

MAINE STATE LEGISLATURE

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

Volume II

First Regular Session

May 27, 2003 – June 14, 2003

First Special Session

August 21, 2003 – August 23, 2003

Second Regular Session

January 7, 2004 - January 30, 2004

Second Special Session

February 3, 2004 - April 7, 2004

Pages 777-1562

On further motion of the same Representative, the rules were **SUSPENDED** for the purpose of **FURTHER RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (S-186)** was **ADOPTED**.

The same Representative **PRESENTED** **House Amendment "A" (H-554)** to **Committee Amendment "A" (S-186)** which was **READ** by the Clerk and **ADOPTED**.

Committee Amendment "A" (S-186) as Amended by **House Amendment "A" (H-554)** thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED** as Amended by **Committee Amendment "A" (S-186)** as Amended by **House Amendment "A" (H-554)** thereto in **NON-CONCURRENCE** and sent for concurrence.

On motion of Representative **RICHARDSON** of Brunswick, the following item was **REMOVED** from the Special Study Table:

Resolve, To Establish a Task Force Concerning Speech-language Pathologists (EMERGENCY)

(S.P. 330) (L.D. 989)

(C. "A" S-185)

Which was **TABLED** on May 27, 2003 by Representative **RICHARDSON** of Brunswick pending **FINAL PASSAGE** pursuant to Joint Rule 353.

On further motion of the same Representative, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby the Resolve was **PASSED TO BE ENGROSSED**.

On further motion of the same Representative, the rules were **SUSPENDED** for the purpose of **FURTHER RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (S-185)** was **ADOPTED**.

The same Representative **PRESENTED** **House Amendment "A" (H-552)** to **Committee Amendment "A" (S-185)** which was **READ** by the Clerk and **ADOPTED**.

Committee Amendment "A" (S-185) as Amended by **House Amendment "A" (H-552)** thereto was **ADOPTED**.

The Resolve was **PASSED TO BE ENGROSSED** as Amended by **Committee Amendment "A" (S-185)** as Amended by **House Amendment "A" (H-552)** thereto in **NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH**.

The following items were taken up out of order by unanimous consent:

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-555)** on Resolve, Regarding Legislative Review of Chapter 14: Rules Governing Alternative Methods of Payment of Overtime for Certain Drivers and Drivers Helpers, a Major Substantive Rule of the Department of Labor, Bureau of Labor Standards (EMERGENCY)

(H.P. 1206) (L.D. 1627)

Signed:

Senators:

EDMONDS of Cumberland

STANLEY of Penobscot

Representatives:

SMITH of Van Buren

HUTTON of Bowdoinham

HATCH of Skowhegan

PATRICK of Rumford

JACKSON of Fort Kent

WATSON of Bath

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-556)** on same Resolve.

Signed:

Senator:

BLAIS of Kennebec

Representatives:

CRESSEY of Baldwin

HEIDRICH of Oxford

NUTTING of Oakland

TREADWELL of Carmel

READ.

On motion of Representative **SMITH** of Van Buren, the Minority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Resolve was **READ ONCE**. **Committee Amendment "B" (H-556)** was **READ** by the Clerk and **ADOPTED**.

Under suspension of the rules the Resolve was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules the Resolve was **PASSED TO BE ENGROSSED** as Amended by **Committee Amendment "B" (H-556)** and sent for concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

SENATE PAPERS

Bill "An Act Regarding Conformity with the Federal Jobs and Growth Tax Relief Reconciliation Act of 2003"

(S.P. 589) (L.D. 1633)

Came from the Senate, **REFERRED** to the Committee on **TAXATION** and ordered printed.

REFERRED to the Committee on **TAXATION** in concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

COMMUNICATIONS

The Following Communication: (H.C. 233)

STATE OF MAINE

OFFICE OF THE GOVERNOR

1 STATE HOUSE STATION

AUGUSTA, MAINE 04333-0001

June 9, 2003

Dear Members of the 121st Legislature,

Enclosed please find H.P. 667, L.D. 890, "An Act to Restrict Fingerprinting of Educational Personnel to New Hires," which I am returning without my signature or approval.

The existing law requiring background checks for all school employees is a sensible safeguard to protect our children from individuals with proven criminal records. The law is a carefully crafted measure that was studied by all stakeholders prior to its enactment in 1997. It is a process that is constitutional,

consistent, ensures confidentiality of all criminal records, and is narrowly tailored to focus on recent, serious criminal convictions, which show that an individual poses a serious threat to children.

The Department of Education has long had rules prohibiting individuals with dangerous convictions from working in our schools. Criminal records checks, based on fingerprinting, provide systematic, consistent and accurate means of ensuring the safety of our children. The existing law also sends a strong message to individuals with serious convictions, deterring them from seeking or continuing employment in Maine schools.

Maine's adoption of a background check requirement for school employees makes Maine's practice consistent with that of the national standard. Over eighty percent of the states require background checks. Like Maine, a majority of those states using fingerprints require checks for all school employees without exception.

If L.D. 890 were enacted, by the time it took effect more than 80,000 school employees would have been fingerprinted. L.D. 890 would exempt nearly 15% of current employees from background checks and would ensure that only a fraction of school employees -- new hires-- would have clean records. It is a mistake to alter a sensible policy at this stage. The issue of hiring should not be allowed to confuse the real intent of the current law -- requiring a clean criminal history for basic certification, authorization, or approval of all school personnel.

The most compelling argument, and the ultimate reason I cannot sign this bill, is the stark fact that if we take this step, effectively exempting the remaining current employees from this prudent requirement, some day, two, five, or ten years from now we will awaken to news of a horrendous case that could have been prevented -- and all of us who supported this proposal, including me if I signed it, would bear the full measure of responsibility.

Maine has been recognized for its fine K-12 educational system, in large part because of our spectacularly dedicated, experienced and capable faculty and staff. There is no doubt that the overwhelming majority of teachers are extraordinary educators with an unblemished character. Unfortunately, tragic experience has also taught us that in any group of 90,000 individuals, there are likely to be a small minority who pose a threat to the children entrusted to their care.

I want to end this message with a somewhat unusual plea directed at those skilled and conscientious educators who believe that compliance with this law requires such a compromise of their principles that they feel compelled to leave their honorable and vitally important profession. Please rethink this position -- you are not being accused and you are not being subjected to a process any different from that applied to thousands of your fellow citizens. To those of us who place our children in your care each day, this is neither a brand nor an accusation. Our children need principled leaders, teachers, and mentors.

For the reasons above, I believe that background checks, including fingerprinting, as a safeguard for children should be required in a fair and consistent manner for all school employees. I am in firm opposition to L.D. 890, and I respectfully urge you to sustain my veto.

Sincerely,
S/John Elias Baldacci
Governor

READ and ORDERED PLACED ON FILE.

The accompanying Bill "An Act To Restrict Fingerprinting of Educational Personnel to New Hires"

(H.P. 667) (L.D. 890)

The SPEAKER: A roll call has been ordered. The pending question before the House is shall this bill become law

notwithstanding the objects of the Governor? All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 223

YEA - Adams, Annis, Barstow, Bennett, Blanchette, Bliss, Bowen, Breault, Browne W, Canavan, Carr, Churchill E, Clark, Collins, Cowger, Craven, Cressey, Cummings, Davis, Dugay, Duprey G, Eder, Finch, Fischer, Gagne-Friel, Grose, Hatch, Hutton, Jackson, Ketterer, Laverriere-Boucher, Makas, McCormick, McGlocklin, McNeil, Moody, Murphy, Norton, O'Brien L, Paradis, Patrick, Pellon, Percy, Pineau, Pingree, Rector, Richardson M, Rines, Saviello, Sherman, Simpson, Smith W, Stone, Thompson, Trahan, Treadwell, Twomey, Walcott, Watson, Wheeler, Woodbury, Wotton.

NAY - Andrews, Ash, Austin, Berry, Berube, Bierman, Bowles, Brannigan, Brown R, Bruno, Bryant-Deschenes, Bull, Bunker, Campbell, Churchill J, Clough, Courtney, Crosthwaite, Curley, Daigle, Dudley, Dunlap, Duplessie, Duprey B, Earle, Faircloth, Fletcher, Gerzofsky, Glynn, Greeley, Heidrich, Honey, Hotham, Jacobsen, Jodrey, Kaelin, Kane, Landry, Ledwin, Lemoine, Lerman, Lessard, Lewin, Lundeen, Maietta, Mailhot, McKee, McKenney, McLaughlin, Millett, Mills J, Mills S, Moore, Norbert, Nutting, O'Brien J, O'Neil, Peavey-Haskell, Perry A, Richardson J, Rogers, Rosen, Shields, Smith N, Snowe-Mello, Sukeforth, Suslovic, Sykes, Tardy, Tobin D, Tobin J, Vaughan, Young, Mr. Speaker.

ABSENT - Goodwin, Jennings, Joy, Koffman, Marley, Marraché, McGowan, Muse, Perry J, Piotti, Richardson E, Sampson, Sullivan, Thomas, Usher.

Yes, 62; No, 74; Absent, 15; Excused, 0.

62 having voted in the affirmative and 74 voted in the negative, with 15 being absent, and accordingly the Veto was sustained.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH.**

CONSENT CALENDAR

First Day

In accordance with House Rule 519, the following item appeared on the Consent Calendar for the First Day:

(S.P. 48) (L.D. 125) Bill "An Act to Promote Fairness and Opportunity for Working Amputees" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-259)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the Senate Paper was **PASSED TO BE ENGROSSED as Amended** in concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH.**

CONSENT CALENDAR

First Day

In accordance with House Rule 519, the following item appeared on the Consent Calendar for the First Day:

(H.P. 1149) (L.D. 1567) Bill "An Act To Implement Recommendations of the MCJUSTIS Policy Board Concerning the Drafting of Crimes and Civil Violations Pursuant to Resolve 1997, Chapter 105, as Amended" Committee on **JUDICIARY**