

# 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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### **SECOND CONFIRMATION SESSION**

May 13, 1988

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### **THIRD CONFIRMATION SESSION**

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### **FOURTH CONFIRMATION SESSION**

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

December 3, 1986 to December 6, 1988

(S-332) AS AMENDED BY HOUSE AMENDMENT "A" (H-498) thereto, in concurrence.)

Senator BUSTIN of Kennebec requested a Roll Call. Subsequently, the same Senator requested and received Leave of the Senate to withdraw her request for a Roll Call.

Which was PASSED TO BE ENACTED, in concurrence.

Senator CLARK of Cumberland moved to RECONSIDER whereby the Bill was PASSED TO BE ENACTED, in concurrence.

On motion by Senator DUTREMBLE of York, Tabled Unassigned, pending the motion of Senator CLARK of Cumberland, to RECONSIDER ENACTMENT.

On motion by Senator DOW of Kennebec, the Senate removed from the SPECIAL HIGHWAY TABLE the following:

Emergency

An Act to Make Supplemental Allocations from the Highway Fund for the Fiscal Years Ending June 30, 1988, and June 30, 1989

H.P. 1788 L.D. 2449

(C "A" H-584)

Tabled - April 11, 1988, by Senator DOW of Kennebec.

Pending - ENACTMENT

(In House, April 8, 1988, PASSED TO BE ENACTED.)

(In Senate, April 6, 1988, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-584), in concurrence.)

Which was PASSED TO BE ENACTED, in concurrence.

Senator CLARK of Cumberland moved to RECONSIDER whereby the Bill was PASSED TO BE ENACTED, in concurrence.

On further motion by same Senator, Tabled Unassigned, pending the motion of the same Senator to RECONSIDER ENACTMENT.

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on Engrossed Bills reported as truly and strictly engrossed the following:

Emergency

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

(C. C. "A" H-762)

On motion by Senator BUSTIN of Kennebec, supported by a Division of at least one-fifth of the Members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator CAHILL: Thank you Mr. President. Mr. President, men and women of the Senate. I know it is late and I am not going to take a lot of time this morning, but because I was unable to debate this last night I just wanted to make several explanations for the Record. Like the good Senator from Aroostook, Senator Ludwig, the Committee that I serve on, the Transportation Committee is comprised of thirteen rugged individualists. The pot hole gang as we are commonly referred to has a reputation for jealously guarding those dedicated highway funds because we believe in the dedicated highway concept. Sometimes the Transportation Committee reminds me of mother birds guarding a nest of eggs until those eggs hatch and they are able to fly on their own, we guard the programs of the Transportation Department. While individualists I believe every member of that Committee shares the common belief that the way to

the economic growth and the general well being of Maine is through its infrastructure.

Last week when this issue was debated I said that I was philosophically opposed to taking money from the Rainy Day fund and spending it on highways. I still am philosophically opposed to taking money out of the Rainy Day fund to pay for highways. Opinions change and ideas change, but philosophies if they are really philosophies don't change at least not in one week. Besides my philosophical disagreement I oppose taking the money from the Rainy Day account because like the good Senator from Lincoln, Senator Sewall, said, what happens if we have another flood like the flood of April 1, 1987? Regarding the two cents five cents the differential for diesel fuel, I think there can probably be a good argument made for the differential. I know that more states have a differential between gas and diesel then don't. I know the federal government has a differential. I know that many people here believe that the trucks are the vehicles that most damage our roads and maybe they are, but they already pay more than automobiles through registration fees. If you want to know exactly how much I suggest you look at L.D. 2491, page nine and ten, and it will give you the fee schedules for the trucks on our roads. Then we have the Cost Allocation Committee, which I am proud to serve on, which will finally determine what the trucks really do to our roads and if they do already pay their fair share. I think we should make no mistake that the cost of the increased gas tax and the nickel on diesel will be ultimately paid by the consumer through an increase in a loaf of bread, or a cord of wood, or fuel oil or any of the other consumer products.

If Commissioner Connors is keeping track of all the people in the Legislature in the last week who said what a good guy he is, he shouldn't have to buy lunch for the next year. But I would like to add my two cents too because I think Dana, Jane, Gary and Alden have done a remarkable job with this program that is before us today. It has something for every part of Maine and unlike some I applaud the twenty year concept. Finally we are planning for Maine's future growth. I have heard it said around the Halls in the past couple of days that we really don't have any choice but to vote for this measure tonight because there is no alternative. This package we have before us is all there is, it is either this or nothing. Well, I sort of disagree with that also. There is always an alternative, ladies and gentlemen, but I will spare you tonight because of the hour is late, my alternative. Suffice to say, there are other options to this. After this speech and everything, when all the dust is lifted and the Senate saw what occurs, I am going to be voting yes for this package, not because my philosophy has changed. It hasn't. Not because the Governor asked me. He didn't. Not because my constituents have put up a fuss, I received two phone calls today after my negative vote yesterday. I can probably sell my vote to my constituents either way I vote. I am voting yes this morning because as the mother bird I do jealously guard and protect our highway systems because of the overall investment it provides in Maine's future.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Kerry.

Senator KERRY: Thank you Mr. President. Mr. President, men and women of the Senate. The process of making legislative decisions, it seems to me, has dwindled down to the fact of how can we stone grind the Legislators to such fatigue, lack of spontaneity and creativity to the point where they are just a

group of automatons that we just have to make decisions on the basis of what is before us? I feel somewhat like the Senator from Sagadahoc, Senator Cahill, that one does not change ones philosophy, one may change ones opinions, one may even adjust to the various programs that are presented to us. I think most and everybody in this Senate would like to maintain that philosophy and that, if you will, decision making processes they employ each day in this Senate throughout the term. I know there are many Senators here from both parties who feel that this particular package pleases no one and I am sure it doesn't. I am sure it doesn't please the Governor, I am sure it doesn't please the members of the majority or the minority party. It is in essence a compromise and much like making sausages the legislative process has once again proven it is a very unsavory process when all is said and done.

As we review and look around the Chamber we see that there are members of the various interests groups here tonight because they have the tenacity and the interest to stay here and protect their interest. They have a reason, whether they work for state government in the Transportation Department, or they work for various interests that build our roads and run our factories and, if you will, take care of the trucking industries. That is legitimate and I think a very positive concern. There are many of us who spoke, it seems to me eons ago, that this particular measure was ill-advised. We were talking at that time about a straight five cent gas tax and now it has been broken down into an array of financial mechanisms that will at least accommodate in some fashion the twenty year planning horizon and a longitudinal planning that the good Senator from Sagadahoc, Senator Cahill, referred to. I might add, Mr. President and ladies and gentlemen of the Senate, that at the vast majority of my constituents from southern Maine who responded to my questionnaire and who have responded on daily and weekly conversations regarding increasing the gas tax, the most optimistic of them had skeptical views as to whether or not we should increase the gas tax mainly because they believed as consumers the cost would be borne by them, by which it will be. The cost of trucking goods and services throughout the state of Maine, whether it is the northern part, the western part, or the southern part is going to increase because it is just a natural provision of business to do so. Therefore I would submit to you that I don't really believe that the vast majority of the citizens of the state of Maine would vote to have the taxes increased because they may not and I think justifiable so, view the situation in the state of Maine as being so critical that this emergency late hour session, as we always talk about, is going to address the emergency needs of our highway system.

I think everybody has said here and everyone believes that if we do have a critical bridge problem, if we have a critical road problem in certain circumstances that they should be addressed. It could have been addressed, I think, with the maximum of a two to three cent increase in the gas tax to address those issues and no more. Then we could come back with more time to assess the overall planning structure of the state system in a regular session. Mr. President, ladies and gentlemen of the Senate, I think it is important that we should not give into our fatigue, that we should not give into various lobbying efforts by a number of people, or that we should even trade for other measures that we may feel that are important to us to accept this gas tax or this package. As you know I voted against the democratic proposal because I felt that the funding

mechanisms, taking funds from the Rainy Day Fund, were imprudent. In fact, as the good Senator from Sagadahoc, Senator Cahill, indicated that if we are going to have a transportation system that has the longitudinal concept, you don't take money out of the Rainy Day Fund to address that issue. Even though it may be compelling and even though it may be expedient, if I may use that proper term. As I remember, the good Senator from Aroostook, Senator Collins, spoke very persuasively to the fact that he considered it voodoo economics to use the Rainy Day Fund, not to refer to a person who might have used that term many years ago in the Presidential campaign, but he was referring to the fact the financial mechanism would not address the issue in a substantive fashion over time. I honestly agree and I would suggest to you, ladies and gentlemen of the Senate, that it is an inappropriate way to fund our highway system.

Finally, I realize that we are confronted with addressing priorities in this state and I said it before I think it is more important to invest our funds in the people of the state of Maine and that which would distinguish us from other states and certainly from other political priorities of other groups, legitimate legislative bodies, is that the infrastructure does not come first, the people come first. I think the priorities of this state, not withstanding emergency needs, must address the peoples needs first. I think in this particular case we have moved too quickly and I think we should have waited until the regular session where we may have addressed this in a more forthright fashion with more analysis and I think for those of us from southern Maine we would like to have a greater and I think a more clearer explanation of the impact of this particular program in our area. More importantly, Mr. President, ladies and gentlemen of the Senate, I think it is going to have an adverse impact on the consumers of this state. From many of the consumers who I represent I certainly place their interests first. I realize this may not change the votes but I think it is important to note that it should be said and I hope we do not pass this ill-advised package.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Webster.

Senator WEBSTER: Thank you Mr. President. Mr. President, men and women of the Senate. I feel rather proud to stand here tonight, I reached a milestone in my life. In thirty-two years I have never in my life been up until three o'clock in the morning, and I am proud to say that this is a good place to do it as any. I have also never made a speech at three o'clock in the morning so I have done two things here at once and for that reason I rise.

I would like to say in all seriousness that this has been a very difficult issue for me. Most of you know that I am adamant against a five cent gas tax and I feel very strongly that I could not support that measure. This is a difficult issue for me for a lot of reasons, one of the reasons is, as many of you know, I am not well known as being an advocate for taxing and as a matter of fact, I don't think I have ever spoke for a tax in my life except for tonight so I am really setting some personal records here on this evening. I have always felt and most of us have felt and I have stated time and time again over the years that the government should work within its budget. I guess what has really changed my mind on this issue is the compromising process. I really have some concerns about taxing trucks in my district at five cents, while vehicles are being taxed at two cents. I have some real concerns about the Rainy Day Fund, but I guess I am looking at this coming from

rural Maine. coming from an area in the state that probably has as bad roads as anywhere. Over the years my constituents have complained about the fact that there are not enough jobs and the roads are not making it any easier. I am hopeful and I have met with the Commissioner and talked about these issues. I have tried to figure out exactly what was going to happen. I don't stand to benefit a lot from this issue within the next couple of years, but over the next few years it is nice to see we do have a plan. A plan that I think will improve some of the economic corridors in Maine, Route 4, Route 201 in my district, routes in Washington County and elsewhere in the state for whatever reason have not been fixed. For these reasons I rise tonight to ask you to consider this compromise. Several hours ago we debated and we have debated here for the last several days a number of issues that came out in compromise. I for one would have been more than willing to completely oppose the Bill on AIDS that went through here earlier because there are many things within the Bill that I didn't agree with, but I realize the intricate process and how it works here. There was a compromise that was reached, it was the best we could do. In my opinion this is the best we can do, it is probably the best thing we can do today for the infrastructure in the state. For those reasons I would ask you to join with me and support this compromise measure before you. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Dow.

Senator DOW: Thank you Mr. President. Mr. President, men and women of the Senate. I just wanted to get up on a little lighter note. The good Senator from Franklin, Senator Webster, just reaffirms to me that there is difference between the Republicans and the Democrats because I have made some of my best speeches at three o'clock in the morning. But, I am not going to do one of them tonight. I am just going to ask for your support on this compromise that nobody likes but is needed. I ask you will all of my sincerity.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Brawn.

Senator BRAWN: Thank you Mr. President. Mr. President, men and women of the Senate. Even though I am a freshman Legislator and I don't have a long eloquent speech and I am sure you are glad of that, I am too. I rise because I really think it is necessary for the Record to explain my voting from the beginning. I want to start by saying when I ran for the Senate I distinctly remember in several of my speeches saying I am not running to go over there and be popular. I am running to go over there and do what is right and that is the reason when the gas tax first came before us that I had the courage to stand up and vote yes. I thought that was the best plan that we had, I thought it was a good one. It didn't pass, as we all know, and the Committee of Conference brought back another plan, which I voted against for the reason that you have already heard here tonight. I am philosophically opposed to taking money out of the Rainy Day Fund. I am. But I also am a compromiser, I think the bottom line here in my mind is no doubt, I am going to be voting yes tonight because there is a very dear project in the mid-coast area, the Route 1 Corridor project and I think it is very necessary in the Rockland, Camden, Thomaston area that we deal with this and we have got to get started on it. I hope that you will be joining me in voting yes. Not doing what is popular, but what is right for the citizens in the state of Maine. If I could just end by saying to my good friend, the good Senator from York, Senator Kerry, I also believe that

we are here representing the people. I think safety is the bottom line in this and with economic growth you are going to see a lot more people moving here particular in Camden and my area we have a lot of people and we need to have these roads safe for our people to travel on. Thank you.

THE PRESIDENT: The pending question before the Senate is ENACTMENT. A Roll Call has been Ordered.

A vote of Yes will be in favor of ENACTMENT.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators BALDACCI, BLACK, BRAWN, CAHILL, CLARK, COLLINS, DILLENBACK, DOW, EMERSON, ERWIN, GAUVREAU, GILL, GOULD, KANY, MATTHEWS, MAYBURY, PEARSON, PERKINS, RANDALL, THERIAULT, TWITCHELL, WEBSTER, WHITMORE

NAYS: Senators ANDREWS, BRANNIGAN, BUSTIN, DUTREMBLE, ESTES, KERRY, LUDWIG, SEWALL, TUTTLE

ABSENT: Senators BERUBE, USHER

The Chair exercised prerogative not to vote.

This being an Emergency Measure and having received the affirmative vote of 23 Members of the Senate, with 9 Senators having voted in the negative, and 23 being less than two-thirds of the entire elected Membership, the Bill FAILED OF ENACTMENT in NON-CONCURRENCE.

Sent down for concurrence.

On motion by Senator DUTREMBLE of York, ADJOURNED until Thursday, April 21, 1988, at 10:00 in the morning.