

# MAINE STATE LEGISLATURE

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Date: 4/4/12

L.D. 1858  
(Filing No. H-900)

**EDUCATION AND CULTURAL AFFAIRS**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
125TH LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1376, L.D. 1858, Bill, "An Act To Ensure Effective Teaching and School Leadership"

Amend the bill by inserting after the title and before the enacting clause the following:

**'Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.'

Amend the bill in Part A by striking out all of section 2 and inserting the following:

**'Sec. A-2. 20-A MRSA §13201, 5th ¶,** as amended by PL 2011, c. 172, §2 and affected by §4, is further amended to read:

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

Amend the bill in Part A in section 3 in §13701 by inserting at the end the following:

**'4. Professional improvement plan.** "Professional improvement plan" means a written plan developed by a school or district administrator with input from an educator that outlines the steps to be taken over the coming year to improve the effectiveness of the educator. The plan must include but need not be limited to appropriate professional development opportunities.

**COMMITTEE AMENDMENT**

1 **5. Summative effectiveness rating.** "Summative effectiveness rating" means the  
2 effectiveness rating of an educator that is assigned at the end of an evaluation period.  
3 Ratings or comments provided to the educator during the evaluation period for the  
4 purpose of providing feedback, prior to assignment of a final effectiveness rating, are not  
5 summative effectiveness ratings.'

6 Amend the bill in Part A in section 3 in §13702 in the indented paragraph in the last  
7 line (page 2, line 32 in L.D.) by inserting after the following: "pursuant to this chapter"  
8 the following: 'and must be approved by the department'

9 Amend the bill in Part A in section 3 in §13703 by striking out all of the 2nd indented  
10 paragraph (page 3, lines 1 and 2 in L.D.) and inserting the following:

11 'Receipt of summative effectiveness ratings indicating that a teacher is ineffective for  
12 2 consecutive years constitutes just cause for nonrenewal of a teacher's contract unless the  
13 ratings are the result of bad faith.'

14 Amend the bill in Part A in section 3 in §13703 in the last indented paragraph in the  
15 3rd line (page 3, line 5 in L.D.) by inserting after the following: "implementation of the  
16 system" the following: 'or the existence of bad faith in an evaluation or the assignment of  
17 a rating'

18 Amend the bill in Part A in section 3 in §13704 by striking out all of subsections 4  
19 and 5 inserting the following:

20 **4. Professional development.** A process for using information from the evaluation  
21 process to inform professional development;

22 **5. Implementation procedures.** Implementation procedures that include the  
23 following:

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

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

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

34 D. Formation of a steering committee composed of teachers, administrators and  
35 other school administrative unit staff that regularly reviews and refines the  
36 performance evaluation and professional growth system to ensure that it is aligned  
37 with school administrative unit goals and priorities; and

38 **6. Professional improvement plan.** The opportunity for a educator who receives a  
39 summative effectiveness rating indicating ineffectiveness in any given year to implement  
40 a professional improvement plan.'

1 Amend the bill in Part A in section 3 in §13706 by striking out all of the indented  
2 paragraph (page 4, lines 22 to 26 in L.D.) and inserting the following:

3 'The department shall adopt rules to implement this chapter, including but not limited  
4 to a rule relating to the method of identifying the educator or educators whose  
5 effectiveness ratings are affected by the measurement of learning or growth of a  
6 particular student. The department shall also adopt rules pertaining to the approval of  
7 performance evaluation and professional growth systems pursuant to section 13702.  
8 Rules adopted pursuant to this section are major substantive rules pursuant to Title 5,  
9 chapter 375, subchapter 2-A.'

10 Amend the bill in Part A in section 4 in paragraph D in the 2nd line (page 4, line 29  
11 in L.D.) by inserting after the following: "have" the following: 'or be in the process of  
12 developing'

13 Amend the bill in Part A by inserting after section 5 the following:

14 **'Sec. A-6. Council created.** The Maine Educator Effectiveness Council, referred  
15 to in this section as "the council," is created to make recommendations regarding  
16 implementation of the Maine Revised Statutes, Title 20-A, chapter 508 to the  
17 Commissioner of Education and the Joint Standing Committee on Education and Cultural  
18 Affairs.

19 **1. Members.** The council consists of the Commissioner of Education or the  
20 commissioner's designee and the following members, appointed by the Commissioner of  
21 Education:

22 A. A member of the State Board of Education, nominated by the state board;

23 B. Four public school teachers, at least one of whom is a special education teacher,  
24 appointed from a list of names provided by the Maine Education Association;

25 C. A member representing educators in tribal schools in this State, appointed from a  
26 list of names provided by the respective tribal schools that are affiliated with Maine  
27 Indian Education;

28 D. Two public school administrators, appointed from a list of names provided by the  
29 Maine Principals' Association and the Maine School Superintendents Association;

30 E. Two members of school boards, appointed from a list of names provided by the  
31 Maine School Boards Association;

32 F. One faculty member representing approved educator preparation programs;

33 G. Two members of the business community; and

34 H. Two members of the general public with interest and experience in the education  
35 field.

36 The council must be cochaired by the Commissioner of Education and one other council  
37 member elected by the full membership of the council. The council may establish  
38 subcommittees and may appoint persons who are not members of the council to serve on  
39 the subcommittees as needed to conduct the council's work.

1           **2. Duties.** The council shall recommend standards for implementing a system of  
2 evaluation and support of teachers and principals consistent with the requirements of Title  
3 20-A, chapter 508. The council shall:

4           A. Recommend a set of professional practice standards applicable to teachers and a  
5 set of professional practice standards applicable to principals;

6           B. Recommend a 4-level rating scale with clear and distinct definitions applicable to  
7 teachers and principals;

8           C. Recommend potential measures of student learning and growth;

9           D. Recommend the major components of an evaluation process, including but not  
10 limited to:

11                 (1) Ongoing training to ensure that evaluators and teachers and principals have a  
12 full understanding of the evaluation system and its implementation;

13                 (2) Methods of gathering evidence for the evaluation, which may include  
14 observation by supervisors and peers, self-reflection, student or parent surveys,  
15 analysis of artifacts and evidence portfolios;

16                 (3) Methods of providing feedback to teachers and principals for formative  
17 evaluation purposes;

18                 (4) Weighting of measures used in evaluating teachers and principals, which must  
19 provide that student learning and growth indicators inform a significant portion  
20 of the effectiveness rating;

21                 (5) Methods for aligning district, school and classroom goals using the evaluation  
22 system; and

23                 (6) Methods for linking summative effectiveness ratings to human capital  
24 decisions; and

25           E. Recommend a system of supports and professional development linked to  
26 effectiveness ratings for teachers and principals, including a process for developing  
27 and implementing a professional improvement plan.

28           **3. Report.** The Commissioner of Education shall submit a report regarding the work  
29 of the council to the Joint Standing Committee on Education and Cultural Affairs no later  
30 than November 1, 2012. The report must include the council's recommendations  
31 regarding implementation of the requirements set forth in Title 20-A, chapter 508 and  
32 recommendations regarding the continuing work of the council.

33           **4. Staff assistance.** The Department of Education shall provide staff assistance to the  
34 council. The department may seek and employ grant funds to provide additional  
35 assistance.

36           **5. Council continuation.** The council is authorized to continue meeting, if it so  
37 desires, 90 days after adjournment of the First Regular Session of 126th Legislature.'

38           Amend the bill in Part B in section 1 in §13008 in subsection 2 in the first line (page  
39 5, line 12 in L.D.) by striking out the following: "outcomes from"

1 Amend the bill in Part B in section 1 in §13008 in subsection 3 in the last 2 lines  
2 (page 5, lines 24 and 25 in L.D.) by striking out the following: "The state board shall  
3 take this data into consideration when reviewing educator preparation programs."

4 Amend the bill in Part B in section 2 by striking out all of subsection 6 and inserting  
5 the following:

6 **'6. Alternative pathways to certification.** The state board shall develop and adopt  
7 rules providing a method for a person who has not completed an approved educator  
8 preparation program as defined under section 13008 to obtain provisional educator  
9 certification through an alternative pathway that:

10 A. Is designed for candidates who can demonstrate subject matter competency that is  
11 directly related to the certificate endorsement being sought and obtained through  
12 prior academic achievement or work experience;

13 B. May feature an accelerated program of preparation;

14 C. Uses mentorship programs that partner teacher candidates with mentor teachers;  
15 and

16 D. Includes accountability provisions to ensure that teacher candidates demonstrate  
17 the knowledge and skills established pursuant to section 13012, subsection 2-B prior  
18 to issuance of a provisional teacher certificate.'

19 Amend the bill in Part B by inserting after section 2 the following:

20 **'Sec. B-3. 20-A MRSA §13011, sub-§10,** as enacted by PL 2003, c. 445, §2, is  
21 amended to read:

22 **10. Conditional certificate; transitional endorsement; exception.** A conditional  
23 certificate is a certificate for teachers and educational specialists who have not met all of  
24 the requirements for a provisional or professional certificate. A school administrative  
25 unit may employ a conditionally certified teacher or educational specialist who is in the  
26 process of becoming professionally certified notwithstanding the availability of  
27 provisionally or professionally certified teachers or educational specialists. Any  
28 amendment to the rules adopted pursuant to this chapter that revises the qualifications for  
29 a conditional certificate or transitional endorsement does not apply to a person who was  
30 issued a conditional certificate or transitional endorsement prior to or during the school  
31 year preceding the adoption of revisions to the rules as long as the holder of the  
32 conditional certificate or transitional endorsement annually completes the required course  
33 work and testing as determined by the department for the school year preceding the  
34 adoption of revised rules.'

35 Amend the bill in Part B in section 3 in subsection 2-A in the 4th line (page 6, line 4  
36 in L.D.) by striking out the following: "10" and inserting the following: '15'

37 Amend the bill in Part B by striking out all of section 4 and inserting the following:

38 **'Sec. B-4. Certification rules.** The State Board of Education shall amend its  
39 rules relating to certification of educators under the Maine Revised Statutes, Title 20-A,  
40 section 13012 to require that any person seeking an endorsement to teach kindergarten to  
41 grade 8 students must demonstrate proficiency in math and reading instruction, including  
42 evidence-based reading instruction. For the purposes of this section, "evidence-based

1 reading instruction" means instructional practices that have been proven by systematic,  
2 objective, valid and peer-reviewed research to lead to predictable gains in reading  
3 achievement. The requirement must apply to all teachers and educational specialists,  
4 including teachers in special education and teachers of English language learners.

5 **Sec. B-5. Alternative certification working group.** The State Board of  
6 Education shall establish a working group to develop one or more alternative certification  
7 pathways that meet the standards set forth in the Maine Revised Statutes, Title 20-A,  
8 section 13011, subsection 6. Members of the State Board of Education shall participate  
9 in the working group, and the State Board of Education shall invite the participation of  
10 representatives of the Maine Education Association, the Maine School Superintendents  
11 Association, the Maine Principals' Association, the Maine School Boards Association,  
12 Maine Administrators of Services for Children with Disabilities and Maine  
13 Administrators of Career and Technical Education, representatives of approved educator  
14 preparation programs, parents and the business community and other interested parties.  
15 The working group shall submit a report describing one or more alternative certification  
16 pathways to the State Board of Education and the Commissioner of Education. The State  
17 Board of Education shall submit the report to the Joint Standing Committee on Education  
18 and Cultural Affairs no later than November 1, 2012. The report must include pathway  
19 descriptions, the working group's recommendations and any draft legislation or rules  
20 needed to implement the recommendations.'

21 Amend the bill by relettering or renumbering any nonconsecutive Part letter or  
22 section number to read consecutively.

### 23 SUMMARY

24 This amendment makes the following changes to the provisions in the bill that require  
25 school administrative units to develop and implement a system of evaluation and support  
26 for teachers and principals. The amendment accomplishes the following.

27 1. It strikes the word "significant" from the provision in the bill that requires that  
28 when a reduction in force is required the effectiveness rating would have to be a  
29 significant factor in determining the order of layoff and recall.

30 2. It creates a definition of "professional improvement plan" and a definition of  
31 "summative effectiveness rating."

32 3. It clarifies that the Department of Education must approve performance evaluation  
33 and professional growth systems for educators established by school administrative units.

34 4. It clarifies that a summative effectiveness rating indicating ineffectiveness for 2  
35 consecutive years constitutes just cause for nonrenewal of a teacher's contract, unless the  
36 ratings are the result of bad faith.

37 5. It provides that teachers found to be ineffective must be allowed to implement a  
38 professional improvement plan.

39 6. It provides that the rules adopted by the Department of Education must include  
40 provisions related to the department's approval of the performance evaluation and  
41 professional growth systems for educators established by school administrative units.







# 125th MAINE LEGISLATURE

LD 1858

LR 2773(02)

## An Act To Ensure Effective Teaching and School Leadership

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-900)  
Committee: Education and Cultural Affairs  
Fiscal Note Required: Yes

### Fiscal Note

State Mandate - Exempted

#### State Mandates

Required Activity	Unit Affected	Local Cost
Requires school administrative units to develop and implement comprehensive performance evaluation and professional growth systems for teachers and principals.	School	Significant statewide

Pursuant to the Mandate Preamble, the two-thirds vote of all members elected to each House exempts the state from the constitutional requirement to fund 90% of the additional costs.

#### Fiscal Detail and Notes

The cost to local school administrative units can not be determined at this time and will depend on the standards and criteria developed by the Department of Education.

This bill requires the Department of Education to establish a targeted funds component within the Essential Programs and Services funding model beginning with the 2013-2014 school year to be used to assist school administrative units in developing and implementing performance evaluation and professional growth systems. The amount of funding that will be available and whether that amount will be sufficient to fund 90% of the additional costs to school administrative units to implement the requirements of this legislation can not be determined at this time.

Additional costs to the Department of Education associated with staffing the Maine Educator Effectiveness Council and with rulemaking can be absorbed within existing budgeted resources. Additional costs to the State Board of Education to establish the required working group and submit the required report can be absorbed within existing budgeted resources.