUT for the reasons stated, MaineDOT requests that you approved the supplemental budget as presented.

1. This initiative, **Ref #12 on page 3**, relates to the **TransCap Trust Fund** program at the Maine Municipal Bond Bank. This is an increase in allocation of **\$599,823** in All Other reflecting the latest Revenue Forecasting report of December 1, 2020. As noted above, the December 2020 forecast increased projected HF revenue over the lower August 1, 2020 forecast when travel had recently plummeted. So, although projected HF revenue is down from the previous biennium, it is up from August 1, 2020.
2. The next initiative, **Ref #38 on page 8**, relates to the **Administration** program. This is a one-time reduction of **\$381,610** in Personal Services which will be available by managing vacancies. Given the planned slowdown on hiring, MaineDOT is averaging a 14% vacancy rate, so we manage to achieve the savings in the near-term. This is part of the MacGyver mode in which we find ourselves.
3. This initiative, **Ref # 42 on page 8**, is a reduction of **\$991,553** in Personal Services in the **Highway and Bridge Capital** program, achieved by managing vacancies. Positions in this program are budgeted at 45% Highway Fund and 55% Federal Fund as they are involved in the delivery of federal projects. This savings represents the Highway Fund portion of these vacancies in our major capital-related program. Like the previous initiative, given the planned slowdown on hiring, MaineDOT is averaging a 14% vacancy rate, so we manage to achieve the savings in the near-term.
4. This initiative, **Ref # 43 on page 8**, and is a one-time allocation of **\$2.5 million** in the **Highway and Bridge Capital** program. This is the first of three initiatives that we will request that you move **OUT** to help provide balance forward for the FY22-FY23 biennial budget (LD 161) to provide necessary allocations to the TransCap Trust Fund. The other two initiatives to move OUT are the 5th and 7th items set forth below. It is rare that we ask you to reject items in a budget bill, but we can explain our requests by reviewing the background of TransCap.

Although this background can seem complicated, at a high level, I find it helpful to think of TransCap in terms of two “must-do” budget items: revenue bond debt service and Light Capital Paving (LCP).

The TransCap Trust Fund, codified in statute in 30-A MRS §6006-G, is administered by the Maine Municipal Bond Bank. It is depicted graphically on the left side of the Highway Funding flow chart attached as Appendix B.

The TransCap Trust Fund was created by the Maine Legislature almost 15 years ago for the express purpose of assuring that some Highway Fund revenue was taken “off the top” to fund transportation capital goals. See 123rd Legislature, LD 1790 – *An Act to Secure Maine’s Transportation Future*, PL 2007, c. 470. Revenue dedicated to the TransCap is used to support the issuance of TransCap revenue bonds – which are different from general obligation bonds – for transportation capital purposes.

Like all revenue bonds, dedicated revenue streams must be identified to support the debt service. In line with standard municipal bonding underwriting practice, the dedicated revenue streams must generally meet a so-called “two times test,” meaning that the dedicated revenue stream needs to be double the debt service payments.

After that two-times test is satisfied, the MMBB then transfers the residual cash to MaineDOT. That funding has been used to provide a key piece of funding for our Highway Light Capital Paving (LCP) program. As previous members of this Committee know, this LCP program – a thin and cost-effective (\$50K per mile) paving treatment applied every 7 years on average – is the primary way MaineDOT manages more than half of the 8,800 miles for which we are responsible. It is perhaps our primary MacGyver tool. Because of its relatively short useful life, federal and bond funding are not used for LCP. State cash resources are needed, and in recent years, we have planned on 600 miles per year, but due to our chronic underfunding, the Work Plan just published has 725 miles in 2021.

Beginning in 2008, three revenue streams have been dedicated to the TransCap Trust Fund to support revenue bonding. All three streams are shown in Appendix B. These streams have supported original issuances with a total face value of \$240 million and one refinancing (to reduce interest costs). The current outstanding principal balance of all TransCap bonds is about \$105 million. The three revenue streams were created as follows.

- LD 1790 – *An Act to Secure Maine’s Transportation Future*, PL 2007, c. 470 statutorily dedicated 7.5% of the fuel tax – now valued at about \$37.5 million over the biennium – to the TransCap Trust Fund to create a mechanism for revenue bonds for transportation. See 36 MRS §2903(6) and 36 MRS §3203(4).
- In the second regular session of the 123rd Legislature, LD 2313 – “*An Act To Keep Bridges Safe*” became PL 2007, c. 647, and statutorily dedicated various BMV fees including \$10 from each registration, title, and vanity plate – now valued at about \$33 million over the biennium – to combine with the fuel tax revenue stream from PL 2007, c. 470 to support a total of \$160 million in TransCap revenue bonds in two issuances for bridge needs.
- On the last day of the second regular session of the 123rd Legislature, LD 2324 – “*An Act To Expedite the Maintenance and Repair of Maine’s Transportation Network*” was printed and passed. See PL 2007, c 682. This bill authorized a \$50-million TransCap revenue bond to be paid with a shift in the General Fund-Highway Fund split of funding for the state police program from 60% HF to 49%

HF. Today, that shift is valued at about \$13.6 million. Unlike the previous revenue streams, this dedication of revenue was not memorialized in statute. That proved to be ill-advised.

In the first regular session of the 124th Legislature, LD 333, the FY10-FY11 biennial HF budget, authorized a \$30-million TransCap revenue bond using bonding capacity from the previously-identified three revenue streams.

Since 2010, this third transfer to the TransCap Trust Fund related to the state police funding split has been included in the past five biennial budgets. This year, in preparation of this FY22-FY23 biennial budget, the budget office, properly recognizing that the allocation to the TransCap Trust Fund contained in PL 2007, c 682 was in *unallocated language only, not statute*, questioned whether this dedication of revenue was a one-time dedication or needed to be ongoing. This led to budgeting that called for reducing this third revenue stream to TransCap from \$13.6 million to \$4 million as shown in Appendix B.

After reviewing the memoranda of agreements, opinions of counsel, and other TransCap bond-issuance documentation, we have now confirmed that this third revenue stream related to the state police split must be ongoing to meet bond-issuance requirements. This will be reflected in an upcoming FY22-FY23 (LD 161) change package. To prepare for that, we must reduce MaineDOT allocations in this supplemental budget (LD 162) to generate sufficient balance forward to allow the full \$13.6 million allocation to TransCap as required.

With that painfully-long explanation, **Ref # 43 on page 8** is the first of three initiatives that we will request that you move **OUT**. Again, it is a one-time allocation of **\$2.5 million** in the **Highway and Bridge Capital** program. Because this program is supported by bonding, this can be achieved through capital programming.

5. This initiative, **Ref #47 on page 8**, is in the **Highway Light Capital** program and is a one-time allocation of **\$6.5 million**. As outlined in the testimony above, we request that you move this item **OUT** to help provide sufficient balance forward for the FY22-FY23 biennial budget (LD 161) to provide required allocations to the TransCap Trust Fund. Thankfully, pending federal guidance, it appears we can make the LCP program whole this year through the use of flexible federal highway funds contained in the Coronavirus Response and Relief Supplemental Appropriations Act of 2020, which was signed by the President on December 27, 2020 (CRRSA Act).
6. This initiative, **Ref # 35 on page 9**, is a reduction in the **Local Road Assistance** program of **\$1,066,382**. This program provides municipalities with financial assistance for their use in capital improvements to the more than 14,000 miles of local roads that carry about 13% of total vehicles-miles traveled in Maine. This program is required by law, 23 MRSA §1803–B(1)(D), which provides that 9% of the total MaineDOT Highway Fund budget be dedicated for this purpose. The Local Road Assistance (LRA) payments go to the municipalities once a year in December, so the reduction due to the curtailment was already factored into the checks that the municipalities received in December. This reduction was relatively small, and did not cause any major disruptions. LRA and

MaineDOT's HF Budget rise and fall together, so in that way, we share equally in the ups and downs, as we work together to maintain our vast highway system in Maine. This reduction is necessary due to the other reductions in this LD.

7. This initiative, **Ref #36 on page 9**, is an allocation of **\$1,473,273** to the **Local Road Assistance** program. As outlined in the testimony above, we request that you move this item **OUT**. This initiative is tied to the reductions in MaineDOT allocations recommended in the 4th and 5th initiatives above (Ref #43 and 47), which we requested that you to move out to help provide sufficient balance forward for the FY22-FY23 biennial budget (LD 161) to provide required allocations to the TransCap Trust Fund. Accordingly, this needs to be adjusted downward to match these reductions in MaineDOT allocation.

The next four initiatives are reductions to the **Maintenance and Operations** program. This program is perhaps the most visible program to our customers and requires the most state HF dollars as maintenance activities are, by definition, generally not eligible for federal funding and are not bondable. The bulk of MaineDOT employees – more than 1,100 legislative count and crew positions – are in this program. The M&O program provides for the maintenance of the infrastructure of state and state aid highways, summer and winter services on state highways (including the removal of snow and ice from the travel surfaces), and the maintenance of all appurtenances and facilities needed for the safe and reliable use of the system by our customers.

8. This initiative, **Ref #30 on page 9**, is a one-time reduction of **\$2.0 million** achieved by deferring the purchase of heavy trucks. The original budgeted amount was \$7.5 million, so this is a reduction of almost one quarter for this one year. This is not sustainable long-term, but is a reasonable one-time measure to manage the impacts of the pandemic.
9. This initiative, **Ref #31 on page 9**, is a one-time reduction of **\$1.7 million** to reflect reduced payments to Fleet Services. Fleet Services provides heavy trucks and equipment for MaineDOT. These vehicles are used to perform the daily tasks of making Maine's transportation system more safe and efficient. This is not sustainable long-term, but is a reasonable one-time measure to manage the impacts of the pandemic.
10. This initiative, **Ref #32 on page 10**, is a one-time reduction of **\$500,000** achieved by deferring payments to the Transportation Facilities Fund, which is an internal service fund that provides an organized and managed program to address the ongoing capital and maintenance needs of the department's more than 600 buildings.
11. This initiative, **Ref #33 on page 10**, is a reduction of **\$300,000** to reflect reduced small equipment purchases. The original budgeted amount was \$600,000, so this is a one-time, 50% reduction in purchases.

The next two initiatives relate to our Multimodal Programs.

12. This initiative, **Ref #40 on page 10**, is a reduction of **\$603,599** of Highway Funds in the **Multimodal Freight Rail** program. This program has previously used Highway Funds for specific grade railroad-highway crossing projects. These projects will continue but will be funded using Multimodal Transportation funds.
13. This initiative, **Ref #45 on Page 10**, is a one-time reduction of **\$6,091,588** of Highway Funds in the **Multimodal – Island Ferry Service** program. The Ferry Service provides regularly scheduled service to islands in Penobscot Bay. This includes service to Vinalhaven, North Haven, Islesboro, Swan's Island, Frenchboro, and Matinicus from mainland facilities in Rockland, Lincolnville, and Bass Harbor. Per 23 MRSA §4210-C, state support to the Marine Highway account may not exceed 50% of the budgeted revenues that support the operating cost of the Maine State Ferry Service. In order to meet the challenge of reduced Highway Fund revenues, this funding will be provided on a one-time basis from the Multimodal Transportation Fund. This is not sustainable moving forward as this fund is necessary to support other multimodal needs including transit, passenger rail, ports, etc.

The remaining two initiatives relate to language items.

14. This initiative, **the Part B language item on page 12**, is a one-time transfer of **\$21,712,948** from the unencumbered balance of the **Local Road Assistance** program. As communicated to members of the Transportation Committee of the 129th Legislature, by financial order executed in June 2020, we used bond funds to provide local capital funds in the Local Road Assistance program to address the Highway Fund shortfall while eliminating any impacts to municipalities. This action created an unencumbered balance in the **Local Road Assistance** program in this amount. This Part B language transfers this balance to the Highway Fund, making it available to support other allocations and balance the budget.
15. This initiative, **the Part C language item on page 13**, is a transfer of **\$70,109** from the unencumbered balance of the **Bond Interest - Highway** account. This balance is available from previous years and will have no impact on current debt service payments.

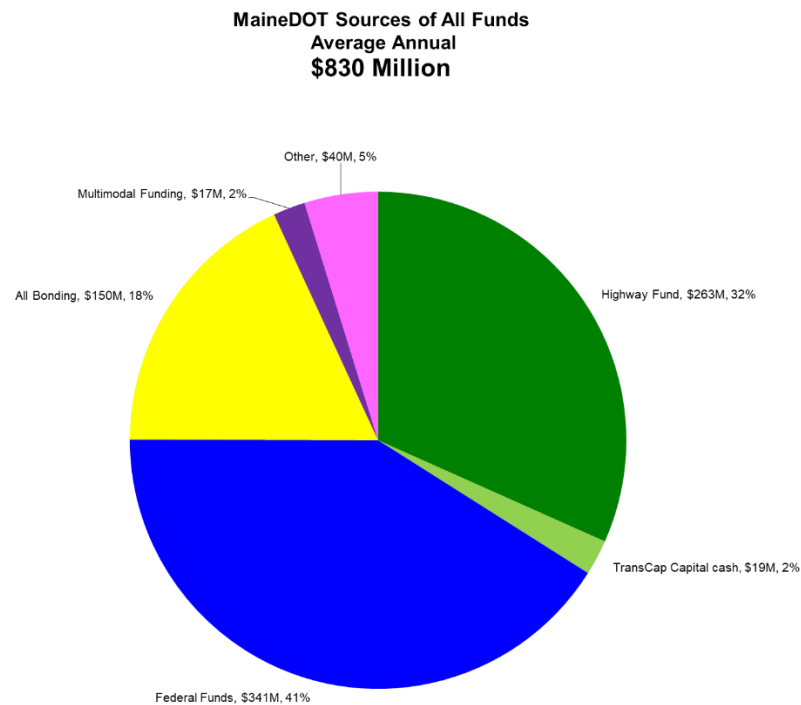
That concludes my testimony, and I would be happy to answer any questions that you have.

APPENDIX A

Sources and Uses of MaineDOT Funding – Annual Averages

A. Sources of Funding

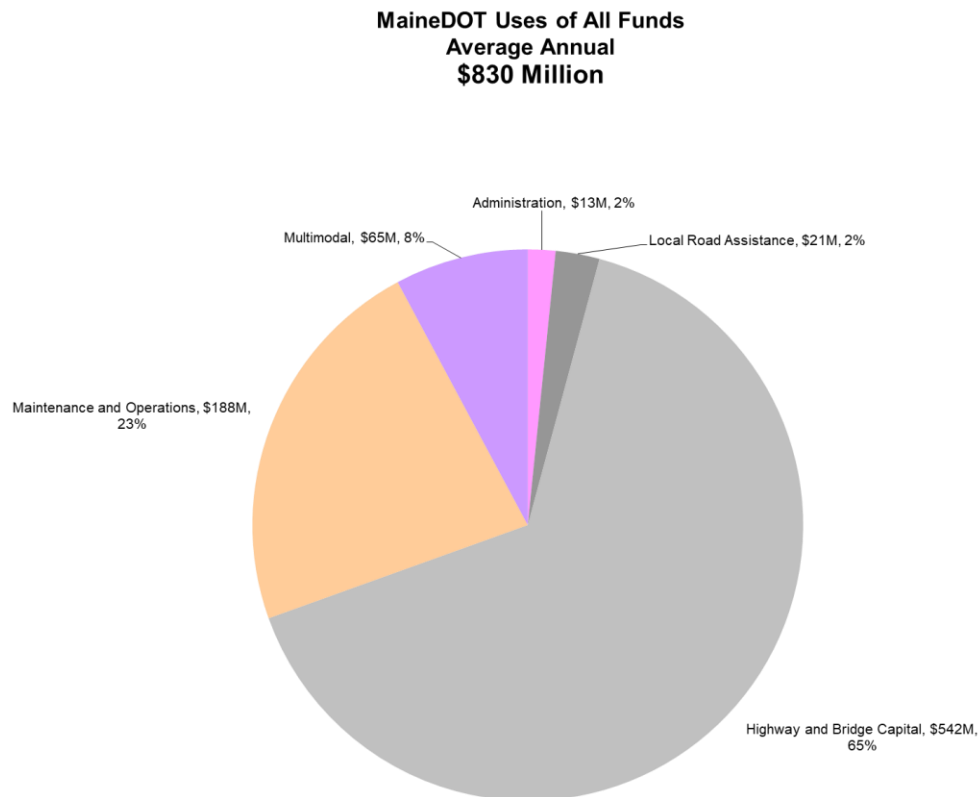
As we mentioned during our previous communications this session, the state Highway Fund – shown in green below – is a critical component of MaineDOT funding, but it is not the only one. A standardized pie chart showing budget sources of MaineDOT funding on an *average annual* basis is set forth below.¹ The sources show that Highway Fund MaineDOT allocations (dark green) account for approximately 32% of the total. State TransCap residual cash – which originates from HF revenue sources (lighter green) and which is transferred to our Light Capital Paving (LCP) program – adds another 2%. Federal funds in the state budget (blue) are about 30%, bonding of all types (yellow) is about 18%, multimodal funding contained in the state budget (purple) is about 2%, and other funds (pink) are about 5%.



¹ The sources shown in this average annual budget pie chart cannot align precisely with the sources of funds chart provided with MaineDOT's three-year Work Plan for three major reasons. The first reason is timing. MaineDOT work plans cover *three calendar years*, which is most helpful for construction season planning, while the Maine state budget covers *two state fiscal years* (July 1 to June 30). *Federal fiscal years* (October 1 through September 30) include variable schedules for budgeting and continuing resolutions. Second, the Work Plan funding includes sources that are not part of the state budget, principally federal FTA and FAA funds received directly by agencies other than MaineDOT and capital funds carried forward from previous years. Third, the Work Plan includes the total value of projects and activities, even if some amounts have already been expended (e.g. design and permitting costs).

B. Uses of MaineDOT Funding – In General

As shown in the *average annual* “Uses of Funds” pie chart below, about two thirds of funding contained in the state budget is used to support capital highway and bridge programs (highway and bridge capital, light capital, and local road assistance); almost one quarter is used for maintenance and operations, including snow and ice control and summer maintenance on state roads; about 8% is used for multimodal investments in rail, ports, ferries, transit, and aviation; and administration accounts for about 2%.²



² The uses shown in this average annual budget pie chart below do not align precisely with the “Uses of Funds” pie chart provided with the three-year Work Plan for two major reasons. First, the average annual uses chart below utilizes program names used in the state budget system, whereas the uses categories contained in MaineDOT’s Work Plan are based upon more detailed asset- and activity-driven categories in MaineDOT management systems. Second, the Work Plan includes work not captured by the state budget, such as FTA and FAA funds expended directly by agencies other than MaineDOT; amounts expended by municipalities; and capital funds carried forward from previous years. In sum, the sources and uses charts herein correlate best to the state budget, whereas the charts in the Work Plan correlate better to all transportation work regardless of funding source.

Highway Funding

FY 22 – FY 23 Biennium Estimate

