

# MAINE STATE LEGISLATURE

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Senate Legislative Record  
One Hundred and Twenty-First Legislature  
State of Maine

Volume II

First Regular Session (Continued)  
May 21, 2003 to June 14, 2003

First Special Session  
August 21, 2003 to August 22, 2003

First Confirmation Session  
October 30, 2003

Second Regular Session  
January 7, 2004 to January 30, 2004

Second Special Session  
February 3, 2004 to March 18, 2004

Pages 715 - 1415

(In Senate, May 28, 2003, Reports **READ**.)

On motion by Senator **DOUGLASS** of Androscoggin, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

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

HOUSE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Repeal the Fingerprinting Requirement for Teachers and School Employees" H.P. 483 L.D. 653

Majority - **Ought Not to Pass** (8 members)

Minority - **Ought To Pass as Amended by Committee Amendment "A" (H-481)** (5 members)

Tabled - May 28, 2003, by Senator **WOODCOCK** of Franklin

Pending - motion by Senator **DOUGLASS** of Androscoggin to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence

(In House, May 27, 2003, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, May 28, 2003, Reports **READ**.)

On motion by Senator **DAMON** of Hancock, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#119)**

YEAS: Senators: BENNETT, BLAIS, BRENNAN, CARPENTER, DOUGLASS, MARTIN, MAYO, MITCHELL, PENDLETON, ROTUNDO, STANLEY, WESTON, YOUNGBLOOD

NAYS: Senators: BROMLEY, BRYANT, CATHCART, DAMON, DAVIS, EDMONDS, GAGNON, GILMAN, HALL, HATCH, KNEELAND, LEMONT, NASS, SAVAGE, SAWYER, STRIMLING, TREAT, WOODCOCK, THE PRESIDENT - BEVERLY C. DAGGETT

ABSENT: Senators: LAFOUNTAIN, SHOREY, TURNER

13 Senators having voted in the affirmative and 19 Senators having voted in the negative, with 3 Senators being absent, the motion by Senator **DOUGLASS** of Androscoggin to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **FAILED**.

On motion by Senator **MITCHELL** of Penobscot, 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 Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Madame President and members of the Senate. I'd like to pose a question through the chair to any member of the committee as to whether or not this bill actually repeals entirely the entire requirement for all fingerprinting?

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Douglass.

Senator **DOUGLASS:** Madame President, men and women of the Senate, yes. This bill is a complete repeal of the fingerprinting law and eradication of the fingerprints from the database.

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

Senator **MITCHELL:** Thank you, Madame President, women and men of the Senate. I would ask you to please vote against the minority Ought to Pass report. In committee, we had asked our commissioner to come before our leadership and bring to us information that would actually provide us with enough information as to whether we should repeal this law in its completeness, whether we should have new hires only, or whether we should leave the law as it is. Based on the information that has been derived from existing fingerprinting to date, what is the effect it has had on the recertification, the new hires, or the hiring of new people? What is the effect it is going to have? Will child abuse and pedophiles be eliminated by us keeping this law in place? Should we keep the law as it is, repeal it in its entirety, or go with new hires only?

The Commissioner actually consulted with our Attorney General, presented the Governor with information, and came back to our committee. She said, based on what she cannot reveal to us due to confidentiality laws, and based on the information she has been working with, which is based on our existing employees, we should keep the law as it is. We all know that we don't want our children subjected to child abuse. We don't want them subjected to pedophiles. The reason you see three Senators voting Ought Not to Pass on this bill is because this would mean that with 80% of the current employees having been fingerprinted, we are going to repeal this when we know that of the 80% we have found situations that really support us keeping this law in place. I would ask you to please, for the benefit of our children, to vote against the minority Ought to Pass as Amended report so that we can retain this existing law and continue the fingerprinting of the remaining 20% of the employees that are currently left to fingerprint.

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

Senator **WOODCOCK:** Thank you, Madame President, ladies and gentlemen of the Senate. I am a professional educator. For 25 years I've existed in the classrooms of high schools throughout the portion of Maine we call central Maine. This bill is important

for many reasons. It was ill conceived, the fingerprinting law, to begin with, in my opinion. The main thrust of this issue, which has yet to be resolved, is that when we catch people for interacting inappropriately with youngsters in the classrooms or in the buildings of the schools of our state we fail to prosecute them. In so doing, they continue to be a part of the educational profession. I have expressed this to many people within my own profession. I've expressed it to many legislators. This is a meaningless fingerprinting law unless the school districts decide to go into litigation against those that they catch wrong doing. With that said, no one wants pedophiles in the classroom. Until we stop that particular lack of litigation, they will be there. Thank you.

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

Senator **MITCHELL:** Thank you, Madame President, ladies and gentlemen of the Senate. I understand the emotion and the feelings of our good Senator from Franklin, Senator Woodcock. However, we must look ahead, not at the past performances. The past performances are why we've had our children abused. We need to look at how we're correcting that. Completing the law that we enacted several years ago enables us to move forward and correct what was misconceived, ill conceived, or the way it has been handled. We cannot start by living in the past. We have to look to the future and be assured that the people we have in our courts and our administrators are going to make sure that the children are protected. This fingerprinting is going to assist them in making that happen. Again, I implore you to please vote against the minority Ought to Pass as Amended report.

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

Senator **WOODCOCK:** Thank you, Madame President, ladies and gentlemen of the Senate. I totally agree with the Senator from Penobscot, Senator Mitchell, we should be looking ahead. I've said that from the beginning at the inception of this law. There is no reason to be looking behind. Hence why are we fingerprinting teachers who have been in the business for 25 years?

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Rotundo.

Senator **ROTUNDO:** Thank you, Madame President. I request permission to ask a question through the chair.

**THE PRESIDENT:** The Senator may pose her question.

Senator **ROTUNDO:** Thank you. I wondered if this law allows for the reinstatement of employees who have lost their positions as a result of fingerprinting?

**THE PRESIDENT:** The Senator from Androscoggin, Senator Rotundo poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Androscoggin, Senator Douglass.

Senator **DOUGLASS:** Madame President, at the risk of being wrong, I believe this is not one of the bills that reinstates teachers

who refused to be fingerprinted. I believe that was the question. Earlier on our calendar we had another bill that did that. That was L.D. 1250. Some of the bills had combinations of scenarios that are relevant to fingerprinting, but I believe this one was an outright repeal. I don't believe it included the reinstatement of teachers who were not recertified.

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

Senator **WESTON:** Thank you, Madame President, men and women of the Senate. May I pose a question through the chair?

**THE PRESIDENT:** The Senator may pose her question.

Senator **WESTON:** With regard to the last question and the answer, if the law is repealed, from this day forward there will be no fingerprinting. Anyone who has been found to have a conviction, will there be any record to show that from this day forward without any fingerprinting law?

**THE PRESIDENT:** The Senator from Waldo, Senator Weston poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Androscoggin, Senator Douglass.

Senator **DOUGLASS:** Men and women of the Senate, I apologize. I was hoping a different bill, which I believe is cleaner in its issues, would come before us first. On this particular bill, the question of what happens to teachers who were not certified under the current law is that they would not be reinstated although the fingerprints would go away, so far as they are now in a database. There are three categories of people who work in the school system. They would not be reinstated. What would happen is we simply wouldn't have the fingerprinting law going forward. This, as I recall, does not reinstate those whose certification has been denied. Now 4/5 of the teaching population has gone through this process at this point. There is 1/5 left to go under the old law. That group of educators is slated to have this procedure of fingerprinting occur this summer, between now and the end of next September.

**THE PRESIDENT:** The pending question before the Senate is Acceptance of the Minority Ought to Pass as Amended Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

#### ROLL CALL (#120)

**YEAS:** Senators: BROMLEY, BRYANT, CATHCART, DAMON, DAVIS, EDMONDS, GAGNON, HALL, HATCH, KNEELAND, NASS, SAVAGE, STRIMLING, TREAT, WOODCOCK, THE PRESIDENT - BEVERLY C. DAGGETT

**NAYS:** Senators: BENNETT, BLAIS, BRENNAN, CARPENTER, DOUGLASS, GILMAN, LEMONT, MARTIN, MAYO, MITCHELL, PENDLETON,

ROTUNDO, SAWYER, STANLEY, WESTON,  
YOUNGBLOOD

ABSENT: Senators: LAFOUNTAIN, SHOREY, TURNER

16 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 3 Senators being absent, **ACCEPTANCE** of the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**, **FAILED**.

Senator **MARTIN** of Aroostook moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

On motion by Senator **WOODCOCK** of Franklin, 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 Cumberland, Senator Brennan.

Senator **BRENNAN:** Thank you, Madame President, men and women of the Senate. We stand on the verge with this vote of doing what no other state in the country has done. We've been very proud in the past. Dirigo, we lead the country. No other state that has passed fingerprinting has repealed fingerprinting. We stand on the verge of leading the country and being the first to repeal fingerprinting. We weren't even the first to pass fingerprinting. In fact, over 40 other states have fingerprinting laws, 40 other states. We will now stand as being the first to say we want to repeal fingerprinting.

Let me briefly, just for a minute, tell you how we got here. In 1995 - 1996 the original bill came forward to do background checks on school personnel. I was on the Education Committee at that time. I was a little skeptical of that proposal, but everybody on the committee, and I would say everybody in this chamber, supported the fact that we should do good, appropriate background checks not only on school employees, but any employee. Nonetheless, we said that we would put together a stakeholders group made up of representatives from Maine Municipal, the Maine School Board Management, superintendents, principals, the Maine Education Association, and the State Police. They would work this out and come back to us with something that they think would work. They came back in 1997. The committee looked at the stakeholder proposal. Everybody agreed to it. You know what they said at the time? We agree to this because who could be opposed to protecting children. In 1997, this passed on the consent calendar. Many legislators say they don't remember voting for fingerprinting or against fingerprinting. They are right. There was no roll call vote. It was a unanimous report that everybody supported, including all the stakeholders and the Education Committee. That was in 1997. How many repeal bills came before the legislature in 1998? None. How many repeal bills came before the legislature in 1999? None. It wasn't until the year 2000 that there was the first discussion about either amending or repealing fingerprinting. The only issue up until that time was who was going to pay. The legislature, and I'll take responsibility for this, made a mistake in 1997 when this was passed by saying that teachers and school personnel would have to pay the cost of both the fingerprinting and the background check.

Why did we get to the point of supporting fingerprinting with all of the negative things that are associated with fingerprinting?

It is associated with criminal activity, of doing something wrong. People on the Education Committee were very sensitive to that issue, but became convinced that fingerprinting was the only way to do background checks that were 100% accurate. You didn't have false positives or false negatives. Guess what? We looked into every other avenue before we got to fingerprinting. We looked into social security background checks, name background checks, state background checks, everything. The only way that we could be assured of doing an accurate background check on school personnel was by fingerprinting. There was no repeal in 1998 or 1999. The issue before us in 2000 was who was going to pay. That issue then turned into a debate about whether or not we should do fingerprinting, and we know the history from that.

Let me say this. This issue has been turned into an issue about child abuse and neglect and keeping 'potential predators' away from our children. That is one of the issues, but it is not the only issue. This issue is about making sure that the people who work in school settings do not have criminal backgrounds that would be detrimental to the position that they are holding. This law applies not only to teachers but also to school bus drivers, other school personnel, cafeteria workers, and people who work in the business office. It is not about teachers. It's about people who work in school settings. Under this law, you can be disqualified if you work in Iowa and had three OUIs and came to Maine to try to be a school bus driver. That would disqualify you from continuing to work as a school bus driver in the State of Maine. I think all of us would agree that this is a good thing. If you embezzled money in Arizona, you shouldn't be the Director of Financial Aid for the school of Scarborough. I think we all agree with that. This is a good thing. When parents go to adopt a child, they are fingerprinted. We don't look upon them as criminals or say that they have done anything unsavory. In fact, we commend them for moving forward with that step to adopt a child. Somehow, because we're doing fingerprinting with school personnel to assure that people that may have a felonious offense in their background that would make it inappropriate for them to be in a school setting, it all of a sudden becomes a civil rights issue and casts aspersions on both teachers and people that work in school settings. It is simply not true.

The last point that I would like to make before we take this vote is that we had not only one Governor, but two Governors that sat down and looked at the data. They looked at the program, looked at the policy, and said that this is the right thing to do. I will say, not only one, but two Commissioners of the Department of Education looked at the program, reviewed the data, and came to the conclusion that this was sound public policy. Again, the one thing that I regret and take some responsibility for that happened in 2000 when we were visiting this issue, is that we did not make it clear that aggregate data that was gathered as a result of decisions made by the Department of Education would be made available to the legislature for review. The Education Committee fully intended, at that time, that this data be made available to the legislature. Because we were not specific about that being allowed and available to the legislature, it then fell under Maine's privacy act. That is something that this legislature could remedy. I believe that if the data, if the information, that was available to the Commissioner of Education and other elected officials in this state when they made their decision was available to the legislature, I believe we would do the same. I ask you not to accept the majority Ought Not to Pass report. You will notice a majority of the Education Committee was opposed to this. I think that this body should go along with the

recommendation of the Education Committee and I urge you to oppose the pending motion.

**THE PRESIDENT:** The Chair recognizes the Senator from Somerset, Senator Hatch.

**Senator HATCH:** Thank you, Madame President, ladies and gentlemen of the Senate. They say that memory is a good thing, but I don't remember ever giving my okay and I voted on this bill. I want you to know that I thought it was bad then and it is still bad policy now. I would appreciate it if you would accept this Ought Not to Pass report and go on and pass the Ought to Pass as Amended report. I think over the years we've done our teachers a real disservice. We don't have any evidence of any wrong doing by any teacher in this state. That information is not given. I called my superintendent in S.A.D. 54 on the day that this bill came up in the House in 1997 because I hadn't heard from him. I said, okay what is your feeling on this bill? He said, we do great background checks. In other words, this bill wasn't necessary. It wasn't then and it isn't now. I really feel we have given all the teachers in this state a real disservice by having this on the books. They say, well if you've got nothing to hide you won't mind being fingerprinted. Why should we fingerprint people who we entrust? We should have done background checks in the first place. It's time for the foolishness to stop and us to be looking at everybody as if they are perverted, or that they have done something wrong, even before we know who they are. I would ask you to upset this Ought Not to Pass and go on to pass the Ought to Pass as Amended report to repeal fingerprinting. Thank you.

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

**Senator WOODCOCK:** Thank you, Madame President, ladies and gentlemen of the Senate. Many years ago, as did the good Senator from Cumberland, Senator Brennan, I competed on the football field and took a few hard hits from middle line backers. I am going to support the good Senator from Cumberland, Senator Brennan's, notion that we ought to go ahead and oppose this Ought Not to Pass motion that is on the floor and I am completely supportive of that concept because I agree with him.

I would share with you some more things, if I might. I would like to reiterate. School systems do not prosecute pedophiles. It is very seldom they do so. The reasons are perfectly acceptable to me, or most of them are. You don't want a young child to be involved with testimony. You don't want a young child to be brought before people and to have to go through the horrible experience of reiterating what had happened with the so-called professional. The arrangement is usually made that they resign or are fired. In so doing, they now have no criminal record. When they have no criminal record, they can be fingerprinted from now until the end of this fingerprinting program, hopefully in 90 days. It will mean nothing as far as that official record is concerned.

The comment has been made that this is not about teachers. I want to share with you the fact that this is about teachers. In the teaching community, this law, from its inception, has created exceptional distraught. We're pedophiles by implication. There have been 1,200 hits. I didn't say that, somebody leaked that information to the press. They weren't supposed to, but they did it to justify the system. When you have 1,200 hits, the

assumption is that there are 1,200 pedophiles. This is not necessarily true. The criminal code is different in some states. It means that the degree of your prosecution could be different in Maine and you would be a hit on our system. Does it make you a pedophile? No. Does it make you someone who may have committed a traffic violation of the highest degree? Possibly. We don't know. We're not going to know because the records are supposed to be confidential.

I made a phone call one day to the Department of Education and posed the question of if could I use my military fingerprints in lieu of being fingerprinted again. I figured if I'd served in the Vietnam War and served almost three years in the military defending our nation, at least my fingerprints should be acceptable. I was told that I could not. I had to be fingerprinted anew, 'because you may have altered them in some way.' It has been the first and foremost thing on my mind since I came home from Vietnam, altering my fingerprints so that I could go into the classroom and teach for 25 years and not be caught for my wrong doings in downtown Saigon. We were being charged \$50 to have our own fingerprints taken. I will assure you, if you want the experience of feeling very touchy feely about life, pick a \$50 bill out of your pocket, give it to the State Police, and say, 'take my fingerprints, I am not a pedophile.'

I would also concur with the good Senator from Cumberland, Senator Brennan. We do lead in Maine. It's our motto. I differ a little bit with his interpretation. I think it is time to lead and get rid of a law that has meant very little, has very unsuccessful applications, in my opinion, and has sullied the reputation of many good professionals in this state. Thank you.

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

**Senator WESTON:** Thank you, Madame President, men and women of the Senate. I don't think when I debated this last I thought I would be debating it again, especially not here in this chamber. When you serve in this legislature, you live in a fishbowl. It is even more so when your husband teaches and is principal for 30 years in the very community that you live in. When you lead Cub Scouts and Girl Scouts and substitute teach, that means your whole family is in a fishbowl. Neither my husband nor I could have committed any kind of crime and not had probably every person in my county know it. When I go into a classroom for three or four months taking over the entire education for this class, and I meet a parent at the door in the morning, the very least I should offer them is the confidence that the very person who is going to be keeping them in a room for eight hours has not been convicted of a felony or a crime against a child. Is that too much for a parent to ask? My husband and I went gladly to be fingerprinted even though we live in a fishbowl. I want those parents to have that confidence. We mandate education in this state. Our parents, unless you can afford a private school, have no choice about who supervises that child. Perhaps there are school districts that pass on people who they shouldn't. If they do not prosecute, shame on them. I am not going to use that as an excuse for not doing something that we can do as a state, that we've started doing, and has been proven. I am not willing to roll that back. I am very pleased to have been fingerprinted and to give the parents in my school district the confidence that at least I have not been convicted. I can't promise them safety for their child for all that day. There are very

few promises I can make. This is one that I can make and back up. I think we should be willing to do that. Thank you.

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

Senator **BRENNAN:** Thank you, Madame President, men and women of the Senate. I want to thank the good Senator from Franklin, Senator Woodcock, for pointing out the error of my comment, and in fact, I am very supportive of the pending motion, which is to accept the majority Ought to Pass as Amended report.

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

Senator **MARTIN:** Thank you, Madame President and members of the Senate. I, too, served on the Education Committee for a brief time in the other body. I went through what some of you have heard in the discussion that took place here today and the history, as pointed out by the good Senator from Cumberland, Senator Brennan.

Frankly, we went through a period where no one paid much attention. Frankly in my opinion, if the legislature had been paying for this, it never would have become an issue. It became an issue only because the legislature failed to act in January of that year to put the money in the budget to pay for it. It dragged through January, February, March, April, and then at that point it became a horrible mess. I've never forgotten that the enactment of the legislation was unanimous. It was sponsored by the Maine Teachers Association and the Maine School Board Association. It was supported by them and everyone in this state supported it, for obvious reasons. It clearly was an educational issue and not a teacher issue. It was then and I think it still is today.

I presently serve on a school board, probably the worst political office I've ever held. I can assure you that it's a easy thing to tell teachers what we have to go through. I want to relate to you an experience that made me convinced that this law ought to stay in place. As a member of the school board, we were in the process of hiring a teacher from another school district. The teacher came with the greatest of recommendations from the superintendent. We ended up offering the teacher a position. The teacher hadn't been there more than two weeks when the State Police came and arrested the individual. Where is the fault? The system itself is at fault. Basically, superintendents don't want to get sued and school boards don't want to get sued. What they do is suggest that the teacher just go away and they will give them a letter of recommendation. This law at least gives us an ability to do some checking. Frankly, it is the one thing we have, especially as we now try to find specialized teaching individuals and we have to find them from out-of-state, because out-of-state records are better than what we have here.

I don't like fingerprinting any better than anyone else. Frankly, on the other side, I might point out that just a few days ago, by a fairly good vote, this body decided to store DNA from minors in case of the possibility that we may have to use it when they get to be adults and commit other crimes. We can't have it both ways. It seems to me that the best thing we can do is accept the Ought Not to Pass report today, which I believe is the pending motion. That is the majority report from the Education Committee.

**THE PRESIDENT:** The Chair recognizes the Senator from Oxford, Senator Bennett.

Senator **BENNETT:** Thank you, Madame President and fellow members of the Senate. I rise with a confession. I have changed my opinion on this issue. I will hasten to add that I have not changed my opinion on this issue within the same speech. I have changed my opinion on this issue over the years. I was present in 1997 when the matter was put under the hammer in the Senate. I didn't object to it going under the hammer. I was here in the year 2000 when we had the vigorous debate about this issue. I voted against the fingerprinting regimen. It seems to me, however, now that indignity has been done. I objected to listening to the story of one school where they actually had the teachers line up in one of my schools, go through the line, and have their fingerprints taken in front of the students. It was like a perp walk. Was that done right? No, of course not. We do have the information now. Are we using it well? Perhaps we can use it better. We've spent millions of dollars on getting this information and it seems to me foolhardy to throw it in the waste can. The information may not be perfect, but it is there. We ought to use it. In my view, we now should turn our attention to using it well. It seems to me that, here today, we are debating an issue that is at least three years old, and perhaps six years old. If we really want to look at the future, we ought to think about using the information and moving forward rather than looking back to the debate of the year 2000. Thank you.

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

Senator **WOODCOCK:** Thank you, Madame President, ladies and gentlemen of the Senate. I am fairly new to the political arena, but I want to thank the good Senator from Cumberland, Senator Brennan, for teaching me this evening the subtle art of confusing the issue because I thought I knew how I was going to vote on this, but I'm really not sure. Thank you.

**THE PRESIDENT:** The pending question before the Senate Acceptance of the Majority Ought Not to Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

#### ROLL CALL (#121)

YEAS: Senators: BENNETT, BLAIS, BRENNAN, CARPENTER, DOUGLASS, GILMAN, LEMONT, MARTIN, MAYO, MITCHELL, PENDLETON, ROTUNDO, SAWYER, STANLEY, WESTON, YOUNGBLOOD

NAYS: Senators: BROMLEY, BRYANT, CATHCART, DAMON, DAVIS, EDMONDS, GAGNON, HALL, HATCH, KNEELAND, NASS, SAVAGE, STRIMLING, TREAT, WOODCOCK, THE PRESIDENT - BEVERLY C. DAGGETT

ABSENT: Senators: LAFOUNTAIN, SHOREY, TURNER

16 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 3 Senators being absent, the motion by Senator **MARTIN** of Aroostook to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **FAILED**.

On motion by Senator **TREAT** of Kennebec, **TABLED** until Later in Today's Session, pending **ACCEPTANCE** of the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**.

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

## REPORTS OF COMMITTEES

### House

#### Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Restrict Fingerprinting of Educational Personnel to New Hires"

H.P. 667 L.D. 890

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-520)**.

Signed:

Senator:  
DOUGLASS of Androscoggin

Representatives:  
GAGNE-FRIEL of Buckfield  
DAVIS of Falmouth  
FINCH of Fairfield  
CUMMINGS of Portland  
NORTON of Bangor  
MURPHY of Kennebunk  
THOMAS of Orono  
FISCHER of Presque Isle

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

Signed:

Senators:  
MITCHELL of Penobscot  
BRENNAN of Cumberland

Representatives:  
LEDWIN of Holden  
ANDREWS of York

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-520)**.

Reports **READ**.

Senator **DOUGLASS** of Androscoggin moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Douglass.

Senator **DOUGLASS:** Madame President, men and women of the Senate. This is essentially the same bill as that which we just debated. However, it comes in this form. It essentially repeals the fingerprinting law of 1996 or 1998, whichever it was. It establishes that fingerprinting will go forward from August 2003 alone on new hires, newly certified personnel, newly accrued personnel, or anyone who works in the school setting under Chapters 501 and 502 of our education laws. This is a cleaner way of looking at a problem that actually is, in many respects, history. It is the issue of those teachers who have been in our system for so many years, from the time before we could use electronic databases and so forth and so on.

I will tell you, quite frankly, that I have voted on both sides of the issue here. It seemed to me, when this was first brought to my attention when I came to this body in 1998, the issue was who was going to pay for the fingerprinting. I wasn't convinced that we really had information enough to determine whether or not it was a good idea to do fingerprinting. My experience was that as long as you had a person's name and date of birth you could get their records, particularly their record in Maine. I think that is still true. I personally think every school district should be running background checks on every person who is working closely with students in their district. However, some of the debate is over what you can do easily.

The reason I believe that the earlier law was passed was because with the electronic database it is easy to put information out there. Everything from every state in the union can come back that someone might or might not have on their record. I'm quite sure that in the majority of cases that information has been kept confidential, and we have most of our teachers working in our school systems after having been fingerprinted.

Nevertheless, this is a compromise bill. Currently 4/5 of our teachers have been fingerprinted. Although we cannot be told that anyone has been denied recertification or approval within the school setting, as in the case with bus drivers or other school personnel, it seems that this may very well have been the case. What this bill does, as a compromise, is to get rid of the database so that those people who have already been through the check now no longer have to worry that their fingerprints are out there, in some federal system, ripe for the taking if you will, as we worry about electronic issues. We have screened 4/5 of our teachers and education personnel. There is 1/5 that has yet to be done. At the time that this comes into effect, there will have been more who have been screened. In effect, we're kind of having the old law. Going forward, we are only applying the law to new hires, teachers who are asking for new certificates or certification under our laws, and personnel who need approval under the chapters that apply to public education in our state. What this bill does, in effect, is take the database out of the system. It does not reinstate those who were not recertified, and it keeps fingerprinting for those who are new applicants.

I think it accomplishes a compromise that I recommend to you. It provides that we will have background checks for every