

# MAINE STATE LEGISLATURE

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L.D. 1902

(Filing No. H-1223 )

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
115TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1316, L.D. 1902, Bill, "An Act to Establish a Professional Standards Board for Maine Educators"

Amend the bill by striking out the title and substituting the following:

'An Act to Establish a Professional Standards Board for Maine Teachers'

Further amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'Sec. 1. 2 MRSA §6, sub-§6, as amended by PL 1989, c. 875, Pt. E, §2, is further amended to read:

6. Range 85. The salaries of the following state officials and employees shall-be are within salary range 85:

Director of Veterans' Services;

Director of Civil Emergency Preparedness;

Members, Maine Unemployment Insurance Commission; and

Director of Military Bureau; and

Executive Director, Professional Standards Board for Teachers.

Sec. 2. 5 MRSA §12004-A, sub-§12-A is enacted to read:

<u>12-A. Professional</u>	<u>Expenses</u>	<u>20-A MRSA</u>
<u>Standards Board for</u>	<u>Only</u>	<u>§13042</u>
<u>Teachers</u>		

Sec. 3. 20-A MRSA c. 502-B is enacted to read:

**COMMITTEE AMENDMENT**

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CHAPTER 502-B

PROFESSIONAL STANDARDS BOARD FOR TEACHERS

§13041. Definitions

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

1. Administrator. "Administrator" means a member of a school or school district's professional staff with direct responsibility for the evaluation and discipline of personnel or the development, supervision or internal management of a school, school system or school program regardless of whether that person's duties also include the furnishing of direct instructional or other services to students in schools, kindergarten and grades one to 12.

2. Administrators organization. "Administrators organization" means any organization the primary purpose of which is to advance the interests of school administrators.

3. Board. "Board" means the Professional Standards Board for Teachers.

4. License. "License" means the authority given by the State to teachers to exercise their responsibilities in the schools of the State and includes certificates issued prior to the enactment of this chapter.

5. School. "School" means a public school educating children in kindergarten and grades one to 12 or a private school approved for attendance purposes under section 2901, subsection 2, paragraph B.

6. Teacher. "Teacher" means a member of a school professional instructional staff holding one or more of the following position titles or the equivalent:

A. Classroom teacher;

B. Itinerant teacher;

C. Guidance counselor and school counselor;

D. Librarian-media specialist;

E. Special education teacher;

2           F. Special teacher of reading; and

4           G. Speech clinician-teacher.

6           7. Teacher preparation program. "Teacher preparation  
program" means a course of study designed to lead to individual  
teacher licensure.

8           8. Teachers organization. "Teachers organization" means  
any organization, agency, committee, council or group of any kind  
more than 1/2 of the membership of which is engaged in classroom  
instruction, a primary purpose of which is to advance the  
interests of the education profession. A teachers organization  
and any affiliated organizations are considered a single  
organization for the purposes of this chapter.

16           §13042. Establishment of board

18           The Professional Standards Board for Teachers, as authorized  
in Title 5, section 12004-A, subsection 12-A, is established to  
involve teachers directly in establishing and maintaining the  
standards of their profession and to ensure fair treatment to  
individual applicants for licensure and all members of the  
profession.

26           §13043. Powers and duties

28           The board is authorized to:

30           1. License; program approval. Issue licenses authorizing  
teachers to teach in schools; to establish criteria for the  
issuance, renewal, revocation and suspension of those licenses;  
to approve preparation programs for teachers licensed pursuant to  
this chapter; and to establish by rule administrative policies  
and procedures of the board governing the duties described in  
this subsection;

38           2. Enforce. Enforce the provisions of this chapter and  
rules adopted by the board;

40           3. Appeals. Hear appeals regarding application, renewal,  
suspension or revocation of a license or teacher preparation  
program approval;

44           4. Agreements. Enter into agreements with other states and  
with other agencies or organizations within the State as  
necessary to carry out its responsibilities;

48           5. Advisory committees. Appoint advisory committees;  
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2           6. Fees. Establish, collect and refund fees for licensure  
and program approval;

4           7. Staff. Employ staff to carry out the provisions of this  
chapter;

6           8. Rules. Adopt rules pursuant to the Maine Administrative  
8           Procedure Act to carry out the provisions of this chapter;

10          9. Budget. Prepare and submit budgets to the Legislature  
and administer approved budgets;

12          10. Study; advise. Carry out studies and reviews of  
14          teacher licensing and advise the Legislature on matters regarding  
licensing of teachers;

16          11. Report Report annually to the Legislature on the  
18          activity of the board and related facts concerning the licensing  
of teachers in the State; and

20          12. Recommendations. Make recommendations to the  
22          Legislature regarding teacher certification.

24          §13044. Composition of board

26               The board is composed of the following 13 members:

28           1. Teachers. Seven persons employed as teachers in the  
public schools of the State;

30           2. Administrators. Three persons employed as  
32          administrators in the public schools of the State, one of whom  
must be an elementary school principal, one of whom must be a  
34          secondary school principal and one of whom must be a school  
superintendent;

36           3. Teacher educators. Two persons representing teacher  
38          education programs; and

40           4. Member of public. One public member.

42          §13045. Appointments; vacancies

44               The members of the board must be appointed by the Governor  
and approved by the Legislature.

46           1. Appointments. Appointments must be made by the Governor  
48          from a list of at least 3 nominees for each position, submitted  
to the Governor as follows.

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2 A. Teacher members must be nominated by a teachers  
4 organization representing the majority of public school  
teachers in the State who teach at the educational level  
from which the appointment is being made.

6 B. Administrator members must be nominated by the  
8 elementary or secondary principal and superintendent  
organizations of administrators in which the majority of  
administrators of schools in the State have membership.

10 C. Teacher education members must be nominated by a  
12 national council of higher education.

14 D. Public members must be nominated by the parent-teacher  
16 organization representing a majority of parents in the State.

18 2. Vacancies. A vacancy on the board must be filled for  
the remainder of the unexpired term in the same manner as the  
original appointment within 60 days after the vacancy occurs.  
20 Nominations to fill a vacancy must be submitted by the  
appropriate organization within 30 days after the vacancy occurs.  
22 Nominations to fill an expiring term must be submitted at least  
30 days before the expiration of the term.

24 The Governor shall appoint members from among the nominations  
26 submitted pursuant to this section. If no timely nominations are  
received or the nominations received do not include a sufficient  
28 number of qualified candidates, the Governor may appoint any  
qualified person. Nominations may be withdrawn by the  
30 organizations that made them.

32 **§13046. Qualifications for board members**

34 1. Teacher and administrator representatives. All members  
36 of the board representing teachers and administrators must have  
been employed in the State under the authority of a professional  
38 teacher or administrator license for at least 5 years prior to  
appointment to the board.

40 2. Representation. The Governor must attempt to achieve  
42 geographical, racial and gender representation in appointments to  
the board.

44 3. Failure to continue to meet criteria. Any member of the  
46 board who no longer meets the criteria for the position to which  
the member was appointed is no longer eligible to serve in that  
48 position and the position becomes vacant 60 days following the  
member's change in circumstances.

50 **§13047. Removal from board**

2       The Governor may remove a member from the board only for  
4       ineligibility, misconduct or malfeasance in office, incapacity,  
      or neglect of duty.

6       **§13048. Terms and conditions of service**

8       1. Terms. Members are appointed for 3-year terms and may  
10      be reappointed once. By October 1, 1992 the Governor shall  
12      nominate the following members to the board for the following  
      terms:

14      A. Three teachers for 3-year terms to expire September 1,  
16      1995; 3 teachers for 2-year terms to expire September 1,  
      1994; and one teacher for a one-year term to expire  
      September 1, 1993;

18      B. One administrator for a term to expire September 1,  
20      1995; one administrator for a term to expire September 1,  
22      1994; and one administrator for a term to expire September  
      1, 1993;

24      C. One public member for a term to expire September 1,  
      1995; and

26      D. One teacher education representative for a term to  
28      expire September 1, 1995; and one teacher education  
      representative for a term to expire September 1, 1994.

30      2. Reappointment. All initial appointees to the board are  
32      eligible for reappointment to one additional 3-year term.

34      3. Compensation. Board members are not eligible for  
36      compensation for service on the board, but receive reimbursement  
      from the board for all actual and necessary expenses incurred in  
      the performance of board business.

38      4. Loss of wages; benefits. A nonpublic board member may  
40      not suffer loss of wages or benefits from an employer due to  
42      service on the board. A state agency or any political subdivision  
44      of the State, including a school district, that is required to  
      employ a substitute for a member of the board who is absent from  
      employment while performing board business must be reimbursed by  
      the board for the actual amount of any costs so incurred.

46      **§13049. Meetings; chair**

48      1. Elections of officers; chair. The board shall elect, by  
50      a majority vote of its members, a chair and a vice-chair from  
      among the membership. At the last regular meeting of each

2 calendar year the chair and vice-chair are elected for one-year  
4 terms and may be reelected up to 2 times. A member may not serve  
6 as chair or vice-chair for more than 3 consecutive years. The  
8 chair and vice-chair may be removed from office at any time by a  
10 majority of the board's members, in which event the vacancy must  
12 be filled for the unexpired term in the same manner as the  
14 original selection.

16 2. Authority of chair; vice-chair. The chair shall serve  
18 as the presiding officer at meetings of the board and is an ex  
20 officio member of all committees established within the board.  
22 In the absence of the chair, or if the chair is unable to act,  
24 the vice-chair has the powers and shall perform the duties of the  
26 chair. The chair and vice-chair have such powers and duties as  
28 may be necessary for the performance of the functions of their  
30 offices. If both the chair and vice-chair are absent from or  
32 unable to act at a meeting, the board shall elect for that  
34 meeting a chair pro tempore.

36 3. Meetings; headquarters. The board shall hold regular  
38 meetings at least 4 times each year and shall hold such other  
40 special meetings as may be necessary. The board's headquarters  
42 is in Augusta; meetings are held primarily in Augusta, but may be  
44 held at any place in the State designated by the board. The  
46 chair may call a special meeting of the board at any time and  
48 shall call a special meeting upon the written request of 7 or  
50 more members of the board. Members must be mailed written notice  
of the time and place of all regular meetings at least 14 days  
prior to each such meeting. Members must be mailed written  
notice of the time, place and purpose of all special meetings at  
least 7 days prior to each such meeting whenever practicable.

4. Quorum; minutes; agenda. Seven members of the board  
constitute a quorum for transaction of business. All meetings of  
the board must be open and public, unless the board calls for an  
executive session and publicly sets forth a written statement of  
reasons for such session. Unofficial minutes of each board  
meeting must be prepared and mailed to each member of the board  
at least 14 days prior to the next regular meeting. An agenda  
must be prepared for each meeting by or at the direction of the  
chair. Members must be mailed the agenda for each regular  
meeting at least 7 days prior to each such meeting. Members must  
be mailed the agenda for each special meeting at least 3 days  
prior to each such meeting whenever practicable.

5. Official seal. The board must have an official seal,  
which must be judicially noticed.

6. Presentations. Written and oral presentations may be  
made to the board in accordance with rules adopted by the board.



2           7. Conflict of interest. A member of the board may not  
participate in any matter before the board in which that member  
4 has a conflict of interest. The board shall adopt rules defining  
what constitutes a conflict of interest.

6           **§13050. Staff**

8           1. Executive director. The board, by a vote of 2/3 of its  
10 members, shall employ an executive director, who shall perform  
and discharge under the direction and control of the board those  
12 duties and responsibilities vested in the board and delegated to  
the executive director by the board. The executive director is  
14 compensated at salary range 85. The executive director may be  
dismissed by a majority vote of the members.

16           2. General counsel. The board may retain the services of a  
18 general counsel who serves at the pleasure of the board.

20           3. Additional staff. The executive director, with the  
approval of the board, may employ such additional professional  
22 and clerical personnel as may be necessary to carry out the  
executive director's duties and responsibilities. The  
24 professional and clerical staff, except the executive director  
and the general counsel, are subject to the Civil Service Law.

26           **§13051. Fees**

28           1. License fee. Each application for the issuance or  
30 renewal of a license must be accompanied by a nonrefundable fee  
in the following amount: for renewals of active license, \$25;  
32 for renewals of inactive licenses, \$50; and for issue of initial  
licenses, \$50. If the applicant is determined eligible for a  
34 license, the board shall issue the license without additional  
charge.

36           2. Teacher preparation fee. Each application for the  
38 approval of a teacher preparation program must be accompanied by  
a nonrefundable fee in an amount to be fixed by the board.

40           **§13052. Fund**

42           All money collected by the board pursuant to this chapter  
44 must be deposited in a separate fund and used for the  
administration of this chapter. All costs of administration of  
46 this chapter must be paid from the fund. Excess money in the  
fund at the end of the year may not lapse but must be carried  
48 forward to pay the costs of administration in succeeding years.

2           **Sec. 4. Reports, recommendations; committees.** By January 15,  
4 1994, the board shall submit a report on its activities to the  
6 joint standing committee of the Legislature having jurisdiction  
8 over education matters. Thereafter, the board shall submit to  
10 the Governor and the Legislature and publish an annual report of  
12 its activities. This annual report must include specific  
14 findings and conclusions with regard to licensure and teacher  
preparation program approval, an official audit of all board  
expenditures, and such additional information as the board  
considers appropriate. The board shall publish, from time to  
time, such other reports as it considers appropriate. The board  
shall develop and recommend to the Legislature for its  
consideration any necessary or desirable legislation with regard  
to the matters covered by this Act.

16           **Sec. 5. Delegation of functions.** Except as otherwise provided in  
18 this Act, the board may delegate to one or more of its members,  
20 staff or other agents the authority to perform any of the  
22 functions to be performed by the board itself under this Act, and  
performance by that delegate is for purposes of this Act deemed  
an action of the board.

24           **Sec. 6. Interim chair.** The Governor shall designate one member  
26 of the board to serve as chair until the board elects a chair  
pursuant to the Maine Revised Statutes, Title 20-A, section 13049.

28           **Sec. 7. Transition provisions.**

30           1. Teacher certification laws in effect on the effective  
32 date of this Act, specifically the Maine Revised Statutes, Title  
34 20-A, sections 13003 to 13007, 13011 to 13021 and 13031 to 13036  
36 as they pertain to teacher certification, continue to govern  
teacher licensing until amended by the Legislature, with the  
exception that the exclusive authority for teacher licensing as  
described in Title 20-A, section 13043 is vested in the  
Professional Standards Board for Teachers.

38           2. Any teacher license that was issued pursuant to the laws  
40 of the State prior to the effective date of this Act remains in  
42 effect as long as the license continues to be valid under the  
laws and rules pursuant to which it was issued.

44           3. Any approval of a teacher preparation program that was  
46 granted pursuant to the laws of the State prior to the effective  
date of this Act remains in effect until the regular time for  
renewing approval, which must be done under this Act.

48           4. The board created by this Act is the successor to the  
State Board of Education in matters relating to the issuance of

certificates of license to teach in the schools of the State and the approval of teacher education programs. The State Board of Education continues to serve in that capacity until the effective date of this Act.

5. Assets, liabilities, contracts, property, records and unexpended balances of appropriations or other funds employed, held by or available to any state agency or department for carrying out the functions assigned to the board under this Act are transferred to the board as of the effective date of this Act.

**Sec. 8. Funding.** All fees collected under this Act must be set at a level to produce revenue that does not substantially exceed the cost and expense of administering this Act. All fees payable under this Act must be paid to and collected by the board and transmitted for deposit to the General Fund.

**Sec. 9. Funds transferred to General Fund.** Notwithstanding the provisions of the Maine Revised Statutes, Title 20-A, section 13052, any excess money in the fund established by that section at the end of fiscal year 1992-93 must be transferred to the General Fund.

**Sec. 10. Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1992-93

**EDUCATION, DEPARTMENT OF**

**Certification, Placement and Teacher Education**

Positions	(-3.5)
Personal Services	(\$64,522)
All Other	(7,585)

Provides for the deappropriation of funds from the elimination of one Clerk Typist III position, one Clerk Steno III position, one Education Specialist III position and one part-time Account Clerk II position and related expenses effective January 1, 1993. These positions are no longer required as their functions will be assumed by the new Professional Standards Board for Teachers.

**DEPARTMENT OF EDUCATION  
TOTAL**

(\$72,107)

COMMITTEE AMENDMENT "A" to H.P. 1316, L.D. 1902

2           **Sec. 11. Allocation.** The following funds are allocated from  
4 Other Special Revenue funds to carry out the purposes of this Act.

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1992-93

**PROFESSIONAL STANDARDS BOARD  
FOR TEACHERS**

**Professional Standards Board  
for Teachers**

Positions	(4.5)
Personal Services	\$94,281
All Other	27,826
Capital Expenditures	5,000

Provides for the allocation of funds to the Professional Standards Board for Teachers for one Executive Director position effective December 1, 1992, one part-time Account Clerk II position, one Clerk Typist III position, one Clerk Steno III position and one Education Specialist III position effective January 1, 1993, and for the expenses of the board.

**PROFESSIONAL STANDARDS BOARD  
FOR TEACHERS**

**TOTAL** \$127,107

**Sec. 12. Application.** This Act applies to teacher licenses issued, renewed, suspended or revoked after January 1, 1993.

**FISCAL NOTE**

1992-93

**APPROPRIATIONS/ALLOCATIONS**

General Fund	(\$72,107)
Other Funds	127,107

**REVENUES**

General Fund	(\$175,000)
Other Funds	230,000

COMMITTEE AMENDMENT "A" to H.P. 1316, L.D. 1902

2 The creation of the Professional Standards Board for  
Teachers will require an allocation of Other Special Revenue  
4 funds of \$127,107 in fiscal year 1992-93 for the salary and  
fringe benefit costs of an Executive Director position, a  
6 part-time Account Clerk II position, a Clerk Typist III position,  
a Clerk Steno III position and an Education Specialist III  
8 position, general operating expenses and board expenses. The  
bill will additionally result in a General Fund deappropriation  
to the Department of Education, Division of Certification,  
10 Placement and Teacher Education of \$72,107 in fiscal year 1992-93  
from the elimination of a Clerk Typist III position, a Clerk  
12 Steno III position, an Education Specialist III position and a  
part-time Account Clerk II position. The functions of these  
14 positions will be transferred to the new board.

16 The bill includes dedicated licensing fees to provide  
funding for the board. These fees are expected to generate  
18 \$460,000 annually in dedicated revenue although only \$230,000  
will be generated in fiscal year 1992-93 because of the January  
20 1, 1993 effective date. Since some of these fees are currently  
credited to the General Fund, a loss of undedicated revenue in  
22 the amount of \$350,000 annually, and \$175,000 in fiscal year  
1992-93 is anticipated. The bill does provide, however, that any  
24 balance remaining in the board's dedicated account at June 30,  
1993 be transferred to the General Fund. While it is expected  
26 that there will be no net General Fund impact in fiscal year  
1992-93, there may be a net cost to the General Fund thereafter.'

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### STATEMENT OF FACT

32 This amendment retains the concept of a professional  
licensing board for educators from the bill but narrows its  
34 application to the licensure of teachers and the approval of  
postsecondary teacher preparation programs. Several technical  
36 changes are made to clarify the organization of the Professional  
Standards Board for Teachers, the implementation of professional  
38 licensing requirements for teachers and teacher education  
approval programs beginning January 1, 1993, the treatment of  
40 funds collected for licenses and program approvals by the board  
and the transition from a certification process by the State  
42 Board of Education to licensure by the Professional Standards  
Board for Teachers. The amendment also adds a fiscal note and  
44 appropriation and allocation sections to the bill.

Reported by the Majority of the Committee on Education  
Reproduced and distributed under the direction of the Clerk of the  
House  
3/24/92

(Filing No. H-1223)