

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Tenth
Legislature***

OF THE

STATE OF MAINE

Volume I

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duties and responsibilities of the Office of Energy Resources.

At the public hearing, the director of the Office of Energy Resources stated that there was no need of this legislation to perform the task that was being asked of him in this legislation, provided that he was allowed to continue on the same schedule that is called out in statute, which is to do this on a two-year basis. He said that if there was a desire, or if it was supposed to do, but why put another statute on the books to tell them to do something they are supposed to do right now, and especially where the director of the office says, yes, I can do it; yes, I intend to do it; yes; I will do it.

I hope you will vote against the motion to accept this bill.

The SPEAKER: The Chair recognizes the gentleman from Falmouth, Mrs. Huber.

Mrs. HUBER: Mr. Speaker and Members of the House: The good gentleman has given you an accurate summary of the existing legislation, but I do feel that he has overlooked a statement in the Statement of Fact of L. D. 472, and that simply is that this bill emphasize — emphasize. In other words, what we are suggesting here to you today is that the legislature should emphasize the importance of determining what fuel sources might be available in the case, for any reason, of a shutdown of Maine Yankee.

Certainly some of us on the committee feel this is prudent. Certainly many people in the State of Maine who have concerns about nuclear power feel this is prudent. It is not unusual, it is not peculiar for the legislature to emphasize a particular area of interest. I hope you will vote for the Majority "Ought to Pass" Report.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Sangerville, Mr. Hall, that the Majority "Ought to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken. 70 having voted in the affirmative and 55 having voted in the negative, the motion did prevail.

Whereupon, the Bill was read once and assigned for second reading tomorrow.

**Divided Report
Tabled Unassigned**

Majority Report of the Committee on Taxation reporting "Ought Not to Pass" on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Undedicate the Highway Fund (H. P. 733) (L. D. 833)

Report was signed by the following members:
Senators:

TEAGUE of Somerset
EMERSON of Penobscot
— of the Senate.

Representatives:

MASTERMAN of Milo
TWITCHELL of Norway
DAY of Westbrook
BROWN of Bethel
INGRAHAM of Houlton
— of the House.

Minority Report of the same Committee reporting "Ought to Pass" on same Resolution. Report was signed by the following members:
Senator:

WOOD of York
— of the Senate.

POST of Owl's Head
KILCOYNE of Gardiner
KANE of South Portland
HAYDEN of Durham
HIGGINS of Portland
— of the House.

Reports were read.
The SPEAKER: The Chair recognizes the gentleman from Owl's Head, Mrs. Post.

Mrs. POST: Mr. Speaker, I move we accept the Minority "Ought to Pass" Report.

The SPEAKER: The gentleman from Owl's Head, Mrs. Post, moves that the House accept the Minority "Ought to Pass" Report.

The Chair recognizes the gentleman from York, Mr. Rolde.

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I rise today to urge you to accept the "Ought to Pass" Report. I do so as the sponsor of the bill. This is a Governor's bill but it also represents my point of view.

We have had this bill to undedicate the highway fund before us many many times before, and I don't know how much new information can be given about it or new discussion can be generated. I would like to make several points, however.

The first point I want to make about this bill is that it doesn't undedicate anything; it only asks the people if they would wish to undedicate the highway fund. Even if the people are to decide that they do, the option is still open to the legislature to rededicate statutorily. In many states, they do the statutory dedication of their highway fund.

There was a very smart gentleman back in 1945 who had the idea of putting the dedication of the highway fund in the State Constitution. Although I realize the people complain that we send too many things out in referendum, this is the only way that a constitutional amendment can be changed; it has to go to referendum. So the question then is, when the dedication of the highway fund was put in the Constitution in 1945, was it to be put there for all time? The people have never been asked that question, and now, in the light of new conditions, the question arises, should they be?

The new conditions that I speak of are, of course, the fact that our gasoline sales are dropping. Maine, in fact, in the last year, had the highest percentage drop in the sale of gasoline of any state in the Nation. Also, because of this factor, some new attitudes are being engendered towards the highway fund. In the past, the bill to undedicate was usually put in by people who wanted to get at those funds, because they felt that there was a great body of funds and that it could be used for some other purpose. Now I see an opposite attitude. Many I have talked to who say they are opposed to undedicating are opposed because they are afraid that the highway fund or the highway lobby will start reaching out for funds that have been used for other things.

We talked, and we have talked a lot in trying to deal with our dilemma of how to fund our highways, about long-time solutions, overall solutions, and it seems to me that this question of dedication vs. undedication has to be considered in that light.

Ask yourselves, will gas sales go up in the future, and should they? My own answers are that there is no way that gas sales are going to go up with the price of gasoline rising continually. My answer is also that I don't believe they should, because I think our national security depends on our getting out from under our dependence on Arab oil.

My objections to dealing with a potential gas tax increase or putting more funds into the highway system under this present arrangement are twofold. One, I see that if we do this, we are going to put ourselves in a situation where we just keep perpetuating the problem, because if we put gas taxes on, that is going to cause less gasoline to be bought and we are going to be continually back here looking for

more funds. The second is, I have very serious reservations about having a department, the Department of Transportation, dependent on gas tax revenues when it has the responsibility for transportation in all areas of the state, in other words, at a time when it may be very important for us to have public transportation, we have a department in charge of that that is depending on gas tax revenues.

The question again arises, what shall we do with this bill? Obviously, there does not seem to be enough support for a two-thirds. In the last session, the majority leader in the Senate had to even rescue it from being killed before it was referred to a committee. At least at this time we have gotten it to a committee and gotten it out with a report. So, should the strategy be — kill this bill now and then put on the pressure for a gas tax increase? If that is the thinking, I personally feel it will backfire, because those of us who have reservations about the present system will then have a perfect excuse to stand and fight against any gas tax increase or a sales tax on gasoline.

But speaking for myself, not for the Governor, I, frankly, don't think we can undedicate without putting more funds into the program. But at least this bill is a bargaining and a discussion point. Admittedly, it wouldn't solve this year's problem, and as people have charged, it won't put anything into the highway system, but it would be indication, if it is kept alive, of some willingness to negotiate. So, that is what I hope you will do today, vote to keep it alive. I would then like to see it tabled unassigned so we will have it if needed. But to kill it outright today, I feel, would give some of us, and I really don't know how many there are, at least an opportunity to rally around a new American slogan of "no taxation without undedication" and we would keep our feet in concrete. And it may be that those who are trying to find a solution don't much care about that, but I feel that a wiser course, no matter what your philosophical position on the funding of highways is, is to keep all of our options open, this one included.

The SPEAKER: The Chair recognizes the gentleman from Bethel, Miss Brown.

Miss BROWN: Mr. Speaker, Ladies and Gentlemen of the House: Being on the Taxation Committee this year, this has got to be one of the most controversial issues that I have had to deal with; it is a very difficult decision, but after much consideration, I have decided that I don't feel that undedicating the highway fund is the answer. I think it is one of the worst things we can do.

We are in a situation where state government is quite often putting departments into a budget situation where at the end of the year there is a lot of hurried expense and spending and various things because they can't carry budgets over and they don't want the money to lapse. I don't want to encourage a situation like that.

Also, I think you should be aware of the fact that there are 28 states in this country which have constitutional dedication of their highway funds, there are 19 in which the statutes dedicate their highway funds, and there are only 5 states which fund through the general fund — Alaska, Delaware, New Jersey, New York, and Rhode Island are the only states which attempt to do this.

I would like to ask for a division on this motion, Mr. Speaker.

The SPEAKER: The pending question is on the motion of the gentleman from Owl's Head, Mrs. Post, that the Minority "Ought to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken. Whereupon, Mr. Higgins of Scarborough requested a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes;

those opposed will vote no.

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

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I rise today in opposition to this motion, but I guess most importantly I rise because of the scenario that the gentleman from York, Mr. Rolde, has outlined for us.

I think the important thing we need to remember on this particular issue is that this legislation, constitutional change, is not going to produce any money in this two-year biennium. It is not going to be the savior of the highway program for the next two years, and to say that we need to have this bill kicking around as a bargaining tool or a point of negotiation, I think is a poor facade on the critical situation that we face here in the state today. So, I am somewhat disturbed at those remarks. I feel that this bill ought to take its normal course, it ought to be voted on here, it ought to be voted on in the other body, and then let's continue down the road trying to solve our highway problems without a roadblock in our way, sitting on an unassigned table somewhere in this House.

It is inevitable, the outcome of this legislation, and I think to try to set it aside somewhere and to try to call it an item of negotiation is really a cruel hoax, so I hope you will vote against this motion.

The SPEAKER: The Chair recognizes the gentleman from Owl's Head, Mrs. Post.

Mrs. POST: Mr. Speaker, Men and Women of the House: I think that probably we are faced with two crises here today — one is the crisis of funding the Department of Transportation or our highway system, and the other is whether this legislative body will be able to deal with this issue in any kind of meaningful way.

This is part of a package that we may or may not accept, and I think it is important that we deal with this issue and we deal with the other bills that are in the Committee on Transportation, Taxation and Appropriations, that we do so in a manner that does not close out any of our options and we do it in an area where we are all willing to sit down and discuss the issues and hopefully come up with a compromise to fund the Department of Transportation.

In addition, I just would like to make two comments. One is a reminder, since I have had this question asked of me a couple of times, that this is a constitutional amendment and we are taking the first step in approving a constitutional amendment. We have to, in each body, give two-thirds vote for this issue and then it goes out to the vote of the public. It has been many years since that has happened, times have changed, our dependency on the automobile has changed, the automobile has much more effect on our total economy, and I think it may be time for the people of this state to have a voice in how they want to fund their transportation system.

I think we here in Maine are particularly dependent on transportation. If you look at the geographical situation of Maine, our economy is very closely tied to the issue of transportation. We need in this state to take a look at the transportation problems as a whole, not take a look at the highway fund or the highways in isolation from our other transportation system. I think it is very ironic that we have a Department of Transportation, that is responsible for all the transportation needs in this state, with a majority of their income coming from a tax on a commodity, gasoline, which it ought to be in our whole Nation's interest to reduce our dependence on. If the Department of Transportation takes the step to reduce our dependence on gasoline, they are, at the same time, reducing their income. I think it is time to reevaluate that position, to say that we need to take a look at transportation needs as a whole and at least

send this out to a vote of the public.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Owl's Head, Mrs. Post, that the Minority "Ought to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Armstrong, Baker, Beaulieu, Benoit, Boisvert, Boyce, Brannigan, Brenerman, Brodeur, Brown, A.; Carrier, Carroll, Carter, Chonko, Clark, Cox, Crowley, Davies, Davis, Diamond, G. W.; Diamond, J. N.; Dudley, Erwin, Fitzgerald, Fowle, Gowen, Gwadosky, Hall, Hayden, Hickey, Higgins, Hobbins, Jalbert, Joyce, Kane, Kany, Ketover, Kilcoyne, LaPlante, Laverriere, Lisnik, Livesay, Locke, Macomber, Mahany, Manning, Martin, A.; Martin, H. C.; Masterton, McCollister, McGowan, McHenry, McKean, McSweeney, Michael, Michaud, Mitchell, E. H.; Mitchell, J.; Murphy, Nadeau, Nelson, M.; Norton, Paradis, P.; Pearson, Perry, Post, Pouliot, Prescott, Racine, Reeves, P.; Richard, Ridley, Roberts, Rolde, Smith, C. B.; Soulas, Soule, Swazey, Telow, Theriault, Thompson, Tuttle, Vose, Webster, The Speaker.

NAY — Aloupis, Austin, Bell, Berube, Bordeaux, Brown, D.; Brown, K. L.; Cahill, Callahan, Conary, Connelly, Cunningham, Curtis, Damren, Day, Dexter, Dillenback, Drinkwater, Foster, Gavett, Gillis, Hanson, Higgins, L. M.; Holloway, Huber, Hunter, Hutchings, Ingraham, Jackson, Jordan, Kiesman, Lancaster, Leighton, Lewis, Livesay, Lund, MacBride, Masterman, Masterton, Matthews, McPherson, Murphy, Nelson, A.; O'Rourke, Paradis, E., Perkins, Peterson, Randall, Reeves, J.; Salisbury, Sherburne, Small, Smith, C. W.; Stevenson, Stover, Strout, Studley, Tarbell, Treadwell, Twitchell, Walker, Wentworth, Weymouth.

ABSENT — MacEachern, Moholland.

Yes, 85; No, 64; Absent, 2.

The SPEAKER: Eighty-five having voted in the affirmative and sixty-four in the negative, with two being absent, the motion does prevail.

Thereupon, the Bill was read once. Under suspension of the rules, the Bill was read the second time.

The SPEAKER: The Chair recognizes the gentleman from Vassalboro, Mrs. Mitchell.

Mrs. MITCHELL: Mr. Speaker, I move this lie on the table unassigned.

Whereupon, Mr. Higgins of Scarborough requested a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

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

The SPEAKER: The pending question is on the motion of the gentleman from Vassalboro, Mrs. Mitchell, that this Bill be tabled unassigned pending passage to be engrossed. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Baker, Beaulieu, Benoit, Boisvert, Boyce, Brannigan, Brenerman, Brodeur, Brown, A.; Carroll, Carter, Chonko, Clark, Connolly, Cox, Crowley, Davies, Diamond, G. W.; Diamond, J. N.; Dudley, Erwin, Fitzgerald, Fowle, Gowen, Gwadosky, Hall, Hayden, Hickey, Higgins, Hobbins, Jacques, Jalbert, Joyce, Kane, Kany, Kelleher, Ketover, Kilcoyne, LaPlante, Laverriere, Lisnik, Locke, MacEachern, Macomber, Mahany, Manning, Martin, A.; Martin, H. C.; McCollister, McGowan, McHenry, McKean, McSweeney, Michael, Michaud, Mitchell, E. H.; Mitchell, J.; Nadeau, Nelson, M.; Norton, Paradis, P.; Paul, Pearson, Perry, Post, Pouliot, Prescott, Racine, Reeves, P.; Richard, Ridley, Roberts,

Rolde, Smith, C. B.; Soulas, Soule, Swazey, Theriault, Thompson, Tuttle, Twitchell, Vose, Webster, The Speaker.

NAY — Aloupis, Armstrong, Austin, Bell, Berube, Bordeaux, Brown, D.; Brown, K. L.; Cahill, Callahan, Carrier, Conary, Conners, Cunningham, Curtis, Damren, Davis, Day, Dexter, Dillenback, Drinkwater, Foster, Gavett, Gillis, Hanson, Higgins, L. M.; Holloway, Huber, Hunter, Hutchings, Ingraham, Jackson, Jordan, Kiesman, Lancaster, Leighton, Lewis, Livesay, Lund, MacBride, Masterman, Masterton, Matthews, McPherson, Murphy, Nelson, A.; O'Rourke, Paradis, E., Perkins, Peterson, Randall, Reeves, J.; Salisbury, Sherburne, Small, Smith, C. W.; Stevenson, Stover, Strout, Studley, Tarbell, Telow, Treadwell, Walker, Wentworth, Weymouth.

ABSENT — Moholland.

Yes, 84; No, 66; Absent, 1.

The SPEAKER: Eighty-four having voted in the affirmative and sixty-six in the negative, with one being absent, the motion does prevail.

Consent Calendar

Second Day

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the Second Day:

(H. P. 478) (L. D. 527) Bill "An Act to Make Corrections in the Topsham Sewer District Charter"

(H. P. 355) (L. D. 403) Bill "An Act to Amend the Employment Security Law Relating to Payment of Extended Benefits of Interstate Claimants" (Emergency)

(H. P. 269) (L. D. 328) Bill "An Act to Amend the Law Relating to the Authorization for Degree-granting Authority for Higher Education Institutions"

(S. P. 88) (L. D. 185) Bill "An Act Requiring the Reporting of Reyes Syndrome by Persons Examining or Treating the Disease" (C. "A" S-33)

No objections having been noted at the end of the Second Legislative Day, the Senate Paper was passed to be engrossed in concurrence, and the House Papers were passed to be engrossed and sent up for concurrence.

Second Reader

Later Today Assigned

Bill "An Act to Establish a Maine Set-aside Program under the State Purchasing Law to Expand Work Opportunities for Multiple Handicapped Citizens" (H. P. 224) (L. D. 261) (C. "A" H-75)

Was reported by the Committee on Bills in the Second Reading and read the second time.

On motion of Mr. Dillenback of Cumberland, the House reconsidered its action whereby Committee Amendment "A" (H-75) was adopted.

The Same gentleman offered House Amendment "A" to Committee Amendment "A" (H-77) and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-77) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Dillenback.

Mr. DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: The reason for this amendment, in committee when we had the original amendment, this bill was asking us to give 15 percent of all state work to the handicapped. This was cut down to 5 percent in our amendment. After we had the amendment and we had all signed it out a majority "ought to pass," we had the fiscal report come out that said it might cost the state, eventually, \$500,000. This was not our intent, we didn't have any idea that there would be any such expenditure. Consequently, this amendment limits the amount of work that could be done by these workshops to \$500,000 for the first year, that is 1981-82, and 1982-83, \$1 million. Now, the only cost to the state would be 5 percent of this amount, so the first year would be \$25,000 and