

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Ninth
Legislature***

OF THE

STATE OF MAINE

SECOND REGULAR SESSION

January 2 to April 3, 1980

THIRD SPECIAL SESSION

May 22, 1980

THIRD CONFIRMATION SESSION

July 17, 1980

FOURTH CONFIRMATION SESSION

July 24, 1980

FIFTH CONFIRMATION SESSION

September 12, 1980

**REPORT, HEARING TRANSCRIPT AND
RELATED MEMORANDA OF THE JOINT
SELECT COMMITTEE ON INDIAN LAND
CLAIMS**

HOUSE

Tuesday, January 15, 1980

The House met according to adjournment and was called to order by the Speaker.

Prayer by the Reverend Joseph Beardsley of the First Baptist Church, Topsham.

Rev. BEARDSLEY: Father, your laws are written upon human hearts and in the midst of our hearts; your grace is woven into our earthly fabric. Your gifts to us are political gifts, and judicial and executive gifts.

Our hearts, though heavy with discord, need to never be without your likeness. Our earthly institutions, though imperfect, never need to languish without your grace; yet, we your servants, have treated your creation as if we were alone its proprietors. Our responsibilities have been too small; our loves have not been great enough.

We have been blessed with goods, enough for all, but we have not been able to find the goodness of heart to share with all. Our shortages, which we thought to be material, have come to appear in their true light as spiritual shortages.

We harbor feelings that our call is greater than we can manage alone. Let us therefore not rule alone or part from your grace. Infuse our labors with a strength and a wisdom beyond our own strength and wisdom. Keep us mindful of all the needs of body and spirit of those in our state. Guide us towards the heavenly kingdom which our institutions can but glimpse but not contain. Show us all what you would have us to be for unto you is all power and glory forever with Christ and the Holy Spirit. Amen.

The members stood at attention for the Pledge of Allegiance to the Flag.

The journal of the previous session was read and approved.

Papers from the Senate

Bill "An Act Relating to Authority of the Town of Crawford to Sell Lots Within its Public Reserved Lands" (S. P. 681) (L. D. 1797)

Came from the Senate referred to the Committee on Energy and Natural Resources and ordered printed.

In the House, referred to the Committee on Energy and Natural Resources in concurrence.

Bill, "An Act to Amend the Maine Health Facilities Authority Act to Include Certain Educational Institutions" (S. P. 680) (L. D. 1798)

Came from the Senate referred to the Committee on State Government and ordered printed.

In the House, referred to the Committee on State Government in concurrence.

Messages and Documents

The following Communication: (H. P. 1696)

State of Maine
OFFICE OF THE GOVERNOR
Augusta, Maine
04333

January 10, 1980

To: The Honorable Members of the Senate and House of Representatives of the 109th Legislature

I am pleased to transmit herewith a special message on the issue of funding the Maine Department of Transportation.

Sincerely,
S/JOSEPH E. BRENNAN
Governor

The Communication was read and with accompanying message ordered placed on file.

State of Maine
OFFICE OF THE GOVERNOR
Augusta, Maine 04333

January 10, 1980

To: The Honorable Members of the Senate and House of Representatives of the 109th Maine Legislature:

No state government program has generated

more attention and controversy in recent months than that of the issue of funding the Maine Department of Transportation.

During 1979, the majority of Maine people came to realize that what energy experts, government officials and others had been saying for several years was in fact true: that the days of cheap energy are over and that adjustments in our lives must be made, for the new economics of energy touch every aspect of our daily living.

Americans are making a major adjustment by changing over to more fuel-efficient motor vehicles. Only three years ago, the average automobile got just 12½ miles per gallon. Three years from now, new cars should be averaging 25 miles per gallon under federal law.

Thus, the number of gallons being purchased will decrease at the same time that the soaring cost of fuel is dramatically increasing the cost of doing business for the Maine Department of Transportation. Since dedicated revenues from the gas tax supply a significant portion of the Department's funds, and since the Department of necessity spends a great deal on fuel, asphalt and other petroleum-based products, these two factors have combined to create a serious funding dilemma.

In anticipation of continuing problems with gas tax revenues, I empaneled a 22-member Special Task Force on Highway and Bridge Financing. They were asked to undertake a major study of MDOT revenues and to report to me with their recommendations for addressing the projected shortfall. This committee, which included private citizens, officials of state government, and seven members of the Legislature, reported to me in December. They made eight recommendations.

I am deeply appreciative of the hard work and conscientious effort that went into their study. This report has been the subject of intense analysis.

The purpose of this message is to make my recommendations to you for how state government should address this projected shortfall.

After taking into account anticipated costs of \$4.0 million for other needs, including collective bargaining and an estimated savings of \$3.0 million from program reductions, the Task Force projected a \$5.7 million shortfall in the current fiscal year, and a shortfall of an additional \$11.0 million in fiscal 1981, for a total of \$16.7 million by June 30, 1981.

This figure is the largest single portion of the \$27 million gap between Departmental requests and available funds which I reported to you in my Legislative Message of January 2, 1980.

The greatest contributing factor is the decline in revenues from the gasoline tax. Revenues for the biennium are expected to be off by \$15.7 million, largely as a result of the entirely commendable efforts that have been made by the individual citizens of Maine to curtail the use of gasoline by observing the 55-mile-per-hour speed limit and by purchasing more fuel-efficient vehicles.

In reviewing the recommendations of the Task Force, I wanted if at all possible to avoid raising the gasoline tax.

Increasing the tax would add to the cost of driving for motorists who have already been hit with huge increases in the cost for each gallon in the past year.

Two other factors entered into my analysis:

1. If there were to be no increase in the gasoline tax, then there would almost inevitably have to be reductions in Department programs. Since so many of the Department's activities directly relate to the safety of the motoring public, I would have to find cuts that would not in any way reduce the safety of our roads and bridges.

2. Federal matching funds provide as much as 90 per cent of the financing available to certain MDOT programs. It was one of our priorities to avoid jeopardizing these moneys.

These matters were further complicated by the fact that the Task Force recognized its time constraints and decided to look only at revenues and not at programs.

Since the Task Force reported to me, studying the Department's programs has been the focus of my analysis. I am fortunate to have had the able assistance of the Acting Commissioner of Transportation, Richard A. Luettich, and of Commissioner Rodney L. Scribner of the Department of Finance and Administration.

Recommendations of the Task Force

Presented below are the recommendations of the Task Force, my decisions on each, and additional recommendations based on my analysis of Department programs.

A. Recommendations of the Task Force

1. Retain the dedicated Highway Fund.

Philosophically, I generally oppose dedicating revenues for most programs in government. However, at this time changing the dedicated revenue structure of the Highway Fund would have no effect on the projected shortfall of the current biennium.

I am directing a complete review of the method of budgeting the Highway Fund. I am asking the Budget Office to intensify its scrutiny of the Department's budgetary request.

This could provide a higher degree of accountability for MDOT programs to the Governor and the Legislature.

2. Increase the Motor Fuel Tax.

The people of Maine have been leaders in conserving gasoline. Our citizens should be commended for their prudence, not penalized for it in the form of higher taxation. To recommend an increase would have the long-range effect of undermining government's ability to gain public cooperation in future calls for voluntary, as opposed to mandatory actions. Moreover, I am concerned that any increase in the price of gasoline, whether as a result of taxation or any other cause, hits hardest those who can least afford it.

But a second important principle was at stake here as well.

As every member of the Legislature, the Administration and many in the public recall, I ran for office on a pledge that I would not increase taxes, except in cases of 'dire straits' or emergency conditions.

I felt strongly that I should not break that commitment to the people of Maine.

To do so would have further eroded public confidence in government, and the democratic process.

Those citizens who are already cynical about government would have had further reason to distrust people in public office.

The Task Force was free to recommend an increase in the gas tax because I did not want to put any constraints on their objectivity. I deliberately gave them a mandate to take a completely open-minded look at MDOT funding.

However, because of my commitment, I did not have that freedom.

I had to be certain that a genuine emergency existed.

As we undertook a study of the Department's programs following receipt of the Task Force recommendations, I was satisfied that we could make reductions and adjustments and still provide a responsible program.

It became evident that the kind of emergency that would warrant my breaking my public promise to the people of Maine did not exist.

I was determined to keep my word.

Therefore, I could not accept the recommendation for an increase in the gas tax.

3. Continue the recent increase in car and truck registration fees.

The fee increase passed at the First Regular Session expires under its sunset provision at the end of the biennium. There is, therefore, no reason to address this question at this time, since it will not affect revenues for the current biennium.

4. Continue the use of bonding as a funding mechanism.

I support this recommendation because it is a practical funding tool. Bonds can be sold at a time when interest rates are favorable, and bond sales can be delayed until other debts are retired. Moreover, since approval requires that judgment be passed by the legislature and the public in referendum, it is not likely to be undertaken in an irresponsible manner or with a lack of accountability.

5. Charge the actual costs of State Police highway functions to the Highway Fund.

The traditional 75-25 split between the Highway Fund and the General Fund is held over from the time when the State Police operated primarily as a safety and enforcement presence along state highways. Now the role has expanded to include investigation of crimes and other public safety functions.

I am requesting in this message that the formula be amended to 60-40 in the spirit of this recommendation of the Task Force.

6. Don't reduce turnpike tolls.

No decision need be made by the Governor or Legislature on this recommendation until the turnpike bonds are paid off in 1982 or 1983.

7. Don't exempt gasohol from motor fuel taxes.

Exempting gasohol would be an effective way of encouraging its use in Maine and would be consistent with energy conservation efforts. However, it would not be prudent to do so now at the expense of this already strained account. Consequently, I endorse this recommendation.

8. Require stricter enforcement of motor fuel use tax laws.

I have directed the Department of Public Safety and Finance and Administration to recommend methods by which they can more closely monitor activities that evade full payment of motor fuel use taxes. Again, I agree with the Task Force recommendation.

B. Additional Recommendations

As Governor, I believe it is not only my responsibility to oppose an increase but also propose those areas where the shortfall can be addressed. I therefore propose the following:

1. Reduce allocation for the State Aid Program during the biennium by \$7.5 million.

The state has traditionally appropriated funds to match all revenues raised by local communities for work on state highways within municipal boundaries. In many cases, communities have allowed their aid units to accrue by being carried forward over the years so that they can afford major projects. As a result, I am advised that we can meet all contractual obligations during the biennium and cover actual funds paid by towns into the joint fund even if a one-time reduction of \$7.5 million in our allocation is undertaken. This adjustment will not reduce the amount of work actually done on our roads this year or next year. I believe it is prudent to appropriate only as much as we anticipate spending.

2. Reduce state aid bonus from 40 per cent to 20 per cent.

The state aid bonus program, which encourages work to link state highways between municipalities, has been an effective program in the interest of both the state and local communities. Reducing the state's share of this work from 40 per cent to 20 per cent is not expected to create any significant impact on communities and would result in an additional \$1.35 million in savings in the MDOT budget.

3. Eliminate the 1981 Town Road Improvement allocation.

An additional \$1.0 million in savings could be realized through this budget reduction. There is expected to be little effect on communities because the primary source of local funding for town road improvements is the excise tax. Collections of this tax have grown significantly because it is tied to automobile prices. Consequently there will be no adverse impact

on the property tax payers.

4. Increase fees for drivers' licenses and license examinations.

A modest increase of \$1.50 a year for drivers' licenses will produce approximately \$1.05 million annually for the Highway Fund. Despite inflation, the license fees have been frozen for the past 15 years.

At this time, the applicant pays only half the cost of his or her drivers' license test. We should increase the fee for administering examinations to accurately reflect the true cost, which would raise an additional \$306,000 per year. The elderly will continue to be exempted.

5. Added General Fund support for the State Police.

I am recommending a \$2 million increase in the General Fund portion of State Police financing for the remainder of the biennium. This will be part of my General Fund appropriations proposal.

6. Reduce summer maintenance program costs.

Savings of about \$2.5 million can be achieved in the MDOT budget by maintaining the resurfacing program at last year's levels, by reducing mowing along roadsides and by closing the last used picnic areas.

I am proposing continuation of the resurfacing program at the same level as last year, while some of the paving originally scheduled for this summer would be postponed until 1981.

7. Defer the sale of bonds.

By deferring the sale of bonds until interest rates go down, additional savings of approximately \$1 million can be achieved. Adequate cash balance will be maintained and therefore no construction work will be eliminated.

CONCLUSION

I believe we have addressed the problems of the current fiscal year in a responsible and effective manner, presenting a program that avoids raising taxes and recommends only modest program reductions.

In fact, it should be noted that my program addresses a \$16.7 million projected shortfall with only \$4.85 million in actual program reductions.

However, we are under no illusion that these reductions do not alter the total program. These times require permanent changes in our transportation policies and priorities. This will require some sacrifice by all of us, but I am confident that the program we have developed reduces services to the minimum degree possible.

The problem we face is national in its magnitude. Across the country the other states are facing a shortfall that totals a billion dollars. Yet, the Federal Highway Trust Fund remains locked into a program which consists virtually entirely of new construction.

The nation can afford this policy no longer. I intend to take an active role in advocating the shift of a part of these funds to the on-going maintenance requirements this federal program has generated.

The recommendations outlined above are intended to address primarily the projected shortfall for the current biennium. Some of the changes will continue into future fiscal years, however.

Substantially larger shortfalls have been predicted for the future. Indeed, we were acutely aware of these projections as we analyzed programs and options, for we wanted to be sure that no actions we took to head off the immediate anticipated shortfall would close the door on long-range solutions.

However, while adoption of the foregoing recommendations will resolve DOT funding problems for the remainder of this biennium, the development of permanent, long-range solutions will require a more intensive review than has been possible to date. The foundation for this review is already in place and efforts are currently in progress to provide for overhaul of the mechanisms that must serve for

long run financial planning.

As we commence work on the next biennial budget this coming spring, particular emphasis will be placed on the work of the Task Force, and our on-going study of departmental programs will be intensified. This effort will encompass all aspects of the overall problem, including staffing, program and funding alternatives and revenues and is expected to utilize staff resources in the Department of Finance and Administration, Department of Transportation, Office of the Secretary of State, Energy Resources, Public Utilities Commission, and other state, federal and private organizations in order to gain a wide perspective on the problems as is possible.

I urge you to approach these recommendations with care and circumspection, keeping in mind that the two principle considerations which guided me in making my decisions must also enter into your own deliberations.

First, the people do not want — and indeed neither deserve nor can afford — a tax increase.

Second, these recommendations achieve savings to meet the projected shortfall for the current fiscal year without increasing in any way the risk to life and safety on Maine highways and bridges.

Petitions, Bills and Resolves Requiring Reference

The following Bills were received and referred to the following Committees:

Energy and Natural Resources

Bill "An Act to Establish Visible Emissions Standards and to Adopt and Revise Certain Definitions under the Environmental Laws" (H. P. 1690) (Presented by Mr. Kiesman of Fryeburg) (Governor's Bill)

(Ordered Printed)

Sent up for concurrence.

Judiciary

Bill "An Act to Increase the Fees for the Driver Education Evaluation Program" (H. P. 1691) (Presented by Mr. Silsby of Ellsworth) (Cosponsors: Mrs. Locke of Sebec, Mr. Diamond of Windham and Mr. Norris of Brewer) (Governor's Bill)

(Ordered Printed)

Sent up for concurrence.

Legal Affairs

Bill "An Act Relating to Confidentiality under the Lottery Law" (H. P. 1692) (Presented by Mr. Violette of Van Buren) (Governor's Bill)

(Ordered Printed)

Sent up for concurrence.

State Government

Bill "An Act to Amend Training Requirements for Corrections Officers" (H. P. 1693) (Presented by Mr. Kane of South Portland) (Cosponsors: Mr. Cloutier of South Portland and Mr. McSweeney of Old Orchard Beach) (Governor's Bill)

(Ordered Printed)

Sent up for concurrence.

Orders

An Expression of Legislative Sentiment (H. P. 1694) recognizing that: Florence Michaud has served for the past 23 years as Town Manager of Frenchville and through her outstanding, loyal and devoted service has contributed immeasurably to that community.

Presented by Mr. Barry of Fort Kent.

Was read and passed and sent up for concurrence.

An Expression of Legislative Sentiment (H. P. 1695) recognizing that: Nancy Caroline Hagggett of South Portland will celebrate her 100th birthday on January 29, 1980

Presented by Mr. Cloutier of South Portland. (Cosponsor: Mr. Dexter of Kingfield)

Was read and passed and sent up for concurrence.

**House Reports of Committees
Ought Not to Pass**

Mr. Howe from the Committee on Business Legislation on Bill "An Act to Establish the Insurance Regulatory Commission" (H. P. 1305) (H. P. 1586) reporting "Ought Not to Pass"

Was placed in the Legislative Files without further action pursuant to Joint Rule 22, and sent up for concurrence.

Orders of the Day

The Chair laid before the House the first tabled and today assigned matter:

Bill, "An Act to Require the Department of Mental Health and Corrections to Solicit Bids for Group Health Coverage for its Patients and Inmates" (Emergency) (H. P. 1685) (Committee on Health and Institutional Services suggested)

Tabled—January 10, 1980 by Mrs. Prescott of Hampden.

Pending—Reference.

Thereupon, the Bill was referred to the Committee on Health and Institutional Services, ordered printed and sent up for concurrence.

The Chair laid before the House the second tabled and today assigned matter:

Bill, "An Act Appropriating Funds to Allow Maine State Retirement System Members a Cost-of-Living Increase" (S. P. 677) (L. D. 1784) — In Senate, referred to Committee on Aging, Retirement and Veterans.

Tabled—January 10, 1980 by Mr. Pearson of Old Town.

Pending—Reference in concurrence.

Thereupon, on motion of Mr. Pearson of Old Town, the Bill was referred to the Committee on Appropriations and Financial Affairs in non-concurrence and sent up for concurrence.

Bill Held

Bill, "An Act Relating to Winter Closing of Town Ways" (S. P. 673) (L. D. 1777) — In Senate, referred to Committee on Transportation. — In House, referred to Committee on Local and County Government in non-concurrence.

Held at the request of Mr. Carroll of Limerick.

On motion of Mr. Carroll of Limerick, the House reconsidered its action whereby L. D. 1777 was referred to the Committee on Local and County Government in non-concurrence.

Mr. LaPlante of Sabattus withdrew his motion to refer the Bill to the Committee on Local and County Government.

On motion of Mr. LaPlante of Sabattus, the Bill was referred to the Committee on Transportation in concurrence.

(Off Record Remarks)

At this point, the Speaker recognized the presence of Ms. Benoit of South Portland in the hall of the House, who was absent from the organizational roll call.

On motion of Mr. Garsoe of Cumberland, adjourned until ten o'clock tomorrow morning in memory of Bernard Austin, Jr.