

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

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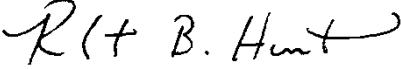
No. 1569

H.P. 1080

House of Representatives, May 2, 2017

An Act To Revise Certification Statutes for Educational Personnel

Submitted by the Department of Education pursuant to Joint Rule 204.
Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.


ROBERT B. HUNT
Clerk

Presented by Representative KORNFIELD of Bangor.

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

2 **Sec. 1. 20-A MRSA §6103**, as amended by PL 2015, c. 395, §§1 to 3, is further
3 amended to read:

4 **§6103. Criminal history record information conviction data**

5 Beginning July 1, 2000, ~~approval, certification, authorization~~ a credential and
6 renewal under chapters 501 and 502 are subject to the provisions of this section. A
7 person who has complied with the requirements of this section is not required to submit
8 to a subsequent national criminal history record check unless that person has not been
9 continuously employed in a position requiring ~~approval, certification or authorization~~ a
10 credential under chapters 501 and 502. A person who has not been continuously
11 employed in such a position is subject to a subsequent national criminal history record
12 check upon renewal. School vacations are not a break in employment. ~~Fingerprinting of~~
13 ~~immediately affected applicants for certification, authorization or renewal, conducting of~~
14 ~~the needed state and national criminal history record checks by the State Bureau of~~
15 ~~Identification and forwarding of the results by the bureau to the department must begin on~~
16 ~~September 1, 1999.~~

17 **1. Criminal history record information obtained; reliance.** The commissioner
18 shall obtain criminal history record information containing a record of public criminal
19 history record information as defined in Title 16, section 703, subsection 8 from the
20 Maine Criminal Justice Information System for any person applying for ~~certification,~~
21 ~~authorization, approval~~ a credential or renewal. The commissioner may rely on
22 information provided by the Maine Criminal Justice Information System within 24
23 months prior to the issuance of a ~~certificate, authorization, approval~~ credential or renewal.

24 **2. Issuance restriction.** Issuance of a ~~certificate, authorization, approval~~ credential
25 or renewal to any person whose criminal history record information includes a criminal
26 conviction is subject to the provisions of Title 5, chapter 341 and section 13020.

27 **3. Confidentiality.** Any information obtained pursuant to this section is
28 confidential. The results of criminal history record checks received by the commissioner
29 are for official use only and may not be disseminated outside the department, except that
30 the commissioner may outsource administrative functions of software document
31 management according to federal outsourcing standards as described in 28 Code of
32 Federal Regulations, Section 906.2 (2011) and allow access to these results for that
33 purpose.

34 **3-A. Fees.** The Commissioner of Public Safety shall assess a fee set annually by the
35 Commissioner of Education for each initial criminal history record check and a fee set
36 annually by the Commissioner of Education for each renewal criminal history record
37 check required by this section.

38 **4-A. Phase-in plan.** The fingerprinting and approval process established by this
39 section for certain classes of individuals must be phased in as follows:

1 A. The fingerprinting and approval process must be phased in for all persons
2 regularly employed in a school during the 1999-2000 school year who require
3 department approval to continue in their positions and who have not been
4 fingerprinted pursuant to this section prior to enactment of this subsection. The
5 department shall issue each person a temporary approval card valid through a
6 specified year from 2001 to 2004. Prior to July 1st of the year specified on the
7 temporary approval card, the person must meet the requirements of this section.
8 Once a person has met the requirements of this section, an approval card must be
9 issued;

10 B. A person placed under contract by a school and subject to the requirements of this
11 section, who has not been fingerprinted prior to the effective date of this subsection,
12 must meet these requirements by July 1, 2002;

13 C. A person employed as a substitute who has not been fingerprinted prior to the
14 effective date of this subsection must meet the requirements by July 1, 2002.
15 Beginning with the 2003-2004 school year, a person employed as a substitute who
16 needs fingerprinting and a criminal history record check pursuant to section 13011,
17 subsection 8 must meet the requirements of this section within 8 weeks of
18 employment by a school administrative unit. A person employed as a substitute who
19 needs fingerprinting and a criminal history record check must be issued a temporary
20 approval card by the department. The temporary approval card is valid for the first 8
21 weeks of employment, except that, for a person who has been fingerprinted pursuant
22 to this section prior to the 20th day of employment and who has not received the
23 results of the criminal history record check prior to the 9th week of employment, the
24 temporary approval card remains valid until the commissioner determines whether
25 approval is granted or denied based on the criminal history record information
26 obtained from the State Bureau of Identification; and

27 D. A regular employee subject to the requirements of this section who begins work
28 in a school after the effective date of this subsection must meet these requirements
29 prior to the 20th day of employment. Beginning with the 2003-2004 school year, a
30 regular employee who needs fingerprinting and a criminal history record check
31 pursuant to section 13011, subsection 8 must meet the requirements of this section
32 within 8 weeks of employment by a school administrative unit. A regular employee
33 who needs fingerprinting and a criminal history record check must be issued a
34 temporary approval card by the department. The temporary approval card is valid for
35 the first 8 weeks of employment, except that, for a person who has been fingerprinted
36 pursuant to this section prior to the 20th day of employment and who has not received
37 the results of the criminal history record check prior to the 9th week of employment,
38 the temporary approval card remains valid until the commissioner determines
39 whether approval is granted or denied based on the criminal history record
40 information obtained from the State Bureau of Identification.

41 **5. Criminal record information obtained from the Federal Bureau of**
42 **Investigation.** The commissioner shall obtain other state and national criminal history
43 record information from the Federal Bureau of Investigation for any person applying for
44 ~~certification, authorization, approval~~ a credential or renewal. The commissioner may rely
45 on information provided by the Federal Bureau of Investigation within 24 months prior to
46 the issuance of a ~~certificate, authorization, approval~~ credential or renewal.

1 **6. Fingerprinting.** The applicant shall submit to having fingerprints taken. The
2 Maine State Police, upon payment by the applicant or any other entity required by law of
3 the expenses specified in subsection 3-A, shall take or cause to be taken the applicant's
4 fingerprints and shall forward the fingerprints to the State Bureau of Identification so that
5 the bureau can conduct state and national criminal history record checks. Except for the
6 portion of the payment, if any, that constitutes the processing fee charged by the Federal
7 Bureau of Investigation, all money received by the Maine State Police for purposes of
8 this section must be paid over to the Treasurer of State for deposit in the State Police
9 program, Other Special Revenue Funds account in the Department of Public Safety for
10 the purpose of funding the costs of the Department of Public Safety to administer the
11 criminal history record checks under this section.

12 **7. Use of criminal history record.** State and federal criminal history record
13 information may be used for the purpose of screening educational personnel applicants by
14 the commissioner in order to determine whether ~~certification, authorization, approval~~
15 issuance of a credential or a renewal ~~of~~ to educational personnel is granted or maintained.

16 **8. Applicant's access to criminal history record check.** The subject of a Federal
17 Bureau of Investigation criminal history record check may obtain a copy of a criminal
18 history record check by following the procedures outlined in 28 Code of Federal
19 Regulations, Sections 16.32 and 16.33. The subject of a state criminal record check may
20 inspect and review criminal record information pursuant to Title 16, section 709.

21 **9. Right of applicant and commissioner to remove fingerprints from fingerprint**
22 **file.** Teachers or educational personnel whose ~~certification, authorization or approval~~
23 credential has expired and who have not applied for renewal of ~~certification,~~
24 ~~authorization or approval~~ a credential may request in writing that the State Bureau of
25 Identification remove their fingerprints from the bureau's fingerprint file. In response to a
26 written request, the bureau shall remove the requester's fingerprints from the fingerprint
27 file and provide written confirmation of that removal to the requester.

28 The commissioner may, without notice to an applicant, remove fingerprints from the
29 fingerprint file maintained by the State Bureau of Identification when an applicant has
30 had no active credential for 7 years. An applicant may renew a credential after that
31 applicant's fingerprints have been removed from the fingerprint file upon submitting
32 again to fingerprinting.

33 **10. Criminal History Record Check Fund.** The Criminal History Record Check
34 Fund is created as a dedicated fund within the Department of Education for the transfer of
35 funds from the Department of Public Safety to cover a portion of the cost of a position
36 that issues ~~certificates~~ credentials. The fund may not lapse, but must be carried forward to
37 carry out the purposes of this chapter.

38 **Sec. 2. 20-A MRSA §13001-A** is enacted to read:

39 **§13001-A. Definitions**

40 As used in this chapter and chapters 502 and 502-A, unless the context otherwise
41 indicates, the following terms have the following meanings.

1 **1. Administrator.** "Administrator" means an individual who provides services in
2 any of the following capacities: superintendent, assistant superintendent, building
3 administrator, assistant building administrator, teaching principal, administrator of special
4 education, assistant administrator of special education, administrator of career and
5 technical education, assistant administrator of career and technical education, curriculum
6 coordinator, director of adult and community education or assistant director of adult and
7 community education.

8 **2. Certificate.** "Certificate" means the credential issued by the department to a
9 qualified individual to serve as a teacher, educational specialist or administrator.

10 **3. Clearance.** "Clearance" means the credential issued by the department to a
11 qualified individual who has cleared a criminal history record check under section 6103
12 to serve as an employee in a position for which certification is not required or as an
13 employee of a contracted service provider.

14 **4. Conditional certificate.** "Conditional certificate" means the credential issued to a
15 teacher, educational specialist or administrator who has not met all of the requirements
16 for a certificate or endorsement.

17 **5. Credential.** "Credential" means a document issued by the department indicating
18 that a person has met the criteria to be certified, conditionally certified or cleared under
19 this chapter and chapter 502.

20 **6. Criminal history record check.** "Criminal history record check" means the
21 fingerprint-based criminal history record check conducted by an entity designated by the
22 department under section 6103.

23 **7. Educational specialist.** "Educational specialist" means an individual who
24 provides professional services in any of the following capacities: athletic director, school
25 counselor, library-media specialist, literacy specialist, school psychologist, school nurse,
26 special education consultant, speech-language clinician or career and technical education
27 evaluator.

28 **8. Educator preparation program.** "Educator preparation program" means a
29 public or private baccalaureate-level or postbaccalaureate-level program approved by the
30 state board to recommend graduates for certification pursuant to chapter 502 as teachers,
31 educational specialists or school administrators.

32 **9. Endorsement.** "Endorsement" means a notation on a certificate issued to a teacher
33 that specifies the grades and subject area for which the certificate is valid. A certificate
34 may bear one or more endorsements.

35 **10. Program completer.** "Program completer" means a person who, by successfully
36 completing all of the requirements of an educator preparation program, has qualified for a
37 recommendation for certification as a teacher or an educational specialist.

38 **11. Semester hours.** "Semester hours" means hours of approved study from an
39 accredited 4-year institution of higher education or professional education institution that

1 runs on a semester schedule. One semester hour is equivalent to one credit of approved
2 study.

3 **Sec. 3. 20-A MRSA §13004**, as amended by PL 2009, c. 567, §10, is further
4 amended to read:

5 **§13004. List of persons credentialed; records confidential**

6 **1. Lists.** The commissioner shall keep a list of ~~certified teachers~~ credentialed
7 individuals. This list ~~shall be~~ is a public record. ~~The commissioner shall send copies of~~
8 ~~the list to school boards and superintendents on their request.~~

9 **2. Records confidential.** Transcripts, recommendations and other documents
10 submitted in support of an application for ~~certification~~ a credential or collected by the
11 department for verification of ~~certification~~ credential records ~~and maintained in the office~~
12 ~~of the commissioner shall be~~ are confidential. They may ~~only~~ be made available only
13 to the following:

- 14 A. School boards and superintendents;
- 15 B. Authorized personnel of the department in fulfilling assigned duties; and
- 16 C. Individuals and their representatives who request to examine their own records.

17 **2-A. Confidentiality.** The provisions of this subsection govern confidentiality. ~~For~~
18 ~~the purposes of this subsection, the term "certification" means certification, authorization~~
19 ~~or approval under this chapter and chapter 502.~~

20 A. Complaints and responses pursuant to section 13020 and any other information or
21 materials that may result in an action to deny, revoke or suspend ~~certification~~ a
22 credential are confidential, except when submitted in court proceedings to revoke or
23 suspend ~~certification~~ a credential.

24 B. Except for information designated confidential under section 6101 or section
25 6103, information designated confidential under paragraph A may be released or used
26 by the department as necessary to:

- 27 (1) Complete its own investigations;
- 28 (2) Provide information to a national association of state directors of teacher
29 education and certification to which the State belongs;
- 30 (3) Assist other public authorities to investigate ~~the same teacher's certification~~
31 an individual's credential in another jurisdiction;
- 32 (4) Report or prevent criminal misconduct or assist law enforcement agencies in
33 their investigations; or
- 34 (5) Report child abuse or neglect under Title 22, section 4011-A.

35 C. The department may publish and release as public information statistical
36 summaries of complaints and dispositions as long as the release of such information
37 does not jeopardize the confidentiality of individually identifiable information.

1 D. Notwithstanding paragraph A, the following information concerning final written
2 decisions relating to disciplinary action taken by the commissioner against a person
3 holding ~~certification~~ a credential is a public record:

- 4 (1) The name of the person;
- 5 (2) The type of action taken, consisting of denial, revocation, suspension,
6 surrender or reinstatement;
- 7 (3) The grounds for the action taken;
- 8 (4) The relevant dates of the action;
- 9 (5) The type of ~~certification~~ credential and endorsements held, including relevant
10 dates;
- 11 (6) The schools where the person was or is employed; and
- 12 (7) The dates of employment.

13 **2-B. Addresses of credential holders and applicants.** Home addresses held by the
14 department of ~~teachers certified to teach~~ individuals with credentials or applicants for
15 credentials in the State may be made available in response to the following:

- 16 A. Formal request from a commissioner or chief executive officer of other state
17 agencies, including the judicial branch when access to that information may be
18 necessary in carrying out an official function; and
- 19 B. Formal request by majority vote of any joint standing committee of the
20 Legislature when access to that information may be necessary in carrying out an
21 official function.

22 The use of these addresses by any other agency or department of government to which
23 they may be furnished ~~shall be~~ is limited to the purposes for which they are furnished and
24 by the law under which they may be furnished. It ~~shall be~~ is unlawful for any person to
25 solicit, disclose, receive, make use of or authorize, knowingly permit, participate in or
26 acquiesce in the use of, any list of or names of, or any information concerning, persons
27 applying for or receiving assistance, directly or indirectly, derived from the records,
28 papers, files or communications of the State or subdivisions or agencies, or acquired in
29 the course of the performance of official duties. Any person violating this subsection ~~shall~~
30 must be punished by a fine of not more than \$500 or by imprisonment for not more than
31 11 months, or by both.

32 **3. Duplication costs.** Individuals requesting copies of their records ~~shall~~ bear the
33 costs of copying them.

34 ~~**4. Rules.** The state board may adopt rules to carry out this section.~~

35 **Sec. 4. 20-A MRS §13006**, as amended by PL 1985, c. 785, Pt. B, §81, is
36 repealed.

37 **Sec. 5. 20-A MRS §13006-A** is enacted to read:

1 **§13006-A. Rulemaking**

2 **1. State board authority.** Except as otherwise provided, the state board has
3 authority to adopt rules to implement this chapter, chapter 502 and chapter 502-A. Rules
4 adopted by the state board to implement this chapter and chapter 502 are major
5 substantive rules, as defined in Title 5, chapter 375, subchapter 2-A, except that the
6 following rules are routine technical rules:

7 A. Rules adopted by the state board to implement chapter 502-A; and

8 B. Rules adopted by the state board to implement section 13011, subsection 8.

9 **2. Commissioner authority.** Notwithstanding subsection 1, the commissioner has
10 authority to adopt rules:

11 A. To determine the qualifications and process for issuing clearance credentials
12 under chapter 502. These rules are routine technical rules, as defined in Title 5,
13 chapter 375, subchapter 2-A; and

14 B. Governing the collection and handling of records and information regarding the
15 experiences, qualifications and character of persons seeking credentials under this
16 chapter and chapter 502. These rules are major substantive rules as defined in Title 5,
17 chapter 375, subchapter 2-A.

18 **3. Application of rules revising credential qualifications.** An amendment to the
19 rules adopted to implement this chapter or chapter 502 that revises the qualifications for a
20 credential does not apply to a person who was issued a credential prior to or during the
21 school year preceding the adoption of revisions to the rules.

22 **Sec. 6. 20-A MRSA §13007,** as amended by PL 2015, c. 389, Pt. C, §1 and c.
23 395, §§4 and 5, is further amended to read:

24 **§13007. Credential fee; disposition of fees**

25 **1. Fees.** ~~The commissioner shall establish and assess fees for the initial issuance of~~
26 ~~and the renewal of teacher, education specialist and administrator certificates processing~~
27 ~~of an application for a credential. The commissioner shall, by rule, establish the following~~
28 ~~fees for the credentialing process and the procedures required to assess them: applications~~
29 ~~for credentials.~~

30 ~~A. Fees for the initial certification process for those teachers, education specialists~~
31 ~~and administrators found eligible and those found ineligible;~~

32 ~~B. Renewal fees for each active and inactive teacher, education specialist and~~
33 ~~administrator;~~

34 ~~C. A fee for each additional evaluation of teacher endorsements beyond the initial~~
35 ~~endorsement;~~

36 ~~D. A fee for duplicate certificates; and~~

37 ~~E. A fee for administrative portfolios.~~

1 The department shall annually post at the beginning of the fiscal year the fees established
2 by the commissioner for the initial issuance of and the renewal of teacher, ~~education~~
3 ~~educational~~ specialist and administrator certificates on its publicly accessible website.
4 ~~The commissioner shall adopt rules to carry out this subsection. Rules adopted under this~~
5 ~~subsection to establish and assess fees for the initial issuance of and the renewal of~~
6 ~~teacher, education specialist and administrator certificates are major substantive rules~~
7 ~~pursuant to Title 5, chapter 375, subchapter 2-A. A fee established pursuant to this~~
8 ~~subsection may not increase by more than 10% of the previous fiscal year's fee, unless the~~
9 ~~increase is approved by the state board.~~

10 **2. Accounting.** The commissioner shall:

11 A. Collect and account for all ~~certificate~~ fees collected pursuant to subsection 1;

12 B. Report and pay fees collected pursuant to subsection 1, except those fees collected
13 and credited to the National Board Certification Scholarship Fund pursuant to
14 paragraph C and the National Board Certification Salary Supplement Fund pursuant
15 to paragraph D, to the Treasurer of State to be credited to the General Fund;

16 C. Report and pay ~~\$50,000 in fiscal year 2012-13 and \$75,000 in fiscal year 2013-14~~
17 ~~and~~ each fiscal year ~~thereafter~~ from fees collected pursuant to subsection 1 to the
18 Treasurer of State to be credited to the National Board Certification Scholarship
19 Fund, Other Special Revenue Funds account within the Department of Education;
20 and

21 D. Report and pay no more than ~~\$150,000 in fiscal year 2012-13, no more than~~
22 ~~\$240,000 in fiscal year 2013-14 and no more than \$335,000 in fiscal year 2014-15~~
23 ~~and~~ each fiscal year ~~thereafter~~ from fees collected pursuant to subsection 1 to the
24 Treasurer of State to be credited to the National Board Certification Salary
25 Supplement Fund, Other Special Revenue Funds account within the Department of
26 Education.

27 **Sec. 7. 20-A MRSA §13008, sub-§1**, as enacted by PL 2011, c. 635, Pt. B, §1, is
28 repealed.

29 **Sec. 8. 20-A MRSA §13008, sub-§2, ¶¶B and C**, as enacted by PL 2011, c.
30 635, Pt. B, §1, are amended to read:

31 B. The number of program completers who pass ~~certification tests~~ the teacher
32 qualifying examinations under section 13032 and the number of those who attain
33 ~~provisional licensure~~ a professional teacher certificate in the State;

34 C. The number of program completers who proceed from ~~provisional licensure~~ a
35 conditional certificate to a professional licensure certificate; and

36 **Sec. 9. 20-A MRSA §13011**, as amended by PL 2015, c. 395, §§6 and 7, is
37 further amended to read:

1 **§13011. General authorization of state board**

2 **1. Credentialing and revocation rules.** ~~All certificates issued or revoked after June~~
3 ~~30, 1988, are in accordance with this chapter.~~ The state board shall adopt rules to carry
4 out the purposes of this chapter under which the commissioner shall:

5 A. ~~Certify~~ Issue certificates to teachers, administrators and other professional
6 personnel for service in a public school or in an approved private school, except that
7 certification is not required for a person holding a valid license as a speech-language
8 pathologist under Title 32, section 17301 who has received ~~approval~~ a clearance
9 pursuant to section 13024 to provide speech-language pathology services in a public
10 school or approved private school;

11 B. ~~Certify~~ Issue certificates to adult education teachers and other teaching and
12 professional personnel in publicly supported educational programs other than
13 postsecondary school institutions, colleges and universities;

14 C. ~~Authorize educational technicians for service in schools and approve the~~
15 ~~employment of other semiprofessional personnel;~~

16 D. Seek a revocation of a ~~certificate or authorization~~ credential in the District Court;

17 E. ~~Certify or authorize~~ Issue certificates to personnel who provide early childhood
18 educational programs or developmental therapy to children from birth to 5 years of
19 age in the home, in community-based special purpose and integrated programs and in
20 public schools; and

21 F. ~~Approve~~ Issue a clearance to all individuals for whom certification ~~or~~
22 ~~authorization~~ is not required prior to being hired or being placed under contract by a
23 public school or a private school that enrolls 60% or more publicly funded students.

24 **2. Moral character.** Rules adopted by the state board under this chapter must
25 require that an applicant for certification furnish evidence of:

26 A. Good moral character.

27 **3. Teacher certificates.** The state board rules ~~shall recognize at least 3 categories of~~
28 ~~teacher certificates as identified in~~ must establish qualifications for certifying teachers in
29 accordance with sections 13012 to 13014 13012-A and 13013.

30 **4. Appeal.** An applicant who has been denied the issuance or renewal of a
31 ~~certificate or authorization~~ credential by the commissioner under this chapter may appeal
32 that denial in accordance with rules established by the state board and consistent with the
33 provisions of the Maine Administrative Procedure Act, Title 5, chapter 375.

34 **5. Administrator certificates.** The state board rules ~~shall~~ must establish
35 qualifications for certifying administrators as identified in sections 13012-A and 13019-A
36 for superintendents of schools, principals building administrators and directors of career
37 and technical education and ~~shall also establish qualifications~~ for such other ~~certificates~~
38 ~~for~~ administrators as may be determined to be necessary and beneficial for the efficient
39 operation of the schools.

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

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

8 ~~B. May feature an accelerated program of preparation;~~

9 ~~C. Uses mentorship programs that partner teacher candidates with mentor teachers;~~
10 ~~and~~

11 ~~D. Includes accountability provisions to ensure that teacher candidates demonstrate~~
12 ~~the knowledge and skills established pursuant to section 13012, subsection 2-B prior~~
13 ~~to issuance of a provisional teacher certificate.~~

14 **6-A. Educational specialist certificates.** The state board shall establish
15 qualifications for certifying educational specialists as identified in sections 13012-A,
16 13019-G and 13022 and for other educational specialists as may be determined to be
17 necessary and beneficial for the efficient operation of the schools.

18 **7. Credential waiver.** Under rules adopted by the state board, the commissioner
19 may grant a waiver for an appropriate period of time to an individual seeking the issuance
20 or renewal of a ~~certificate~~ credential. The commissioner may grant a waiver to an
21 individual who:

22 A. Receives allegedly inaccurate, incomplete or untimely information or action from
23 the department, ~~the~~ a local support system or a regional support system. The waiver
24 must be for a reasonable period of time to permit the applicant to complete
25 certification requirements; or

26 B. Demonstrates compliance with ~~certification~~ credentialing requirements by
27 professional alternative methods, including the following:

28 (1) Scores on Graduate Record Examinations demonstrating content area
29 proficiency equal to approved course work, with passing scores established under
30 rules adopted by the state board;

31 (2) Examinations accepted by state-approved programs in lieu of course work,
32 with passing scores established under rules adopted by the state board;

33 (3) Examinations from professional testing corporations demonstrating content
34 area proficiency equal to approved course work, with professional testing
35 corporations approved by the state board and passing scores established under
36 rules adopted by the state board; and

37 (4) Work experience equivalent to outcomes for approved course work and a
38 formal recommendation from the state professional organization in that content
39 area. The professional organizations are established under rules adopted by the
40 state board. The waiver is for the duration of the certificate or endorsement
41 sought.

1 **8. Criminal history record checks.** Criminal history record checks of an applicant
2 for certification, authorization, approval or renewal a credential, including renewals, must
3 be conducted in accordance with this section, section 6103 and pursuant to rules adopted
4 by the state board. ~~Rules adopted pursuant to this subsection are minor technical rules in~~
5 ~~accordance with Title 5, chapter 375, subchapter II-A.~~

6 ~~**9. Targeted need area certificate; exception.** The state board shall adopt rules that~~
7 ~~establish criteria under which a targeted need area certificate may be issued. This~~
8 ~~certificate may be issued only to a person holding a bachelor's degree and teaching in a~~
9 ~~teacher shortage area. The teacher shortage area is determined by the commissioner.~~
10 ~~Rules adopted pursuant to this subsection are major substantive rules in accordance with~~
11 ~~Title 5, chapter 375, subchapter 2 A. Any amendment to the rules adopted pursuant to~~
12 ~~this subsection that revises the qualifications for a targeted need area certificate does not~~
13 ~~apply to a person who was issued a targeted need area certificate prior to or during the~~
14 ~~school year preceding the adoption of revisions to the original rules as long as the holder~~
15 ~~of the targeted need area certificate completes within 3 years the required course work~~
16 ~~and testing as determined by the department for the school year preceding the adoption of~~
17 ~~revised rules.~~

18 ~~**10. Conditional certificate; transitional endorsement; exception.** A conditional~~
19 ~~certificate is a certificate for teachers and educational specialists who have not met all of~~
20 ~~the requirements for a provisional or professional certificate. A school administrative~~
21 ~~unit may employ a conditionally certified teacher or educational specialist who is in the~~
22 ~~process of becoming professionally certified notwithstanding the availability of~~
23 ~~provisionally or professionally certified teachers or educational specialists. Any~~
24 ~~amendment to the rules adopted pursuant to this chapter that revises the qualifications for~~
25 ~~a conditional certificate or transitional endorsement does not apply to a person who was~~
26 ~~issued a conditional certificate or transitional endorsement prior to or during the school~~
27 ~~year preceding the adoption of revisions to the rules as long as the holder of the~~
28 ~~conditional certificate or transitional endorsement completes within 3 years the required~~
29 ~~course work and testing as determined by the department for the school year preceding~~
30 ~~the adoption of revised rules.~~

31 **Sec. 10. 20-A MRSA §13012,** as amended by PL 2011, c. 635, Pt. B, §4, is
32 repealed.

33 **Sec. 11. 20-A MRSA §13012-A** is enacted to read:

34 **§13012-A. Conditional certificate**

35 **1. Conditional certificate.** The commissioner may issue a conditional certificate to:

36 A. An individual who has not met all of the requirements for a certificate as set forth
37 in section 13013, 13019-A, 13019-G or 13022.

38 B. An individual who is eligible for an endorsement to teach in a teacher shortage
39 area as determined by the commissioner; or

40 C. A holder of a professional teacher certificate under section 13013 who is
41 transitioning to another endorsement;

1 **2. Term.** A conditional certificate is issued for a 3-year period and may not be
2 renewed.

3 **3. Employment.** A school administrative unit may employ a conditionally certified
4 individual who is in the process of becoming professionally certified notwithstanding the
5 availability of professionally certified teachers or educational specialists.

6 **4. Requirements.** If a school administrative unit employs a conditionally certified
7 teacher or educational specialist, the school administrative unit shall:

8 A. Ensure that the conditionally certified teacher or educational specialist receives
9 high-quality professional development that is sustained, intensive and classroom-
10 focused in order to have a positive and lasting impact on classroom instruction while
11 teaching; and

12 B. Provide a program of intensive supervision for the conditionally certified teacher
13 or educational specialist that consists of structured guidance and regular ongoing
14 support or a mentoring program, which is separate from any student-teacher
15 requirement that may be required under another authority.

16 **5. Program review.** The commissioner may conduct a program review of any
17 program developed or administered by a school administrative unit to meet the
18 requirements of subsection 4.

19 **Sec. 12. 20-A MRSA §13013**, as amended by PL 2001, c. 534, §4, is further
20 amended to read:

21 **§13013. Professional teacher certificate**

22 **1. Definition.** A professional teacher certificate is a renewable certificate issued to
23 an individual who has held a provisional certificate and has met the qualifications of this
24 section, except as provided in subsection 2-A, paragraphs B and D.

25 **~~2-A. Qualifications.~~** State board rules governing the qualifications for a professional
26 teacher certificate must require that the certificate may only be issued to an applicant
27 who, at a minimum, either:

28 ~~A. Holds a provisional teacher certificate and has taught in a classroom for 2~~
29 ~~academic years or has held a professional teacher certificate that has lapsed within the~~
30 ~~last 5 years. In this case, an applicant must receive a recommendation to the~~
31 ~~commissioner by an approved support system pursuant to section 13015;~~

32 ~~B. Is a teacher with 5 or more years of experience teaching within the 7 years prior to~~
33 ~~application in the State under a valid certificate in another state and who has~~
34 ~~graduated from a state approved preparation program that utilizes the standards of a~~
35 ~~national association of state directors of teacher education and certification or a~~
36 ~~national council for accreditation of teacher education or a national board certificate~~
37 ~~issued by the National Board for Professional Teaching Standards, or its successor~~
38 ~~organization, or, with the exception of the national teachers exam, meets entry level~~
39 ~~standards for the endorsement;~~

1 C. ~~Holds a provisional teacher certificate issued pursuant to section 13012,~~
2 ~~subsection 2-A, paragraph D and has taught for at least one year under a provisional~~
3 ~~teacher certificate; or~~

4 D. ~~Is seeking to hold only adult education or from birth to under age 6 endorsements.~~

5 **2-B. Qualifications.** State board rules governing the qualifications for a
6 professional teacher certificate must require that the certificate may be issued only to an
7 applicant who, at a minimum:

8 A. Has graduated from an educator preparation program and has passed a qualifying
9 exam;

10 B. If seeking a grade 6 to grade 12 endorsement, demonstrates subject matter
11 competency obtained through work experience that is directly related to the grade 6
12 to grade 12 endorsement being sought;

13 C. If seeking a public preschool to grade 8 endorsement, has held a conditional
14 certificate under section 13012-A for 3 years and demonstrates subject matter
15 competency obtained through work experience that is directly related to the public
16 preschool to grade 8 endorsement being sought;

17 D. If seeking a kindergarten to grade 12 endorsement, has held a conditional
18 certificate under section 13012-A for 3 years and demonstrates subject matter
19 competency obtained through work experience that is directly related to the
20 kindergarten to grade 12 endorsement being sought;

21 E. Has successfully completed a preparation program in a state with which this State
22 is participating in an interstate educational certification compact, as long as:

23 (1) The applicant has completed an approved preparation program for the
24 endorsement or certificate being sought with a formal recommendation for
25 endorsement or certification from the institution; or

26 (2) In the 5 years prior to applying for certification in the State, the applicant has
27 3 years of successful teaching experience under a valid comparable certificate in
28 a state with which this State is participating in the interstate compact.

29 If advanced study or tests are required in this State, the commissioner has the right, as
30 specified in the interstate compact, to issue only a conditional certificate under
31 section 13012-A.

32 F. Is seeking to hold only an adult education endorsement or a birth to under age 6
33 endorsement.

34 **3. Endorsements.** ~~The~~ A professional teacher certificate ~~shall~~ must be issued with
35 an endorsement ~~which~~ that specifies the grades and subject area ~~which~~ that the teacher is
36 ~~deemed~~ qualified to teach. A holder of a professional teacher certificate may not teach
37 outside ~~his or her~~ the certificate holder's area of endorsement unless ~~he or she~~ the
38 certificate holder has received a waiver from the commissioner in accordance with state
39 board rules.

40 **4. Five-year certificate.** A professional teacher certificate ~~shall be~~ is issued for a 5-
41 year period ~~and may be renewed in accordance with section 13016.~~

1 **5. Renewal.** A professional teacher certificate may be renewed for 5-year periods in
2 accordance with state board rules, which must require, at a minimum, that the teacher
3 complete at least 6 semester hours of professional or academic study or in-service
4 training designed to improve the performance of the teacher in the field.

5 **Sec. 13. 20-A MRSA §13014**, as amended by PL 1985, c. 797, §49, is repealed.

6 **Sec. 14. 20-A MRSA §13015**, as amended by PL 1999, c. 238, §1, is repealed.

7 **Sec. 15. 20-A MRSA §13016**, as amended by PL 2011, c. 669, §8, is repealed.

8 **Sec. 16. 20-A MRSA §13017-A**, as enacted by PL 1993, c. 200, §3, is repealed.

9 **Sec. 17. 20-A MRSA §13018**, as amended by PL 1985, c. 287, §4, is repealed.

10 **Sec. 18. 20-A MRSA §13019**, as enacted by PL 1983, c. 845, §4, is amended to
11 read:

12 **§13019. Visiting international teacher**

13 **1. Clearance.** ~~A visiting teacher permit is designed to allow those who do not intend~~
14 ~~to enter the teaching profession full time to offer their special expertise to schools from a~~
15 country other than the United States who is participating in a visiting teacher program
16 approved by the department may teach in a school as long as the teacher is issued a
17 clearance by the department. The visiting teacher shall is authorized to act as an adjunct
18 to existing staff and shall may not be used to avoid the hiring of professional, certified
19 teachers.

20 **2. Qualifications.** ~~A visiting teacher permit shall be issued for a limited period in~~
21 ~~accordance with state board rules.~~

22 **Sec. 19. 20-A MRSA §13019-A**, as amended by PL 2001, c. 534, §§5 and 6, is
23 repealed and the following enacted in its place:

24 **§13019-A. Administrator certificate**

25 **1. Initial certification.** An administrator's certificate is required for:

26 A. Employment as a superintendent of a school administrative unit in the State;

27 B. Employment as a building administrator of a public school and as chief
28 administrator of a private school approved for attendance purposes pursuant to
29 section 2901, subsection 2, paragraph B; and

30 C. Employment of any other administrator as may be determined to be necessary and
31 beneficial for the efficient operation of the schools.

32 **2. Qualifications.** State board rules must require that qualifications for an
33 administrator certificate include the following:

34 A. Evidence of at least 3 years of satisfactory teaching experience or equivalent;

- 1 B. Evidence of previous administrative experience in schools or equivalent;
- 2 C. Academic and professional knowledge as demonstrated through the completion of
- 3 required graduate or undergraduate courses or programs, performance in
- 4 examinations or completion of specialized programs approved for this purpose;
- 5 D. A basic level of knowledge in competency areas determined by the state board;
- 6 and
- 7 E. Satisfactory completion of an approved internship or practicum relating to the
- 8 duties of an administrator.

9 **3. Certificate renewal.** An administrator's certificate is issued for a 5-year period
10 and may be renewed based on further approved study or demonstrated professional
11 growth and improvement through an approved administrator action plan in accordance
12 with state board rules.

13 **Sec. 20. 20-A MRSA §13019-B**, as amended by PL 2001, c. 534, §§7 and 8, is
14 repealed.

15 **Sec. 21. 20-A MRSA §13019-C**, as amended by PL 2011, c. 679, §26, is
16 repealed.

17 **Sec. 22. 20-A MRSA §13019-D**, as corrected by RR 1991, c. 2, §67, is repealed.

18 **Sec. 23. 20-A MRSA §13019-E**, as enacted by PL 1985, c. 287, §5, is repealed.

19 **Sec. 24. 20-A MRSA §13019-F**, as amended by PL 2005, c. 152, §§3 and 4, is
20 repealed.

21 **Sec. 25. 20-A MRSA §13019-G** is enacted to read:

22 **§13019-G. Educational specialist certificate**

23 **1. Qualifications.** The state board shall adopt rules establishing the qualifications
24 for an educational specialist certificate.

25 **2. Initial certificate.** An educational specialist certificate is required for
26 employment as an educational specialist at a public school or a private school approved
27 for attendance purposes pursuant to section 2901, subsection 2, paragraph B.

28 **3. Certificate renewal.** An educational specialist's certificate is issued for a 5-year
29 period and may be renewed based on further approved study or demonstrated professional
30 growth and improvement through an approved action plan in accordance with state board
31 rules.

32 **Sec. 26. 20-A MRSA §13021**, as amended by PL 1985, c. 287, §6, is repealed.

33 **Sec. 27. 20-A MRSA §13023**, as amended by PL 2015, c. 395, §8, is repealed.

1 **Sec. 28. 20-A MRSA §13024**, as amended by PL 2005, c. 662, Pt. A, §§38 to 40,
2 is further amended to read:

3 **§13024. Clearance for person paid to work in school**

4 **1. Clearance.** A person paid to work in a school in a position that does not require
5 certification ~~or authorization~~ must be issued ~~an approval~~ a clearance by the department.
6 This section applies to:

7 A. Personnel employed in a public school or an approved private school as regular or
8 substitute employees;

9 B. Personnel in a private school that enrolls more than 60% of its students at public
10 expense;

11 C. Personnel employed by or serving the school administrative unit as contracted
12 service providers; and

13 D. Personnel for whom certification ~~or authorization~~ is not required prior to being
14 hired or being placed under contract by a public school or an intermediate educational
15 unit.

16 **2. Qualifications.** The commissioner shall adopt rules to define the function,
17 eligibility, term and renewal of the approval clearance under subsection 1. Rules adopted
18 pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375,
19 subchapter 2-A.

20 ~~**3. Fees.** The commissioner shall assess fees for approvals under subsection 1. The
21 fee is \$15 for the initial approval and for renewal.~~

22 **Sec. 29. 20-A MRSA §13025**, as enacted by PL 2013, c. 167, Pt. D, §1, is
23 amended to read:

24 **§13025. Investigations**

25 When conducting an investigation relating to the ~~certification of teachers and other~~
26 ~~professional credentialing of~~ personnel under chapter 501 and this chapter and rules of
27 the state board, the commissioner may issue subpoenas for education records relevant to
28 that investigation.

29 **Sec. 30. 20-A MRSA §13032**, as amended by PL 2001, c. 471, Pt. A, §24, is
30 further amended to read:

31 **§13032. Qualifying examination**

32 ~~The provisional~~ A professional teacher certificate under section 13013, subsection
33 2-B, paragraph A may ~~only~~ be issued only to ~~those applicants~~ an applicant who ~~have~~ has
34 taken and passed the teacher qualifying examination. ~~The examination may be~~
35 ~~administered in separate parts and may be taken by applicants for provisional teacher~~
36 ~~certificates at any time after completion of the sophomore year of attendance at a post-~~

1 secondary higher education institution. The examination must test the applicant in the
2 following area:

3 ~~4. Basic skills. Basic skills, which include reading, writing and mathematics.~~

4 The applicant is responsible for the costs associated with taking the teacher
5 qualifying examination.

6 **Sec. 31. 20-A MRSA §13034**, as enacted by PL 1983, c. 859, Pt. I, §§2 and 3, is
7 repealed.

8 **Sec. 32. 20-A MRSA §13035-A**, as enacted by PL 1999, c. 569, §3 and affected
9 by §6, is repealed.

10 **Sec. 33. 20-A MRSA §13036**, as enacted by PL 1983, c. 859, Pt. I, §§2 and 3, is
11 repealed.

12 **Sec. 34. 20-A MRSA §13037**, as enacted by PL 1999, c. 569, §4 and affected by
13 §6, is repealed.

14 **Sec. 35. 20-A MRSA §13038**, as enacted by PL 1999, c. 569, §4 and affected by
15 §6, is repealed.

16 **Sec. 36. 20-A MRSA §13201, first ¶**, as amended by PL 2011, c. 172, §2 and
17 affected by §4, is further amended to read:

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

35 **Sec. 37. 20-A MRSA c. 511**, as amended, is repealed.

36 **Sec. 38. Maine Revised Statutes headnote amended; revision clause.** In
37 the Maine Revised Statutes, Title 20-A, chapter 501, in the chapter headnote, the words
38 "certification and registration of teachers" are amended to read "credentialing of teachers"

1 and the Revisor of Statutes shall implement this revision when updating, publishing or
2 republishing the statutes.

3 **Sec. 39. Maine Revised Statutes headnote amended; revision clause.** In
4 the Maine Revised Statutes, Title 20-A, chapter 502, in the chapter headnote, the words
5 "certification of educational personnel" are amended to read "credentialing of educational
6 personnel" and the Revisor of Statutes shall implement this revision when updating,
7 publishing or republishing the statutes.

8 **Sec. 40. Application.** A certificate, approval or authorization issued pursuant to
9 the Maine Revised Statutes, Title 20-A, chapters 501, 502 and 502-A before the effective
10 date of this Act is valid until the termination date of the certificate, approval or
11 authorization.

12 **Sec. 41. Effective date.** This Act takes effect on July 1, 2018.

13 **SUMMARY**

14 This bill amends the laws governing the credentialing process for teachers,
15 educational specialists and administrators, and replaces references to the certification,
16 authorization and approval of teachers and educational personnel with references to
17 credentialing teachers and educational personnel.