

# MAINE STATE LEGISLATURE

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# LEGISLATIVE RECORD

OF THE

**One Hundred And Fifteenth Legislature**

OF THE

**State Of Maine**

**VOLUME II**

**FIRST REGULAR SESSION**

House of Representatives  
May 20, 1991 to July 10, 1991

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-520) on same Bill.

Signed:

Senator: HOLLOWAY of Lincoln

Representatives: STEVENS of Bangor  
CATHCART of Orono

Reports were read.

On motion of Representative Mayo of Thomaston, tabled pending acceptance of either report and later today assigned.

**Divided Report**

Eight Members of the Committee on **State and Local Government** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Undedicate Highway Revenues (H.P. 1181) (L.D. 1724) report in Report "A" that the same "Ought Not to Pass"

Signed:

Senators: BERUBE of Androscoggin  
EMERSON of Penobscot

Representatives: LARRIVEE of Gorham  
NASH of Camden  
LOOK of Jonesboro  
SAVAGE of Union  
KERR of Old Orchard Beach  
WATERMAN of Buxton

Four Members of the same Committee on same RESOLUTION reports in Report "B" that the same "Ought to Pass" as amended by Committee Amendment "A" (H-500)

Signed:

Senator: BUSTIN of Kennebec

Representatives: GRAY of Sedgwick  
JOSEPH of Waterville  
HEESCHEN of Wilton

One Member of the same Committee on same RESOLUTION reports in Report "C" that the same "Ought to Pass" as amended by Committee Amendment "B" (H-501)

Signed:

Representative: KILKELLY of Wiscasset

Reports were read.

Representative Joseph of Waterville moved that the House accept Report B, "Ought to Pass."

The SPEAKER PRO TEM: The Chair recognizes the Representative from South Portland, Representative Macomber.

Representative MACOMBER: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you will not go along with this motion or any other motion to

undedicate the Highway Fund. I don't know as I have to give you an awful lot of reasons but I think I understand because of the timing of the legislature at this moment, I know that there are many programs that have been funded out of the General Fund that are very near and dear to a lot of people that are not being funded out of the General Fund this year and I think they are just looking for other sources of revenue to keep their own projects going. I understand that and I sympathize with it but I just hope you will keep in mind some of the things about the Highway Fund — for every dollar we send to Washington on the Highway Fund, we get \$3.00 back, it's a 3 & 1 match. I think it is important that you know that.

I also think you should know that, right at the present moment, under the budget constraints that we are under right now, this state stands to lose \$25 million in federal funds simply because we don't have the money to match it. Even going beyond that, I think what you have to think about is the State of Maine and our transportation modes. We are not a state that has a lot of railroads, we are not a state that has a lot of air transportation, the whole economy of the State of Maine, I think you will agree, is based on trucks. Ninety-nine percent probably of our trucks are what serve this country and keep us in business in this particular state.

Another problem we have, if we don't have a dedicated highway fund, is the fact that many of the projects we are doing that is in your investment program that you have, you will notice that many of them are projects that are two and three year projects. If the Highway Fund was undedicated, what this means is that you would have to bid contracts for one year at a time. If you had a project like the bridge in my hometown of South Portland/Portland that is going to take three years to build that particular bridge, you would have to let your contract out a year at a time unless you were guaranteed in some way that you were going to have that money. If it was an undedicated account, you would have to go, I assume, to Appropriations each and every year to get enough money to fund that particular project or any other project like it. I think that puts us at a great disadvantage as far as bidding on jobs and getting anything accomplished with our road program.

The other thing that is very important (it has been to me over the past several years) is the fact that, by having dedicated funds, some of you who perhaps have a problem in your hometown and you have been able to go to Commissioner Connors and say you have a problem, it needs taking care of, I think because of the fact that he has dedicated funds, there have been instances where he has been able to handle those problems by himself. I think if you undedicate the Highway Fund and leave it open to, I won't use the word "attack", but leave it open for all other purposes, I think you are going to create a situation in the State of Maine that would be very, very dangerous. I hope you will think about it a long time and I hope you will vote against the pending motion.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Ladies and Gentlemen of the House: For those of you who may not be aware of the dedication of the Highway Fund, this particular Resolution is a Resolution to propose that

the voters of the State of Maine address the issue of undedicating the Highway Fund.

In 1943, it is my understanding that the Highway Funds were dedicated in the Constitution of the State of Maine. I find this highly irregular because I do not know of any other funds that are dedicated within the Constitution of the State of Maine.

Previous legislatures have debated this issue; however, in desperate times, in tough fiscal times, we need to talk about undedicating these revenues. It calls for desperate measures.

All we are asking is that you would approve this proposal and send it out to the voters of Maine. If this was sent out to the voters of Maine, the debate that you have just heard and you will continue to hear about it as we talk about undedicating highway revenue and how those funds should be used, could go forward. However, it is the feeling of myself and a few members that signed on to the "Ought to Pass" Report that we should pass this Resolution and that these funds should be undedicated. This is not a time in the state's financial history to allow any account to be sacrosanct. It is not a time for status quo, it is time to look at the Article of the Constitution and to say that perhaps we should undedicate those monies. It is time to question whether or not it is even constitutional to fund public safety out of dedicated highway funds. It is time for us to have those projects compete, as all other projects and programs do compete in the Appropriations process, so I would urge you to consider Report B "Ought to Pass."

This is not a criticism of the Department of Transportation, this is simply accessing the monies that do belong to the citizens of the State of Maine to fund the projects that need to be funded that the State of Maine, through their Representatives and members of the other body, feel should take priority.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Caribou, Representative Bell.

Representative BELL: Mr. Speaker, Ladies and Gentlemen of the House: Many of us have served on town and city committees and those of us who have know the importance of funding for roads. Funding for roads is always a problem in all communities and you can never get all the roads done you want to get done and the state has the same problem. You look at the map and see the size of the State of Maine, which is almost as large as the rest of New England, we have more roads per capita than any state in New England and it takes a lot of money to work on these roads.

The dedicated funds are already somewhere around \$20 million short and if you undedicate these funds and take the dedicated funds and drop them into the black hole that we are trying to fill, it won't be long and you will be back crying, "Please fix my road, please fix my road" but there won't be any money. Therefore, I say do not undedicate those funds.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Ladies and Gentlemen of the House: I urge this body to reject the motion before us and accept the Majority Report of the Committee on State and Local Government.

I think that this Highway Fund is an excellent example of "the user pays." I believe we need to keep faith with those who pay the funds into the dedicated highway account.

As the previous speaker from Caribou just mentioned, undedication of this fund could have a potentially devastating impact on local property taxes, which receives a portion of these funds for maintenance of its local ways.

I understand that there is a temptation at this point in time to lessen the investment of our infrastructure and, as we just heard, that this investment will be lessened because of the reduction in the amount of revenues. It is not the time to proceed to change the Constitution to take away those funds that we purposely set aside to keep improvements on line for necessary transportation. It could be an extremely costly measure for a rather short-term, quick fix solution.

I urge you to support the Representative from Caribou and the Representative from South Portland, Representative Macomber, and I request the yeas and nays.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Brunswick, Representative Pfeiffer.

Representative PFEIFFER: Mr. Speaker, Members of the House: Last Fall, the Secretary of State issued a report stating that 90 percent of all registered voters in the state own motor vehicles. That means that 10 percent of the adults of this state do not own vehicles. These are people who have absolutely no way to get around without the courtesy of friends, family and so on. There is such a lack of public transportation in this state that these people are absolutely trapped and imprisoned. I think the time has come to undedicate these funds to make some use of them for public transportation such as railroads, buses and intercity bus travel. I think it is time that the monopoly of the highway lobby and the motor vehicle industry was broken.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waterboro, Representative Lord.

Representative LORD: Mr. Speaker, My Learned Colleagues: I represent four small towns in York County. We don't have trains, we don't have buses, we don't have taxicabs, all we have is roads, shanks mare and a few horses.

We need these roads, no question about it. I was road commissioner for a few years and I can vouch what happens in towns in Maine, education comes first and all the other things and what is left goes for roads, which is usually not enough to do what you want. I am afraid if we undedicate these funds and I urge you not to undedicate these funds.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Gardiner, Representative Treat.

Representative TREAT: Mr. Speaker, Men and Women of the House: I am the prime sponsor of this piece of legislation and I would like to take a little bit of time to tell you why I am sponsoring it and why I think you should support the Minority "Ought to Pass" Report B.

This year, in case anyone has forgotten it, it is not "business as usual." In case anyone has forgotten, we are in a situation where state government has been shut down for two days, where people have been furloughed, where unemployment, AFDC, General Assistance are way up, where we are proposing all kinds of radically different proposals in terms of dealing with our government. We are putting departments together and getting rid of other departments. This is the year where we should be rethinking what state government does, how it does

it, and how we fund that state government. That is why I have put in this bill at this time. I know that it is a somewhat perennial issue but it has not been debated, as far as I can tell, since 1983.

What does this bill do? I would like to shed a little bit of light on the subject because I think there is some misapprehension out there based on the debate so far.

As the Representative from Waterboro has stated, it does send the question to the voters. This is a Constitutional Amendment and, therefore, it must be passed upon by the voters. They cannot pass upon this issue unless we, the legislature, decide to send it to them. That is something that I would like you to consider because I would like the public to have the opportunity to decide whether, after nearly 50 years, it makes sense to change the policy that was adopted by a legislature in 1943.

Secondly, it does not in fact undedicate highway revenues, even if you pass it and even if the voters decide to vote in favor of this Amendment. What it does is it undedicates the highway revenues in the Constitution. I think that is a significant difference. It would still be dedicated in statute. We are not changing statutes by this piece of legislation. It will be up to the legislature at that time to decide whether highway revenues should be dedicated in exactly the same manner as they are today, whether parts of those should be dedicated to other purposes, whether parts of those should be undedicated totally or whether the entire fund should be undedicated.

I think people may ask, if this doesn't undedicate it now, then why are you bothering to do it? The answer there is that we need flexibility in this state, we should not have to go to the voters in a Constitutional Amendment every time we want to decide to do something differently. It is impossible right now to deal responsibly with our budget when a \$190 million dollars are earmarked for a very narrow purpose, which is highways and bridges and some related purposes including state police but only up to the limit of how much the police patrol on our state roads.

It is hard for me to understand why an issue such as education or mental health services, elderly services, and health care must compete against each other on the Appropriations Table when some other issues, highways, is in the Constitution and never has to be evaluated with respect to any other state service. It may have been all right in past years when we had plenty of money to throw around and we didn't have to do the same kind of prioritization that we have to do today. Today, we have to look at every program that we are funding and every program that we are looking to cut and all programs should be on the Table. I don't have a lot of doubts myself that highways wouldn't end up being funded, I think they would be, I know that the highway lobby is a very powerful lobby and I think they would be quite effective in making their case before the Appropriations Committee but give them that chance. It should be together with other things.

Things have changed since 1943. The comment was made by the Representative from Waldo, Representative Whitcomb, that this is a wonderful system because it is really a user fee system, only the people who pay into it really, are benefited from it. Things have changed — in 1943, one person in five had an automobile, that statistic is now reversed.

Virtually everyone pays a gas tax and it has become, in effect, a broadbased tax. To argue otherwise, I think, is really not to be facing reality. It is a broadbased tax and we need to look at whether that is a tax we need to use for this purpose or whether it should be funding other purposes.

The irony is that there are social services programs that are funding transportation right now, elderly programs and things like that. The argument isn't made there that that is an inappropriate use and yet here, the argument is made that it is inappropriate.

People have said, if we don't put it in the Constitution, then we aren't going to get all this federal highway money. We aren't really required by the federal government to put it into the Constitution. The answer to both of those comments is, no and no. There are 19 states plus the District of Columbia that do not dedicate highway revenues in their Constitution. I know when I made my presentation to the committee that it was thrown around that every state does this — you know, no one doesn't do it, that is just not the case. It is true that most of those states also dedicate in statute but the way they dedicate has changed over time, they make a decision at one point to dedicate X-amount and at another point to dedicate Y-amounts and that is the flexibility that they have and we don't.

The argument that we have to do it for the federal government was made in 1943. In the debate, it was stated that, someday in the near future, it would be definite that the federal government was going to require everyone to do this so we might as well do it now and make sure we got those federal dollars. It hasn't happened, they have not required it and there are plenty of highway programs and other programs that are not dedicated where we can show that we have made up our matching share and we are getting those funds just fine. Highways are not different from other services in any major way. There are other programs that are long-term programs besides highway programs.

I think we should give the voters an opportunity to decide this important policy issue for themselves. Times have changed in the last 50 years, we should recognize that fact and we should see whether the public thinks a change should be made in this policy. This year is not "business as usual" and it is a chance for us to rethink how we do things. One of the things we should be rethinking is constitutional dedication. I think we should allow future legislatures that are going to be dealing with these kinds of problems in the future to have the flexibility that we would want right now.

I urge your support of Committee Report B and I hope that you will vote with me when we vote.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Jonesboro, Representative Look.

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: We could debate this all night; however, I just want to point out a few facts that I am sure most of you know and recognize. There are some of us here who recall the days when we had five seasons in the State of Maine, Spring, Summer, Fall, Winter and mud season. Mud season was when you mired yourself in mud trying to get from one place to another. If you had an automobile, you had to be pulled out by a mule team or horses or something like that. I don't think any of you want to go back to that and those of you who don't know what it was

like, it is a situation where you can't get there from here.

The highway system that has been developed since the 40's is developed with the long-range planning view and that is what we must have, long-range planning and the assurance with it that the funds will be there and will be generated to produce the efforts of planning. We know now in advance where the trouble spots that need the most attention are and where it will be looked upon and developed unless there is an emergency situation. If there is an emergency situation, then now these things are in the planning stage and they can be addressed in an emergency situation, earlier perhaps than what was formerly meant to be. This cannot be done without an assurance that the funds are going to be there and that is what we are talking about.

Years ago, it was the pork barrel effect, the squeaky wheel that got the grease, that is not the case anymore. We look at our road situations across the state with the rational way and know that they will prioritize and it will happen.

How are these funds developed? Well, I am going to address this as one who is somewhat familiar with the fact that the heavier licensee that pays these heavier licenses and all of these taxes are the ones that are having it put on their backs to provide these funds. I am talking about the highway users who buy the licenses, the ones that are \$800 or more, plus, plus, plus. Not only is there a local excise tax, there is the state registration, plus the commodity taxes that they have to pay for special permits plus the federal excise motor vehicle tax that many of you probably have never heard of, plus the federal 15 cent plus tax for fuel, plus the 20 cent plus tax for state fuel, plus all the regulatory demands on the highway rig and the driver that has to be there to put it on the road, of course. Add to that the insurances that they pay and be aware of all the regulations that have been imposed upon the trucking industry. These are the people that are paying the hefty volume of the taxes that become the monies for your highway system.

I would be utterly disastrous to use these monies for any other purposes than what they are outlined for now.

I urge you to defeat this motion and let us continue to operate our roads as we are used to having them and as this money is intended.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Caribou, Representative Bell.

Representative BELL: Mr. Speaker, Men and Women of the House: Let us not put our highway system in the same sad condition as some of our other state agencies. Let's make that decision now, let's vote no on this bill.

The SPEAKER PRO TEM: The Chair recognizes the Representative from South Portland, Representative Macomber.

Representative MACOMER: Mr. Speaker, Ladies and Gentlemen of the House: I rise just briefly to respond to the Representative who mentioned the rails and the public transportation system that she felt some share of the highway money should be going to those services and I would just like to say that, for the past four years, the Department of Transportation has invested (I believe) four or five different railroads and they are, right now, encouraging the passage of a passenger service being established between Portland and Boston. As far as rails are

concerned, I am sure some of you read in the papers that the Railroad Referendum with the unanimous "Ought to Pass" Report was very strongly endorsed by Commissioner Connors. He does have a very strong feeling about railroads and he thinks they should be brought back.

As far as public transportation, buses and things of that nature, we passed out a bill about two or three weeks ago that had a fiscal note on it of \$250,000 and that was to go mostly for programs in the rural area, bus services that would provide rides for people with dialysis, things of that nature, and it would provide transportation for them from their home to the doctor. I don't think it is really correct to say that we have neglected that part of the population because we haven't. I hope that you will vote against the pending motion.

The SPEAKER PRO TEM: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Ladies and Gentlemen of the House: I want to bring this debate back to what we are asking of you today. We are asking you to ask the voters in your districts whether or not the Highway Fund should be dedicated according to the Constitution of the State of Maine. That is all we are asking the same voters who elect you. This debate should occur in a public forum and not in the confines of the legislative chamber. The "no road, no bridges" is a scare tactic.

The funds will not be undedicated in the Department of Transportation unless some other future legislature undedicates them. We are only asking that we pass this out to the voters of the State of Maine.

The inference that we might return to mud season is ridiculous. We are not going to return, this state is going forward, we want investment in infrastructure, we want investment in highways and roads and we expect all of that, but we expect that these items will be prioritized through the Appropriations process.

I have to quote a former colleague of all of ours and a special friend. When we talk about the high costs of those heavy users of transportation, they also cause heavy damages and we have all heard the former Representative Carter talk about the longitudinal ruts — I believe these heavy users pay their fair share because we are still dealing with those longitudinal ruts so I urge you to ask the voters of your district whether or not we should, according to the Constitution of the State of Maine, undedicate the Highway Fund.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Gardiner, Representative Treat.

Representative TREAT: Mr. Speaker, Women and Men of the House: I would just like to clarify a couple of points that have been raised so far in this debate.

Maine is not the only rural state in the nation. I know we like to think we are unique but there are many other rural states in the nation that have many roads that they have to keep up. Among those rural

states are states that do not dedicate highway revenues in their Constitution — for example, Nevada and New Mexico are two states in that category. I don't feel that that really is going to make much of a difference in deciding this issue.

Secondly, the comment was made by Representative Look that the squeaky wheel got the grease back in the old pork barrel days, which is a comment that has repeatedly been said. I have read some of the debates over the last couple of times that this has come up and that is always the issue that is raised — why is it any different today? The squeaky wheel still gets the grease. There are still people that complain about their roads not being paved. It is the same situation, it is just that it is not coming to the legislature which is a democratic body in the Appropriations Committee but going to DOT. I really don't see how undedicating the Highway Fund is going to turn this into pork barrel politics of the worst kind. I don't think that is what the Maine Legislature is, I don't think that is what the Appropriations Committee is and I think I have a little more faith in both that committee and the legislature as a whole than to think that pork barrel politics is going to result.

Finally, I am very pleased that the Department of Transportation has passed out a bill of \$250,000 to fund very much needed services for the elderly and disabled. I believe I am a cosponsor of that bill. That is one of the reasons I put in the Highway Undedication Bill because what are the chances of that \$250,000 bill on the Appropriations Table in this year? It is a rhetorical question but I think it makes the point for me. I don't think the chances are very good and we should be evaluating that bill as well as the highway as well as mental health as well as everything else altogether before the Appropriations Committee.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Belfast, Representative Marsano.

Representative MARSANO: Mr. Speaker, Ladies and Gentlemen of the House: The Representative from Waterville mentioned she thought there were no provisions in the Constitution with respect to the dedication of funds except those that related to the matter which is in the debate now before us. In fact, that is not so, this bill purports to amend Section 19 of Article 9 of the Maine Constitution. Section 18 deals with a similar dedication in protection of certain aspects of the Teachers' Retirement Fund. I can't help wondering if a bill to undedicate both of those had been presented to this legislature, a resolve to let the people do this, a great trust in this legislature to act responsibly, if we would have heard from both the Representative from Gardiner and the Representative from Waterville of the same glowing faith in this body. I simply do not have that faith.

I was opposed to the alcohol undedication last year because I feel that, since the state is the biggest seller of drugs in the state, we ought to have some of it that was specifically committed to drug education. We lost that. I don't know how long it will be before we forget our responsibility in that kind of dedication. I am perfectly content to dedicate because I have never seen this House act responsibly with respect to issues — they sort, choose and pick. It seems to me as though we don't have the courage to face a fair plan. People will protect the Retirement System with their views about

it with their dying breath while they will sacrifice transportation. Those of us from the rural areas are especially sensitive to that.

I would urge that we reject this measure and leave the money dedicated as it presently is and has been wisely done for nearly fifty years.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Orono, Representative O'Dea.

Representative O'DEA: Mr. Speaker, Ladies and Gentlemen of the House: What this bill has to do with is taxation as far as I am concerned. If we look at the gas tax, we see a linkage between the gas tax and roads. If we undedicate this account, all we will do is legitimize what is perhaps the least progressive tax of all and that is the gas tax, second only to the property tax in terms of its unprogressive nature. If people are concerned about having adequate money for state services and state obligations, which is the real issue here, then we shouldn't look to the Highway Fund which we need to maintain our already crumbling infrastructure but we should stand up and have the political courage to call for an income tax increase and an increase in the corporate income tax and those, I believe, are part of the real solution here. We should not undedicate this money.

The SPEAKER PRO TEM: The pending question before the House is the motion of Representative Joseph of Waterville that the House accept Report B, "Ought to Pass."

The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with the Representative from Sanford, Representative Hale. If she were present and voting, she would be voting nay; I would be voting yea.

The SPEAKER PRO TEM: The pending question before the House is the motion of Representative Joseph of Waterville that the House accept Report B, "Ought to Pass." Those in favor will vote yes; those opposed will vote no.

## ROLL CALL NO. 110

YEA - Adams, Cathcart, Chonko, Clark, M.; Coles, Farnsworth, Gean, Goodridge, Gray, Handy, Heeschen, Holt, Joseph, McKeen, Mitchell, J.; Pfeiffer, Rand, Richardson, Rydell, Skoglund, Stevens, P.; Treat, Wentworth.

NAY - Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bell, Boutilier, Cahill, M.; Carleton, Carroll, D.; Carroll, J.; Cashman, Clark, H.; Constantine, Cote, Crowley, Daggett, DiPietro, Donnelly, Dore, Duffy, Duplessis, Dutremble, L.; Erwin, Farnum, Farren, Foss, Garland, Gould, R. A.; Graham, Greenlaw, Gurney, Gwadosky, Hanley, Heino, Hepburn, Hichborn, Hichens, Hoglund, Jacques, Jalbert, Kerr, Ketover, Ketterer, Kilkelly, Kontos, Kutasi, LaPointe, Larrivee, Lawrence, Lebowitz, Lemke, Libby, Lipman, Look, Lord, Luther, MacBride, Macomber, Mahany, Manning, Marsano, Marsh, Martin, H.; McHenry, Melendy, Merrill, Michaud, Mitchell, E.; Morrison, Murphy, Nadeau, Nash, Norton, Nutting, O'Dea, Oliver, Ott, Paradis, J.; Parent, Paul, Pendexter, Pendleton, Pineau, Pines, Plourde, Poulin, Pouliot, Powers, Reed, G.; Reed, W.; Richards, Ricker, Rotondi, Ruhlman, Saint Onge, Salisbury, Savage, Sheltra, Simpson, Small, Spear, Stevens, A.; Stevenson, Swazey, Tamaro, Tardy, Townsend, Tracy,

Tupper, Vigue, Waterman, Whitcomb.

ABSENT - Anthony, Bennett, Bowers, Butland, Hastings, Hussey, O'Gara, Paradis, P.; Simonds, Strout, The Speaker.

PAIRED - Hale, Mayo.

Yes, 23; No, 115; Absent, 11; Paired, 2; Excused, 0.

23 having voted in the affirmative and 115 in the negative with 11 being absent and 2 having paired, the motion did not prevail.

Representative Macomber of South Portland moved that the House accept Report A, "Ought Not to Pass."

The SPEAKER PRO TEM: The Chair will order a vote. The pending question before the House is the motion of the Representative from South Portland, Representative Macomber, that the House accept Report A, "Ought Not to Pass." Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative Kilkelly of Wiscasset requested a roll call.

The SPEAKER PRO TEM: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Richardson.

Representative RICHARDSON: Mr. Speaker, I would like to pose a question through the Chair, please?

Would a member of the committee please let somebody, such as myself, know what Report A is since it has not been explained to us?

The SPEAKER PRO TEM: The Representative from Portland, Representative Richardson, has posed a question through the Chair to any member on the committee who may respond if they so desire.

The Chair recognizes the Representative from Gorham, Representative Larrivee.

Representative LARRIVEE: Mr. Speaker, Ladies and Gentlemen of the House: Report A is "Ought Not to Pass."

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you to not accept the current motion to accept the "Ought Not to Pass" Report. I would ask you to do that in order to have presented to you Report C, which is an "Ought to Pass" Report that would limit the funding to transportation purposes. I think that that is important because I really do feel that that is a compromise position. I feel that it is one that very clearly represents the concerns that have been presented to me by the people in my district and the people in Lincoln County who live along Route 1, the Maine Transportation Coalition and a number of others that feel we should not open up the entire door, we should not open up everything and allow all our highway money to be put into a general pool but should allow that money to be available for a variety of transportation purposes.

We are in a situation right now where certainly the users pay and the payers use and that is because

we don't have a lot of options. We will never have options if we continue along that route. We will never have options if we don't have money available to assist us in creating other options.

I would urge you to reject the current motion and to accept Report C.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Richardson.

Representative RICHARDSON: Mr. Speaker, Ladies and Gentlemen of the House: I thank Representative Kilkelly for reminding me that, in fact, it was Committee Report C that I wanted and not Report A.

I would raise the point that, in all of the discussions I have heard about the budget mess that we are in, the constant word that comes home from everybody of all persuasions, is prioritization of government revenues. We have to begin to find a way to it.

I found it sad as a recently departed member of the Portland School Committee about the inability of finding a way to put a toll on something so that we could have a user fee to support schools. The reality is that government is not built that way. There are certain things that can have user fees on them and there are certain things in our society that cannot have user fees at all on them, in any way, and that is where the word "priority" and the concept of priority comes into it. It is time that we start focusing on what I know we all want and I would urge you to reject Report A and proceed to pass Report C.

The SPEAKER PRO TEM: The pending question before the House is the motion of the Representative from South Portland, Representative Macomber, that the House accept Report A, "Ought Not to Pass."

The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with the Representative from Sanford, Representative Hale. If she were present and voting, she would be voting yea; I would be voting nay.

The SPEAKER PRO TEM: The pending question before the House is the motion of the Representative from South Portland, Representative Macomber, that the House accept Report A, "Ought Not to Pass." Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 111

YEA - Aikman, Aliberti, Anderson, Anthony, Ault, Bailey, H.; Bailey, R.; Barth, Bell, Boutillier, Cahill, M.; Carleton, Carroll, D.; Carroll, J.; Cashman, Clark, H.; Constantine, Cote, Crowley, DiPietro, Donnelly, Dore, Duffy, Duplessis, Dutremble, L.; Erwin, Farnum, Farren, Foss, Garland, Gould, R. A.; Graham, Greenlaw, Gwadosky, Hanley, Heino, Hepburn, Hichborn, Hichens, Hoglund, Jacques, Jalbert, Kerr, Ketover, Ketterer, Kontos, Kutasi, LaPointe, Larrivee, Lawrence, Lebowitz, Lemke, Libby, Lipman, Look, Lord, Luther, MacBride, Macomber, Mahany, Manning, Marsano, Marsh, Martin, H.; MCHENRY, Melendy, Merrill, Michaud, Mitchell, E.; Morrison, Murphy, Nadeau, Nash, Norton, Nutting, O'Dea, Oliver, Ott, Paradis, J.; Parent, Paul, Pendexter, Pendleton, Pineau, Pines, Plourde, Poulin, Pouliot, Powers, Rand, Reed, G.; Reed, W.; Richards, Ricker, Rotondi, Ruhlin, Saint Onge, Salisbury, Savage, Sheltra, Simpson, Small, Spear, Stevens, A.; Stevenson, Swazey, Tammara, Tardy, Townsend, Tracy, Tupper,



Vigue, Waterman, Whitcomb.

**NAY** - Adams, Cathcart, Chonko, Clark, M.; Coles, Daggett, Farnsworth, Gean, Goodridge, Gray, Gurney, Handy, Heeschen, Holt, Joseph, Kilkelly, McKeen, Mitchell, J.; Pfeiffer, Richardson, Rydell, Skoglund, Stevens, P.; Treat, Wentworth.

**ABSENT** - Bennett, Bowers, Butland, Hastings, Hussey, O'Gara, Paradis, P.; Simonds, Strout, The Speaker.

**PAIRED** - Hale, Mayo.

Yes, 114; No, 25; Absent, 10; Paired, 2; Excused, 0.

114 having voted in the affirmative and 25 in the negative with 10 being absent and 2 having paired, Report A, "Ought Not to Pass" Report A was accepted. Sent up for concurrence.

**Divided Report**

Majority Report of the Committee on Legal Affairs reporting "Ought Not to Pass" on Bill "An Act Concerning Mobile Home Parks" (H.P. 922) (L.D. 1319)

Signed:

Senator: SUMMERS of Cumberland

Representatives: DAGGETT of Augusta  
POULIN of Oakland  
STEVENS of Sabattus  
TUPPER of Orrington  
BOWERS of Sherman  
PLOURDE of Biddeford  
JALBERT of Lisbon

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-525) on same Bill.

Signed:

Senators: MILLS of Oxford  
KANY of Kennebec

Representatives: LAWRENCE of Kittery  
RICHARDSON of Portland  
HICHENS of Eliot

Reports were read.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Kittery, Representative Lawrence.

Representative LAWRENCE: Mr. Speaker, Ladies and Gentlemen of the House: I move that the House accept the Minority "Ought to Pass" Report.

It is with mixed emotions I always speak on a mobile home park bill. Mobile home parks are not one of my favorite forms of housing but they have become an accepted and necessary form of housing in the State of Maine, in fact, the only form of affordable housing for many people in this state.

Many of us come from districts or families where we can remember back at a time in the State of Maine when the State of Maine was dotted with triple decker tenement houses that were owned by large companies and they were a form of usury in which the owners of these apartments used them to extract money from the

people who lived there. In many ways, manufactured housing remains the tenements of the 1990's. The people who buy into these parks often do not have the same rights that many of us do in other forms of housing.

What this bill does is very simple and this is the same bill that was passed by this body two years ago overwhelmingly. In fact, it is a watered down version of that. This gives individuals in manufactured housing parks the ability, should they after sitting down with the landlord, the owner of the park, after going to a voluntary mediation service, not to be able to resolve their differences over changes of rules and changes in the park affecting their investment in the park — they will be entitled to three hours of mediation with the mobile home park owner, not that the result of that mediation will be binding, but that they will have an opportunity to talk with the owner to try to resolve their differences.

It is a fair bill, it gives justice to people who have been asked to buy into a business opportunity from the park owner and I hope you will support the "Ought to Pass" Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Brunswick, Representative Pfeiffer.

Representative PFEIFFER: Mr. Speaker, Men and Women of the House: I have five mobile home parks in my district and I would like to suggest that they may be affordable housing but they are by no means slums. Many of them are extremely well maintained and have been lived in for many years by people who take very good care of them.

I would like to supplement what Representative Lawrence has said and I would request the yeas and nays when we come to a vote.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Sabattus, Representative Stevens.

Representative STEVENS: Mr. Speaker, Men and Women of the House: The Manufacturing Housing Association of Maine provides mediation service for any tenant who requests a third party involvement regarding a difference of opinion with the park operators concerning park rules. I believe that we ought to move the "Ought Not to Pass" Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Augusta, Representative Daggett.

Representative DAGGETT: Mr. Speaker, Ladies and Gentlemen of the House: I would like to speak about the major part of this bill which, indeed, does address mandatory mediation which, however, is non-binding.

Currently, because of the number of disputes that have come up in regard to mobile home parks, manufactured housing, there has been an 800-line established, which has been in existence for about a year and a half. For those people who have complaints they can call the 800-line and there is a person who will help to get the parties together and will try to resolve all the disputes without the mandatory non-binding mediation, which this bill calls for. To date, there has been only one request for formal mediation and, at that mediation, the parties did agree. I would suggest to you that the process that we have right now is working. We don't need to mandate anything, we can leave the process in place.

I hope that you will vote against the Minority "Ought to Pass" Report.