

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Thirteenth Legislature

OF THE

State Of Maine

VOLUME IV

SECOND REGULAR SESSION

March 25, 1988 to May 5, 1988

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HOUSE & SENATE LEGISLATIVE SENTIMENTS

December 3, 1986 to December 6, 1988

Yes, 51; No, 85; Absent, 15; Paired, 0; Excused, 0.

51 having voted in the affirmative and 85 in the negative with 15 being absent, the Joint Order failed of final passage. Sent up for concurrence in non-concurrence.

(At Ease)

The House was called to order by the Speaker.

The following item appearing on Supplement No. 20 was taken up out of order by unanimous consent:

Committee of Conference Report

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Fund a Supplemental Highway Program and to Establish a Program to Fund the Construction of Extraordinary Bridges" (Emergency) (H.P. 1799) (L.D. 2463) have had the same under consideration and ask leave to report: that the House recede from passage to be engrossed, Indefinitely Postpone Senate Amendment "B" (S-417) to Committee Amendment "A" (H-588); Indefinitely Postpone House Amendment "D" (H-643) to Committee Amendment "A" (H-588); Indefinitely Postpone Conference Amendment "A" (H-588); Read and Adopt Conference Committee Amendment "A" (H-762) and pass the Bill to be Engrossed as amended by Conference Committee Amendment "A" (H-762) in non-concurrence.

That the Senate recede and concur.

(Signed) Representatives LISNIK of Presque Isle, DIAMOND of Bangor and CASHMAN of Old Town - of the House.

Senators DOW of Kennebec, THERIAULT of Aroostook and BLACK of Cumberland.

Report was read.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative Lisnik.

Representative LISNIK: Mr. Speaker, Ladies and Gentlemen of the House: I move that the House accept the Committee of Conference Report.

I think that both caucuses have had a briefing on this but let me just say that, when the Committee of Conference met, members on the House side went to advocate the House's position and we did that. We went prepared to be responsible and we did that. We went prepared fully aware that we may have to compromise and we did compromise. But, it was not just our compromise, it was a compromise on the House side, it was a compromise on the upper body's side and a compromise on the Executive Branch's side.

We did not go to second-guess the Transportation Committee on the question of highway need. I personally feel that the committee did an excellent job as well as the commissioner in outlining the needs for the highways. We did go convinced that, at the very least, that we could provide for an alternative for the loss of federal funds and, at the most, fund the entire package in a way that would save the consumers millions of dollars and we did.

This compromise will fund the entire long-term plan and will save the consumer millions of dollars.

I will briefly outline the proposal. As I said when I started, I know this has been debated on both sides but essentially what the Committee of Conference came out with was a two cent gas tax that would take effect May 1st. A diesel differential of three cents would take place on July 1st. We also would utilize the \$2.00 registration plate fee. We

also would pump in \$13,200,000 out of the Rainy Day Fund surplus monies that are available, we would also take surplus monies out of the highway fund.

In the second year, if the federal monies do not come back, we will raise an additional one cent on the gas tax and again, the three cent differential.

Additionally, we would again use the \$1.7 million for the plates and then the other key component of this is to share in the funding of the State Police. We currently share 25 percent of the funding of the State Police and the Transportation Department, DOT, shares the other 75 percent, we would make that a funding on a 50/50 basis, which essentially is a penny on the gas tax.

There is another side issue which was the funding of the motor vehicle division building. It is the intent of the Committee of Conference that this be taken out of the Rainy Day Fund next year. The Transportation Committee has worked long and hard on this one-stop shopping and they felt there was a tremendous need there for it and it is our intent and I believe the Executive Branch's intent to fund that building out of Rainy Day monies in the next year.

There are more specifics and there are other people on the Committee of Conference who would like to speak on the issue.

I hope you will accept the Committee of Conference Report.

The SPEAKER: The Chair recognizes the Representative from Corinth, Representative Strout.

Representative STROUT: Mr. Speaker, Men and Women of the House: Tonight I rise, not in objection to the program, I rise tonight to explain to you the reason why I can't support this Committee of Conference Report.

The problem I have with this Report is the differential in the two cent gas tax and the five cent diesel. This Report, in my opinion, does not pass the straight-faced test.

I support the program but the funding does not meet my approval. In my opinion, increasing the diesel tax will drastically reduce the amount of fuel sold in the State of Maine. The truckers world revolves around cash and for that reason, there will be a strong incentive to buy diesel fuel in New Hampshire where no road tax is included in the price. If you increase diesel by five cents, a lot of truckers will not buy in the State of Maine. Tank capacity of 300 gallons with a 19 cent per gallon tax translates into a cost of \$57 extra dollars to fuel in Maine. In Maine, they will pay at the pump, whereas if they buy in New Hampshire, they will pay quarterly based on the number of miles traveled.

Road taxes are payable essentially on the honor system. Each taxpayer is asked to write down the number of miles traveled each quarter and the number of gallons used. He computes the number of miles per gallon, the number of miles traveled in a given state to arrive at his tax. If less miles were recorded, it only proves to me that his total bill would be less.

One of the questions I have is, what is the compliance on this in the State of Maine? I speak tonight as I fully understand and appreciate the need for road improvement and maintenance in this state, but to increase the state's tax on diesel by five cents would, in my opinion, be a costly mistake. Diesel trucks with a range of up to 1500 miles can and will travel in and out of Maine without buying fuel in this state. Diesel will be purchased elsewhere and with that will go the accompanying sales of parts, repairs and clothing.

Road tax compliance will reach, in my opinion, an all time low.

Another factor that should be considered is that this five cents per gallon translates into approximately a one cent per mile increase in operating costs to the truckers. One cent may seem insignificant but the extra costs will ultimately be passed on to the consumer which will, in fact, raise the cost of all goods purchased.

Another concern I have is, I see a possibility, I repeat, I see a possibility of loss of registration fees by truckers in the State of Maine registering out of state. When they do this, I see a loss of excise tax to the municipalities.

Another concern I have in this L.D. that we had in our original program is that the local road assistance program is only going to be funded by a one-time bonus. I just got a copy of the report and I thumbed through it quickly and what I found is a one-time stipend, "In the fiscal year 1989, a one-time stipend payment shall be distributed to municipalities and counties as follows."

When we passed the original program, it was our intent there would be a bonus of 22 percent which would cost \$3.5 million with the assurance that this would be built-in to the next program to increase the local road program from \$15.7 million to \$19.2 million.

As I stand before you tonight, I want to repeat again, in no way, am I standing before this House opposing this program because I believe the State of Maine needs it. But, my major concern is the differential between the two cent gas and the five cent diesel.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Diamond.

Representative DIAMOND: Mr. Speaker, Men and Women of the House: Obviously, this bill has taken many shapes and forms since it was first proposed by the Governor several months ago. It has been an issue that has been before us and debated as much as any other issue to come before this legislature in 1988.

I think we have to look at where we have gone and where we are going with this bill as we decide how we are going to handle the Report from the Committee of Conference. We have gone beyond the arguments dealing with bandaid approaches. I thought (until I heard the gentleman from Corinth speak) that we had gone beyond the discussion of straight-faced test and I am sure that we have gotten beyond the argument dealing with rattling teeth. Overall, I think we have even gone beyond the Shakespeare question that was posed not too long ago, to tax or not to tax. Well, that was the question a week and a half ago when we debated, it no longer is. In all, I think we have disposed of a lot of arguments that came up on this floor. Some were excessive, some were irresponsible, some were impractical, some were outright ridiculous.

When this legislature, this body in particular, asked for a Committee of Conference, we realized that all the issues had to go on the table. We looked at what was discussed in this legislature and in this House in particular and decided that we had to advocate those positions reflecting the majority viewpoint. There was no doubt in my mind at the time that the question was not simply one of taxation but was one of putting together an affordable highway program, one that was funded with those people who benefit paying their fair share.

The gentleman from Corinth a minute ago made reference to one part that he is offended by or at least bothered with and that is the so-called diesel differential. He expressed concern that this is going to place an unfair burden, an unnecessary

burden on the truckers and the diesel fuel consumers of the state and that, as a result, all kinds of problems will result that will affect the consumers who purchase goods from those truckers, would impact the businesses that are dependent upon those truckers and obviously expressed other concerns as well.

I found it hard to accept his justification for taking that position and, while I respect him for expressing his opinion, I find it difficult to understand how his position could have changed in just a week and a half. The provision that we are dealing with right now, this five cent tax on diesel fuel, is exactly what was proposed by Governor McKernan, exactly what came out of the Committee on Transportation and is exactly what the gentleman from Corinth voted for in committee. It is exactly what he and other supporters of the five cent fuel tax supported on the floor of this House, a five cent a gallon diesel increase was something that was in the original proposal and was something that went with us downstairs when we decided to deliberate in the Committee of Conference.

The discrepancy here is that, while we left the diesel fuel tax at five cents as proposed by the Governor, we decided to pare back the gasoline tax increase that was suggested in the Governor's bill and by the Committee on Transportation and went back to two cents. The reason we did that was because other sources of revenue existed to make that kind of an increase unnecessary for the consumer and because it was the feeling of members of the Committee of Conference that there was indeed justification for having and establishing a differential.

A lot of the debate that took place last week centered on this so-called cost allocation survey. That, to refresh your memories, was a survey that many people wanted to see in place before any gas tax or fuel tax was proposed. It is a survey to determine what that tax mix should be, what percentage of a tax increase should be paid for by gasoline purchasers and consumers and what percentage should be handled or accepted by those who purchase diesel fuel. We didn't have that on which to base a judgment or a decision. We had to set an arbitrary differential if any differential was going to exist. What we did was we went back and looked at what previous cost allocations surveys had put together to give us some basis for making a rational and justifiable decision. What we found was that previous reports, previous cost allocation surveys, had recommended a diesel differential. In Maine, we haven't been able to adopt it, mainly because of political problems in accepting it a few years ago. At the federal level, they have accepted it and that is why we have a six cent differential at the federal level. While we can't at this point pinpoint exactly what that differential should be, it became clear to those of us on the Conference Committee that a diesel differential was appropriate in order to fairly distribute the cost of highway and bridge maintenance. With that in mind, we implemented or we suggested the implementation of the diesel differential contained within this bill.

Now, just in case anybody thinks we are going to leave it at this and assume that it is an arbitrary number or something that is going to be put into cement, be assured that one of the provisions of this bill is to fund a cost allocation plan that would tell us whether or not our judgment is correct or incorrect. That is coming in the very next session of this legislature. The Governor will be charged with coming in with legislation to correct any inequities that this cost allocation survey discovers. I think that is only fair. The best way

that we can handle the problem in light of the fact that we don't have any hard documentation to support it already, is something those of us who supported the so-called Lisnik Amendment called for and it was something that the Transportation Committee members, including Representative Strout, felt was not necessary at this time. I believe we dealt with this issue in the most responsible way possible and that justifies establishing the so-called diesel differential.

Overall, I think the plan you have before you today is probably the best that we can come up with, not the best that we can come up with 48 hours before we adjourn, but the best that can be put together, all things considered. We deal with the reality that the highway money is limited, we deal with the reality that something has to be done and we deal with the reality that there have been some inequities that have been allowed in the law and that we have to address them in order to correct them as best as possible. We are in a position now to adopt a plan that is indeed ambitious, it funds for the most part, almost to the penny, the highway proposal that most people in here felt and feel needs to be adopted. But, what it does do is, it funds that program without the necessity of an additional \$17 million in taxes levied upon the gasoline consumers of this state. We feel that is a responsible position to take. We have in many ways the best of both worlds. We get our ambitious highway program, yet we do so at a considerably less cost to the consumer. Overall, I think it is something that this legislature should feel comfortable with, it is something that the members of the Conference Committee are comfortable with and hopefully, it is something that you can embrace as well.

The SPEAKER: The Chair recognizes the Representative from Kennebec, Representative Murphy.

Representative MURPHY: Mr. Speaker, Men and Women of the House: I am very pleased to see that in the closing days of this legislature my friend from Bangor and I can come together in bipartisan agreement on what will probably be one of the most important initiatives in terms of the future of this state.

The Governor had sent to this body for its consideration a two part proposal, a very comprehensive long-term plan in terms of roads and bridges in terms of Maine's future, and the second part, the funding proposal. Last week, we had before us two choices, one was for a full user/payer proposal in terms of five cents on the gas tax. Then, a second alternative brought to us through the Taxation Committee that, not to repeat the rhetoric of that evening, but I think all of us in hindsight realize, would not have done the job, that it was a temporary solution. It was a step forward but it wouldn't have taken us into the future that Maine needs and what people in this state want.

My first concern was to make sure that the program was intact. Everything that the Governor brought to us in terms of a very ambitious long-term road and bridge program is there. The salt and sand buildings are there. The bonus is there in terms of municipalities, in terms of the block grant monies and then also the State Police formula. So, the program is there.

We have a third source of funding before us. I have to admit, I do have some concerns with it because we have gone from the user paying the full cost to now where we have moved toward income and sales tax. Whereas last week, when I went to the medicine cabinet, I found that there was only half a bandaid now, while I might have some heartburn about

this, I can live with that. I don't need an antacid to live with this bill.

The most important concern is that there are new jobs coming to this state, we have to have the roads to move the raw materials, we have to have the roads that, when Maine people craft the finished product in the manufacturing sphere, that that finished product can be moved. Most importantly, the working people in this state can get to those new jobs. So, I am going to support this proposal. I feel it meets the Governor's long-term objectives. If we fail to act in these closing days and pass this proposal, I think the people of the State of Maine, the workers of the future as well as the workers of the present, will hold us responsible.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative Lisnik.

Representative LISNIK: Mr. Speaker, Ladies and Gentlemen of the House: I just want to clear up one issue that Representative Strout addressed, which was on local road assistance. The \$3.5 million contribution is an ongoing obligation to the communities. The difference is that there is a study in the Report to study that formula and the formula may change because apparently members of the Transportation Committee felt that there is some inequity in the formula. But, it is an ongoing obligation but what we didn't want to do was send a message that you could absolutely count on this particular percentage as ongoing. The percentages may change but it is an ongoing commitment.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Cashman.

Representative CASHMAN: Mr. Speaker, Men and Women of the House: As the third member of the Conference Committee to get up, I guess I don't have much ground to cover, it has been covered fairly well by Representatives Lisnik and Diamond. I did want to point out one different perspective that I think hasn't been touched on.

As this Conference Committee met, I think all of the other issues aside of whether you transfer some of the responsibilities for funding the State Police to the General Fund or whether you have a diesel differential or all of the other aspects of this proposal aside, the bottom line is, do you think the highway program needs to be funded? That is the question we had to ask ourselves, that is the question this House has to ask itself tonight. If we had decided, the House conferees decided, that the Red Book and the Blue Book and whatever other books were down there need not be funded, then all of this other stuff is moot, there is no point discussing it because we don't need a highway program, we don't pass one, we don't even talk about funding.

I think the first decision we made, the three of us, as we met with the Senate, and it was very obvious that the conferees from the other body were very concerned with having this program funded just as it had been presented, that we had to make the first decision, do we want it funded? I think the bottom line is that we did. The reason for that is because it is important to the State of Maine for all the reasons that have been brought out in this floor debate in week's past, it is important to the State of Maine that it be funded.

My main concern with the original proposal was, as Representative Diamond has pointed out, it was being done in advance of a cost allocation study. That is the first time, to my knowledge, that the state has ever recommended that. If you are going to do something in terms of a gas tax increase in advance of a study, then you are being asked to

increase a tax by making certain assumptions. The five cents across the board made the assumption that the cost of improving the highway system should be shared equally between trucks and cars. I didn't like that assumption.

The last cost allocation study we did said that there should be a differential. The last cost allocation study done by the federal government said there should be a differential. We are coming back to you now with a proposal to fund the exact package that came out of the Transportation Committee. We didn't touch the local road program, as Representative Lisnik pointed out, we didn't touch any of the aspects that that committee worked very hard on for five weeks. What we did touch was the funding mechanism. We changed the assumption so that it coincides with the last two cost allocations studies that have been done.

If the next one, which I happen to serve on and will report to the Governor in October, decides that the assumptions that we have made aren't correct, then we can correct them in the next session of the legislature. But whatever you do, five cents across the board or a differential, that distinction is going to have to be made in the cost allocation study and corrective measures taken next session.

I think that this is the soundest plan by which to fund this program if it is going to be funded this year. I think it is important for us to fund it and I hope that this House will vote to adopt this Conference Committee Report.

The SPEAKER: The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, Men and Women of the House: I would like to preface my remarks today by publicly admitting on the floor of this House that I made a mistake earlier today. Representative Murphy from Kennebunk made a speech and he convinced me that I was wrong when I voted to increase the sales tax. He spoke very eloquently about the flight of business to New Hampshire, the fact that people in Kittery, along the border, can't buy paint, can't buy hardware, can't buy appliances in Maine, you are going to add one more thing to the list, the diesel distributors are going to move across the border because there is going to be a large differential in the tax price of that product.

Representative Murphy was right when he spoke against the sales tax this afternoon and he should be right when he votes again for this plan tonight.

Nothing has changed, ladies and gentlemen, from what we originally rejected. It is the same amount of money, it is just raised differently. The same questions are still nagging at me -- where is the cost allocation study? People who opposed this tax before and are now supporting it are talking about the cost allocation study as the reason why they were against it. I haven't seen the cost allocation study. There hasn't been a study as to the way we support local roads, that was also talked about, and that hasn't been forthcoming. He also talked about impending federal action, that federal action is still impending.

This Conference Committee Report took a bad idea and made it worse, in my opinion. A typical point in that would be to look at that \$1.7 million that we are keeping. We raised the plate fee by \$2.00 to take care of the license plate fee transition. \$1.7 million, we are going to keep that now. That was suppose to sunset, we are going to take it back.

We passed a highway program a year or so ago and, what has been dubbed Lisnik I, kept that Red Book funded. I liked Lisnik I because it kept the store open, the way we were. Again, we are going beyond

that spending additional dollars and raising additional taxes.

Before we take action on this report, I would remind this House that this Report, when it is fully implemented, calls for a gas tax of 26 cents a gallon, diesel tax of 35 cents a gallon, a very hefty tax on a commodity.

Mr. Speaker, when the vote is taken, I request the yeas and nays.

The SPEAKER: The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: I rise tonight to support the three members of the Conference Committee in their recommendations to this body. Each of us can find something in this Report that we don't like but again tonight, we hear the speakers, time after time, support the highway program. So, I ask the members of the House to separate and focus on the important issue tonight and that is, the goals of the highway program.

There are no smiling faces tonight, which may be a sign of a good compromise. All of us are, in one sense, a little unhappy with what we have. We can all take potshots at the funding or some other mechanism but it does allow Commissioner Conners to proceed with the necessary highway and bridge programs. It renews our commitment to the major corridors, it renews our commitment to the extraordinary bridges, it renews our commitment to local roads and begins the commitment for sand/salt storage.

So I rise and ask and reenforce the statements that the Representative from Old Town made, that the important part of this Report is that we can continue this very worthy program that Commissioner Dana Conners has put before us. I ask your support for this Report.

The SPEAKER: The Chair recognizes the Representative from Bethel, Representative Mills.

Representative MILLS: Mr. Speaker, Men and Women of the House: I just wanted to get up tonight and agree with my seatmate, Representative Mayo, he is right, he was wrong earlier tonight and he is wrong again right now.

As far as this bill and this proposal that is before us at this time, I would like to remind this body that before the original committee bill which we reported out, this compromise bill at this point, still has \$3.5 million going back to the local roads, it is still has a 22 percent bonus going back the first year and it still has all the Red Book proposals and still has all the Blue Book proposals for the new roads.

As was mentioned earlier tonight, the biggest difference is that this proposal will approximately save \$17 million in tax money because we will be using existing funds. I think that is a good proposal and I am glad to see it come to this point and I think it is a good bill at this point.

I would also like to mention that some people have gotten up and mentioned the diesel differential. As I mentioned in caucus the other day, I think it is justified. Every time the Transportation Committee has gotten up in the last few days to speak on truck bills, the big argument used against us is that trucks are causing more harm to roads and we should make them pay more for the roads. It is the same differential process that has been used in other states, the same differential process that was used by the federal government and I think it is important that we have it in this state and I hope you will support the bill.

I would also like to say that there is one other

ingredient in this bill that is better than the Transportation Committee's and better than the Governor's proposal and that is the salt/sand money. This bill guarantees that that money will be coming. Before we didn't have that guarantee in either one of those proposals, it was hoped that we would find the money but it wasn't guaranteed. This one does guarantee that money going back to the towns. I hope you will support the bill as it is with the conference report.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Racine.

Representative RACINE: Mr. Speaker, Men and Women of the House: I rise tonight in opposition to the Committee of Conference Report and I want to explain to you the reasons why I am opposed to the bill.

There is one reason that has not been mentioned and I don't think it will ever be mentioned unless I bring it up because when we had our caucus on this, for some reason or other, people failed to realize the impact that was created by requiring that the Maine Turnpike Authority increase its contribution by an additional \$4 million to support the access roads leading into the turnpike. I am totally, totally opposed to that concept. Basically, the people that use the Maine Turnpike are being asked to support the construction and the maintenance of the other roads in the state and I don't think that is fair. This is double taxation. If we don't stop this now, what is to prevent future administrations from raiding the Maine Turnpike Authority and keep raiding. You will probably hear people say that these are excess funds, funds that are not needed. That is horse manure, that is not the truth. If we have excess funds on the Maine Turnpike, then the tolls should be reduced. It is as simple as that.

We in the southern part of the state, our only egress is using the Maine Turnpike. Let's take Route I as an example, from Kittery to South Portland, there are a total of 38 traffic lights -- you can imagine what that causes to the flow of traffic, you just can't move. Route I should be expanded, should be widened to provide an additional access.

What do we have in the proposed construction? If you will take a look at the pamphlet here, it is called, "Corridors of Statewide Significance" and it indicates that Route I, running from Kittery all the way up to Van Buren and Fort Kent (I don't know what the distance of that road is, it is probably 450 miles, your guess is just as good as mine) and you take a look at the proposed supplemental program for FY '88-91 and you add the total number of miles that will be reconstructed, it comes up to 13 lousy, miserable miles. Are we increasing the access or corridors for economic development? Is this what we are doing, permitting trucks to carry raw materials to the factory and the mills? Is this what we are attempting to do, to carry finished products off to the market where we are reconstructing 13 miles? This is a document that was prepared and presented to us.

Now to get back to York County, here is what we are going to do. We are going to reconstruct 1.85 miles from Ogunquit south -- will this help economic development? What we should do is expand the turnpike and I know that I am dreaming but what I am trying to convey to you is the economic necessity that we have been badgered with. I don't believe that we have that problem. Certainly we have a bottle neck on Route I and this is caused primarily by the fact that you have a two-lane highway that is controlled by approximately 36 traffic lights. What has to be done on that highway is to expand it to at

least three lanes to have a passing lane so the traffic can move. In the Summer, it is a nightmare and this certainly does not do it.

Let's talk about the bridge in Biddeford that is in Phase II. We have a traffic problem in Biddeford on Route I, just like everybody else has a traffic problem on Route I so the mayor of Biddeford mentioned that, hey, maybe we should have a third bridge to expedite the flow of traffic. This is probably the reason that this came under the Phase II program and I believe that the estimated cost on that bridge is \$30 million so the question is, once that bridge is designed and constructed and the traffic flows from Biddeford to Saco or from Saco to Biddeford, where does it go after it gets back on Route I? Are you solving a congestion problem? No, you are not. What I am trying to say is that not much thought has been placed on these extraordinary bridges that have to be built and these corridors of statewide significance. We are being asked to take an additional \$4 million out of the Maine Turnpike to support access roads.

I want to go back to access roads and I want to refresh the memories of those legislators that were here in 1981. In 1981, we had a bill which was "An Act to Continue the Maine Turnpike Authority." That bill called for a transfer of \$4.7 million for the construction and reconstruction of access roads. The definition in that bill was that an access road was contained within a corridor of 10 miles. I remember standing in the back of this hallway being lobbied to support that bill on the basis that part of that \$4.7 million was going to be used to construct an additional access from Route I to the Maine Turnpike and if I didn't support this, that spur would not be built. I did, I voted for it because I felt that the city of Biddeford needed an additional spur leading on to the Maine Turnpike. The bill passed this House with flying colors, went to the other body, was passed by that body, went to the Governor for signature and that's the last I heard about it until I started to do some research when I presented a bill to the Transportation Committee to transfer the Maine Turnpike Authority to the DOT.

At that time, I asked a question, where was the \$4.7 million spent? I wanted to know where the money went. I was told that the \$4.7 million went into the General Fund of the Department of Transportation and that surprised me because I didn't think they could do that. Questioning the people, I was informed that the reason it went into the General Fund was based on their interpretation that any road within the State of Maine would ultimately lead a vehicle to the Maine Turnpike so looking into the definition of an access road, I then found out that the bill was recalled from the Governor's desk in 1981 by the Senate, was indefinitely postponed and all of the items that were contained within that bill, were placed into the Highway Allocation Act and, at that time, the definition of an access road was changed. I bet a lot of people don't know that but this is exactly what happened.

Getting back to the Biddeford Bridge and getting back to York County, I am told that this is just a start. It is like a commencement, we are commencing an action and that it may take us 20 years to accomplish this. Let me go back again to something else about promises that are made but are not kept. Let's go back to the Maine Turnpike Authority -- in 1941, the Maine Turnpike Authority was established to provide a toll highway in the southern part of the state leading up to northern Maine. It stipulated that upon payment of the bonds, that highway would be a free road. This was later reaffirmed by other

legislatures up until 1978 and, at that time, they said, hey this is a revenue producing activity. We are not going to let that go, we are going to keep it as a toll highway. However, the funds that are generated will be used to support and maintain the Maine Turnpike Authority and we did this up until 1981. I am definitely opposed to taking any funds, even the \$4.7 million, and I had an amendment to rescind that portion which I was going to attach to an L.D. and now I am told that I cannot amend the Committee of Conference Report. I don't think the amendment would have gone far but I would have certainly proved a point. As long as we permit people to raid the Maine Turnpike, it will never stop. If we have any excess money, that should go towards the widening of the Maine Turnpike and less bonding would have to be acquired to pay for those renovations. If we have excess money, then the toll should be reduced.

You heard Representative Scarpino mention about the fact the tourists pay for everything, they pay the sales tax -- one thing that he failed to mention was the fact that tourists pay 50 percent of the tolls on the highway but how about the rest of us that pay the other 50 percent? What break do we get? We are being asked to pay an increased toll on the Maine Turnpike to support highway programs within the state and you talk about fairness, you talk about being square? If this is what we are going to talk about, let's start practicing what we are preaching and let's defeat this bill.

Representative Lisnik of Presque Isle was granted permission to speak a third time.

Representative LISNIK: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to make a quick response to the gentleman from Biddeford. It makes no difference whether you voted for the Governor's bill or for the amendment that I proposed, the language was identical.

I would like to read from the bill relative to the monies that we may receive in addition to the \$4.7 million for highways. It says "any funds received by the Department under this provision in excess of the \$4.7 million shall be expended for highway and bridge improvements within counties which contain turnpike mileage."

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Racine.

Representative RACINE: Mr. Speaker, Men and Women of the House: The original Lisnik amendment, as was explained to me, was that it was borrowing \$4 million. This Committee Amendment is not a borrow, you have to comply with that whether or not the funds are being used in counties. I don't believe that is fair and equitable. If I am going to be driving on the Maine Turnpike and paying a toll, I don't think the funds that are being generated there should be used to pave the road in Fryeburg, which is in York County.

The SPEAKER: The Chair recognizes the Representative from Baileyville, Representative Tammaro.

Representative TAMMARO: Mr. Speaker, Men and Women of the House: It is not easy to support a tax increase but I favor this increase in the fuel tax. I believe we need this increase in funding for our highways and bridges in the State of Maine, all of the State of Maine. We know that Maine is losing millions of dollars by not having good, safe roads. I believe the Committee of Conference came up with a fair solution, one that meets our needs and the only way Maine can continue to move ahead and improve our economic situation is to approve this plan.

I would like to say something in regards to what

Representative Racine just said a little while ago, he was telling us about his problems in York County -- well, sweet Christopher Columbus, if I must say so, he doesn't know what a problem is when it comes to roads unless he has come to Washington County. I suppose some others will feel the same way, it is all right for you fellows to have three and four lane highways but we will just take a bicycle path -- well I've got news for him, if he doesn't know what the roads are in my area, I suggest he take a ride down that way and he wouldn't be rebuilding York County with three or four lane highways. I guess I had better not say anymore, ladies and gentlemen.

The SPEAKER: The Chair recognizes the Representative from Ellsworth, Representative Foster.

Representative FOSTER: Mr. Speaker, Men and Women of the House: I am going to speak to four points on this bill because I believe that this is taxing Maine people and letting the tourists off.

One, the registration fees are being paid by Maine people.

Two, Rainy Day Fund money comes from Maine tax dollars.

Three, truckers -- who is going to be paying this 5 cent diesel tax? They are going to be Maine truckers, short-haul Maine truckers because the long-haul truckers are going to fill up out of state and roar over these roads loaded with fuel oil.

Four, 2 cents a gallon -- what does that bring in? \$14 million, one-third paid by the tourists? \$4.7 million -- under the 5 cent gas tax, tourists would have been paying \$11.7 million. I see a difference of \$7 million right there that the Maine people are going to have to pick up and, for \$7 million, that is \$7.00 for every person in this state. If someone can explain that better, I would like to hear it, because I really believe that this form of a gas tax is put on the backs of the people that live in Maine.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Men and Women of the House: Those of us who oppose the proposal that is before us tonight, I want it understood that we are committed to a responsible highway program as well. We recognize the needs of this state and the needs of highways. We are not going to second-guess the Department of Transportation and their proposed plans. We commend the Conference Committee for a very serious attempt to find a solution in what seemed to be an impasse. My question to myself and probably expressed verbally is, have the facts changed in the past two weeks?

On April 5th we heard, it is the first time to my knowledge that we have ever passed a gas tax increase in advance of a cost allocation study. I think when we pass a gas tax increase of any kind in this legislature, we do so after all the questions have been answered. We heard that Washington has embezzled money paid in by our Maine taxpayers. I am pleased to hear that the Conference Committee gave consideration to what the majority of the members of this body were concerned about but I thought we had found a compromise. Seventy-seven members of this body voted for a compromise measure, 60 members were in opposition of a compromise measure. Why are we ignoring a responsible compromise that was proposed to us by Representative Lisnik? The facts are the same -- we are punishing the Maine taxpayers. The facts are the same, timing of this tax is inappropriate.

We heard about questionnaires, that 80 percent of the constituents of some members were opposed and said no to a gas tax. We heard in November we passed

a \$26.5 million bond issue. We heard, "when is enough, enough." We all know that 23 cents tax on each gallon of gas presently exists. This is ill-timed. We are not being unreasonable but we voted for a reasonable compromise that bought us time -- when we could see the results of a cost allocation study, when we could deal with a new administration in Washington and seek our \$20 million, the taxpayers dollars, to fund highways. We have an ingenious plan to fund the highways and the needs of the Department, short-term granted, but we were willing to come back and discuss the issue when the facts were before us and questions were answered.

We talk about our constituents when it is convenient but when do we really listen to our constituents who have said to us, no tax increase?

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Macomber.

Representative MACOMBER: Mr. Speaker, Ladies and Gentlemen of the House: I will be brief but I do have a few comments I would like to make.

As you know, I served on the Transportation Committee for the past eight years, I was one of the signers of the 12 to 1 report on the five cent gas tax. I voted for it then, I thought it was a proper way for the users of the highways to pay for the highways.

I would just like to mention a couple of comments on some of the remarks that have been made. One gentleman on the Conference Committee said that this was the same sort of bill that came out of the Transportation Committee, that is not quite correct. The Transportation Committee bill, the 12 to 1 report, had no differential at all.

Another thing that concerns me a little bit is one member of the Conference Committee who arose on the floor to tell us that he could not vote for a five cent gas tax without having the allocation figures -- the moment he was on the Conference Committee, he turned around and he voted for the increase even though the last allocation act was in 1982, six years ago.

I think another thing that bothers me is, this morning I went down and talked to some of the people in finance and I pointed out the fact to them that because we are members of the Tri-State Pact with New Hampshire and Vermont, it would not be possible to raise the diesel fuel tax May 1st. I hope they have taken care of that. I am sure they were informed.

I think one thing that bothers me a little bit is that the Committee of Conference was chosen, I have no problem with that, I do have a problem that none of the ten House members on Transportation, who worked very diligently on this bill, were never asked for any input by any members of that committee. I realize that to be appointed to the committee you had to be a member of the prevailing vote and I understand that. But, I still think after we had worked on the bill for most of the session, off and on, that it might have been wise for somebody to come to us (10 members who worked very hard on this) and asked for a little input. I think that would have been greatly appreciated by members of our committee.

I am not quite sure -- I have changed my mind

about five times today on how I was going to vote on this bill. For those of you who know me, that is not really my style, usually I make up my mind and that is it.

I think some of the comments that have been made here tonight perhaps have changed my mind.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Sheltra.

Representative SHELTRA: Mr. Speaker, Ladies and Gentlemen of the House: In addition to the comments that were made by my colleague, Representative Racine, who mostly dealt with the past, my great concern lies with the future. Here we are about to impose a substantial gas tax on our constituencies, when on the other hand, whoever the next President of the United States might be, you can rest assured that we are going to have an oncoming federal increase in our gas tax of some 15 cents per gallon. In addition to this, you can rest assured that OPEC in the interim is going to raise their prices on crude oil. You can just imagine -- you put all these facts together plus a plausible recession which a lot of good columnists talk about -- I listen to the stock reports, I keep abreast of the news as much as possible and, believe you me, a healthy recession isn't far off. I am being pessimistic but I think I am being also a realist and the people in Maine will suffer most because we are the farthest away from the goods that are needed and the gasoline that we need to maintain our jobs and our economy. This is one of the main reasons I am against the gas tax.

The SPEAKER: The Chair recognizes the Representative from Princeton, Representative Moholland.

Representative MOHOLLAND: Mr. Speaker, Ladies and Gentlemen of the House: I have been setting here listening to all this debate. I would like to tell you now that the truckers in Maine are going to pay 90 percent of this fuel tax. There is no way out of it. I will tell you the reason why. The trucks are coming in here now, this state is deregulated. It has put the railroad out of business. They blamed the truckers for it. It is not the truckers that put the railroad out of business, it is the high cost of fuel and nummys that run it, I am speaking of Maine Central.

I would like to tell you that anybody that is coming into the State of Maine, going into Fort Kent and Madawaska, Machias or anywhere in the state, they fill that old truck up with 300 gallons of fuel, they make the round turn and they don't buy one penny worth of fuel in the State of Maine. You are going to have a lot more of that if we put this five cent fuel tax on trucks. You are going to lose a lot of your trucks registering here because in New Jersey it only costs you \$950 total. All your towns are going to lose your excise taxes, you are going to lose your sales tax on your new equipment. Also you are not going to get enough trucks in here to haul your commodities.

Let me give you a little example. Some of the trucks are hauling paper out of the State of Maine. They are getting \$1.20 a mile to haul this paper. You have got trucks coming in that I can show you that don't buy any fuel in the State of Maine. I can show you the rates if you want, hauling for 86 cents a mile to Ohio and beyond for the simple reason that these big trucking companies are getting rid of all of their trucks now, they are leasing them to owner/operators that don't have to report the fuel taxes, they might report two trips out of ten. So, you can see very clearly why 90 percent of the trucks are going to pay for this fuel tax.

Your sand and gravel crews don't care, where are

they? They aren't around. They bid on a contract, they will put the five cents a gallon in the contract. They don't have to worry. It is the trucker, the small trucker with the pulp loader on the truck that is paying the \$580 highway use tax and not even going out of state, working around town. People digging ditches with little small payloaders, they are going to pay the fuel tax. All your truckers coming in out of the state, hundreds and thousands of them out of New Brunswick, Quebec, you name it, they are going to pay for about one-third of the fuel they use.

I would hope you would take a close look, ladies and gentlemen, before you vote for this bill.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Diamond.

Representative DIAMOND: Mr. Speaker, Men and Women of the House: It surprises me that the arguments about the pain that will be inflicted upon the truckers and other consumers of diesel fuel is so great and that it is being expressed now at the last minute. I respect those people who have shared their concerns with us on the floor this evening but I think we have to keep one thing in mind. What we are proposing here is not a penny more than what the Committee on Transportation recommended. It is not a penny more than what the Governor recommended. It is not a penny more than those 60 people supported who were in the minority when this bill first came through.

When this issue first came before the legislature or was first suggested, I and a number of you, received phone calls from people back in our home districts expressing support for the Governor's proposal. Many of those expressions of support came from truckers who said, yes, we realize that there is a nickel a gallon fuel tax increase in here for us but it is worth it because the repairs to the roads and bridges of Maine are going to save us additional repairs to our own vehicles. For that reason, they came to the legislature and said, please support this highway program.

We, as members of the Committee of Conference, have not heard from a single trucker from outside of the legislature who has expressed a concern about this. I think the reason is they realized that the proposal that we are giving back to this body affects them exactly as the previous proposals did. I think it is a fallacious argument to present to this body concern for the impact on diesel fuel consumers because they are not being impacted to any degree greater than what the original proposal presented.

I think we have to understand that it took a lot of work to put this together. The Representative from Presque Isle, Representative Lisnik, Representative Cashman, Representative McGowan and I, two weeks ago, when we originally opposed this bill, felt we had an obligation to present some alternative and, through John Lisnik's amendment, we presented that. It is for that reason that three of the group of four were put on the Committee of Conference because we represented the prevailing side on that issue. We feel we have an obligation to present a highway package that is fair, that is equitable and that does put the burden on those who do the most damage to the roads, and those who have expressed concern to us. For that reason, we are asking for your support. We believe that there are enough mechanisms in place here to provide a correction when and if that proves necessary and that this legislature will have the opportunity to decide whether or not those corrections should be adopted in our 1989 session. The big question is, we do realize now that we have a highway program that has to be

adopted and it has to be adopted this year. If we go with the plan before us, we can be assured that that package will be put into place with plenty of time to make the corrections necessary if they prove necessary. I ask that you support the position of the Committee of Conference.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Macomber.

Representative MACOMBER: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, I did want to bring to your attention one thing that I had neglected to mention before. If you look at the statement of legislative intent — just to explain, there was in the process a one-stop facility for motor vehicles. Right at the present time, if a trucker comes into Maine to get the necessary permits and things of this nature, he has to go to four different buildings. What we were proposing to do was to have a one-stop facility. Well, the money for that facility has not been, as of yet, but I understand there will be an amendment to lift the financing which was \$1.7 million from the bill, but I just wish you would remember (those of us who might come back here) the letter of intent. It says, "The \$6 million to be allocated from the Rainy Day Fund in the fiscal year 1989-90 for construction of a new building."

I have talked to the Governor, the Governor has assured me that he will support this. I have talked to members of leadership who have assured me that they will support this. I hope we all remember it if we come back again.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of Representative Lisnik of Presque Isle that the House accept the Committee of Conference Report.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Anthony.

Representative ANTHONY: Mr. Speaker, I request permission to pair my vote with the Representative from Dover-Foxcroft, Representative Thistle. If he were present and voting, he would be voting nay and I would be voting yea.

The SPEAKER: The Chair recognizes the Representative from Gray, Representative Carroll.

Representative CARROLL: Mr. Speaker, I wish to pair my vote with Representative Nadeau of Lewiston. If he were present and voting, he would be voting yea; I would be voting nay.

The SPEAKER: The pending question before the House is the motion of Representative Lisnik of Presque Isle that the House accept the Committee of Conference Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 277

YEA - Aliberti, Anderson, Armstrong, Bailey, Begley, Bickford, Bott, Boutilier, Bragg, Carter, Cashman, Cote, Crowley, Curran, Daggett, Davis, Dellert, Diamond, Farnum, Farren, Greenlaw, Hanley, Harper, Hepburn, Hichborn, Hickey, Holloway, Jackson, Jalbert, Lawrence, Lebowitz, Lisnik, Lord, MacBride, Macomber, Mahany, Marsano, Martin, H.; Matthews, K.; McGowan, McPherson, Melendy, Mills, Murphy, T.; Nicholson, Norton, Nutting, O'Gara, Paradis, E.; Parent, Paul, Pines, Pouliot, Priest, Reed, Richard, Ruhlin, Salsbury, Seavey, Sherburne, Small, Soucy, Stanley, Stevens, A.; Stevens, P.; Stevenson, M.; Strout, B.; Tammaro, Tardy, Taylor, Telow, Tupper, Vose, Walker, Webster, M.; Wentworth, Weymouth, Whitcomb, Willey, Zirkilton, The Speaker.

NAY - Allen, Bost, Chonko, Clark, H.; Clark, M.; Coles, Conley, Dexter, Dore, Duffy, Erwin, P.; Foss,

Foster, Garland, Glidden, Gould, R. A.; Gurney, Gwadosky, Hale, Handy, Higgins, Hoglund, Holt, Hussey, Jacques, Joseph, Ketover, Kilkelly, LaPointe, Look, Manning, Mayo, McHenry, McSweeney, Michaud, Mitchell, Moholland, Murphy, E.; Nadeau, G. R.; Oliver, Paradis, P.; Perry, Racine, Rand, Ridley, Rolde, Rotondi, Rydell, Scarpino, Sheltra, Simpson, Smith, Strout, D.; Swazey, Tracy, Warren.

ABSENT - Baker, Brown, Callahan, Dutremble, L.; Hillock, Kimball, Lacroix, Paradis, J.; Reeves, Rice.

PAIRED - Anthony, Carroll, Nadeau, G. G.; Thistle. Yes, 81; No, 56; Absent, 10; Paired, 4; Excused, 0.

81 having voted in the affirmative, 56 in the negative with 10 being absent and 4 having paired, the Committee of Conference Report was accepted.

The Bill was passed to be engrossed as amended by Conference of Committee Amendment "A" (H-762) in non-concurrence and sent up for concurrence.

By unanimous consent, was ordered sent forthwith to the Senate.

The following item appearing on Supplement No. 25 was taken up out of order by unanimous consent:

SENATE PAPER

Non-Concurrent Matter

An Act to Increase the State Funding of Educational Costs (Emergency) (H.P. 272) (L.D. 355) which was Passed to be Enacted in the House on April 18, 1988. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-701))

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-701) and Senate Amendment "A" (S-492) in non-concurrence.

The House voted to recede and concur.

The following item appearing on Supplement No. 23 was taken up out of order by unanimous consent:

SENATE PAPER

Non-Concurrent Matter

Bill "An Act to Correct Additional Errors and Inconsistencies in the Laws of Maine" (Emergency) (H.P. 1939) (L.D. 2638) which was Passed to be Engrossed as amended by House Amendment "A" (H-755) in the House on April 19, 1988.

Came from the Senate Passed to be Engrossed in non-concurrence.

The House voted to adhere.

By unanimous consent, all matters having been acted upon requiring Senate concurrence were ordered sent forthwith to the Senate.

The following item appearing on Supplement No. 24 was taken up out of order by unanimous consent:

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-763) on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$31,800,000 to Finance Construction and Capital Improvements on the Campuses of the University of Maine System" (H.P. 1884) (L.D. 2576)

Signed:

Senators: PEARSON of Penobscot
BERUBE of Androscoggin

Representatives: NADEAU of Lewiston

LISNIK of Presque Isle
McGOWAN of Canaan
RIDLEY of Shapleigh
CARTER of Winslow
CHONKO of Topsham

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (H-764) on same Bill.

Signed:

Senator: EMERSON of Penobscot

Representatives: FOSTER of Ellsworth

DAVIS of Monmouth

HIGGINS of Scarborough

FOSS of Yarmouth

Reports were read.

Representative Carter of Winslow moved that the House accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Higgins.

Representative HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I want to tell you that, obviously, the University of Maine has come under a great deal of scrutiny over the last three or four months especially in our committee. The issue that you see here before you tonight is the issue of a bond issue and the differences between the two reports are quite simple. The Minority Report is the original bill as presented of \$31.8 million. The Majority Report is an additional \$1.8 million for a total of \$33.6 million. The additional money would go to a new facility (as yet to be determined, I guess) at the University of Maine in Farmington.

I think the philosophy of those of us who signed the Minority Report is quite simple. That is that the Board of Trustees submitted a plan, at one point was \$60 million. I think they got the feeling, the very distinct feeling, from most of the members of the legislature and even the Governor's office that \$60 million simply wasn't palatable, it would not pass. They went back to their board and made a decision that they would cut out approximately half of that and come back with another package of \$31.8 million.

There were some people who didn't want to support anything and there were some people who wanted to do a lot more. My feeling was that we ought to stick with what that package was. There are a lot of other needs out there that many of us could identify with. To simply stick on one additional bond issue or another project for one particular campus seemed unfair to me because, if we are going to do that, then I would hope that perhaps tomorrow, if we accept the Majority plan, we ought to consider adding additional projects at additional campuses. Since the University Board of Trustees has already said they need \$60 million and the bill before us is \$31.8 million or \$31.6 million, I just felt that it was unfair to add one more project because I, from the southern part of the state, would like to add some additional money for a parking garage or some of the other things that are needed in southern Maine. I am sure that Presque Isle has some other needs, the University of Maine at Orono has some other needs and we should have the opportunity to address those tomorrow if they accept the Majority Report. I feel uncomfortable in doing that.

I felt a package was worked out, a recommendation was brought to us through the Governor's office from the Board of Trustees and I felt like we should stay with that. It should either be at \$31.8 million or we ought to be at \$60 million but anywhere in between that to me smacked of pork barreling, of a christmas tree effect, and I simply did not want to be part of