

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

- In Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-596) as amended by Senate Amendments "A" (S-414) and "B" (S-422) thereto in non-concurrence on April 7, 1988.

In House, House Receded and Concurred. HELD at the request of Representative GWADOSKY of Fairfield.

On motion of Representative Gwadosky of Fairfield, the House reconsidered its action whereby the House voted to recede and concur.

On further motion of the same Representative tabled pending further consideration and specially assigned for Monday, April 11, 1988,

(At Ease)

The House was called to order by the Speaker pro tem.

The following item appearing on Supplement No. 2 was taken up out of order by unanimous consent:

REPORTS OF COMMITTEES

Ought to Pass as Amended

Representative CASHMAN from the Committee on Taxation on Bill "An Act to Increase the Minimum Standards for Eligibility for the Elderly Low-Cost Drug Program and the Household Tax and Rent Refund Act" (H.P. 1512) (L.D. 2062) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-651)

Report was read and accepted, the Bill read once.

Committee Amendment "A" (H-651) was read by the Clerk and adopted and the bill assigned for second reading Monday, April 11, 1988.

On motion of Representative Diamond of Bangor, Adjourned until Monday, April 11, 1988 at nine o'clock in the morning.

STATE OF MAINE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
SECOND REGULAR SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Friday
April 8, 1988

Senate called to Order by the President.

Prayer by Pastor Peter Inchcombe of the First Baptist Church in Hallowell.

PASTOR INCHCOMBE: Let's please bow our heads in order of prayer. Our gracious lovingly heavenly Father we count it a privilege to come into Your presence this morning. We thank You that we can enter into Your presence knowing that there is no fear because perfect love cast out fear. We again ask today as we ask everyday for Your wisdom, for Your guidance as we manage the affairs of this land. We do thank You for our country, we do thank You for the President of the United States of America and those who serve under him. We thank You that today we can seek Your wisdom in this Senate that You might give each one Your guidance. We again thank You and recognize Your power, Your glory, Your majesty and we just ask that You might receive that glory today. For we ask all of these things in the name of Jesus Christ, our Saviour and our Lord. Amen.

Reading of the Journal of Yesterday.

Off Record Remarks

Senator CLARK of Cumberland was granted unanimous consent to address the Senate off the Record.

Senator PERKINS of Hancock was granted unanimous consent to address the Senate off the Record.

On motion by Senator DUTREMBLE of York, RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Enhance Outdoor Recreation Opportunities"

S.P. 889 L.D. 2301
(C "A" S-363; S "B"
S-376)

In Senate, March 30, 1988, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-363) AND SENATE AMENDMENT "B" (S-376).

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-363) AS AMENDED BY HOUSE AMENDMENT "A" (H-621), thereto in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

Non-concurrent Matter

Bill "An Act to Ensure Local Participation on the Radiological Emergency Preparedness Committee"

H.P. 1706 L.D. 2343
(H "A" H-566)

In Senate, March 31, 1988, PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-566), in concurrence.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "B" (H-635) in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

Non-concurrent Matter

Bill "An Act to Clarify and Correct Errors and Omissions and to Improve the Laws Relating to Education"

S.P. 947 L.D. 2501
(C "A" S-402)

In Senate, April 5, 1988, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-402).

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-402) AS AMENDED BY HOUSE AMENDMENT "A" (H-622), thereto in NON-CONCURRENCE.

Senator CLARK of Cumberland moved to INSIST AND ASK FOR A COMMITTEE OF CONFERENCE.

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Randall.

Senator RANDALL: Thank you Mr. President. Mr. President, men and women of the Senate. I would hope that we would not support that motion, so that we might adhere to our former motion which would be not in support of the amendment that is now on the Bill. The amendment that is now on this measure would basically gut the certification effort which has taken place most vigorously over the last several months in regard to implementing changes which would upgrade the teaching profession. So, I hope we would be in a position to retain the original Bill rather than this motion.

THE PRESIDENT: The pending question before the Senate is the motion of Senator CLARK of Cumberland, to INSIST AND ASK FOR A COMMITTEE OF CONFERENCE.

The Chair will order a Division.

Will all those Senators in favor of the motion of Senator CLARK of Cumberland, to INSIST AND ASK FOR A COMMITTEE OF CONFERENCE, please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by Senator CLARK to INSIST AND ASK FOR A COMMITTEE OF CONFERENCE, PREVAILED.

Sent down for concurrence.

Non-concurrent Matter

Resolve, Creating the Commission to Study Private Ways and Private Roads (Emergency)

H.P. 1922 L.D. 2622

Committee on TRANSPORTATION suggested and ORDERED PRINTED.

In House, April 6, 1988, PASSED TO BE ENGROSSED, without reference to a Committee.

In Senate, April 7, 1988, referred to the Committee on TRANSPORTATION and ORDERED PRINTED in NON-CONCURRENCE.

Comes from the House, that Body INSISTED.

The Senate RECEDED and CONCURRED.

Non-concurrent Matter

Bill "An Act Concerning Access Fees"

S.P. 297 L.D. 847

In Senate, March 31, 1988, PASSED TO BE ENGROSSED. Comes from the House with the Bill and Accompanying Papers RECOMMENDED to the Committee on TAXATION in NON-CONCURRENCE.

The Chair, in the absence of a motion from the floor, moved the Senate RECEDE and CONCUR.

At the request of Senator SEWALL of Lincoln, the Report was READ.

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

THE PRESIDENT: The pending question before the Senate is the motion to RECEDE and CONCUR.

A vote of Yes will be in favor to RECEDE and CONCUR.

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 ANDREWS, BERUBE, BRANNIGAN, BUSTIN, CLARK, DOW, DUTREMBLE, ERWIN, ESTES, GAUVREAU, KANY, KERRY, MATTHEWS, PEARSON, THERIAULT, TUTTLE, TWITCHELL, USHER, THE PRESIDENT - CHARLES P. PRAY

NAYS: Senators BALDACCI, BLACK, BRAWN, CAHILL, COLLINS, DILLENBACK, EMERSON, GILL, GOULD, LUDWIG, MAYBURY, PERKINS, RANDALL, SEWALL, WEBSTER, WHITMORE

ABSENT: Senators None

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, with No Senators being absent, the motion to RECEDE and CONCUR, PREVAILED.

Non-concurrent Matter

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
(S "B" S-417 to C "A" H-588)

In Senate, April 6, 1988, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-588) AS AMENDED BY SENATE AMENDMENT "B" (S-417) thereto, in NON-CONCURRENCE.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-588) AS AMENDED BY SENATE AMENDMENT "B" (S-417) AND HOUSE AMENDMENT "D" (H-643) thereto, in NON-CONCURRENCE.

On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending FURTHER CONSIDERATION.

Joint Resolution

The Following Joint Resolution: H.P. 1923
JOINT RESOLUTION RECOGNIZING THE UNIVERSITY OF MAINE BLACK BEARS HOCKEY TEAM AND COACH WALSH FOR AN OUTSTANDING SEASON

WHEREAS, the Maine Black Bears of the University of Maine led the nation with the best record in Division I Collegiate ice hockey for the 1987-88 season; and

WHEREAS, under Coach Shawn Walsh, this outstanding team finished first in the Hockey East regular season; and

WHEREAS, the team went on to the NCAA semifinals at Lake Placid, New York and finished 3rd in the nation climaxing one of the most exciting seasons in Maine sports history; and

WHEREAS, the efforts of this tremendous multi-dimensional ice hockey team has brought great pride to the people of Maine; now, therefore, be it

RESOLVED: That We, the Members of the 113th Legislature of the State of Maine, now assembled in Second Regular Session, join in recognizing the University of Maine Black Bears ice hockey team and Coach Walsh for their outstanding record of accomplishments in ice hockey during the 1987-88 season and extend to each our thanks and appreciation for the honor they have brought to the university and State; and be it further

RESOLVED: That suitable copies of this resolution be presented to the team forthwith in token of our pride.

Comes from the House READ and ADOPTED.

Which was READ and ADOPTED, in concurrence.

SENATE PAPERS

Bill "An Act Concerning the Authority of the Maine Municipal Bond Bank to Issue Certain Bonds and to Establish and Administer a Revolving Loan Fund"

S.P. 992 L.D. 2625

Presented by Senator PEARSON of Penobscot

Cosponsored by: Senator EMERSON of Penobscot, Representative DAVIS of Monmouth

Off Record Remarks

Which was referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED.

Sent down for concurrence.

Senator PEARSON of Penobscot was granted unanimous consent to address the Senate off the Record.

Pursuant to Private and Special Laws
ADVISORY COMMITTEE ON STAFF RETENTION

Senator BUSTIN for the Advisory Committee on Staff Retention, pursuant to P&SL 1987, Chapter 58, ask leave to submit its findings and to report that the accompanying Bill "An Act to Implement the Recommendations of the Advisory Committee on Staff Retention in Regard to Day Habilitation Programs Serving Persons with Mental Retardation"

S.P. 991 L.D. 2624

Be referred to the Joint Standing Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS for Public Hearing and printed pursuant to Joint Rule 18.

Which Report was READ and ACCEPTED.

The Bill referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED, pursuant to Joint Rule 18.

Sent down for concurrence.

COMMITTEE REPORTS

House

Leave to Withdraw

The following Leave to Withdraw Report shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Bill "An Act Concerning Implementation of Weatherization Assistance to Maine's Elderly"

H.P. 1404 L.D. 1904

Ought to Pass As Amended

The Committee on AGRICULTURE on Bill "An Act to Improve the Potato Marketing Improvement Fund"

H.P. 1618 L.D. 2211

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-639).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-639).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-639) READ and ADOPTED, in concurrence.

The Bill as Amended, LATER TODAY ASSIGNED FOR SECOND READING.

The Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Consolidate State Land Use Statutes into the Natural Resources Protection Act"

H.P. 1687 L.D. 2316

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-641).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-641).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-641) READ.

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending ADOPTION OF COMMITTEE AMENDMENT "A" (H-641), in concurrence.

Off Record Remarks

Senate

Ought to Pass As Amended

Senator USHER for the Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Provide Regulatory Oversight of Over-the-Road and Over-the-Rail Transportation of Hazardous Materials and to Increase Revenue to the Maine Hazardous Waste Fund and the Maine Coastal and Inland Surface Oil Clean-up Fund"

S.P. 955 L.D. 2533

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-426).

(Representative LORD of Waterboro Abstained)

(Representative ANDERSON of Woodland Abstained)

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-426) READ and ADOPTED.

The Bill as Amended, LATER TODAY ASSIGNED FOR SECOND READING.

SECOND READERS

The Committee on Bills in the Second Reading reported the following:

House As Amended

Bill "An Act Relating to Special Education in Maine Schools"

H.P. 1588 L.D. 2172

(C "A" H-630)

Which was READ A SECOND TIME.

On motion by Senator ESTES of York, the Senate RECONSIDERED whereby it ADOPTED Committee Amendment "A" (H-630), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-428) to Committee Amendment "A" (H-630) READ and ADOPTED.

Committee Amendment "A" (H-630) as Amended by Senate Amendment "A" (S-428) thereto, ADOPTED in NON-CONCURRENCE.

Which was PASSED TO BE ENGROSSED, as Amended in NON-CONCURRENCE.

Sent down for concurrence.

Senate As Amended

Bill "An Act to Prohibit Automated Telephone Solicitation"

S.P. 900 L.D. 2336
(C "A" S-423)

Which was READ A SECOND TIME.

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending PASSAGE TO BE ENGROSSED AS AMENDED.

Bill "An Act to Improve the Quality of Care for Handicapped Children"

S.P. 802 L.D. 2103
(C "A" S-424)

Which was READ A SECOND TIME.

On motion by Senator GAUVREAU of Androscoggin, Tabled until Later in Today's Session, pending PASSAGE TO BE ENGROSSED AS AMENDED.

Senate at Ease

Senate called to order by the President.

Off Record Remarks

ENACTORS

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

An Act to Enable the Creation of Watershed Districts

S.P. 982 L.D. 2610

Which was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator BALDACCI for the Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Require State-Leased Buildings to Meet Certain Air Quality Standards"

S.P. 858 L.D. 2246

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-429).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-429) READ and ADOPTED.

The Bill as Amended, LATER TODAY ASSIGNED FOR SECOND READING.

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

COMMITTEE REPORTS

Senate

Divided Report

The Majority of the Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act Relating to Legal Expenses Incurred by State Employees in the Execution of their Official Duties"

S.P. 914 L.D. 2383

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-430).

Signed:

Senators:

TUTTLE of York
BALDACCI of Penobscot
GOULD of Waldo

Representatives:

ANTHONY of South Portland
LACROIX of Oakland
ROTONDI of Athens
CARROLL of Gray

The Minority of the same Committee on the same subject reported that the same Ought Not to Pass.

Signed:

Representatives:

WENTWORTH of Wells
LOOK of Jonesboro
STROUT of Windham
HUSSEY of Milo
BICKFORD of Jay
BOUTILIER of Lewiston

Which Reports were READ.

The Majority OUGHT TO PASS AS AMENDED Report was ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-430) READ and ADOPTED.

Under suspension of the Rules, READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended.

Sent down for concurrence.

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

COMMITTEE REPORTS

Senate

Ought Not to Pass

The following Ought Not to Pass Report shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Bill "An Act to Implement Emergency Recommendations from the Task Force on Incapacitated and Dependent Adults"

S.P. 990 L.D. 2623

ORDERS OF THE DAY

The Chair laid before the Senate the Tabled and Specially Assigned matter:

Bill "An Act to Prohibit the Establishment of Docking Condominiums on Tidewaters, Lakes and Great Ponds"

H.P. 1671 L.D. 2289
(C "A" H-585)

Tabled - April 6, 1988, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence

(In Senate, April 5, 1988, READ A SECOND TIME.)

(In House, April 4, 1988, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-585).)

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence.

The Chair laid before the Senate the Tabled and Specially Assigned matter:
 Bill "An Act to Establish a Permit to Operate a Railroad"

H.P. 1752 L.D. 2401

Tabled - April 7, 1988, by Senator CLARK of Cumberland.

Pending - ADOPTION OF COMMITTEE AMENDMENT "A" (H-590), in concurrence

(In Senate, April 5, 1988, Committee Amendment "A" READ.)

(In House, April 5, 1988, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-590).)

On motion by Senator DOW of Kennebec, Tabled 1 Legislative Day, pending ADOPTION OF COMMITTEE AMENDMENT "A" (H-590), in concurrence

The Chair laid before the Senate the Tabled and Specially Assigned matter:

Bill "An Act to Establish On-Site Day Care at the Capitol Complex"

H.P. 1678 L.D. 2307

Tabled - April 7, 1988, by Senator CLARK of Cumberland.

Pending - ADOPTION OF COMMITTEE AMENDMENT "A" (H-625) AS AMENDED BY SENATE AMENDMENT "A" (S-425), thereto in NON-CONCURRENCE

(In Senate, April 7, 1988, Senate Amendment "A" (S-425) to Committee Amendment "A" (H-625) READ and ADOPTED.)

(In House, April 6, 1988, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-625).)

On motion by Senator GOULD of Waldo, Senate Amendment "B" (S-427) to Committee Amendment "A" (H-625) READ.

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Gould.

Senator GOULD: Thank you Mr. President. Mr. President, men and women of the Senate. I submit the amendment because the Committee had decided to leave out "Legislators" as far as the Bill is concerned and inadvertently it was a mistake and was put in. That is the explanation.

On further motion by same Senator, Senate Amendment "B" (S-427) to Committee Amendment "A" (H-625) ADOPTED.

Committee Amendment "A" (H-625) as Amended by Senate Amendments "A" (S-425) and "B" (S-427) thereto, ADOPTED in NON-CONCURRENCE.

Which was PASSED TO BE ENGROSSED, as Amended in NON-CONCURRENCE.

Sent down for concurrence.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

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

(S "B" S-417 to C "A" H-588)

Tabled - April 8, 1988, by Senator CLARK of Cumberland.

Pending - FURTHER CONSIDERATION

(In Senate, April 6, 1988, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-588) AS AMENDED BY SENATE AMENDMENT "B" (S-417) thereto, in NON-CONCURRENCE.)

(In House, April 7, 1988, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-588) AS AMENDED BY SENATE AMENDMENT "B" (S-417) AND HOUSE AMENDMENT "D" (H-643) thereto, in NON-CONCURRENCE.)

Senator DOW of Kennebec moved to INSIST.
 Senator CLARK of Cumberland moved to RECEDE and CONCUR.

Senator CAHILL of Sagadahoc moved to RECEDE.

Senate at Ease

Senate called to order by the President.

Subsequently, Senator CAHILL of Sagadahoc requested and received Leave of the Senate to withdraw her motion to RECEDE.

On motion by Senator SEWALL of Lincoln, 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 Penobscot, Senator Baldacci.

Senator BALDACCI: Thank you Mr. President. Mr. President, men and women of the Senate. I think we have a tremendous opportunity to do something that a lot of people that are knowledgeable about roads and transportation issues and General Fund issues would like us to do. Which is that if we have a surplus that we should use it on a priority like the roads and bridges. I think the proposal that has developed is one that is very good because I don't think that there is anybody in the Chamber that could support raising taxes on people when we have a surplus. I think it is totally irresponsible of us on the one hand to have a tremendous surplus in the General Fund or the State Treasury or the Rainy Day account and then at the same time go around and tell people that we are going to increase taxes to pay for a program. To me it is totally incongruent and I don't see how you can defend that position. I think that the important and responsible thing to do is if you have the surplus funds is to use those funds for a very high priority and then if you don't have the surplus and you require the programs and the adjustments or whatever else then to tax, but how do you think people are going to feel when you have a surplus on one hand and on the other hand you are saying we are going to raise taxes. I think that in itself is very irresponsible and I think the important thing for us to do is to demonstrate to people that we are fiscally responsible, we are not going to raise taxes. I find this very hard to believe sometimes that I am actually fighting with other members of the other party to keep taxes down, not to raise taxes when you have a surplus, but that in fact is what has happened here today. I think the most prudent and provable thing to do for us and for the people in the state of Maine is not to increase their burden more, but to decrease it. Maine has one of the highest taxes per capita in the country. It has one of the lowest incomes per capita in the country and yet today this measure is being proposed by the Governor and other members of his party to increase taxes and burdens on the working men and women of the state of Maine. I think that is very irresponsible when we have a surplus like we do here in the state of Maine. I have never ever heard of a state taxing when it has a tremendous surplus and I find that kind of hard to defend. I would hope that you would support the motion to Recede and Concur. Thank you Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Collins.

Senator COLLINS: Thank you Mr. President. Mr. President, men and women of the Senate. I regret to say that once again I disagree with the good Senator from Penobscot, Senator Baldacci. I think that it is a very imprudent thing that we are adventuring in

today. Those of you that have looked at state government for a considerable period of time will recall that highway funds have been a dedicated fund, a user tax supported fund, for a great many years. The whole idea behind the concept of this dedicated fund was to use fees, gasoline taxes, related to highways for the improvement, maintenance and construction of those facilities. By using this device we have been able to plan over long periods of time and to maintain a highway system in the state that was predicated on relatively known amounts of income on a yearly basis. Now we are suggesting that we forget all of that precedent and all of that historical evidence that has produced a methodology that has kept our roads in a reasonable condition and go to a method whereby we raid the treasury, the General Fund, the so-called Rainy Day account, which was originally set up for the purpose which the name implies, for rainy days. It is raining very little today so I think we can forget this is a rainy day exercise. It seems to me that we are making a very severe mistake. If we do this we probably ought to undedicate the alcohol tax funds, and I am sure we can find a whole rift of dedicated funds that we might get into it. But it seems to me we make a drastic mistake in this offering today. We are suggesting that we take this money and in the second breath we are saying we will pay it back when we increase the gasoline tax, which suggests that somewhere in the minds of the people that drafted this instrument there must be that in mind. We are saying that we will pay it back and we are saying that we are only going to do a small amount of what we really need to do, it is a stop gap measure, it has no basis at all to what we ought to be doing today. I hope that you will defeat this proposal and return to reason whereby we can develop the gasoline tax that will accomplish the things that it is suppose to do. I don't think it makes good business sense, I think the account that was originally developed did not envision this type of use. If you recall in the original legislation it says that it was to be used for capital funds of projects of five hundred thousand dollars as I recall and then it was later amended to provide money for the Retirement Fund under certain very specific conditions. To me it is a very improper use of a fund that was set up for a particular purpose from General Fund surplus and I hope today that you will defeat this method and return to the appropriate financing of this item. Thank you Mr. President.

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. My good seat mate, Senator Baldacci of Penobscot, has stated that he doesn't understand how we could possibly raise a tax when we have a surplus. Well I can't understand how anyone in this Body could support taking money from the Rainy Day Fund for this purpose. Most of you know that I have stated many times that I don't support the five cent gas tax and I am not ashamed of that position because the people I represent don't want a five cent gas tax. I am going to consistently oppose the five cent gas tax. I might add that I would consider supporting a lesser amount, but I am definitely not going to support five cents.

For those of us who live in rural Maine, the proposal before us is called a harebrain idea. It doesn't even make sense to take ten million or fifteen million out of the Rainy Day Fund and turn around and use that money to put into highways. I have stated many times that if we have extra money, instead of going to the people over and over and over

again with bond proposals, why don't we take the fifteen million and retire some bonds or even better yet, why don't we fund asbestos removal, why don't we clean up landfills, why don't we fund the University of Maine System. Now if there is money sitting someplace that this Legislature feels isn't being used then I suggest we use it to retire bonds. I have long supported the concept of dedicated accounts. I have supported keeping the premium tax dedicated, I have supported Fish and Wildlife, the Committee I served on a couple of terms here. I have always felt that dedicated accounts were important. I believe that it is foolhardy to take General Funds money from the Rainy Day Fund and put it into the roads. So, for that reason I am going to oppose the motion and support the motion that I hope will follow this current motion and I am going to oppose the good Senator from Cumberland, Senator Clark. Thank you.

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

Senator DUTREMBLE: Thank you Mr. President. Mr. President, men and women of the Senate. Harebrain, foolhardy, stop gap measures, band-aid approaches, these are all words that we have heard to explain why we shouldn't support this proposal, but has anybody told you any convincing arguments as to why this proposal is bad? Rhetoric is cheap. I may even use a little bit of it myself. A couple of slogans I have heard in the past you may have heard them to, tax, tax, tax, spend, spend, spend. Does that ring a bell to you? How about this one, enough is enough? Those are all slogans that we have heard thrown around before. The only time that we don't really hear those is when we are in here and maybe we should hear them a little bit more. You see we are taxing the people into poverty in this state and I tell you I don't think the people are very happy with the continuing numbers of increases in taxes that are passed here. I understand, and I think most people around the state agree, that taxes are necessary for the operations of government and their services. I think most people would agree that even increases are necessary, when they are necessary. So the question is, is the gas tax necessary? Well, we have piggy banks in the state, the Rainy Day Fund, twenty-five million dollars, that is surplus money, surplus money in the Department of Transportation. We hear that the revenues in the General fund are increasing to numbers that are somewhat unbelievable, we have surplus money. Why are we going to the people and taxing them when we have the money here? The building of the roads, we want to make sure that everybody has good roads to ride on, but if we pass this tax I think that this Maine Senate is going to be taking the Maine people for a good ride. It may not be raining hard outside, but there is a heck of a snow job going on in here. That is rhetoric by the way. If the program that was suggested by the Commissioner and by the Committee on Transportation, and by the way I do believe the Committee has done a great job on this program, I don't think anybody disagrees too much with what came out of the Committee, but new variables were thrown in it, like extra money. Like we don't have to tax the people, we have the money, so the programs are not bad and this proposal is not bad. It is another alternative, it is another way to keep the Department of Transportation operating and those programs that are suppose to be worked on. There is nothing wrong with that if we can do it without taxing the people of this state. As long as there is money that we can use, without taxing the people, then that is what we should do first. A stop gap measure, well if it means a year that we are not taking money out of

peoples pockets and putting them into the piggy banks then that is exactly what we should do. Because we are not here to take money out of peoples pockets. I would hope that you would support the motion to Recede and Concur.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Sewall.

Senator SEWALL: Thank you Mr. President. Mr. President, men and women of the Senate. I stand today to support every Democrat Senator who served on the Transportation Committee and the Taxation Committee and to tell them I agree with them and I want to support them today. I think they did good work and in my fourteen years here I have probably supported fewer taxes than anyone in this Chamber.

I think I can say that pretty honestly and fees which I guess aren't taxes are some kind of a burden on people. The problem that I have with this proposal and I think I have always lived within my own budget personally, is for instance, if we took money out of the Rainy Day Fund last year on March 29, before the real Rainy Day on April Fool's Day, what would we have done about those people in flood conditions? What would we have done? We would have had no money for those people. We have been discussing retirement benefits and balloon payments at the end, if the Retirement Fund should get into problems and there is no money in the Rainy Day Fund, will the Retirement Fund then go into debt? I opposed borrowing from the Retirement Fund one time before in this Legislature, several years ago.

What we are doing is having a little rhetoric, but we are trying to borrow money that will have to be paid back by a tax levied later and when you look at depreciation and when you look at what happens to highways, someone pointed that out to me the last time we had a gas tax raise and I won't remind all of you who voted for it, but the last time we had it actually, as a road deteriorates, if you fix it, it is a stitch in time saves nine, if you fix it right away it might cost you one hundred dollars, if you leave it for twice as long it won't cost you two hundred, it might cost you a thousand dollars and that is the problem that we have. We had this problem with the University, we didn't fix it, we let things go a long time and then the University got into trouble. I am supporting the gas tax and as I said all of the Democrat Senators on Taxation and Transportation, because I think it is the right thing to do and I hope you will go along with doing that too.

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 guess the good Senator from York, Senator Dutremble is right and we have heard a lot of cliches and we have heard a lot of rhetoric and voodoo economics, because I don't think I heard him mention that one. It has been often referred to by certain people in power at the federal level, voodoo economics, and I guess I think this is what this Bill is, voodoo economics, maybe in reverse a little bit.

I am basically very much opposed to taking money from the Rainy Day account, philosophically opposed, because I don't think highways should be paid for through General Fund revenue. Like the good Senator from Aroostook said we pay for highways through user fees and I think that is the way it should continue. I think that has been well covered. I would like to talk to you because I serve on the Transportation Committee about what this proposal before us does to our highway proposal that came down from the Transportation Committee. Basically, it guts it

entirely. The money is proposed to be taken from the Rainy Day account is not enough money to do what the highway proposal set out to do. In the supplemental program of corridors of statewide significance, I would like to read an excerpt from that. "Maine is highly dependent upon its highway system for the economic well-being of its citizens. Of Maine's twenty-two thousand miles of public roadway, the Maine Department of Transportation is responsible for eight thousand seven hundred, with about fifty-eight hundred of that on the federal aid system. Less than half of Maine highway pavement is in good condition or better, less than half. Governor McKernan's economic development task force called for creation of a priority system of economic development corridors, which are existing highways serving present economic activity as it links to merging markets and for additional funding for improvements to those corridors. The major intent is to improve the capacity and safety of existing highways."

We have talked a lot in this Legislature about economic development. What good is economic development if we don't have highways? What good is tourism, ladies and gentlemen, if we don't have the good highways? Approximately thirteen hundred miles of primary highways have been identified as corridors of economic significance. Long term cost for the improvement along these corridors have been estimated at about six hundred million dollars. The supplemental program to the program that we will be killing if we pass this amendment today has been developed calling for improvement to this prior system over the next twenty years and I think this is where I applaud the Department of Transportation the most because it has always been a bone of contention for me. They have always sort of responded to crisis, crisis management. At last we have convinced them that we need long range planning and this program is a long range plan, ladies and gentlemen, it is a twenty year plan. It will include provisions to address many of the problems with extraordinary bridges and if any of you doubt that we have extraordinary bridges in this state, I invite each and every one of you to come to Woolwich, Maine, any summer day this year and join me in watching the traffic as it backs up all the way to Wiscasset in one direction and all the way from Bath in the other direction. If we pass the gas tax today or some time in this Legislature it would free up federal funds, usually committed to work on parts of the corridors of economic significance, for use elsewhere on Maine highways. The end result is improvements along the corridors of economic significance and additional work on other parts of the system producing improved highways on a statewide basis. The cost of this supplemental program will be significant, the cost to Maine's economic future if such a program is not undertaken is even higher.

I know that it is an election year, I am up for election just like everyone else in this Body except the two, maybe the smartest two, that chose not to run. I don't like supporting a gas tax and I can tell you that I talked with Governor McKernan, I talked to him last year, I talked to him when he was running for Governor, and I said, "I'm not crazy about supporting a gas tax, but it is necessary, we are going to have to have a gas tax, so please don't run on a non-tax platform." Well, whatever was decided down there, the Governor put forth his program in an election year, and I said I am really going to have to be sold on this program, because I don't like the idea of supporting a gas tax especially in an election year. I was sold on this program, ladies and gentlemen, the Department of

Transportation has worked endlessly on this program, and it is a good program. They identified the highways that need to be repaired. 2.2 million dollars for US Route 1 in York, 2.7 million dollars in US Route 1 in Woolwich, 2.4 million dollars US Route 1 in Presque Isle, 3.5 million dollars for a connector road, again that is in Presque Isle, money in Van Buren, Wilton, Dixfield, Turner, Livermore, Clifton, Farmington, Sangerville, Standish, Mechanic Falls in Oxford, Woodstock, Greenwood, Lewiston and there is several more. Bridges in South Portland and Portland, Brunswick/Thompson, Bangor/Brewer, Waterville/Winslow, this is a program, ladies and gentlemen, that effects all of Maine, it is not just Woolwich, it is not just areas that I am concerned about, it effects all of Maine, the economically significant corridors in Maine.

So, I think that we have to set aside some of the rhetoric and I think we have to do the right thing for the people and if it is supporting a tax increase, I think that basically they will understand that it was something that we had to do, we had to do it this year, it couldn't wait until next year in a non-election year when the politicians weren't out to make headlines.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator PEARSON: Thank you Mr. President. Mr. President, men and women of the Senate. First on the Rainy Day Fund, the Rainy Day Fund was created to solve problems that were extraordinary, crisis of any nature whatsoever. It was formed for that purpose and also it was formed to help us in our bond rating. I am assured that we have used it a couple of times that it will not effect our bond rating if money is taken out as long as it automatically goes back in. It is an error to say that the Rainy Day Fund could not be used for this purpose. I would also like to respond to the good Senator from Sagadahoc, Senator Cahill, when she says that she believes that highways should not be paid for from the General Fund. As long as there is dedicated revenue within the highway department, I couldn't agree with her more. The fact of the matter is, however, the General Fund has been asked several times to help out the Transportation Department and has done so several times. And has done it on the basis of a loan that was paid back to the General Fund. This is no different, this is not a precedent, as a matter of fact it has happened while she has had tenure on the Transportation Committee and while I have been on the Appropriations Committee within our Legislative lifetime. There is nothing wrong with using the Rainy Day Fund for any purpose that we so desire to use it for. I think it has to be a serious matter and I think you have to decide for yourself whether or not this is a serious matter. I don't think there is anybody that wants to take the program that the good Senator has just described to us and not implement it. There is nothing that says this will not continue to happen. There is always the hope, and I think that this was placed in action because of the hope, that the trust funds that are being held up in Washington, twenty million dollars for Maine, is being used as a smoke and mirrors game to balance the federal budget will be released for the purposes for which they were collected and that is to help the highways in Maine. If that were to happen in a new administration next year, whether that be the administration of George Bush or somebody else who by the way is the one who used the phrase voodoo economics in describing another person in his own political party, that would solve a great deal of our problem. Certainly not all of it, but

nevertheless we also have a highway allocation study that is coming down which should tell who should fund the remainder of that program.

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. The corridors of statewide significance and some of the programs that I read to you just a few minutes ago, if under the legislation that is proposed here, the corridors of statewide significance, that program would be completely eliminated.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator BALDACCI: Thank you Mr. President. Mr. President, men and women of the Senate. It is Friday afternoon and it is the end of the week, but I think this is a very important matter that should not be dealt with very quickly, but it should be reviewed. It almost seems like this entire issue of a five cent gas tax which was dropped on me Wednesday with a folder telling me what a twenty year program was going to be and I was suppose to vote for it is being handled the same way today. The fact of the matter is it is a twenty year program, they are asking for a nickel a gallon increase in the tax and we just approved one in 1984, I would like an opportunity to review it. This proposal in front of us today affords us that opportunity by not neglecting what needs need to be met, but taking care of them and giving us an opportunity to review it. The good Senator from Aroostook talks about the pristine and sanctified account of dedicated revenues for the highway fund, I must remind him in historical context that there are many Department of Human Services child workers that are coming out of the highway fund that is suppose to be so dedicated that he talked about earlier. We talked about the impact that the railroads and not having the railroads make on the roads. We talked about the truck weights not being enforced and the damage they are doing to the roads. We talk about growth management, those things need to be reviewed, the environmental and economic impact that is all this proposal allows us to do. It is not a solution to the problem, but it allows us to address it temporarily and then be able to review it because I don't feel comfortable voting for a twenty year program when I know the Commissioner and the Governor aren't going to be there in twenty years. I think we owe it to the people in the state of Maine not to a traveling medicine show that reminds me of the one that was trying to sell me hair tonic, which as you can see did a lot of good, comes into the state and says it is going to cost you thirty-seven fifty more a year, we need a review and I think that is all we are asking for here today is just a review and an opportunity to review it. Frankly, I think rather than passing this proposal there probably shouldn't be anything until we have had there. But, there were a lot of urgent requests that were made and I think it would be irresponsible not to address it. So, I think this is a responsible measure and I hope the Senate does go along with it because I think it will give us the time to review it which the people in our districts almost demand. Thank you Mr. President.

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

Senator DUTREMBLE: Thank you Mr. President. Mr. President, men and women of the Senate. I would like to pose a question to any one who would care to answer. If we pass this proposal would there be any programs that would not get done this year? Compared to passing the thirty-five million dollars for the

tax increase, the projects that would get done this year. In other words, what is going to be lost this year? Not the entire program. I think everybody should understand that we basically support the program, it is just we hate to raise taxes when you know you have all of that money hanging around.

THE PRESIDENT: The Senator from York, Senator Dutremble, has posed a question through the Chair to any Senator who may care to respond.

The Chair recognizes the Senator from Kennebec, Senator Dow.

Senator DOW: Thank you Mr. President. Mr. President, men and women of the Senate. Just to answer the good Senator from York, Senator Dutremble, yes there would be some programs that would be lost because if we use this mirrors game of money, we are still going to come up with less money then we would have if we had the gas tax. About fifteen million dollars less so that there are a lot of projects that would not be funded. Just for the Committee on Transportation, I urge you to vote against this pending motion, maybe this will give us a little more time and we will come up with something that all of us can live with. So, I ask you to vote against it today and see what we have next week. Thank you.

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 last time this issue came before this Body in a different form. I voted against it and I voted against it because I thought it was imprudent and ill-advised. At that time I said I didn't think it was appropriate to have a thirty-five percent increase in the tax for consumers of this state, whether they be small businesses, the trucking industry, the farmers or elderly people or poor families, commuters or whatever. It is a tax, it is too much, it's excessive and in my opinion it is not necessary. Secondly, I think it is important to note that this alternative proposal that has been presented before us conjures up images in my mind of a classic debate that people say back in the time of Rome or where ever would forward. They would debate the difference between "veritas" and "fidelitas". Today, we are trying to be faithful if you will, faithful to our parties and to the people who submitted these proposals. Maybe the people who are supporting the administrations proposal on this are forgetting about "veritas". there is a truth in this. Where is the truth. is the tax proposed in a way that we are now addressing it the proper way to go, or is the truth following along the lines of approximately a twenty-five million dollar use of our investment funds that are in the Rainy Day Fund? To be very candid. I have listened to the debate, I have discussed it with my own party, I think they are both ill-advised. They are ill-advised because I think what we are trying to do here is to address a short term problem in terms of maybe some critical bridges that may be necessary to improve. That would require at the most a two cent gas tax increase, which represents about a 14.9 percent increase in the tax, or if you wanted to use equivalent funds from the Rainy Day Fund, it would be approximately fourteen million dollars. Now if it is absolutely critical to address the problem this way then let's do it. Let's do the responsible thing and pass the gas tax for that level, or if we want to be, as many of the members of my party want to do, let's take some of those investment funds that we have available and invest it like any good business person would do. And not burden the tax payers of the state of Maine with additional tax. If one looks at the fact that

the Commissioner of Transportation, the Transportation Committee, the Taxation Committee have spent a lot of time on this issue. I have the utmost respect for Dana Connors, the Commissioner of Transportation, I served in the cabinet with him, he has been proposing a twenty year plan for the Department of Transportation now for as long as I have known he has been involved with it. I think that is prudent, I think that is wise, there is nothing wrong with that. The question is, do we fund the full twenty year planning at this time during an emergency session, our second session, or do we take the time, as the good Senator from Penobscot, Senator Baldacci, suggested and take a look at all of the proposals? Give us an opportunity to review and assess this issue. Only address in this session those needs that must be done, the critical needs, if it is the bridges that the good Commissioner has indicated has to be addressed, then let's address that. But, why should we embark upon a course at this point of a major tax for the people of Maine without really understanding what the implications are for the whole highway system. My concern at this time, Mr. President, ladies and gentlemen of the Senate, is that we are going to be almost coerced into acting on this issue when I don't think we need to. I posed a question to the Commissioner is it absolutely critical to fix these bridges today, will bridges be falling in the water? He said, no. Is it absolutely critical that we address the needs of these roads in certain parts of the state? He said, we can get by but it is best to address an issue rather than paying more later. That logic is clearly persuasive. If we ignore that logic, we will pay a greater price in the future, but it is clear to me what is happening today is that we are asked to accept two equally non-compelling arguments. The gas tax is not necessary today. Taking money from the Rainy Day Fund to the extent that has been required is not necessary today. If we have to address the issue, let's take the two cents out of the gas tax and do what the responsible people of Maine would want us to do, or if we elect and think it is more prudent not to tax the people of Maine, let's take the money out of the investment fund.

I think it is really unfortunate to be very candid, Mr. President and ladies and gentlemen of the Senate, that we would receive this package so late in the Session and have to address it in the way that we are now. All this does is create divisions in this Body that I think are unnecessary. Secondly, when you act in crisis or in the appearance of crisis, good public policy is not served. I, for one, do not want to be identified with either proposal.

I think what we have to do is address the critical issues and take our responsibilities the way we are supposed to. When I asked my constituents what they wanted me to do they said John, don't vote for a gas tax. It is going to hurt the elderly, it is going to hurt the commuters. It was eighty to ninety percent of the people who told us not to vote for this, so I am not going to vote for it. On the other hand, if I had gone back and said to my constituents, let's take fourteen to twenty-five million out of the Surplus Fund to pay for improving the highways, the infrastructure, if you will, do you know what they would probably say to me? What about affordable housing? What about the critical needs of our hospital care? What about the poor people and women who need child care? What about all the things that you stand for and what the rest of your party stands for? Isn't that what makes you qualitatively different than the Governor who is sitting down on the second floor today? Isn't that what makes the

Democratic Party qualitatively different? We say we invest in people. What are we being asked to do today? To invest in infrastructure, in highways. Well, I don't think we should invest in those particular things when we have these other critical needs. If in fact there is an emergency, let's address it; if there isn't, let's not. Let's do it when we are supposed to and in a session when we have time to assess the issue with enough time to make a prudent decision.

I think the people who today are saying a gas tax is not necessary, they are right. I think there is a compelling argument on the part of the good Senator from Aroostook, and the good Senator from Sagadahoc, Senators Collins and Cahill, that we ought to use the mechanism that is in place; if not, let's get rid of the mechanism. I, for one, think that this particular proposal should be tabled and that we should send the people that have been involved back into session and work out a compromise rather than going through this particular position and voting for something that we may not totally agree with.

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. Having listened to the good Senator from York, Senator Kerry, and his arguments it brings to mind my major concern with taking money from the Rainy Day Fund.

I am convinced that this is a foot in the door to undedicating the Highway Fund. For years I have supported dedicated accounts for the same arguments the good Senator from York, Senator Kerry, has stated. It is extremely difficult to build a bridge or pave a road when there are human needs for the elderly and the poor and the handicapped. Obviously, we are never going to have enough money to do everything. Obviously, I wish we could. My real concern is and for years this distinguished Body has continued to keep alcohol premium tax, fish and wildlife, the Department of Transportation on and on and on, dedicated accounts. Several years ago when I served in the other Body we had a crisis in the Fish and Wildlife Department and what did we do? I pleaded along with others to take money from the General Fund. It was out of the question. No one would do it. What did they do? They raised license fees. Several years ago with the premium tax. What did they do? They raised the tax and kept it dedicated because they had a need. What is being proposed today? Raise the fee - the gasoline tax. I have stated before that I am not supportive of the five cent gas tax, but I am definitely not going to take money from the Rainy Day Fund when there are other things we could be doing with it.

If this Legislature wants to take money from that fund, then I suggest we do it. I suggest that we pay for asbestos removal in state buildings, because that is important to state workers. Clean the dumps up. I represent three counties in rural Maine and I can tell you right now that we have got landfills that are polluting the environment and if we have got money set aside somewhere in this complex, then let's take that money and clean up the dumps that are polluting the environment. Every issue has its priorities. Every issue can be defended on its own merits. I suggest that passing this proposal before us is one step in the door to eliminating a dedicated account of the highway system. I am against that. Thank you.

Senator KERRY of York moved that this matter be TABLED 1 Legislative Day, pending the motion of Senator CLARK of Cumberland, to RECEDE and CONCUR. (Roll Call ordered)

Senator DOW of Kennebec requested a Division.

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

THE PRESIDENT: The pending question before the Senate is the motion of Senator KERRY of York that the Bill be TABLED for 1 Legislative Day, pending the motion of Senator CLARK of Cumberland to RECEDE and CONCUR.

A vote of Yes will be in favor of the motion to TABLE.

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 BALDACCIO, BRANNIGAN, BUSTIN, CLARK, DUTREMBLE, ERWIN, ESTES, GAUVREAU, KANY, KERRY, MATTHEWS, RANDALL, TUTTLE

NAYS: Senators ANDREWS, BERUBE, BLACK, BRAWN, CAHILL, COLLINS, DILLENBACK, DOW, EMERSON, GILL, GOULD, LUDWIG, MAYBURY, PEARSON, PERKINS, SEWALL, THERIAULT, TWITCHELL, USHER, WEBSTER, WHITMORE, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators None

13 Senators having voted in the affirmative and 22 Senators having voted in the negative, with No Senators being absent, the motion of Senator KERRY of York, to TABLE the Bill for 1 Legislative Day, FAILED.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator PEARSON: Thank you Mr. President. Mr. President, men and women of the Senate. In response to the Senator from Franklin, Senator Webster, as to whether or not this is a foot in the door to undedicate the Highway Fund, I would like to remind him that it is very, very difficult to undedicate the Highway Fund unlike the Alcohol Fund, or the Fisheries and Wildlife fund. Believe me the Alcohol Fund is pretty hard to undedicate because it is part of the Maine Constitution and it would have to go out to the voters of the state in order to be able to do that. As far as asbestos removal and the other things that he talked about, we bonded for that, we know that we are going to have to bond more as we identify the needs. It is a process right now, we are involved in a lengthy process of trying to find out what has asbestos, what doesn't have asbestos and when we find out, we are going to have to come up with the money. That is true. This argument about being a foot in the door to undedicate the Highway Fund. I just don't believe that is a viable argument.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Collins.

Senator COLLINS: Thank you Mr. President. Mr. President, men and women of the Senate. It has been suggested during our debate today that this is a rather hurried and ill-considered proposal. I don't know where everybody has been, but it seems to me that we have been talking about the possibility of an increased highway tax and we have talked about the planning of our highways for some considerable time. I would remind you that the last Session in 1987, among the things that we did we established a committee to investigate the feasibility of improvements to Route 1 and Route 11 from Interstate 95 to the St. John Valley. All summer long people met and discussed the merits of this case and finally they presented and published a report on it a month ago. It discussed in some detail the highways in the northern part of the state. During the same period

of time, the Department was involved in an analysis of needs throughout the state and those of you who may recall that the Administration, the Governor mentioned early on in January of this year, the desirability of implementing a major program and the necessity of increasing the tax on gasoline. It isn't anything that has popped out of the woodwork here in the last two or three weeks. It has been in the papers, it has been in stuff going across our desks for months and I am kind of amazed when people suggest that this is ill-considered and quickly arrived at because I don't find it that way at all. Maybe I have a keener interest perhaps in highways than some of you, but I certainly think that this is a thoughtful approach. It isn't a fly-by-night scheme that was developed the week before last by the Department of Transportation and handled by the Transportation Committee. It has been carefully thought out over a considerable period of time. There are some of you who play down the importance of the infrastructure in relation to other needs of the state. I would point out to you that economic well being of our people has generally followed the good highways of this state. If you don't think that is true, you might examine the I-95 on thirty miles on either side of it and read what the planning department said about the consequences of that highway four years ago. I think you will find that it does support economic activity. It does make for the well being of our citizens in the state. It is important. Those of you who have other concerns, social concerns, ought to bear in mind that the infrastructure is equally important because it leads to these other desirable things. I hope you will consider carefully when you vote today and that you will reject this method of funding and that you will go on to support the gasoline tax in its proper form. Thank you Mr. President.

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

Senator MATTHEWS: Thank you Mr. President. Mr. President, men and women of the Senate. I rise reminded of the comments by the Senator from Sagadahoc, Senator Cahill, about voodoo economics. That is an interesting analogy as has been presented already. That statement was made by Mr. Bush in response in his campaign against Ronald Reagan. As I recall, what that statement was all about, I think it dealt with trying to make sure that you get your own house in order before you attempt to tax the future generations of this country. It has been an issue which I know my party has engaged in and debated and discussed time and time again about the national deficit and a budget that is out of whack that is taxing our young people and taxing our future generations to the hilt. That is what voodoo economics is all about and I find that an interesting analogy. You know, another statement by the good Senator from Sagadahoc, Senator Cahill, is amusing to me and that is about the discussion with the Governor about raising taxes in an election year. I voted for tax increases as a Democrat down here when pointed with the facts after analyzing those facts and after talking to the interested parties and made the tough decision. I will make that tough decision today and in the future when presented with all the facts, but you know it is kind of ironic to look at some of the statements that have been made over the last couple of years and looking at an election year when members of the loyal opposition party, if I could just read a few of these into the record. One statements says "here in the last election, in one year alone, Democrats increased everything from gasoline taxes to corporate taxes to repealing tax rebates to

increasing fees." "The issues are all ours, ladies and gentlemen. The Democrats in the Legislature and the Blaine House have given the Maine people the highest tax rates in New England." "Are you having a tough time making ends meet? Your not alone. For years the Democrats who control the Legislature have given the Maine people the lowest income, the highest unemployment, the highest taxes in New England, the tenth highest tax paying index in the United States." "Republicans running for the Maine Legislature and for Governor will work to bring state spending under control so that we can prevent further tax increases on Maine's working people."

Ladies and gentlemen, I guess politics is an amazing arena. Because the reason I oppose the five cent gas tax today is that not all the case has been made and you know what the people in my district, working people and poor people and middle income people in my district tell me, they tell me Senator Matthews, I hope that you will utilize existing resources and get your house in order before you tax us. Ladies and gentlemen, that is the responsible thing to do. That is called accountability and I am standing with accountability and responsibility here today in the Maine Senate. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Perkins.

Senator PERKINS: Thank you Mr. President. Mr. President, men and women of the Senate. What we have witnessed here today might well be called the right of spring. Each year for the last fourteen that I have witnessed, we have proceeded to this point in the Legislative Session, this year Easter was early so maybe the rights of spring are a little early. It may well be that we are here today, each holding our finger to the wind and saying they are doing it, not us. We wouldn't do it. They must be doing it because it is not us, or maybe we are as I suspect I have done and others will do in the future during the rights of spring, have pointed to a floor below us and said, they did it and I don't want them to do that on an election year. Oh what energy we create. Oh for the ability to harness that energy, because oh if we could harness that energy, we wouldn't have to worry about referendums to close Maine Yankee. Nor would we have to worry about Hydro-Quebec and where the power lines came across or didn't come across.

I suspect our friend on the second floor has thought some about is this needed and he looked at a little study, but then he thought should I look some more, but he was criticized for a study, study, study mentality. Here we are today celebrating the rights of spring once more. The budget isn't quite out. The alternatives haven't quite all been exhausted, but somewhere along the line you and I no matter which side of the aisle, will find a mechanism to say they did it, not I, because I am looking out for the welfare of my people and I am a statesman once and for all and my party would never do anything but that which is responsible and I don't want to take up any more of the people's time talking on any more of the mundane subjects. So ladies and gentlemen, if we could do one thing, maybe we should use it as a fund raiser when we conclude the rights of spring and we would all be better for it because then we wouldn't be jostling these people that roam the halls for their pocketbooks, because we would have ways to raise the monies with which to get elected and reelected and provide incentives to say they did it, not us. Not him because he is mine. Not five years ago, not four years ago, not me, I am the states person who stood here and protected all of you. Ladies and gentlemen on this Friday afternoon, I hope we soon will conclude the rights of spring and that

we all might go and enjoy a pleasant weekend and that come April twentieth, despite some poor planning on some people of my party, we will be able to then say to the people of Maine, you are once again safe because we too have returned home. Thank you.

Off Record Remarks

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Clark.

Senator CLARK: Thank you Mr. President. Mr. President, men and women of the Senate. I thought more than three times about rising late this Friday afternoon and adding to what my good friend across the aisle the Senator from Hancock, Senator Perkins, refers to as the rights of spring particularly in light of the off record remarks by my presiding officer hoping for a motion to adjourn sine die. But I think it is appropriate to review what the pending motion entails. It entails a continued endorsement of the Department of Transportation's allocation program that was passed by this Legislature last year. It uses money set aside in anticipation of needs that are recognized by this state government, monies that will be returned to the Rainy Day Funds and monies from that fund having been removed before. The program is not in jeopardy regarding our roads, maintenance, construction and various facets of the infrastructure. As a matter of fact, men and women of the Senate, we could even be so bold as to propose a bond issue to address the bridge needs that might not come under the proposal that we received from the other Body. The power of taxation invested by the constitution in the Legislature of the State of Maine, should be used wisely and judiciously when there is no other alternative before us. Men and Women of this Senate, there are other alternatives before us. There is money in the bank. There is money in the Surplus Account in the Department of Transportation. There is money in the Rainy Day Fund - millions and millions of dollars and you would have this Legislature and this Body particularly, tax the people of Maine when there is money available to fund the current program. You would have this Legislature increase the tax on the citizens as well as the non-citizens of the state and on those industries whose movement along our highways and byways is absolutely essential to providing the necessary needs of our citizens and our business community when there is money available to fund and underwrite the allocation act that we have passed. Do we as individuals or families borrow money when there is money available? More frequently the answer would be no. We aren't borrowing money here. We are taxing forever the citizens of this state. This afternoon has been a learning experience. There have been allegations of political posturing, allegations of poor planning. All those may be considerations that you may embrace depending on your position, your party and whatever seems to be the conditions of your individual conscience.

The Legislature is loathe to tax. No one is anxious to tax and the wise and judicial use of this power which we so jealously guard does not warrant, justify, or underscore a five cents fuel tax on the users of our highways today. There are monies available providing time to underwrite the current program. We don't know if the federal monies will be released, they may be. I am not putting money on it. Those of us who are loathe to tax for years denied the Department of Transportation an increase in fuel tax. Years and years and years and when we

in an earlier legislative action, finally got around to taxing, we laid it on them - a whole nickel. It took eleven years to pass that tax and with money in the state coffers, money today, millions and millions of dollars, you would have us lay another nickel on them knowing the regressive nature of this tax and knowing without an ounce of hesitation or even doubt that there are monies in the state coffers to pay for the current allocation program. When the tax is needed, I will vote for it.

Politics aside, we all stand for reelection despite the allegations of the good Minority Floor Leader on our records. No one questions, absolutely no one questions the program endorsed by the Department of Transportation. They have done their job well. But I shall not be part of this regressive tax for I don't believe that in your heart of hearts you really feel that the wise and judicial and prudent use of your powers of taxation would underwrite support for a tax when there is money in the bank. It clearly doesn't make sense to me. While I can count and know what is in the wind as the ultimate result this afternoon, I find that as I stand here in this position, you have a sense of which way the wind is blowing. It seems as though I am sailing against the wind this afternoon, but it's still quite simple even for every citizen out there. You are taxing me more and there is money available and that, my friends, isn't fair. Thank you Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Sewall.

Senator SEWALL: Thank you Mr. President. Mr. President, men and women of the Senate. I can tell you that in my heart of hearts I believe that this is the very best thing we can do for our highways. I would also like to say very briefly and very softly and very gently that this very week the good Senator from Cumberland, Senator Clark, debated me on raising a local tax, allowing communities to raise a local tax on their citizens and also a tax on people who sell their homes.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Clark.

Senator CLARK: Thank you Mr. President. Mr. President, men and women of the Senate. In response to the good Senator from Lincoln, Senator Sewall, she is absolutely right. I did debate that fine gentle woman, but there is a big difference. The difference is that a local option tax would be endorsed by the majority of the voters in the municipality who would determine for themselves whether they would exercise the power of taxation or not. When we face a gasoline tax, five cents a gallon, we are assessing all citizens five cents and those people who will be assessed haven't one word to say about it. If we put this out for referendum, maybe the results would be different than they will be when the vote is read at the end of the roll call. Thank you Mr. President.

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

Senator ESTES: Thank you Mr. President. Mr. President, men and women of the Senate. I rise in support of the pending motion. I voted against the gas tax because I have a lot of questions about the proposed program that we have before us, particularly the untimeliness of much of the information coming before us to help us make our decision on such an important motion. I concur with the good Senator from Penobscot, Senator Baldacci, that this is not an issue that we should be rushing into. I think that there are a lot of unanswered questions out there. I agreed with the good Senator from York, Senator Kerry, in tabling this because I think there needs to

be more work done on this. I like initially what I see in this proposal before us. I think it does some substantial things. One of the things it does is that it buys some time. What I am going to leave you with today, Members of this Body, are some questions that you might ponder over the weekend.

First of all, I have gone through this report and I have gone back over previous reports and we have the proposed supplemental program for fiscal 1989 to 1991, which includes the road work and the bridge work. I think I have seen a list like this before. I think it has been out for a while and I think the twenty year program we can really roll back about three years previous. I think all these projects have been on an agenda for a while; it's just that the agenda is being sped up.

Woolwich, Winterport, Turner, Mechanic Falls-Oxford and Bridgton and the Lisbon Falls Bypass in Lewiston, these projects are in the works and it is my understanding also that the Million Dollar Bridge in Portland/South Portland, the Brunswick/Topsham Bypass Bridge, the Waterville/Winslow Bridge, the Carleton Bridge, these projects are also underway. I guess the thing that really bothers me is as I go back and look through the report is that I see continued reference to economic development corridors and upgrading the primary systems of our roads. My people back home are telling me, Senator, we would support a gas tax if the money was going to maintain those roads that need maintaining and then going to the improvements that need to be done. I think Mainer's would be ready to pay a higher gas tax if that is necessary to keep our roads and bridges from deteriorating. They would be willing to pay a higher gas tax to build new ones where they were strictly necessary. I think that there are some other unanswered questions out there.

One of the things that I think we will be doing is throwing good money after bad, because as long as we allow trucks to run over weight, as long as we do not set uniform weight limits on our primary and secondary roads across this state, as long as we do not increase strict safety enforcement of vehicles, especially these trucks that are running over weight, we are throwing good money after bad. These trucks will just continue to pressure and pound daily and wear down our present road system and any improvements that we make. I am glad to see in this proposal that has come before us today, that at least they are going to do a study. I understand back in 1985, when there was an attempt to provide funding for increased operations of the weighing stations in Kittery, that that was defeated in the Legislature. It is interesting to me that back in 1986, with the few men that they have working and keeping our trucks under check, that in the inspections that were conducted - sixty to sixty-five percent of the vehicles were found faulty. In most instances it was break systems, but also in 1985, in the short operating period that they had in that year, there was six hundred thousand dollars in fine collections that were raised. I think that maybe we are getting the cart before the horse. I see reference to the federal funds and as they become freed up, we will use those on secondary roads. We are finally starting to talk about doing something in regards to the gross violations that are taking place on our highways by the trucking industry - that is threatening public safety and wearing down those roads. I would like to leave you with another thought. As we talk about the surpluses in the Department of Transportation, I would like you to remember back. Exactly when was the last time that

the Department was subject to an Audit and Program Review? Maybe that is something that we can look at and find additional monies available.

I am sorry for taking up your time. I have been sitting on these questions in my mind. I hope that you will ponder them over the weekend. I hope that you will also support the pending motion. Thank you.

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 will only take another minute, but I do have to respond to the good gentlemen from York, Senator Estes, about the Carleton Bridge because I know when that gets out, my phone is not going to stop ringing. No, the Carleton Bridge has not been funded, I wished it had, but no the Carleton Bridge has not been funded. That was suggested in Phase II of the project which begins in 1992, and yes, you have seen some of these programs before. The federal government has cut back twenty million dollars in the biennium and twenty million dollars in the last biennium for a total of forty million dollars. Yes, we are seeing some of these projects for a second time. The funding of the gas tax would allow us to play catch up. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of Senator CLARK of Cumberland to RECEDE and CONCUR. A Roll Call was ordered.

A vote of Yes will be in favor to RECEDE and CONCUR.

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 ANDREWS, BALDACCI, BERUBE, BRANNIGAN, BUSTIN, CLARK, DUTREMBLE, ERWIN, ESTES, GAUVREAU, KANY, MATTHEWS, PEARSON, TUTTLE, USHER, THE PRESIDENT - CHARLES P. PRAY

NAYS: Senators BLACK, BRAWN, CAHILL, COLLINS, DILLENBACK, DOW, EMERSON, GILL, GOULD, KERRY, LUDWIG, MAYBURY, PERKINS, RANDALL, SEWALL, THERIAULT, TWITCHELL, WEBSTER, WHITMORE

ABSENT: Senators None
16 Senators having voted in the affirmative and 19 Senators having voted in the negative, with No Senators being absent, the motion of Senator CLARK of Cumberland, to RECEDE and CONCUR, FAILED.

Senator DOW of Kennebec moved to INSIST.

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

THE PRESIDENT: The pending question before the Senate is the motion of Senator DOW of Kennebec to INSIST.

A vote of Yes will be in favor to INSIST.

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 BLACK, BRAWN, CAHILL, COLLINS, DILLENBACK, DOW, EMERSON, GILL, GOULD, KERRY, LUDWIG, MAYBURY, PERKINS, RANDALL, SEWALL, THERIAULT, TWITCHELL, WEBSTER, WHITMORE

NAYS: Senators ANDREWS, BALDACCI, BERUBE, BRANNIGAN, BUSTIN, CLARK, DUTREMBLE, ERWIN, ESTES, GAUVREAU, KANY, MATTHEWS, PEARSON, TUTTLE, USHER, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators None

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, with No Senators being absent, the motion by Senator DOW of Kennebec, to INSIST, PREVAILED.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Sewall.

Senator SEWALL: Mr. President, having voted on the prevailing side, I now move reconsideration and I would urge you to vote against my motion.

Senator SEWALL of Lincoln moved to RECONSIDER whereby the Senate INSISTED.

A Viva Voce Vote being had, the motion of Senator SEWALL of Lincoln, to RECONSIDER FAILED.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

Bill "An Act to Improve the Quality of Care for Handicapped Children"

S.P. 802 L.D. 2103
(C "A" S-424)

Tabled - April 8, 1988, by Senator GAUVREAU of Androscoggin.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED

(In Senate, April 8, 1988, READ A SECOND TIME.)

On motion by Senator GAUVREAU of Androscoggin, the Senate RECONSIDERED whereby it ADOPTED Committee Amendment "A" (S-424).

On further motion by same Senator, Senate Amendment "A" (S-434) to Committee Amendment "A" (S-424) READ and ADOPTED.

Committee Amendment "A" (S-424) as Amended by Senate Amendment "A" (S-434) thereto, ADOPTED.

Which was PASSED TO BE ENGROSSED, as Amended.

Sent down for concurrence.

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

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator BLACK for the Committee on JUDICIARY on Bill "An Act to Amend the Maine Tort Claims Act"

S.P. 932 L.D. 2443

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-433).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-433) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

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

SECOND READERS

The Committee on Bills in the Second Reading reported the following:

House As Amended

Bill "An Act to Improve the Potato Marketing Improvement Fund"

H.P. 1618 L.D. 2211
(C "A" H-639)

Which was READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended, in concurrence.

Senate As Amended

Bill "An Act to Provide Regulatory Oversight of Over-the-Road and Over-the-Rail Transportation of Hazardous Materials and to Increase Revenue to the Maine Hazardous Waste Fund and the Maine Coastal and Inland Surface Oil Clean-up Fund"

S.P. 955 L.D. 2533
(C "A" S-426)

Which was READ A SECOND TIME.

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending PASSAGE TO BE ENGROSSED AS AMENDED.

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

SECOND READERS

The Committee on Bills in the Second Reading reported the following:

Senate As Amended

Bill "An Act to Require State-Leased Buildings to Meet Certain Air Quality Standards"

S.P. 858 L.D. 2246
(C "A" S-429)

Which was READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended.

Sent down for concurrence.

On motion by Senator DOW of Kennebec, ADJOURNED until Monday, April 11, 1988, at 9:30 in the morning.