

MAINE STATE LEGISLATURE

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N I N E T I E T H L E G I S L A T U R E

Legislative Document

No. 1095

S. P. 537

In Senate, April 4, 1941.

ROYDEN V. BROWN, Secretary.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-ONE

**AN ACT to Provide Higher Standards of Education by Securing to
Teachers Greater Permanency of Employment.**

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

Sec. 1. Definitions. (1) The word "teacher" as used hereafter in this act shall mean and include teachers (except teachers in one-room schools as hereinafter provided), principals and supervisors who are holders of proper state certificates in full force and effect.

(2) The words "indefinite tenure" as used in this act shall be construed to mean the right to continuous employment within a municipality until the teacher resigns, elects to retire, or is retired pursuant to the law controlling retirement, or is dismissed, demoted, or suspended as provided by law.

(3) The word "notice" as used in this act shall be construed to mean the service of documents personally or the mailing of the documents by United States registered mail with postage thereon prepaid to the last known address of the person or public agency to be notified. Service of notice upon a public agency shall be sufficient when made upon a member or officer of the agency.

(4) The word "year" when used in this act for the purpose of determining the length of the probationary period shall be construed to mean

75% of the number of days the schools of the municipality in which such teacher is employed are actually open for instruction, unless a lesser number of days is considered sufficient by the school committee.

(5) The words "academic year" as used in this act shall be construed to mean the period between the time school opens in the municipality after the summer vacation and the beginning of the next succeeding summer vacation.

(6) The word "demote" as used in this act shall be construed to mean a transfer to a position carrying a lower salary or compensation without the consent of the teacher where such a lowering of salary or compensation does not apply to all teachers alike.

(7) The reference in this act to either sex shall be construed to mean a reference to both sexes.

Sec. 2. Probationary period; when teachers on indefinite tenure; application to present teachers. The probationary period for inexperienced teachers shall be 3 years. The school committee shall notify probationary teachers of their contractual status for the ensuing year not later than May 15 of each academic year. Teachers who have served a total of at least 3 years in any municipality or municipalities of this state, upon election in another municipality, may be required to serve a probationary period of 3 years, provided, however, that the school committee may by unanimous vote confer indefinite tenure upon such teachers at any time. Any teacher who has served 3 consecutive years within a municipality and receives a contract for the 4th year or serves the first 3 days of the 4th successive year shall be on indefinite tenure. Any teacher who has served 3 years in his present municipality shall be on indefinite tenure at the next regular election following the effective date of this act unless he is refused a contract. Any teacher who has served less than 3 years in his present municipality but whose present contract calls for additional service which, together with past service in such municipality, shall equal 3 years, shall be on indefinite tenure at the next regular election following the expiration of his contract unless he is refused another contract. In determining whether or not present teachers shall acquire the status of indefinite tenure, the school committee shall adopt the recommendation of the superintendent of schools unless such recommendation is rejected by unanimous vote of the committee. In the case of teachers in one-room schools, the school committee shall have the option of conferring indefinite tenure or granting 3 to 5 year contracts.

Sec. 3. Minimum percentage on indefinite tenure. The commissioner of education is hereby empowered to determine the minimum percentage of

teachers in any municipality to be on indefinite tenure at a future fixed date where, in his discretion, the commissioner feels that such a determination is for the best interests of the public schools therein; provided, however, that in municipalities employing more than 5 teachers, the commissioner shall not determine a percentage in excess of 80%.

Sec. 4. Causes for dismissal, demotion, or suspension. No teacher serving on indefinite tenure shall be dismissed, demoted, or suspended except for any of the following causes:

1. Immoral character or conduct unbecoming a teacher.
2. Physical or mental disability.
3. Incompetency or inefficiency.
4. Neglect of-duty.
5. Discontinuance of service due to economy, lack of pupils or funds.
6. Willful refusal to obey the school laws of this state or the reasonable and lawful rules of the school committee.

Before actually filing charges against a teacher on the grounds of incompetency or inefficiency, the teacher shall be given written notice of the pendency of such charges and a reasonable opportunity thereafter to improve.

Sec. 5. Charges shall be in writing; when to be made. All charges against a teacher on indefinite tenure shall be made in writing, signed and filed with an officer of the school committee. No charges other than those contained in section 4 (1) shall be filed against a teacher on indefinite tenure except during the academic year.

Sec. 6. Notice of dismissal, demotion or suspension; hearing thereon. No teacher on indefinite tenure shall be dismissed, demoted or suspended without written notice, specifying in detail the charge or charges made against the teacher and signed by an officer of the school committee. The notice shall designate a time and reasonable place where the teacher may appear before the school committee and answer such charges. The case shall not be assigned for hearing within 30 days after the service of notice of the charges. Unless a teacher shall in writing serve a demand for hearing on such charges on an officer of the school committee within 20 days of the filing of notice of the charges, the school committee may demote, dismiss or suspend him and such action by the school committee under this section shall be final. The school committee may suspend the teacher pending final determination of the case. If the teacher is reinstated, he shall be paid for the period of suspension the sum he would have received during that period had he not been suspended. If the teacher is demoted, he shall

be paid for the period of suspension at the rate of salary fixed for the position to which he is demoted. The school committee shall make reasonable rules for conducting the hearing and seasonably provide a copy thereof to the accused teacher. The teacher shall have the option of having the hearing either private or public and shall have the right to be represented by counsel. Each member of the school committee shall have the power to administer oaths and to subpoena witnesses. Subpoenas shall be issued at the request of any party in interest and all witnesses shall testify under oath. In case of the refusal of any person to comply with any subpoena issued hereunder or to testify to any matter regarding which he may be lawfully interrogated, the superior court in any county, on application of any party in interest, may issue an order requiring such person to comply with such subpoena and to testify; and any failure to obey such order of the court may be punished by the court as a contempt thereof. The school committee shall cause a record of the entire evidence to be made by a competent stenographer and shall, within 5 days after the hearing, furnish the accused teacher with a copy thereof. No evidence relating to matters occurring more than 3 years prior to the filing of the charges shall be admitted unless the charges are those contained in section 4 (1) in which case the period of admissibility shall be 6 years.

Sec. 7. Decision of school committee. The school committee shall render its decision and serve written notice thereof on the teacher within 10 days of the completion of the hearing. A majority of the committee shall be present during the entire hearing. The committee may (a) dismiss the teacher, (b) demote the teacher, (c) suspend the teacher, (d) dismiss the charges against the teacher.

Sec. 8. Miscellaneous provisions relating to teachers on indefinite tenure. No teacher on indefinite tenure shall have his salary reduced unless there is a general salary reduction by the school committee or a reduction as a result of charges brought before the school committee. The school committee may change a teacher to any position which he is qualified to fill in order to place him in his best working position; provided, however, that the transfer of a teacher on tenure to a different position shall not reduce the salary of said teacher. No teacher on indefinite tenure shall be dismissed due to economic causes or lack of pupils so long as there is a probationary teacher whose position he is qualified by certificate to fill. If teachers having indefinite tenure are dismissed due to economic causes or lack of pupils, they shall be dismissed in the inverse of the order in which they were employed. Teachers dismissed due to economic causes or a lack of pupils shall have the preferred right of reappointment in the order of

their original employment, if the number of teachers be increased or the service reestablished within a period of 2 years. No teacher's indefinite tenure rights shall be adversely affected if he accepts employment when his services are discontinued. A teacher shall not lose indefinite tenure status when, by reason of illness or other just causes, he is unable to continue in service and is absent from duty for a period of not more than 2 consecutive years. The tenure rights of a teacher shall lapse at the end of the academic year during which he reaches the age of 65 years; provided, however, that if the teacher is eligible for a pension under the pension and retirement laws at the age of 60 years, his tenure rights shall lapse as of that time.

Sec. 9. Resignation. The school committee shall accept the resignation of any teacher and fix the effective date thereof which shall be not later than the end of the academic year during which the resignation is received. 10 days' notice of resignation shall be sufficient where such resignation occurs between the close of the academic year and a date not less than 30 days before the opening of the next succeeding academic year. If a teacher leaves otherwise than in the manner herein provided, the commissioner of education shall have the power to suspend his certificate for a period of 1 year.

Sec. 10. Status of teachers. The school committee shall, prior to the closing of the academic year, prepare and file in the school committee offices, open to public inspection at all reasonable hours, an up-to-date list of probationary and indefinite tenure teachers for the next succeeding year.

Sec. 11. Consolidation or other changes in municipalities. If a municipality or any part of a municipality becomes another municipality or a part of another municipality by addition, consolidation, centralization, change in organization, or by any other means, all teachers in the newly created municipality shall have the same tenure rights as if all their services in the immediate prior municipality had been served continuously in the newly created municipality.

Sec. 12. Acts of school committee. Except as otherwise provided in this act, no action relating to the purposes of this act shall be taken by the school committee except upon a concurring vote of a majority number of the members of the committee.

Sec. 13. Contractual right. All employment under this act is to be construed to confer a contractual right.

Sec. 14. Validity. If any section or other part of this act is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the act.

Sec. 15. Repealing clause. All acts or parts of acts previously enacted and inconsistent with this act are hereby repealed, or amended to conform with the provisions hereof.