

MAINE STATE LEGISLATURE

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(New Draft of H.P. 218, L.D. 266)
(New Title)

FIRST REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 772

H.P. 644

House of Representatives, February 16, 1983

Reported by Representative Matthews from the Committee on Education
and printed under Joint Rule 2.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-THREE

AN ACT to Apply Uniform Penalties for
Local School Administrative Units that
Employ Uncertified Personnel.

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

Sec. 1. 20-A MRSA §1051, sub-§1, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

1. Eligibility requirements. Only those persons who hold a state certificate of superintendence grade may be eligible to become superintendents. Members of the school board may not be eligible to become superintendent in the school administrative unit which they represent. Superintendents' certificates may be revoked in accordance with section 13001. Grounds for revocation shall include, but not be

1 limited to, the employment or retention of uncerti-
2 fied personnel in a school administrative unit in
3 violation of this Title or of any rules adopted pur-
4 suant to this Title.

5 Sec. 2. 20-A MRSA §13003, sub-§2, as enacted by
6 PL 1981, c. 693, §§5 and 8, is repealed and the fol-
7 lowing enacted in its place:

8 2. Penalty. A person not certified under
9 section 13001 is barred from receiving any salary or
10 fringe benefits if he teaches or performs any other
11 professional function in a public school and:

12 A. He has never held the required certificate;
13 or

14 B. He knew or should have known that his certifi-
15 cate had expired. Prima facie evidence of that
16 knowledge would be records on file in either the
17 department or the employing school administrative
18 unit that he was notified that his certificate
19 had lapsed or that it would be lapsing on a given
20 date.

21 The person shall forfeit to the employing school
22 administrative unit any salary or fringe benefits
23 received in violation of this subsection.

24 Sec. 3. 20-A MRSA §15510, sub-§1, as enacted by
25 PL 1981, c. 693, §§5 and 8, is amended to read:

26 1. Schedules of payment of state allocation.
27 The commissioner shall authorize state allocation
28 payments to the school administrative units to be
29 made in accordance with time schedules set forth in
30 section 15005, sections 15901 to 15910 and Title 20,
31 sections 3457 to 3460. The commissioner may reduce
32 the state allocation to an administrative unit in the
33 current year or following year by an amount that
34 represents the state share of expenditures for sal-
35 aries and benefits paid to uncertified personnel in
36 the current year or in the base year.

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STATEMENT OF FACT

2 Currently, if a superintendent of schools per-
3 sists in employing uncertified personnel, the commis-
4 sioner only has one course of action or penalty to
5 reduce the administrative unit's state allocation.
6 This penalty cannot be applied to administrative
7 units which receive no state subsidy or which expend
8 above the state average per pupil cost. Simply
9 stated, if an administrative unit neither received
10 nor needs to rely on state subsidy it can avoid the
11 penalty. This method also penalizes the taxpayer and
12 not the superintendent who is employing the uncerti-
13 fied personnel.

14 This new draft accomplishes 3 things:

15 1. The penalty for violation of the statutes
16 related to personnel will be clarified;

17 2. The penalty will be applied directly and uni-
18 formly to all superintendents of schools as it
19 relates to revocation of their certificates in this
20 matter as well as applying equally to all administra-
21 tive units that receive state subsidy; and

22 3. The penalty for teachers or other school per-
23 sonnel for teaching or providing any other profes-
24 sional service while uncertified shall be applied
25 only after certain due process steps have occurred.

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