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04333-0001

June 20, 2019

The 129<sup>th</sup> Legislature of the State of Maine  
State House  
Augusta, Maine

Dear Honorable Members of the 129<sup>th</sup> Legislature:

By the authority conferred by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing L.D. 240, An Act to Allow Public Employers of Teachers to Negotiate Regarding Educational Policies.

I have been pleased to champion some important education initiatives this session that support our teachers, including significant funding for teacher salaries, GPA and educational bonds. As the daughter of a long-time public school teacher, I hold all educators in high regard. But this bill presents a different question.

L.D. 240 states that teacher “planning and preparation” are not issues of “educational policy” and therefore must be subjects of collective bargaining. But the bill does not define “planning,” “preparation” or “educational policy.” The bill was not reviewed by the Education Committee, but instead by the Labor Committee, though the express purpose of L.D. 240 is to declare what constitutes “educational policy” for our schools.

Although this bill declares that issues of teacher “planning and preparation” are not issues of “educational policy,” the Maine Labor Relations Board has repeatedly recognized that that the issue of teacher planning and preparation during school hours is a matter of educational policy. *See Sanford Federation of Teachers v. Sanford School Committee, MLRB No. 84-13 (Mar. 20, 1984); M.S.A.D. No. 43 Board of Directors v. M.S.A.D. No. 43 Teachers Association et al., MLRB Nos. 79-36 et al. (Aug. 24, 1979); and Caribou School Dept. v. Caribou Teachers Association, MLRB No. 76-15 (Jan. 19, 1977).* The Board reasoned in *Sanford Federation of Teachers* that:

since preparation and planning time proposals could affect the length of the teachers' working day, require the use of various types of substitutes for the presence of teachers, and infringe on the ability of the school administration to schedule classes and student activities, such proposals must be considered matters of educational policy. Although such proposals also obviously affect teacher working conditions, this fact is overridden by the ‘foundational educational value judgments’ inherent in the proposals....



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The Maine Supreme Judicial Court in *City of Biddeford v. Biddeford Teachers Association*, 304 A.2d 387 (Me. 1973) agreed, finding that:

the length of the teacher's working day is closely and heavily interwoven with judgments bearing upon the welfare of the students, as reflected in the ultimate quality of their education and the extent to which it may be improved or weakened by use of various types of substitutes, technological or otherwise, for the living presence and active participation of teachers. Such foundational educational value judgements cannot reasonably be subordinated to the overlay of teacher 'working conditions' and, for this reason, the length of the teacher's working day must be held, fundamentally, ... 'educational policies'....

L.D. 240 is contrary to these long-standing and well-reasoned opinions of our state's Labor Board and Supreme Court. The bill attempts to change in text that which does not and cannot align with fact and practice.

For these reasons, I return L.D. 240 unsigned and urge the Legislature to sustain this veto.

Sincerely,



Janet T. Mills  
Governor  
State of Maine



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