



# 125th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2012

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Legislative Document

No. 1858

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H.P. 1376

House of Representatives, March 12, 2012

### An Act To Ensure Effective Teaching and School Leadership

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Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Clerk

Presented by Representative RICHARDSON of Carmel. (GOVERNOR'S BILL)

1 **Be it enacted by the People of the State of Maine as follows:**

2 **PART A**

3 **Sec. A-1. 20-A MRSA §1055, sub-§10**, as amended by PL 2011, c. 172, §1, is  
4 further amended to read:

5 **10. Supervise school employees.** The superintendent is responsible for ~~the~~  
6 ~~evaluation of implementing a performance evaluation and professional growth system for~~  
7 all teachers and principals pursuant to chapter 508 and an evaluation system for all other  
8 employees of the school administrative unit. The superintendent shall evaluate  
9 probationary teachers during, but not limited to, their 2nd year of employment. The  
10 method of evaluation must be determined by the school board, be in compliance with the  
11 requirements of chapter 508 and be implemented by the superintendent.

12 **Sec. A-2. 20-A MRSA §13201**, as amended by PL 2011, c. 420, Pt. F, §1 and  
13 affected by §2, is further amended to read:

14 **§13201. Nomination and election of teachers; teacher contracts**

15 The superintendent shall nominate all teachers, subject to such regulations governing  
16 salaries and the qualifications of teachers as the school board makes. Upon the approval  
17 of nominations by the school board, the superintendent may employ teachers so  
18 nominated and approved for such terms as the superintendent determines proper, subject  
19 to the approval of the school board. The superintendent, subject to the approval of the  
20 school board, shall implement a program to support probationary teachers pursuant to  
21 section 13015. Prior to May 15th before the expiration of a first, 2nd or ~~3rd~~ subsequent  
22 year probationary teacher's contract, the superintendent shall notify the teacher in writing  
23 of the superintendent's decision to nominate or not nominate that teacher for another  
24 teaching contract. If, after receiving a complaint from a teacher, the commissioner finds  
25 that the superintendent has failed to notify a teacher of a decision not to nominate that  
26 teacher, the school administrative unit shall pay a forfeiture to the teacher. The amount  
27 of that forfeiture must be equal to the teacher's per diem salary rate times the number of  
28 days between the notification deadline and the date on which notification is made or on  
29 which the complaint is filed, whichever occurs first. In case the superintendent of schools  
30 and the school board fail to legally elect a teacher, the commissioner has the authority to  
31 appoint a substitute teacher who serves until such election is made.

32 After a probationary period of 3 years, subsequent contracts of duly certified teachers  
33 must be for not less than 2 years. Unless a duly certified teacher receives written notice  
34 to the contrary at least 6 months before the terminal date of the contract, the contract must  
35 be extended automatically for one year and similarly in subsequent years. The right to an  
36 extension for a longer period of time through a new contract is specifically reserved to the  
37 contracting parties.

38 Just cause for dismissal or nonrenewal is a negotiable item in accordance with the  
39 procedure set forth in Title 26, chapter 9-A for teachers who have served beyond the  
40 probationary period.

1 After a probationary period of 3 years, any teacher who receives notice in accordance  
2 with this section that the teacher's contract is not going to be renewed may during the 15  
3 days following such notification request a hearing with the school board. The teacher  
4 may request reasons. The hearing must be private except by mutual consent and except  
5 that either or both parties may be represented by counsel. That hearing must be granted  
6 within 30 days of the receipt of the teacher's request.

7 The right to terminate a contract, after due notice of 90 days, is reserved to the school  
8 board when changes in local conditions warrant the elimination of the teaching position  
9 for which the contract was made. The order of layoff and recall is a negotiable item in  
10 accordance with the procedures set forth in Title 26, chapter 9-A. In any negotiated  
11 agreement, the criteria negotiated by the school board and the bargaining agent to  
12 establish the order of layoff and recall must include the teacher's effectiveness rating  
13 pursuant to chapter 508 as a significant factor and may also include, but may not be  
14 limited to, seniority.

15 **Sec. A-3. 20-A MRSA c. 508** is enacted to read:

16 **CHAPTER 508**

17 **EDUCATOR EFFECTIVENESS**

18 **§13701. Definitions**

19 As used in this chapter, unless the context otherwise indicates, the following terms  
20 have the following meanings.

21 **1. Educator.** "Educator" means a teacher or a principal.

22 **2. Effectiveness rating.** "Effectiveness rating" means the level of effectiveness of  
23 an educator derived through implementation of a performance evaluation and  
24 professional growth system.

25 **3. Performance evaluation and professional growth system.** "Performance  
26 evaluation and professional growth system" or "system" means a method developed in  
27 compliance with this chapter by which educators are evaluated, rated on the basis of  
28 effectiveness and provided opportunities for professional growth.

29 **§13702. Local development and implementation of system**

30 Each school administrative unit shall develop and implement a performance  
31 evaluation and professional growth system for educators. The system must meet the  
32 criteria set forth in this chapter and rules adopted pursuant to this chapter.

33 **§13703. Use of effectiveness rating; grievance**

34 A superintendent shall use effectiveness ratings of educators to inform strategic  
35 human capital decision making, including, but not limited to, decision making regarding  
36 recruitment, selection, induction, mentoring, professional development, compensation,  
37 assignment and dismissal.

1           Receipt of an effectiveness rating indicating that a teacher is ineffective for 2  
2           consecutive years constitutes just cause for nonrenewal of a teacher's contract.

3           Any appeal of, or grievance relating to, an evaluation conducted pursuant to this  
4           chapter or an effectiveness rating resulting from implementation of a system is limited to  
5           matters relating to the implementation of the system. The professional judgment  
6           involved in an evaluation or implementation of the system is not subject to appeal or  
7           grievance.

8           **§13704. Elements of system**

9           A performance evaluation and professional growth system consists of the following  
10          elements:

11          **1. Standards of professional practice.** Standards of professional practice by which  
12          the performance of educators must be evaluated.

13           A. The department shall provide, by rule, a set of standards of professional practice  
14           or a set of criteria for determining acceptable locally determined standards for  
15           teachers and a set of standards of professional practice or a set of criteria for  
16           determining acceptable locally determined standards for principals;

17          **2. Multiple measures of effectiveness.** Multiple measures of educator  
18          effectiveness, other than standards of professional practice, including but not limited to  
19          student learning and growth;

20          **3. Rating scale.** A rating scale consisting of 4 levels of effectiveness.

21           A. The rating must be based on standards of professional practice and measures of  
22           educator effectiveness. The proportionate weight of the standards and the measures  
23           is a local decision, but measurements of student learning and growth must be a  
24           significant factor in the determination of the rating of an educator.

25           B. The rating scale must set forth the professional growth opportunities and the  
26           employment consequences tied to each level.

27           C. At least 2 of the levels must represent effectiveness, and at least one level must  
28           represent ineffectiveness;

29          **4. Professional development.** A process for using information from the evaluation  
30          process to inform professional development; and

31          **5. Implementation procedures.** Implementation procedures that include the  
32          following:

33           A. Evaluation of educators on a regular basis, performed by one or more trained  
34           evaluators. The frequency of evaluations may vary depending on the effectiveness  
35           level at which the educator is performing, but observations of professional practice,  
36           formative feedback and continuous improvement conversations must occur  
37           throughout the year for all educators;

1 B. Ongoing training on implementation of the system to ensure that all educators and  
2 evaluators understand the system and have the knowledge and skills needed to  
3 participate in a meaningful way;

4 C. A peer review component to the evaluation and professional growth system and  
5 opportunities for educators to share, learn and continually improve their practice; and

6 D. Formation of a steering committee composed of teachers, administrators and  
7 other school administrative unit staff that regularly reviews and refines the  
8 performance evaluation and professional growth system to ensure that it is aligned  
9 with school administrative unit goals and priorities.

10 **§13705. Phase-in of requirements**

11 The requirements of this chapter apply to all school administrative units beginning in  
12 the 2015-2016 school year. In the 2013-2014 school year, each unit shall develop a  
13 system that meets the standards of this chapter, in collaboration with teachers, principals,  
14 administrators, school board members, parents and other members of the public. In the  
15 2014-2015 school year, each unit shall operate as a pilot project the system developed in  
16 the prior year by applying it in one or more of the schools in the unit or by applying it  
17 without using results in any official manner or shall employ other means to provide  
18 information to enable the unit to adjust the system prior to the first year of full  
19 implementation. Nothing in this section prohibits a unit from fully implementing the  
20 system earlier than the 2015-2016 school year.

21 **§13706. Rules**

22 The department shall adopt rules to implement this chapter, including but not limited  
23 to a rule relating to the method of identifying the educator or educators whose  
24 effectiveness ratings are affected by the measurement of learning or growth of a  
25 particular student. Rules adopted pursuant to this section are major substantive rules  
26 pursuant to Title 5, chapter 375, subchapter 2-A.

27 **Sec. A-4. 20-A MRSA §15681, sub-§1, ¶D** is enacted to read:

28 D. To receive targeted educator evaluation funds, a school administrative unit must  
29 have a performance evaluation and professional growth system pursuant to chapter  
30 508 and the rules adopted pursuant to that chapter.

31 **Sec. A-5. 20-A MRSA §15681, sub-§6** is enacted to read:

32 **6. Targeted funds for educator evaluation.** For educator evaluation funds  
33 beginning with the 2013-2014 school year, the commissioner shall calculate the amount  
34 available to assist school administrative units in developing and implementing  
35 performance evaluation and professional growth systems pursuant to chapter 508.

36 **PART B**

37 **Sec. B-1. 20-A MRSA §13008** is enacted to read:

1 **§13008. Educator preparation program data**

2 **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
3 following terms have the following meanings.

4 A. "Educator preparation program" means a public or private baccalaureate-level or  
5 postbaccalaureate-level program approved by the state board to recommend graduates  
6 for certification pursuant to chapter 502 as prekindergarten to grade 12 teachers,  
7 educational specialists or school leaders.

8 B. "Program completer" means a person who, by successfully completing all of an  
9 educator preparation program's requirements, has qualified for a recommendation for  
10 certification as a prekindergarten to grade 12 teacher, an educational specialist or a  
11 school leader.

12 **2. Data collection.** The department shall collect data relating to outcomes from  
13 educator preparation programs, including but not limited to the following information  
14 with respect to each educator preparation program:

15 A. The number of program completers;

16 B. The number of program completers who pass certification tests and the number  
17 of those who attain provisional licensure in the State;

18 C. The number of program completers who proceed from provisional licensure to  
19 professional licensure; and

20 D. The number of program completers who are teaching in schools in this State 3  
21 and 5 years after they complete that educator preparation program.

22 **3. Report.** The department shall annually report the data collected under this section  
23 to the Governor, the state board and the joint standing committee of the Legislature  
24 having jurisdiction over education matters. The state board shall take this data into  
25 consideration when reviewing educator preparation programs.

26 **Sec. B-2. 20-A MRS §13011, sub-§6,** as enacted by PL 1989, c. 889, §8, is  
27 repealed and the following enacted in its place:

28 **6. Alternative paths to certification.** The state board shall develop and adopt rules  
29 providing a method for a person who has not completed an educator preparation program  
30 as defined under section 13008 to obtain provisional educator certification in cases when  
31 the person:

32 A. Holds a baccalaureate or postbaccalaureate degree from an accredited institution  
33 of higher education that is recognized by the United States Secretary of Education;  
34 and

35 B. Demonstrates subject matter competency that is directly related to the certificate  
36 endorsement being sought and obtained through prior academic achievement or work  
37 experience.

38 **Sec. B-3. 20-A MRS §13012, sub-§2-A,** as enacted by PL 2001, c. 534, §2 and  
39 amended by PL 2005, c. 397, Pt. D, §3, is further amended to read:



1 principals. The bill sets forth standards that must be met by the systems, including a  
2 requirement that multiple measures of effectiveness must be used in evaluations, that  
3 evaluators must be properly trained and that a system must include a process for using  
4 information from the evaluation process to inform professional development. The  
5 Department of Education is required to adopt rules regarding the requirements of the  
6 system. The requirement for development and implementation of the system is phased in  
7 with full implementation required in school year 2015-2016.

8 Effectiveness ratings must be treated as a significant factor in determining the order  
9 of layoff and recall when reductions in force occur. The bill provides that receipt of a  
10 rating of ineffective for 2 consecutive years constitutes just cause for nonrenewal of a  
11 teacher's contract. Any appeal or grievance of a rating or evaluation under the system is  
12 limited to matters of implementation, not professional judgment.

13 The bill establishes a new targeted funding component under the Essential Programs  
14 and Services formula, to be used for development and implementation of the required  
15 performance evaluation and professional growth system.

16 The bill requires the department to collect data on the success and retention of  
17 teachers who complete approved teacher preparation programs in the State. It also  
18 requires the State Board of Education to include in its certification rules a requirement  
19 that an applicant for a provisional teacher certificate must complete a 10-week student  
20 teaching experience before attaining certification and a requirement that a person seeking  
21 an endorsement to teach either elementary or middle school must pass a rigorous test of  
22 mathematics and evidence-based reading instruction. Finally, the bill requires the State  
23 Board of Education to adopt rules setting forth a path to provisional certification for a  
24 person who has not completed a traditional teacher preparation program but who has a  
25 baccalaureate degree and demonstrates subject matter competency.