

# MAINE STATE LEGISLATURE

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Date: 3/16/15

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**EDUCATION AND CULTURAL AFFAIRS**

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**STATE OF MAINE  
SENATE  
127TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 250, L.D. 692, Bill, "An Act Regarding Educator Effectiveness"

Amend the bill by striking out all of sections 3 and 4 and inserting the following:

**Sec. 3. Amendment of rule.** The Department of Education shall amend portions of Rule Chapter 180: Performance Evaluation and Professional Growth Systems as follows.

1. Throughout the rule the abbreviation PE/PG must be changed to PEPG.

2. In section 2, subsection 10, language must be added to the definition of "principal" to provide that "principal" means a person who supervises teachers in delivering the instructional program of a school. The phrase "serving in a position that requires certification under State Board of Education Rule Chapter 115, Part II, Section 4.5, 4.6 and 4.7" must be moved to the end of subsection 10.

3. In section 2, subsection 12, the definition of school administrative unit must be amended to include charter schools.

4. In section 4, subsection 2, the following changes must be made to the requirements of a performance evaluation and professional growth system plan:

A. In subsection 2, paragraph C, student learning and growth measures must be removed as a requirement and replaced with a system for the selection, development, review and approval of individual educators' student learning and growth measures, including an explanation of how the student learning and growth measurement is a significant factor in the determination of the summative effectiveness rating of an educator in accordance with the provisions in section 7, subsection 1;

B. In subsection 2, paragraph F, a description of the 4 rating categories must be changed to the 4 summative effectiveness rating categories; and

C. A provision must be added providing that department approval is also contingent upon evidence of adoption of the system by the school board.

**COMMITTEE AMENDMENT**

1           5. In section 5, the Kim Marshall Teacher Evaluation Rubrics and MSAD 49  
2 Teacher Evaluation Rubric, based on the Kim Marshall Teacher Evaluation Rubrics, must  
3 be added as models containing all of the elements necessary to be approved for use as the  
4 professional practice element for teachers.

5           6. In section 6, the Marzano School Leader Evaluation Model and the Kim Marshall  
6 Principal Evaluation Rubrics must be added as models containing all of the elements  
7 necessary to be approved for use as the professional practice element for principals.

8           7. Section 7, subsection 2, paragraph A must be clarified so that a teacher is a  
9 "teacher of record" for a student only if, for any student growth measure, the student  
10 meets the criteria in subsection 2, paragraph A.

11          8. In section 7, subsection 2, paragraph A, a provision must be added providing that  
12 a student's academic performance may be attributed to more than one teacher of record,  
13 as long as the criteria in subparagraphs (1) to (3) are met for each teacher. The current  
14 language regarding a student's academic performance being attributable to more than one  
15 teacher must be deleted.

16          9. In section 7, subsection 2, paragraph B, a sentence must be added providing that  
17 nothing in section 7 prohibits collaboration in establishing and monitoring the list of  
18 students for whom the teacher will be the teacher of record.

19          10. In section 7, subsection 3, paragraph A, the criterion requiring that a student  
20 learning and growth measure must measure student growth in achievement, and not  
21 solely the level of achievement, must be removed and replaced with a criterion requiring  
22 that a student learning and growth measure must measure a change in a student's  
23 knowledge or skills between 2 points of time during which an educator has influence.

24          11. Section 7, subsection 3, paragraph B must provide that multiple measures of  
25 student learning and growth must be factored into the summative effectiveness rating of  
26 an educator and the sentence regarding reference to large-scale, norm-referenced  
27 standardized tests must be replaced with a provision requiring that, at a teacher's  
28 discretion, large-scale standardized tests may be the sole type of student learning and  
29 growth measures used in a summative effectiveness rating.

30          12. In section 7, subsection 3, paragraph C, the word "subject" must be changed to  
31 "knowledge and skills" and the word "pre-assessment" must be changed to "comparable  
32 pre-assessment."

33          13. Section 7, subsection 3, paragraph F must also provide a provision that an  
34 individual education plan may not be used as a measure of student learning and growth in  
35 the evaluation of an educator.

36          14. Section 7, subsection 4 must be deleted and replaced with a provision requiring  
37 that school administrative units must use a student learning objective framework or  
38 comparable structure to develop and record student learning and growth measures, and  
39 the school administrative unit must establish in its PEPG system handbook criteria for:

40           A. The identification of content standards;

41           B. The selection of assessments;

42           C. Setting growth targets, if applicable;

- 1 D. The size of an instructional cohort; and
- 2 E. The length of the instructional interval of time.

3 15. In section 7, a new subsection must be added after subsection 5 with a provision  
4 regarding the use of state assessment results for tested subjects and grades that provides  
5 that the Maine Educational Assessment for Mathematics and English Language  
6 Arts/Literacy State Assessment results must be used as one measure of student learning  
7 and growth for teachers in the corresponding grades and subjects. These results must:

- 8 A. Be attributed to teachers of record in accordance with the criteria for a teacher of  
9 record in section 7, subsection 2; and
- 10 B. Be used in such a way that they meet the criteria for permissible measures in  
11 section 7, subsection 3.

12 16. In section 11, subsection 3, paragraph A, a requirement that evaluators must  
13 complete training in providing meaningful feedback on instructional practice must be  
14 added.

15 17. Section 12, subsection 1, paragraph D must be deleted and replaced with a  
16 provision that provides if the stakeholder group fails to reach consensus on the issue of  
17 the proportionate weight of student learning and growth measures by July 15, 2015, the  
18 proportionate weight of student learning and growth measures in that school  
19 administrative unit must be 20%.

20 18. In section 12, subsection 1, paragraph E, the date established regarding the  
21 stakeholder group failure to reach consensus on any issue in addition to the proportionate  
22 weight of student learning and growth measures must be changed from June 1, 2015 to  
23 July 15, 2015.

24 19. In section 13, a new subsection must be added regarding professional growth  
25 plans and must provide that an educator who receives a summative effectiveness rating  
26 higher than ineffective must develop a professional growth plan that is based on clearly  
27 articulated goals related to targeted areas of practice and student performance.

28 20. The text of section 14 must be moved to section 13 and identified as subsection  
29 2.

30 21. Except for language containing the purpose of the pilot project and the provision  
31 providing that data from a pilot project must be used to inform potential refinement and  
32 improvement of the system, section 15 must be replaced with the following provisions:

33 A. Evidence and data collected during the pilot year may be used to inform  
34 professional growth plans and differentiated evaluation cycles beginning during the  
35 first year of implementation, but performance ratings assigned during the pilot year  
36 may not be used in any action related to employment or compensation of an educator;  
37 and

38 B. A school administrative unit shall design a pilot project for the purpose of testing  
39 technical aspects of the system, determining the value of its elements and identifying  
40 problems. The pilot project must include student growth measures based on state  
41 assessments in English language arts and literacy and mathematics and a portion of  
42 the district-defined growth measures intended for use in content areas other than

1 English language arts and literacy and mathematics. The school administrative unit  
2 shall ensure that the local steering committee is formed before the pilot project begins  
3 and must ensure that the steering committee develops a plan for monitoring and  
4 evaluating the results of the pilot project.

5 22. In section 16, a provision must be added providing that the department shall  
6 implement a system of monitoring and providing feedback and support based on  
7 information gathered through the monitoring system. Ongoing monitoring will include  
8 the collection of data including but not limited to:

- 9 A. The aggregate summative effectiveness ratings for each school;
- 10 B. The process for and frequency of observation and feedback;
- 11 C. Opportunities for targeted professional growth and improvement;
- 12 D. The types and descriptions of individual assessments used in the evaluation of  
13 educators;
- 14 E. The process for developing student learning and growth measures;
- 15 F. Exemplars of student learning and growth measures;
- 16 G. District criteria for the development, review and approval of growth measures;
- 17 H. The use of effectiveness ratings for employment decisions;
- 18 I. The mechanism for sustaining the PEPG system; and
- 19 J. Evaluator and educator training programs.

20 23. The sections must be renumbered to read consecutively.

21 **Sec. 4. Expedited amendment process.** Notwithstanding the Maine Revised  
22 Statutes, Title 5, chapter 375, subchapters 2 and 2-A and any other law, the Department  
23 of Education shall adopt the amendments to its Rule Chapter 180: Performance  
24 Evaluation and Professional Growth Systems as provided in section 3 of this bill. The  
25 department shall file the amended rule with the Secretary of State as a final adopted rule  
26 within 7 business days of the effective date of this bill and the rule is effective upon  
27 filing. Rules adopted pursuant to this bill are routine technical rules as defined in Title 5,  
28 chapter 375, subchapter 2-A. Beginning July 1, 2015, any changes to Rule Chapter 180  
29 are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

30 **Sec. 5. Submission of pilot project plan.** Each school administrative unit shall  
31 submit to the Department of Education by July 15, 2015 a plan describing the intentions  
32 of its pilot project designed in accordance with the amended provisions in section 15 of  
33 the Department of Education's Rule Chapter 180: Performance Evaluation and  
34 Professional Growth Systems as provided in this Act.'

35 **SUMMARY**

36 This committee amendment makes the following changes to the components  
37 proposed in the bill to amend the Department of Education rules regarding the design and  
38 implementation of the performance evaluation and professional growth systems.

1           1. It strikes the proposed change to section 7, subsection 1 of the rules that would  
2 require school administrative units to develop a defensible approach to using student  
3 learning and growth as a significant factor in the summative effectiveness rating of an  
4 educator.

5           2. It strikes the individual education plan "IEP" language included in section 7,  
6 subsection 4 of the rule concerning Student Learning Objectives and IEP goals and adds a  
7 provision in section 7, subsection 3, paragraph F of the rule concerning Permissible  
8 Measures, to specify that an IEP may not be used as a measure of student learning and  
9 growth in the evaluation of an educator.

10           3. It amends the expedited amendment process provision in the bill to clarify that the  
11 Department of Education shall adopt the amendments to the department's Chapter 180  
12 Rule as provided in this Act within 7 business days of the effective date of this Act.

13           4. It changes the deadline date established for stakeholder groups to reach consensus  
14 on the performance evaluation and professional growth system in section 12, subsection  
15 1, paragraphs D and E of the rules, from June 1, 2015 to July 15, 2015.

16           5. It adds a provision to require that each school administrative unit shall submit to  
17 the Department of Education by July 15, 2015 a plan describing the intentions of its pilot  
18 project.

FISCAL NOTE REQUIRED  
(See attached)



# 127th MAINE LEGISLATURE

LD 692

LR 1916(02)

An Act Regarding Educator Effectiveness

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Education and Cultural Affairs

Fiscal Note Required: Yes

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## Fiscal Note

Potential current biennium revenue decrease - Federal Expenditures Fund

### Fiscal Detail and Notes

This legislation authorizes the Department of Education to make statutory and regulatory changes in order to comply with the Elementary and Secondary Education Act (ESEA) of 1965. Being out of compliance with ESEA may result in the loss of approximately \$72.1 million in Title 1 and other federal funds per year.

The provision of this bill that requires a school administrative unit (SAU) to submit a plan describing the intentions of its pilot project to the Department of Education by July 15, 2015 is considered to fall under the mandate exemption pursuant to Public Law 2011, c. 635.

Additional costs to the Department of Education associated with the rulemaking process can be absorbed within existing budgeted resources.