

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE**

**FIRST SPECIAL SESSION**

**August 29, 2013**

**SECOND REGULAR SESSION**

**January 8, 2014 to May 2, 2014**

**THE EFFECTIVE DATE FOR**

**FIRST SPECIAL SESSION**

**EMERGENCY LAW IS**

**SEPTEMBER 6, 2013**

**THE GENERAL EFFECTIVE DATE FOR**

**SECOND REGULAR SESSION**

**NON-EMERGENCY LAWS IS**

**AUGUST 1, 2014**

**PUBLISHED BY THE REVISOR OF STATUTES  
IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**Augusta, Maine  
2014**

**CHAPTER 113**  
**H.P. 1254 - L.D. 1747**

**Resolve, Regarding Legislative  
Review of Chapter 180:  
Performance Evaluation and  
Professional Growth Systems, a  
Major Substantive Rule of the  
Department of Education**

**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 Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

**Whereas**, the above-named major substantive rule has been submitted to the Legislature for review; and

**Whereas**, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

**Sec. 1. Adoption. Resolved:** That final adoption of Chapter 180: Performance Evaluation and Professional Growth Systems, a provisionally adopted major substantive rule of the Department of Education that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only if the following changes are made.

1. The rule must be amended in section 7 in the part concerning the use of measures of student learning and growth that are considered to be a significant factor in determining the summative effectiveness rating of an educator by:

A. Deleting the provision requiring that, to be considered a significant factor, student learning and growth measures must constitute at least 20% of an educator's total score and a percentage lower than 20% may also be considered if the educator is prevented from being rated as effective if the educator's students do not demonstrate a satisfactory amount of growth in a performance evaluation and professional growth system adopted by a school administrative unit that uses a numerical approach to determine an educator's summative effectiveness rating;

B. Deleting the provision requiring that in a performance evaluation and professional growth system that uses a matrix approach to combining measures into a summative effectiveness rating, student learning and growth measures are a significant factor if they appear on a single axis of the matrix, and that axis is divided into not more than 5 segments; and

C. Inserting a provision requiring that the proportionate weight of the student learning and growth measures that are considered to be a significant factor in the determination of the summative effectiveness rating of an educator must be a local decision made by a school administrative unit in accordance with the provisions in section 12.

2. The rule must be amended in section 7 in the part concerning requirements related to the validity and reliability of permissible measures as follows:

A. Deleting the provision in the first sentence providing that student learning and growth measures must be valid and reliable;

B. Inserting a provision in the first sentence requiring that student learning and growth measures must meet the criteria established in that subsection;

C. Inserting a provision requiring that student learning and growth measures must be appropriately attributed to the teacher or principal whose evaluation is impacted by those measures;

D. Deleting the provision in section 7, paragraph E providing that the assessment must measure intended curriculum and measure only things that are subject to instructional effectiveness and deleting the sentence in paragraph E providing that the assessment is valid and reliable;

E. Inserting a provision providing that the criteria or instrument used to measure student growth must be able to measure growth in identified and intended learning outcomes; provide all students in the instructional cohort the opportunity to demonstrate growth in knowledge or skills; be able to inform instruction and inform others about the effectiveness of a teacher; and be administered consistently across similar grade spans, courses or instructional cohorts;

F. Clarifying the provision in section 7, paragraph F that provides the results are used in a way that takes into account differences in growth opportunity across the spectrum by inserting a provision requiring that the results must be used in a way that takes into account differences in growth opportunity across the spectrum; and

G. Deleting the provision in section 7, paragraph G providing that the data used in the evaluation is statistically reliable.

3. The rule must be amended in section 12 in the part concerning the requirement that school administrative units must collaborate with educators and other education stakeholders in developing a performance evaluation and professional growth system by:

A. Inserting a provision to clarify that a majority of the members of the initial group of stakeholders must be composed of at least a majority of teachers and to provide that, of the teachers appointed to the initial group of stakeholders, 2/3 must have the endorsement of the majority of teachers in the school administrative unit and 2/3 must have the endorsement of the majority of the school administrative unit's governing body;

B. Inserting a provision to provide that, for a school administrative unit that has established an initial group of stakeholders to develop the school administrative unit's performance evaluation and professional development system prior to the effective date of this rule chapter, the existing group of stakeholders, with the consent of a majority of teachers in the school administrative unit, may continue as currently constituted even if the group of stakeholders does not meet the specific composition established in accordance with the provision amended by paragraph A;

C. Inserting a provision to provide that the initial group of stakeholders must use a consensus decision-making process to develop the performance evaluation and professional growth system, including the proportionate weight of the student learning and growth measures as set forth in section 7;

D. Inserting a provision to provide that if the stakeholder group fails to reach consensus on the issue of the proportionate weight of the student learning and growth measures by June 1, 2015, the proportionate weight of student learning and growth measures in that school administrative unit must be 20% in a system that uses a numerical approach to combining measures into a summative effectiveness rating, or, in a system that uses a matrix approach to combining measures into a summative effectiveness rating, student learning and growth measures must appear on a single axis of the matrix and that axis must be divided into not more than 5 segments; and

E. Inserting provisions to provide that if the stakeholder group fails to reach consensus on any issue in addition to the proportionate weight of the student growth measures by June 1, 2015, the school administrative unit shall adopt one of the State Model PE/PG systems developed pursuant to section 16 of the rule. Upon request by the entire membership of the stakeholder group, the commissioner may provide additional time to the group to reach consensus. Upon the expiration of

that additional time, the school administrative unit shall adopt one of the State Model PE/PG systems developed pursuant to section 16 of the rule.

4. The rule must be amended in section 15 in the part concerning requirements related to the piloting of performance evaluation and professional growth systems by:

A. Deleting the provision that provides that, in each case, all of the proposed student growth measures identified as concerns by local educators in a school administrative unit must be applied on a pilot basis; and

B. Inserting a provision that encourages school administrative units to utilize student growth measures during the pilot period.

5. The rule must be amended in section 16 in the part concerning technical assistance provided by the Department of Education to school administrative units by deleting the provision related to developing valid and reliable student learning and growth measures as part of that technical assistance.

6. The rule must be amended in section 16 by adding a reference to the State Model PE/PG systems and by inserting a provision requiring the Department of Education to develop at least one complete State Model PE/PG system for teachers and at least one complete State Model PE/PG system for principals; and be it further

**Sec. 2. Development of model PE/PG systems. Resolved:** That, by July 3, 2014, the Department of Education shall develop at least one complete State Model PE/PG system for teachers and at least one complete State Model PE/PG system for principals in accordance with section 16 of the rules adopted pursuant to this resolve.

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

Effective May 1, 2014.

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**CHAPTER 114**

**H.P. 1335 - L.D. 1850**

**Resolve, To Establish the Commission To Strengthen the Adequacy and Equity of Certain Cost Components of the School Funding Formula**

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