

# MAINE STATE LEGISLATURE

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(EMERGENCY)

FIRST REGULAR SESSION

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ONE HUNDRED AND ELEVENTH LEGISLATURE

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Legislative Document No. 976

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S.P. 331 In Senate, March 3, 1983  
Referred to the Committee on Labor. Sent down for concurrence and  
ordered printed.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Carpenter of Aroostook.

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STATE OF MAINE

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

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**AN ACT to Preserve Negotiated Contracts  
Between School Committees and Various  
Bargaining Agents.**

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**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Supreme Judicial Court of Maine in a decision dated June 7, 1982, determined that the statute governing the elimination of teaching positions in public schools does not require that probationary teachers be terminated before continuing contract teachers; and

Whereas, it is important to protect the interest of teachers with seniority and to remove uncertainties that exist as a result of this decision; and

1           Whereas, the best interests of education in  
2 schools in Maine contemplate that teacher seniority  
3 be an important point of negotiation in teacher con-  
4 tracts; and

5           Whereas, the terms of this Act will protect the  
6 interests of teachers in Maine and contribute to the  
7 betterment of education; and

8           Whereas, in the judgment of the Legislature,  
9 these facts create an emergency within the meaning of  
10 the Constitution of Maine and require the following  
11 legislation as immediately necessary for the preser-  
12 vation of the public peace, health and safety; now,  
13 therefore,

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

16           Sec. 1. 20 MRSA §161, sub-§5, as amended by PL  
17 1977, c. 580, §§16 and 17, is further amended to  
18 read:

19           5. Shall nominate teachers; election to be  
20 approved by committee; probationary period; teachers  
21 may be elected under contract. He shall nominate all  
22 teachers, subject to such regulations governing sal-  
23 aries and the qualifications of teachers as the  
24 school committee or school directors shall make, and  
25 upon the approval of nominations by ~~said~~ that commit-  
26 tee or directors, he may employ teachers so nominated  
27 and approved for such terms as he may deem proper,  
28 subject to the approval of the school committee or  
29 school directors. After a probationary period of not  
30 to exceed 2 years, subsequent contracts of duly cer-  
31 tified teachers shall be for not less than 2 years.  
32 Unless a duly certified teacher receives written  
33 notice to the contrary at least 6 months before the  
34 terminal date of the contract, the contract shall be  
35 extended automatically for one year and similarly in  
36 subsequent years although the right to an extension  
37 for a longer period of time through a new contract is  
38 specifically reserved to the contracting parties.  
39 Just cause for dismissal or nonrenewal may be a nego-  
40 tiable item in accordance with the procedure set

1 forth in Title 26, chapter 9-A, for teachers who have  
2 served beyond the probationary period. After a  
3 probationary period of 2 years, any teacher, who  
4 receives notice in accordance with this section that  
5 his contract is not going to be renewed, may during  
6 the 15 days following such notification request a  
7 hearing with the school committee or governing board.  
8 He may request reasons. The hearing shall be private  
9 except by mutual consent and except that either or  
10 both parties may be represented by counsel. Such  
11 hearing must be granted within 30 days of the receipt  
12 of the teacher's request.

13 The right to terminate a contract, after due notice  
14 of 90 days, is reserved to the school committee or  
15 school directors when changes in local conditions  
16 warrant the elimination of the teaching position for  
17 which the contract was made. Notwithstanding this  
18 subsection, seniority, layoff and recall may be nego-  
19 tiable items in accordance with the procedure set  
20 forth in Title 26, chapter 9-A, for teachers and any  
21 existing contracts containing any or all of such  
22 provisions are validated. In case the superintendent  
23 of schools and the school committee or school direc-  
24 tors fail to legally elect a teacher, the commis-  
25 sioner shall have authority to appoint a substitute  
26 teacher who shall serve until such election is made.

27 Sec. 2. 20-A MRSa §13201, last ¶, as enacted by  
28 PL 1981, c. 693, §§5 and 8, is amended to read:

29 The right to terminate a contract, after due  
30 notice of 90 days, is reserved to the school commit-  
31 tee or school directors when changes in local condi-  
32 tions warrant the elimination of the teaching posi-  
33 tion for which the contract was made. Notwithstand-  
34 ing this paragraph, seniority, layoff and recall may  
35 be negotiable items in accordance with the procedure  
36 set forth in Title 26, chapter 9-A, for teachers and  
37 any existing contracts containing any or all of such  
38 provisions are validated.

39 **Emergency clause.** In view of the emergency  
40 cited in the preamble, this Act shall take effect  
41 when approved.

1 STATEMENT OF FACT

2 The purpose of this bill is twofold: One is to  
3 validate any existing negotiated contract between  
4 school committees and bargaining agents with respect  
5 to seniority and other similar issues. It is  
6 intended to remove the effect of a recent court deci-  
7 sion which determined that the current statutes gov-  
8 erning elimination of teaching positions in public  
9 schools do not require that probationary teachers be  
10 terminated before continuing contract teachers who  
11 have seniority. Additionally, it amends the statutes  
12 to provide for the valid negotiation of seniority,  
13 layoff and recall provisions between public employers  
14 of teachers and bargaining agents.

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