

# MAINE STATE LEGISLATURE

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# MAJORITY

L.D. 1540

Date: 6/18/2013

(Filing No. S-306)

## EDUCATION AND CULTURAL AFFAIRS

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### STATE OF MAINE

### SENATE

### 126TH LEGISLATURE

### FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 585, L.D. 1540, Bill, "An Act To Fix and Improve the System Used To Evaluate or Rate Public Schools in Maine"

Amend the bill by striking out everything after the title and inserting the following:

**Emergency preamble. Whereas,** acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** the school grades reported on May 1, 2013 by the Commissioner of Education as part of the school performance grading system designed by the Department of Education have resulted in significant controversy over the methodology developed to assess public schools in the State; and

**Whereas,** this controversy demonstrates the need for a thorough review of state policy to ensure that the assessment of public schools by the Department of Education proceeds in a manner that preserves public confidence that the interests of students, educators and school administrative units across the State have been given due consideration; and

**Whereas,** the protection of the interests of students, educators and school administrative units requires that the process for assessing the performance of public schools be temporarily interrupted pending the necessary review of the school laws; and

**Whereas,** in order for the task force to be convened under this legislation to review systems for assessing the performance of public schools and prepare a report in time for submission to the 126th Legislature, the review needs to be initiated as soon as possible; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

# COMMITTEE AMENDMENT

1           **Sec. 1. 20-A MRSA §6214** is enacted to read:

2           **§6214. School assessment system; annual reports**

3           Beginning with the 2014-2015 school year, the commissioner shall implement a  
4 school assessment system to measure school performance and student proficiency in  
5 achieving the knowledge and skills described in the parameters for essential instruction  
6 and graduation requirements established under section 6209, subsection 2 and department  
7 rules established pursuant to this chapter.

8           **1. Performance and proficiency measures.** The measures of school performance  
9 and student proficiency implemented under this section must include multiple measures  
10 of student achievement and may include, but are not limited to, the use of:

11           A. Summative assessments aligned with the grade level expectations of the  
12 parameters for essential instruction and graduation requirements established under  
13 section 6209, subsection 2;

14           B. Formative assessments that measure student growth over time; and

15           C. Information of the state assessment program under section 6204 on student  
16 achievement reported by the department in compliance with applicable federal  
17 statutes and regulations regarding student assessment as required by the federal No  
18 Child Left Behind Act of 2001, 20 United States Code, Chapter 70.

19           **2. Annual reports.** The commissioner shall annually report the statewide and  
20 school level results of the school assessment system with regard to the performance of  
21 schools and the proficiency of students in each of the State's elementary and secondary  
22 schools.

23           A. The commissioner shall provide each participating school with a profile of school  
24 performance and student proficiency based upon data from the school assessment  
25 system.

26           B. When a report is made under this subsection for purposes of comparative analysis  
27 of elementary and secondary schools, the reporting mechanisms and the categories  
28 reported must be uniform for each school compared at the elementary level or the  
29 secondary level.

30           C. Notwithstanding any other provision of this section, the commissioner may not  
31 provide a report of the statewide or school level results of the school assessment  
32 system until the final adoption of rules in accordance with subsection 3.

33           **3. Rules.** The department shall adopt rules to implement the school assessment  
34 system established pursuant to this section. The rules adopted by the department must  
35 specify the methods to be used as part of the annual assessment of the performance of  
36 elementary and secondary schools and the proficiency of elementary and secondary  
37 school students. Rules adopted pursuant to this subsection are major substantive rules as  
38 defined in Title 5, chapter 375, subchapter 2-A.

39           Nothing in this section may be construed to prevent or inhibit the department from  
40 providing annual reports of the results of the state assessment program required by  
41 section 6204 to meet the federal statutes and regulations pertaining to student assessment

1 as required by the federal No Child Left Behind Act of 2001, 20 United States Code,  
2 Chapter 70.

3 **Sec. 2. Legislative finding.** The Legislature finds that there is a need to design  
4 and implement an effective school assessment system pursuant to the Maine Revised  
5 Statutes, Title 20-A, section 6214 that:

6 1. Engages teachers, administrators, school officials, parents, students and state  
7 officials in the design of a constructive school assessment system;

8 2. Is more comprehensive and better encourages improvement in school performance  
9 and student achievement; and

10 3. Supersedes the school performance grading system developed by the Department  
11 of Education and introduced on May 1, 2013.

12 **Sec. 3. Temporary interruption of school performance grading system.**  
13 Notwithstanding the Maine Revised Statutes, Title 20-A, section 6214 or any other  
14 provision of law and regardless of the school grades reported on May 1, 2013 by the  
15 Commissioner of Education as part of a school performance grading system, neither the  
16 Department of Education nor any other state agency may report or publish grades for  
17 schools in the State as part of a school performance grading system after the effective  
18 date of this section until the Legislature enacts legislation that expressly authorizes the  
19 Department of Education or another state agency to finally adopt rules to implement a  
20 school assessment system as set forth in Title 20-A, section 6214, subsection 3.

21 Nothing in this section may be construed to prevent or inhibit the Department of  
22 Education from providing annual reports of the results of the state assessment program  
23 required by the Maine Revised Statutes, Title 20-A, section 6204 to meet the federal  
24 statutes and regulations pertaining to student assessment as required by the federal No  
25 Child Left Behind Act of 2001, 20 United States Code, Chapter 70.

26 **Sec. 4. Task force to design a school assessment system.** The Commissioner  
27 of Education shall convene a task force to develop a system to evaluate or rate the  
28 performance of public schools in the State.

29 1. The task force must include, but is not limited to, representatives of the following  
30 entities and stakeholder groups:

31 A. Department of Education;

32 B. State Board of Education;

33 C. Teachers;

34 D. School boards;

35 E. Superintendents;

36 F. Principals;

37 G. Parents;

38 H. Maine Education Policy Research Institute; and

39 I. Students.

1           2. The school assessment system developed by the task force must include, but is not  
2 limited to, the following elements:

3           A. Accurate measures of student progress over at least 3 years;

4           B. Rates of postsecondary school attendance and enlistment in the United States  
5 Armed Forces over at least 3 years;

6           C. A peer group comparison that takes into account, but is not limited to, utilization  
7 of special education services, the number of students eligible for free or reduced-price  
8 meals, local and county unemployment data and median household income;

9           D. School attendance rates;

10          E. Graduation rates; and

11          F. Interviews with parents of students, members of governing boards of school  
12 administrative units, teachers and other education leaders about the overall school  
13 environment.

14          3. The school assessment system may not use a bell curve, and a school may not be  
15 penalized because of the failure of students to take certain standardized tests.

16          4. The task force shall provide opportunities for the public and interested parties to  
17 provide input regarding the development of the school assessment system and shall give  
18 notice to the public and interested parties of the task force's meetings during which the  
19 public may provide testimony or feedback on the proposed models under consideration  
20 by the task force.

21          5. The task force shall review the requirements of the Maine Revised Statutes, Title  
22 20-A, chapter 222 and the school assessment systems that have been implemented in  
23 other states and jurisdictions and shall develop a school assessment system that will best  
24 serve the academic and developmental needs of students in this State.

25          6. The Commissioner of Education shall submit a report on the review required by  
26 subsection 5 to the Joint Standing Committee on Education and Cultural Affairs no later  
27 than November 1, 2013. The report must include the task force's findings and  
28 recommendations and any necessary legislation regarding the implementation of a school  
29 assessment system. The committee is authorized to report out a bill to the Second Regular  
30 Session of the 126th Legislature related to the recommendations included in this report.

31          **Sec. 5. Rules.** In adopting the rules required under the Maine Revised Statutes,  
32 Title 20-A, section 6214 related to implementing a school assessment system consistent  
33 with the requirements of Title 20-A, chapter 222, the Department of Education shall  
34 adopt rules that are consistent with the recommendations of the task force submitted as  
35 part of the report required under section 4, subsection 6. The department shall file  
36 provisionally adopted major substantive rules with the Legislature by the January 10,  
37 2014 statutory deadline for the submission of major substantive rules to be reviewed by  
38 the Legislature.

39          **Emergency clause.** In view of the emergency cited in the preamble, this  
40 legislation takes effect when approved.'

**SUMMARY**

This amendment, which is the majority report for the Joint Standing Committee on Education and Cultural Affairs, strikes and replaces the concept draft with an emergency bill that proposes to accomplish the following initiatives:

1. It provides that, beginning with the 2014-2015 school year and only after the adoption of major substantive rules by the Department of Education, the Commissioner of Education shall implement a school assessment system to measure school performance and student proficiency in achieving the knowledge and skills described in the parameters for essential instruction and graduation requirements established under the Maine Revised Statutes, Title 20-A, section 6209, subsection 2 and Department of Education Rule Chapter 132: Learning Results: Parameters for Essential Instruction;

2. It provides that, until those rules are adopted, notwithstanding Title 20-A, section 6214 or any other provision of law, neither the department nor any other state agency may take any action based on the school grades reported on May 1, 2013 by the Commissioner of Education as part of a school performance grading system;

3. It provides that, notwithstanding any other provisions of Title 20-A, chapter 222, the commissioner may not provide a report of the statewide or school level results of the school assessment program until the final adoption of department rules adopted in accordance with Title 20-A, section 6214, subsection 3. It also provides that this provision may not be construed to prevent or inhibit the department from providing reports to comply with the federal statutes and regulations pertaining to student assessment as required by the federal No Child Left Behind Act of 2001. It also provides that the rules must be consistent with the recommendations reported by the task force to develop a system to evaluate or rate the performance of public schools in the State;

4. It directs the commissioner to convene a task force to review school assessment systems that have been implemented in other states and to develop a system to evaluate or rate the performance of public schools in this State;

5. It provides that the commissioner must report the task force's findings, recommendations and any necessary legislation with respect to the implementation of a school assessment system to the Joint Standing Committee on Education and Cultural Affairs no later than November 1, 2013 and authorizes the joint standing committee to report out a bill to the Second Regular Session of the 126th Legislature related to the recommendations included in this report; and

6. It provides that the department must file provisionally adopted major substantive rules by January 10, 2014 to implement the school assessment system and that the rules must specify the methods to be used as part of the annual assessment of the performance of elementary and secondary schools and the proficiency of elementary and secondary school students beginning with the 2014-2015 school year.

**FISCAL NOTE REQUIRED**  
**(See attached)**



# 126th MAINE LEGISLATURE

LD 1540

LR 2125(02)

**An Act To Fix and Improve the System Used To Evaluate or Rate Public Schools in Maine**

**Fiscal Note for Bill as Amended by Committee Amendment "A" (5-300)**

**Committee: Education and Cultural Affairs**

**Fiscal Note Required: Yes**

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## Fiscal Note

Potential current biennium cost increase - General Fund

### Fiscal Detail and Notes

This legislation requires the Commissioner of Education to convene a task force to develop a school assessment system to evaluate or rate the performance of public schools in the State and to implement that assessment system beginning with the 2014-2015 school year. The cost to the Department of Education associated with implementing the assessment system can not be determined at this time and may depend on the recommendations of the task force and approval of legislation during the 2nd Regular Session of the 126th Legislature. Even without future legislation, the department would still be required by this bill to implement a school assessment system.

Additional costs associated with convening the task force and conducting the required review can be absorbed within existing budgeted resources.