

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

# 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

Index

### **SECOND CONFIRMATION SESSION**

May 13, 1988

Index

### **THIRD CONFIRMATION SESSION**

June 15, 1988

Index

### **THIRD SPECIAL SESSION**

September 15, 1988 to September 16, 1988

Index

### **FOURTH CONFIRMATION SESSION**

November 14, 1988

Index

### **FOURTH SPECIAL SESSION**

November 28, 1988

Index

### **HOUSE & SENATE LEGISLATIVE SENTIMENTS**

December 3, 1986 to December 6, 1988

of the House being necessary, a total was taken. 96 voted in favor of same and 43 against, and accordingly the Bond Issue was passed to be enacted, signed by the Speaker and sent to the Senate.

The Chair laid before the House the following matter: An Act to Fund a Supplemental Highway Program and to Establish a Program to Fund the Construction of Extraordinary Bridges (H.P. 1799) (L.D. 2463) (Conf. Comm. "A" H-762) (Emergency) (Roll Call ordered) which was tabled earlier in the day and later today assigned pending passage to be enacted.

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

Representative STROUT: Mr. Speaker, Ladies and Gentlemen of the House: I rise tonight to tell you that over the past 24 hours, I have done everything possible to try to have a program that would be funded as I would like to have it funded. As I told you last evening, the funding mechanism of two cent gas and five cent diesel did not meet with my approval. I also told you last evening that from day one, I supported the highway program, I support the highway program tonight. But, I must tell you that in my years of being here that when we have an issue of this magnitude that does so much for the people of the State of Maine and we come down to this hour, when we have tried earlier this evening to get the necessary votes and the necessary votes were not there, that in my opinion, we have one more opportunity and maybe to some of you, it will be a surprise that I am going to take the position at this hour to support the funding package. The problem that I have had is the differential in the fuel diesel tax.

For the Record, I am going to read a section from the Conference Committee Report that deals with the highway cost allocation. As I read it, it says, "On or before January 1, 1989, the Department of Transportation shall report to the Governor and the Legislature the results of the highway cost allocation study being conducted in 1988, and if necessary, in order to maintain equity among various classes of motor vehicles, the Governor shall recommend legislation to modify the provisions of the Maine Revised Statutes, Title 36, as they apply to special fuel."

I must tell you that earlier this evening, I met with the Governor and I have been assured, I repeat, I have been assured and this is why I can support this L.D. tonight, that when the results of the highway cost allocation reveal that the differential for diesel fuel should be adjusted downward, the Governor is committed to recommend to the 114th Legislature that the diesel tax would be reduced. I have that commitment.

To my friends out there in the trucking business if the highway cost allocation does what I think it is going to do, that next year they will get their adjustments that they deserve.

I cannot stand here tonight and let a program go down that does so much for so many people.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Baker.

Representative BAKER: Mr. Speaker, Men and Women of the House: Well, here goes my parting shot. In the years I have been here, I often found myself voting for things that I didn't like because someone always said we have to have, it's necessary, and as a result, I would go along and vote for some of these things. The problem is that the changes that I would have liked to have seen happen never came to pass.

I have stated this in caucus and some of my party

members have heard this before so it might sound like a broken record, but I will say it again -- the gas tax raises a disproportionate amount of money from poor people. Pure and simple.

There is a way that we could deal with that and still have a gas tax. We could follow the suggestion by the National Railway Passengers Association which is recommended on the federal level, a gas tax. They would like to see that (by the way) used to help finance the railroads so we could have passenger rail service, and have recommended that we could provide a low income tax credit. Now, why can't we come up with something like that? Number one.

Number two. Where I come from we have concerns about public transportation and the funding of public transportation and yet the Constitution forbids us to spend any money out of the gas tax on public transportation.

I have come to the conclusion that we have got to start thinking about making changes in the way we do things in adopting some situations that now confronts us and that situation is simply this, we cannot simply depend on the private automobile to provide transportation. I realize that in a state like this you are not going to have massive public transportation in the rural areas but if someone could come up with a package that would address that, I would vote for a gas tax, I would vote for one more penny.

I really feel it is time we thought of new things we have to do to address those needs. By doing that, we could have solved or at least helped the public transportation system and that low income credit that I am talking about and that would help a lot of people in rural areas. Yet, we can't do it.

That is why I am not going to vote for it because I have made up my mind at this point that, at this stage of the game, if I can't vote for what I believe in wholeheartedly, then I just won't vote for it.

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, Men and Women of the House: I, too, had grave reservations when this plan came out, like the good gentleman from Corinth, Representative Strout. But, for someone who spent more than half of his life working for the Department of Transportation, I know that it isn't simple to say that you build a road and forget about it, the minute the roads are built, you have a problem immediately, it starts to deteriorate.

This is the final thing we can do. We can't just shove it under the carpet, we must do something, we can't let it go any further because every day that goes by is going to cost more and more.

I would ask that you support this bill.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Carter.

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: You have heard the good gentleman from Portland, Representative Baker, touch upon a problem that I have been struggling with for the past several weeks and it is just the tip of the iceberg. What we have seen here is a classic example of what can go wrong when you deal with a dedicated account. In spite of everything that the Department of Transportation and the Committee of Transportation would like to do for the transportation system of the state, they cannot. They are in a straightjacket. I wouldn't want to be in their shoes because I would be in a terrible frustrated position.

We have heard a lot about economic development in this session. Let me touch briefly on economic development. To have economic development, you have got to have three basic elements, land, labor and

capital. Labor is not a problem in the State of Maine, capital is not a real big problem but land is. Land comes in the form of resources, natural resources. In Maine, other than forest, fisheries and wildlife, and agriculture, we have nothing else. If we hope to have any type of major economic activity, we have to import the raw material, manufacture them at high energy costs and transport them back to the markets which are down south because we always forget to look north to our neighbors in Canada.

The key, ladies and gentlemen, is transportation. When I say transportation, I don't just mean highways or the gas tax. When the road reaches the edge of the ocean, it doesn't stop there, it does in Maine. When the road reaches the edge of the railroad, it doesn't stop there but it does in Maine. When the road reaches the edge of the airport, it doesn't stop there but it does in Maine. The Transportation Department concentrates only on the highway system because of the way the system is structured and it is wrong. We have to face the facts sooner or later because if we don't, we will end up gridlocked in a very short period of time. We must do everything we can to preserve our rail system, our air system and our sea system.

Now, let me give you an example of what has taken place in my community. With high tech, we have a firm that breeds superchicks. The chicks are transported in a special truck to Logan Airport and shipped to China in three days time. Why should they have to go to Logan? Very simple, we don't have an airport in the State of Maine that they can utilize. The Transportation Department should be concentrating on trying to develop their facility similar to Logan but they would have to be involved in politics on a national scale to achieve that because the politicians in Massachusetts don't want an airport in Maine to compete with them. We have two good airports in Maine but that is all they are, they are airports. There is no scheduled commercial airlines or any major activity that we can rely on commercially at these airports.

Other than what is taking place in Searsport which to me is the only positive thing that the department is really doing in trying to set policy and trying to act instead of react to the situation, it is the only one. I can understand why, it is very simple, they are boxed in, they can't spend the money other than for the highways. You look at the inscriptions in the Constitution and it is very clear, for highway purposes only. Now, how can they possibly deal with our transportation system under those conditions? Every time that they come to the legislature for funds from the General Fund, they have a problem. They aren't the only department but every department that operates on dedicated revenue faces the same problem, year after year after year.

It is time that we wake up and do what is right. I know it is not going to be easy, there is going to be a lot of resistance and those of you who are going to return here in the next session of the legislature -- and if I am fortunate enough to return, I will be calling on your help because I think the time has come for us to move to undedicate these dedicated funds and really put the Transportation Department to work the way they should be working if we hope to be economically viable and prevent the State of Maine from becoming gridlocked like Massachusetts is now.

Just take a look 20 or 40 years down the road, many of us won't be around but just picture in your mind what is going to happen, you won't be able to move in this state if we don't do something to change the system.

I would hope that you would think on this and when we come back here next time, join me and we will do something about it.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Nadeau.

Representative NADEAU: Mr. Speaker, Men and Women of the House: I would like to remind you of basically three different paraphrases that I can recall that happened over the course of the last year. The first little scenario I want to rhetorically comment about has to do with the so-called Mayo-Bailout Bill, the Thomaston Bill. He was talking about a bill last year which we had in the Taxation Committee which the Augusta Delegation was very involved in, which basically was refined to say something to the effect of "any new construction regarding correctional facilities in the State of Maine will be reimbursed by 50 percent." Certain members of this House and the gentleman that sits in Seat 22, who unfortunately is not here, did make a comment at that point that this was pork barrel legislation if I ever saw it in my life. Subsequently, the gentleman on the second floor said essentially the same thing.

This year we figured in committee, well, maybe that argument can be addressed and we refined it. We came out with the so-called Augusta Bailout Bill, which said any state facilities will be reimbursed. We thought it was a reasonable property tax relief measure. That bill, unfortunately, just bit the dust. The Appropriations Committee felt that they just couldn't cut the mustard too many more ways, so, that bit the dust.

I guess I am rhetorically asking you, is this not a piece of pork barrel legislation that we are now looking at?

The second thing I would like to point out has something to do with me personally, and many of you in this House know I am the so-called lobster license plate man and, as you recall, one of the things that was stated at the point of that discussion was, gee, we have to have a two dollar surcharge on our plates because metal is more expensive and we are going to have to have an extra dye and the total cost is going to be \$1.70 something or other so we will put on a two dollar surcharge. We sold it to the people. Some people didn't really like it but they accepted it, they figured these guys must know what they are talking about.

Now we are saying, gee, maybe that \$1.7 million could be used as part of this program. So, we are going to use the money anyway. We are not going to sunset it, we are not going to -- we just dupe the people or we are attempting to try to dupe the people. We told them at one point it was a one-shot deal. Now we are saying, wait a minute, we might need that money. So, we are not going to tell them, we will tell them next week after supposedly we pass this thing, we will tell them next week we really did need the money, you know. So, we did this.

We have our so-called pork barrel and we have the Nadeau Amendment and the license plate. The other thing I would like to mention is -- I am paraphrasing a little bit, but approximately two weeks, a few statements were made in this chamber. What was said essentially is, we are dealing with approximately a \$95 million supplemental budget, the largest budget this state has ever seen. It doesn't seem appropriate to ask the people of the State of Maine for any tax, whatever it may be at this point. I happen to agree with that position. I happen to think that maybe we should have done more with property tax but I would like to consider myself semi-reasonable, semi-realistic and I knew that you

can only do so much with numbers. So, I accepted that argument.

Joe six-pack does not really care if two or three cents is going to highways, if two or three cents is going to property tax relief. He or she is basically saying, if it looks like a tax, if it smells like a tax, yea, it is probably a tax and I don't like it. He doesn't care how legitimate an argument can be made by anybody, he just remembers two basic things, the Chief Executive of this state has said for the last two years that he wasn't going to do it. Then certain arguments were made, certain qualifications were made and then certain people decided — personally I am not arguing the point that maybe the needs are there. But, the fact of the matter is certain people said, no way, I am not going to do this, I am not going to pass any tax of any magnitude. Now we are qualifying that.

I am saying I don't think the people of Maine are going to stand for that. I don't care how you qualify that, I don't care how you dress it up. I guess, with those three points, I would close at this point and just ask you to consider those and think, who is being consistent around her?

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

Representative RACINE: Mr. Speaker, Ladies and Gentlemen of the House: I promise you that I will not be as lengthy as I was last night. I am only going to get up because I have one problem that I failed to mention last night. I want to make sure that the members of this body are aware of it. You probably realize by now that my main objection to the bill has been the fact that we are tapping the revenues from the Maine Turnpike Authority. I have not been able to accept that philosophy and I believe that we have got to put the brakes on. If we allow an additional \$4 million to be taken from the Maine Turnpike Authority, what is to prevent the current administration from taking another additional two or three or four million down the road?

Last night, I mentioned that back in 1981, when I was lobbied that there was a provision in the bill that stipulated that access roads would be a corridor of at least within ten miles of the Maine Turnpike. I indicated at that time that the original bill was recalled from the Governor's desk, was indefinitely postponed in the Senate and then all of the provisions contained therein reappeared in the Highway Allocation Act. I mentioned at that time that the Biddeford Spur was supposed to have been funded with that money. I guess I left a sort of erroneous impression on some members because I was told that the spur is currently being funded and being constructed. I want to make sure that I am being quoted accurately and properly because the Biddeford Spur is being constructed but none of that \$4.7 million was specifically earmarked for that project.

The other factor that I failed to mention last night was that when we had a caucus and we were presented a fact sheet from the Conference Committee agreement on L.D. 2463, the reference pertaining to the Maine Turnpike Authority stated that an additional contribution, if available from the Maine Turnpike Authority for highways and bridges and adjacent counties — at that time we were led to believe that if the funds were available, they would be provided. If they were not available, they would not be provided. But, if you look at the Committee of Conference Amendment "A," unless I am missing that portion, I cannot find the word "if available." Now, maybe someone might be able to point that out to me within the bill because the way I read it, there is

no choice in the matter. The Maine Turnpike Authority is required to provide \$8.7 million. Now, if I am misreading the Committee of Conference Amendment "A," I wish somebody would clarify that point.

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

Representative LISNIK: Mr. Speaker, Ladies and Gentlemen of the House: I believe that the bill says that there will be \$4.7 million used and then another \$4 million (up to \$4 million) is permissible for a total of \$8.7 million, if available.

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

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: I didn't decide how I would vote on this bill until I sat through the debate last evening. During that debate, I heard the Committee of Conference Report attacked from this side and that side and the other side and everybody had their pet grievance with it. Most of you know that I was opposed to the original bill, I did not want to pass out a five cent gas tax to my constituents.

On the other hand, it was very clear to me as has been clear for some time that there is general agreement that a supplemental highway program and a program to fund the construction of extraordinary bridges is needed in this state. That has been the bottom line. The question is, how would we fund that and this is called, "An Act to Fund" those programs?

As I sat here and listened to this being debated and attacked from various sides, it became clear to me that although I don't love this idea, this is the best that we are going to get. This is the best that we are going to reach that will in fact fund this program in terms of being reasonably satisfactory to the vast number of people. For that reason and that reason alone, I have to say that this is the proposal that has to be supported. I do not like passing on a two cent gas tax which will more than likely increase to three cents. I do not like keeping the surcharge on the license plates that was originally passed for the lobsters but I have to face reality and the reality here in this body over the past two weeks is that this program will be funded and it will be funded by some mix of funding sources.

The Committee of Conference Report has come up with a proposal that is not wonderfully satisfactory to anybody but seems, on the whole, to be not too outrageous to most people. I feel that if we rejected this proposal, that when we come back another time, it would be something that would be even less palatable, it is for that reason that I am supporting this proposal.

The SPEAKER: The Chair recognizes the Representative from LaGrange, Representative Hichborn.

Representative HICHBORN: Mr. Speaker, Ladies and Gentlemen of the House: I suppose if I wanted to join the rest of the people and start giving complaints, I could talk as long as they do about the faults of this proposal and of the parts that I don't like, there's a lot of them in there.

During my 14 years here in state government, I have never seen a perfect bill. At my age, that doesn't surprise me and it doesn't disappoint me and it doesn't scare me at all because all of our laws are man made and during all those years, I have never met a perfect man, never expect to meet one and I don't know that I would want to meet one.

We have survived good laws and we have survived laws that have produced catastrophic results and we will do it again. It won't be because of what you

and I do but it will probably be in spite of what you and I may do.

It seems to me that the issue here is being missed. We are supposed to be talking about a highway program and if we want a highway program, somebody has got to pay for it. We seem to be more concerned about the funding than we are about the program itself. We have had some of the best brains in this legislature working on this funding program, have done the best job that they can do and all we seem to be doing is tearing down the efforts of the people who are trying to get something accomplished. It seems that the program and the problems are simple, if we want a highway program, we have to face the problem of paying and if we don't want to pay for that program, we don't deserve the program.

I don't like all of these provisions myself. But, I do favor the highway program and I can swallow some of the parts that I don't like as a part of the price that I will pay for having that program. I hope that when you vote that you can do the same.

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 discuss very quickly a section on the Maine Turnpike Authority that is in the bill. Check on Page 8, the section where the increase goes up \$4 million to \$8.7 million, it said the Turnpike Authority will meet and consider the transferring of the money to the DOT and then it lists a, b, c, d, e, f, g, h, i, j, k, and l. And l, is financial condition of the Turnpike Authority, the financial impact of the maintenance, construction and reconstruction of access roads and the probable availability of turnpike revenues to make these payments is totally up to the Turnpike Authority to vote to release those funds and they do so only if they have enough money. I want to make sure people realize that because Representative Racine raised that point before. I want people to realize that it is only done so after they have done their maintenance, after they have paid off their bond payments for that year and it is only if they have excess money left over at that point and the money that they do have left over will be spent in the counties that the turnpike goes through.

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

Representative MOHOLLAND: Mr. Speaker, Ladies and Gentlemen of the House: I stand up here tonight after hearing all this talk. My good friend across the aisle, Representative Strout, I talked to him 15 minutes ago and he said he wasn't going to change his mind on this vote.

I just want to say one thing, ladies and gentlemen, 90 percent of this is going to be paid for by the trucking industry of the State of Maine. Two cents a gallon for all the cars. What about all the tourists with cars that are coming in here this year? You are going to let them travel for two cents and you are going to stick the trucking industry in the State of Maine for the five cent tax. I don't think it is fair for the local truckers to have to pay all the bill. I would like to see the roads taken care of but I don't see why it should be taken care of by 90 percent of the Maine trucking industry.

The SPEAKER: A roll call has been ordered. The pending question before the House is passage to be enacted. In accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House is necessary. Those in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL NO. 284

YEA - Aliberti, Anderson, Anthony, Armstrong, Bailey, Begley, Bickford, Bott, Boutillier, Bragg, Carter, Cashman, Clark, M.; Cote, Crowley, Curran, Davis, Dellert, Dexter, Diamond, Dutremble, L.; Farnum, Farren, Foss, Foster, Garland, Glidden, Greenlaw, Hanley, Harper, Hepburn, Hichborn, Hickey, Higgins, Holloway, Jackson, Jalbert, Lawrence, Lebowitz, Lisnik, Look, Lord, MacBride, Macomber, Mahany, Marsano, Martin, H.; Matthews, K.; McGowan, McPherson, Melendy, Mills, Murphy, E.; Murphy, T.; Nadeau, G. G.; Nicholson, Norton, Nutting, O'Gara, Paradis, E.; Parent, Paul, Pines, Pouliot, Priest, Reed, Richard, Ridley, Roide, Ruhlin, Salisbury, Scarpino, Seavey, Sherburne, Simpson, Small, Smith, Soucy, Stanley, Stevens, A.; Stevens, P.; Stevenson, M.; Strout, B.; Strout, D.; Swazey, Tamaro, Tardy, Taylor, Telow, Thistle, Tupper, Vose, Walker, Warren, Webster, M.; Wentworth, Weymouth, Whitcomb, Willey, Zirkilton, The Speaker.

NAY - Allen, Baker, Bost, Carroll, Chonko, Clark, H.; Coles, Conley, Daggett, Dore, Duffy, Erwin, P.; Gould, R. A.; Gurney, Gwadosky, Hale, Handy, Hoglund, Holt, Hussey, Jacques, Joseph, Ketover, Kilkelly, Lacroix, LaPointe, Manning, Mayo, McHenry, McSweeney, Michaud, Mitchell, Moholland, Nadeau, G. R.; Oliver, Paradis, P.; Racine, Rand, Rotondi, Rydell, Sheltra, Tracy.

ABSENT - Brown, Callahan, Hillock, Kimball, Paradis, J.; Perry, Reeves, Rice.

Yes, 101; No, 42; Absent, 8; Paired, 0; Excused, 0.

101 having voted in the affirmative and 42 in the negative with 8 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The following item appearing on Supplement No. 9 was taken up out of order by unanimous consent:

SENATE PAPER

The following Joint Order: (S.P. 1006)

ORDERED, the House concurring, that in accordance with emergency authority granted under the Revised Statutes, Title 3, section 2, the Second Regular Session of the 113th Legislature shall be extended in accordance with the provisions of said section.

Came from the Senate, read and passed.

Was read.

The SPEAKER: The Chair will order a Division. The pending question before the House is passage. This requires a two-thirds vote of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

122 having voted in the affirmative and 11 in the negative, the Order was passed in concurrence.

On motion of Representative Macomber of South Portland, the House reconsidered its action whereby An Act to Authorize a General Fund Bond Issue in the Amount of \$33,600,000 to Finance Construction and Capital Improvements on the Campuses of the University of Maine System (H.P. 1884) (L.D. 2576) (C. "A" H-763) failed passage to be enacted.

The SPEAKER: The pending question now is passage to be enacted.

Representative Diamond of Bangor requested a roll call.

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