

MAINE STATE LEGISLATURE

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Representative **PERCY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The efficiency of the Zone Council System was evident at our public hearing. Because, instead of having to go to the civic center with 800 fishermen to talk about these bills, every zone talked about the legislation and their one representative came and spoke for us. Every7 zone voted against this. They acknowledge that every year there is a special consideration. I ask you to understand this one point, but the bill was brought in by someone who opted to leave the industry. He let go of his license and then he decided he wanted to come back and get into the industry, but meanwhile, the industry and the legislature created an apprenticeship program to guarantee protection for the industry. It is not just about protection of the lobstering licenses. It is about protection of the resource, which is a public resource. So, the zone system – every system - is flawed. Democracy is so messy and wonderful and many of us have said that it is flawed as well, so I urge you to support the Ought Not to Pass. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Belfast, Representative Ash.

Representative **ASH**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I will be voting against this motion of Ought Not to Pass. I will be voting Ought to Pass, I hope.

Let me tell you a little history here. This industry is the only industry in the State of Maine that does not allow qualified individuals to take over a family business. It would be like if you said a son could not take away fathers plumbing business if he was eligible for a plumbing license.

A minor – and this has been said before – who has a student license will be issued a license automatically when they turn 18, yet if that same child doesn't get a student license and then later meets all of the requirements as an apprentice they are barred from receiving transfer of a family members license. So in the first instance we will give them one automatically and in the second we won't allow for the transfer of an existing license. That makes no sense.

In a 5:1 zone, of which mine is one, at my age right now, I am 60 years old, if I went and apprenticed for two years I would be 62 provided I could find a boat up in my area to go on which would be pretty doubtful and it is a 5:1 entry level up there. I would not live long enough to receive a license. So, as a taxpayer of the State of Maine, I am out of the industry for my life and will never be able to go fishing. Well, that's all right because I really don't care to go fishing, but do you realize that for every 100 licenses out only twenty can get back in and the industry has complained about this particular bill because they say it isn't fair to put one ahead of another in line when they get into the apprentice program. I for one would step back with my turn in line because I will never be able to get one and I feel that we should vote that the Ought Not to Pass be ejected and that we vote Ought to Pass on this particular bill. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Cutler, Representative Emery.

Representative **EMERY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I didn't intend to speak on this bill for obvious reasons.

When this bill was brought before the committee there was some healthy debate and certainly you can understand both sides of the argument. It is difficult to decide what's the right thing to do in this circumstance because there are a lot of people who cannot get a fishing license, but there is a system, a format in place. There are rules in place to manage the fishery and there is a process that has been established to award people lobster fishing licenses and it works. It is not perfect, but it does

allow people entry into the fishery. The idea of transferring licenses to family members is something that is being discussed amongst the zones currently and at the next Lobster Advisory Council meeting this is on the agenda for discussion. I think it might be a bit premature to act on this bill and reverse the majority report and support the concept of passing this license on to a family member. So, I am speaking in support of the motion that is on the floor. Support the Majority Ought Not to Pass and we can continue on with our business here this evening. Thank you.

The **SPEAKER**: A roll call having been previously ordered. The pending question before the House is Acceptance of the Majority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 139

YEA - Adams, Babbidge, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Clark, Craven, Cummings, Davis G, Driscoll, Duchesne, Dudley, Dunn, Duplessie, Eberle, Eder, Emery, Faircloth, Farrington, Glynn, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Koffman, Lerman, Makas, Marean, Marraché, Mazurek, McFadden, Merrill, Miller, Mills, Moody, Moore G, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rector, Richardson M, Sampson, Schatz, Seavey, Smith N, Thompson, Trahan, Valentino, Walcott, Watson, Webster, Woodbury, Mr. Speaker.

NAY - Annis, Ash, Austin, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Campbell, Cebra, Churchill, Clough, Collins, Cressey, Curley, Curtis, Daigle, Davis K, Dugay, Edgecomb, Finch, Fischer, Fisher, Fitts, Fletcher, Flood, Gerzofsky, Hall, Hamper, Hanley B, Hotham, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Lindell, McCormick, McKane, McKenney, McLeod, Millett, Moulton, Muse, Nass, Nutting, Ott, Pinkham, Richardson D, Richardson E, Richardson W, Robinson, Rosen, Saviello, Sherman, Shields, Sykes, Tardy, Thomas, Tuttle, Twomey, Vaughan, Wheeler.

ABSENT - Barstow, Berube, Bryant-Deschenes, Carr, Crosby, Crosthwaite, Duprey, Greeley, Lansley, Lewin, Lundeen, Marley, Plummer, Rines, Smith W, Stedman.

Yes, 71; No, 64; Absent, 16; Excused, 0.

71 having voted in the affirmative and 64 voted in the negative, with 16 being absent, and accordingly Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

HOUSE DIVIDED REPORT - Majority (10) **Ought Not to Pass** - Minority (3) **Ought to Pass** - Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act Requiring Release of Aggregate Information from the Department of Education To Measure the Effectiveness of the Law Requiring Fingerprinting and Background Checks of Educational Personnel"

(H.P. 1103) (L.D. 1565)

TABLED - May 11, 2005 (Till Later Today) by Representative **NORTON** of Bangor.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

The **SPEAKER**: The Chair recognizes the Representative from Harrison, Representative Sykes.

Representative **SYKES**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. As you think about this bill please keep in mind five points that the Criminal Justice Committee thought of as we looked at the request for about \$400,000 to do this fingerprint checking and tried to determine if that is a good investment of our resources.

Point number one would be that we are asking for aggregate information only. We are not asking for information that speaks to a specific school district or that speaks to a geographic area.

Point number two is an investment of resources. The Criminal Justice Committee where this really came from was concerned that the Computer Crimes Task Force was in danger of being eliminated. The cost of that Computer Crimes Task Force is about \$400,000 dollars a year and we are wondering whether or not it would be a better investment to put the money used for fingerprinting, which is about \$400,000 a year - about \$2,000,000 over the last five years - and take a look at that Computer Crimes Task Force to see if that would be a better investment of our resources. Virtually every crime now involves the confiscation of a computer and on those computers there is a great deal of child pornography, leading to prosecution of other crimes. There are about eighty computers that are backed up in the Computer Crimes Task Force that have yet to have an autopsy done.

Point number three is an accountability issue. As legislators we are the guardians of the public funds and I think we need to know whether those funds are being expended appropriately. Point number four, we would like to know if there are any trends in this particular legislation. Are their trends of more people being discovered and prohibited from going into the educational field or are we making a difference? Are people saying, "Wow, they are doing a background check and therefore I am not going to apply"? We have not been discovering as many over the last five years.

The fourth point, the refusal to release this information raises the question what are you trying to hide? It gives lots of other possibilities. So, as you look at this bill I would ask that you consider those five points and vote to oppose the Ought Not to Pass motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Blanchette.

Representative **BLANCHETTE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. It had been passed on to me for some time that this particular bill was going to be caucused at our recent caucuses and it has not so, I will attempt to - in a very limited time - explain to you the reasoning why Criminal Justice came out and asked me to introduce this bill to the Department of Education.

When we were reviewing our budget, when we came back here in December and January, we asked the Public Safety Department to justify every dime of their budget and when they came - the Department of Public Safety and the State Police - there was a big gaping hole of about \$50,000 a year that there was no justification and no answers for. It was the unanimous report of the Health and Human Services Committee not to fund us because we weren't going to fund something that there was no justification for. That is, there never has been and never will be an attempt on the validity or the necessity of a fingerprint background check for all education personnel. What this is, is a request for the Department of Education to justify to the legislative body that you are a member of, that they actually need, and it is justified, that we expend \$450,000 to fund this program.

A brief bit of history, In the Department of Public Safety and Criminal Justice we do background fingerprint checks on all sorts of businesses and entities within this state and that is our job, but with that job also comes a bill to be paid on receipt of services. You pay the Department of Public Safety for that background and fingerprint check. We give them away to no one else. The biggest percentage of our budget in the Legislature - the 120th, 121st and the 122nd - goes into Education and or Health and

Human Services. This is a big chunk of change. I have got a Public Safety Department out there that is scrambling to protect citizens from Internet fraud, child pornography on the Internet and fraud of consumers, whether they are five years old or 85 years old. We don't have the money to fund this, \$450,000 would go a long way with putting people on the payroll in the Department of Public Safety.

All that I want you to do and all I will ever ask you to do, as a legislator is to demand and insist on accountability when the price tag is \$450,000 a year. I am regretful to my caucus members and I do apologize that this did not get caucused where the good Representative from Bangor, Representative Norton and I could have swapped point, counter point, but I am going to ask you to look into your hearts and vote your conscience. Would you, in your private business, write a check to anyone for \$450,000 a year without demanding results or accountability? I think not. Thank you Ladies and Gentlemen.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Norton.

Representative **NORTON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Again, let me allay your fears, this is not finger printing per se. However, those of us who were here remember well what kind of an issue that became and you can remember that a lot of what we did was that when we decided to fingerprint educational personnel we decided that the fair thing was to do it for, us to do it. In doing that, part of the whole deal was that when we decided to do fingerprinting and background checks Criminal Justice asked that this be under their purview and I assume that if there was money doled out for that purpose it was probably doled out to them at the time. Now again, there is a lot of stuff that goes on behind this. Right now the Department of Education very zealously reviews and controls that information as was promised at the time that fingerprinting started. In fact we did get an advisory opinion from the AG and the AG's conclusion was that criminal history record check information is collected solely for the purpose of the Department of Education to determine fitness for employment in a school. So, again I remind you of that.

This information is very sensitive and it is subject to abuse when it becomes public and it's fodder, as we all know, for the press. We had several opponents of the bill - the Commissioner, the department, the Maine Education Association - who are all against this information being released. Currently, only two people are allowed that information. The person for the department who looks after certification and the Commissioner if the need be. Those are the only two people that have this information and again that was the promise. I lost a lot of dear friends in this profession because they felt that this was truly an invasion of their rights and so I again urge you to please follow my light on Ought Not to Pass on this bill.

The SPEAKER: The Chair recognizes the Representative from Waldoboro, Representative Trahan.

Representative **TRAHAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would like to correct a couple of things that have been said so far, first that the Legislature should have some level of accountability on how this money is spent. We do have a new level of accountability that has complete access to confidential information - the new OPEGA office that is in the other building. If you take a look at their statutes they can do a review of this program and report back without doing any damage to the education field and I think that that would be a more appropriate process than to release aggregate data, and I'll tell you why.

First of all, I think it is imperative that when we pass legislation we be very careful that we don't bring negative

feelings from the public against any profession and this fingerprinting issue has, I think, brought some negative feelings towards the teaching profession. My wife is in the teaching profession and she is very proud of that. I can tell you that it was very difficult when my wife went and put her finger on the black ink and got her fingerprint and background check, but you know I think a lot of people felt that was important to do to keep pedophiles out of the teaching profession. But, when we start releasing data to the public that could then bring an impression upon that group of folks and I think we have to be very careful what kind of information and how would it be released? I think we should be very careful with that and I don't think we should be passing this bill and I hope that we support the Ought Not to Pass.

The other thing that I would like to correct was something that was said earlier. In any profession the refusal to release this information might bring some kind of negative thoughts about why that might be. That is exactly why we shouldn't do this. To imply that refusal means they have something to hide generates discontent and doubt towards the teaching profession. I think we need to let this issue go to bed. It has been debated. It has been settled. It has been vetoed twice that I remember - because I sponsored the bills that were vetoed. I think we need to let this issue go to bed. Let's not start releasing this information and opening up these old wounds. I ask that you continue to support the Ought Not to Pass. Thank you.

Representative DUPLESSIE of Westbrook **REQUESTED** a roll call on the motion to **ACCEPT** the Majority Ought Not to Pass Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is Acceptance of the Majority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 140

YEA - Adams, Babbidge, Beaudette, Blanchard, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Campbell, Canavan, Cebra, Clark, Clough, Craven, Cummings, Daigle, Driscoll, Duchesne, Dudley, Dunn, Duplessie, Eberle, Eder, Edgecomb, Emery, Faircloth, Farrington, Fischer, Fisher, Flood, Glynn, Goldman, Grose, Harlow, Hogan, Hotham, Hutton, Jackson, Koffman, Lerman, Lindell, Makas, Marley, Marraché, Mazurek, McFadden, McKane, McLeod, Merrill, Miller, Mills, Moody, Moulton, Norton, O'Brien, Ott, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Pinkham, Piotti, Richardson D, Richardson E, Richardson W, Sampson, Saviello, Schatz, Smith N, Thompson, Trahan, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Ash, Austin, Bierman, Bishop, Blanchette, Bowen, Bowles, Brown R, Browne W, Churchill, Collins, Cressey, Curley, Curtis, Davis G, Davis K, Dugay, Duprey, Finch, Fitts, Fletcher, Gerzofsky, Hall, Hamper, Hanley B, Hanley S, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Marean, McCormick, McKenney, Millett, Moore G, Muse, Nass, Nutting, Paradis, Rector, Richardson M, Robinson, Rosen, Seavey, Sherman, Shields, Sykes, Tardy, Thomas, Vaughan.

ABSENT - Barstow, Berube, Bryant-Deschenes, Carr, Crosby, Crosthwaite, Greeley, Lansley, Lewin, Lundeen, Patrick, Plummer, Rines, Smith W, Stedman.

Yes, 84; No, 52; Absent, 15; Excused, 0.

84 having voted in the affirmative and 52 voted in the negative, with 15 being absent, and accordingly the Majority Ought Not to Pass Report was **ACCEPTED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

Bill "An Act Establishing Minimum Energy Efficiency Standards for Certain Products Sold or Installed in the State"

(H.P. 999) (L.D. 1435)

(C. "A" H-307)

TABLED - May 12, 2005 (Till Later Today) by Representative PELLETIER-SIMPSON of Auburn.

PENDING - **PASSAGE TO BE ENGROSSED.**

Representative TWOMEY of Biddeford moved that the House **RECONSIDER** its action whereby Committee Amendment "A" (H-307) was **ADOPTED.**

The same Representative **PRESENTED** House Amendment "A" (H-370) to Committee Amendment "A" (H-307) which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Twomey.

Representative TWOMEY: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I want to make L.D. 1435 a win, win, win, a win for the environment and a win for Maine people and local small business owners. The only way to make this a win, win is to use a carrot instead of a 2x4.

Maine has a very successful incentive program already in place with the public utilities commission. In 2004 it spent almost \$16,000,000 on encouraging the use of energy efficient equipment. A lot of this money goes to paper companies and large industries as incentives and rebates. It's money that we pay for. The PUC offers rebates for residential lights and ceiling fans and it offers rebates for small businesses on a few items, but the products listed here in L.D. 1435 are not included in that incentive program. So, while big companies get millions of dollars a year for incentives, L.D. 1435 wants to stick the bill for efficient products on the backs of Maine people and local small business owners. That is not right and it's not helpful. If these 18 products listed here are the most important products that we should ask people to buy efficiently then let's direct the PUC to include these products in their incentive program.

The PUC estimates that next year it will collect about \$12,000,000 that can be used for non-industrial efficiency programs. Certainly, if these 18 products are the big energy users than we should include them in the PUC rebate program. The Utilities Committee this year also supported a bill to require natural gas companies to begin collecting money for a conservation and efficiency program. Some of the products listed here are gas fueled and could be included in the gas companies efficiency programs. So, what I am saying is that there is money available to make the requirements in this bill voluntary - not mandatory - and part of an incentive program. We can actually help our local businesses instead of hurting them. At a time when we might loose 6,000 jobs this seems like a smart thing to do. We can keep close tabs on the program because the PUC reports back to the legislature every year about how the conservation money is spent. The Utilities Committee will know how the incentive program is working and can make adjustments or phase outs as the old equipment is replaced with new equipment, making L.D. 1435 voluntary and offering incentives will do more for the environment than forcing people to keep repairing old equipment or buying used. Please support my amendment.

Mr. Speaker and Men and Women of the House, in light of the information that we received about our Portsmouth Naval Base and other bases in the State of Maine I think it is time we stand up. We have small business initiatives that the Democrats were behind. Why not make this a win, win situation? Why not Say to small businesses, "We are going to give you an incentive