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An Act Regarding Educator Effectiveness

(EMERGENCY)  
(GOVERNOR'S BILL)

COPY

127LR1916(01)

PROPOSED SHORT TITLE:  
AN ACT REGARDING  
EDUCATOR EFFECTIVENESS  
(Subject to change)

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

3           Whereas, the United States Department of Education requires that revisions be  
4 made to the Maine Revised Statutes, Title 20-A, sections 13704 and 13706 and that  
5 corresponding amendments to Maine Department of Education Rule Chapter 180 be in  
6 effect by March 15, 2015 in order to be in compliance with the federal Elementary and  
7 Secondary Education Act of 1965; and

8           Whereas, because Rule Chapter 180 is a major substantive rule, changes to the rule  
9 require legislative review before the changes may be made; and

10          Whereas, the Legislature has the authority to direct the Department of Education to  
11 amend its rule to reflect legislative policy determinations; and

12          Whereas, the Department of Education, educators and administrators need statutory  
13 and rule revisions to be in compliance with the federal Elementary and Secondary  
14 Education Act of 1965; and

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

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

20          **Sec. 1. 20-A MRSA §13704, sub-§3, ¶A,** as enacted by PL 2011, c. 635, Pt. A,  
21 §3, is amended to read:

22           A. The rating must be based on standards of professional practice and measures of  
23 educator effectiveness. The proportionate weight of the standards and the measures  
24 is a local decision, but measurements of student learning and growth must be a  
25 significant factor in the determination of the rating of an educator. School  
26 administrative units shall use state assessment growth data for English language arts,  
27 literacy and mathematics as at least one measure of the performance of English  
28 language arts and mathematics teachers in tested grades and as a measure for the  
29 performance of principals.

30           An educator whose summative effectiveness rating indicates ineffectiveness must  
31 receive an annual summative effectiveness evaluation and rating until the rating  
32 improves.

33           An individualized education plan may not be used to measure student growth for the  
34 purposes of teacher and principal evaluation, but an individualized education plan  
35 may be a source of evidence from which learning objectives and learning targets may  
36 be developed.

37          **Sec. 2. 20-A MRSA §13706,** as enacted by PL 2011, c. 635, Pt. A, §3, is amended  
38 to read:

1           **§13706. Rules**

2           The department shall adopt rules to implement this chapter, including but not limited  
3 to a rule relating to the method of identifying the educator or educators whose  
4 effectiveness ratings are affected by the measurement of learning or growth of a  
5 particular student. The department shall also adopt rules pertaining to the approval of  
6 performance evaluation and professional growth systems pursuant to section 13702. The  
7 department shall also adopt rules pertaining to the ongoing monitoring of the  
8 implementation and results of district performance evaluation and professional growth  
9 systems. Rules adopted pursuant to this section are major substantive rules pursuant to  
10 Title 5, chapter 375, subchapter 2-A.

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

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

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

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

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

24           A. In subsection 2, paragraph C, student learning and growth measures must be  
25 removed as a requirement and replaced with a system for the selection, development,  
26 review and approval of student learning and growth measures;

27           B. Subsection 2, paragraph D must be deleted;

28           C. In subsection 2, paragraph F, a description of the 4 rating levels must be changed  
29 to the 4 summative effectiveness rating levels; and

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

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

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

- 1           7. In section 7, subsection 1, a sentence must be added requiring school  
2 administrative units to develop a defensible approach to using student learning and  
3 growth as a significant factor in the summative effectiveness rating of an educator.
- 4           8. Section 7, subsection 2, paragraph A must be clarified so that a teacher is a  
5 "teacher of record" for a student only if, for any student growth measure, the student  
6 meets the criteria in subsection 2, paragraph A.
- 7           9. In section 7, subsection 2, paragraph A, a provision must be added providing that  
8 a student's academic performance may be attributed to more than one teacher of record,  
9 as long as the criteria in subparagraphs (1) to (3) are met for each teacher. The current  
10 language regarding a student's academic performance being attributable to more than one  
11 teacher must be deleted.
- 12          10. In section 7, subsection 2, paragraph B, a sentence must be added providing that  
13 nothing in section 7 prevents the school administrative unit from collaborating with a  
14 teacher in establishing and monitoring the list of students for whom the teacher will be  
15 the teacher of record.
- 16          11. In section 7, subsection 3, paragraph A, the criterion requiring that a student  
17 learning and growth measure must measure student growth in achievement, and not  
18 solely the level of achievement, must be removed and replaced with a criterion requiring  
19 that a student learning and growth measure must measure a change in a student's  
20 knowledge or skills between 2 points of time during which an educator has influence.
- 21          12. Section 7, subsection 3, paragraph B must provide that multiple measures of  
22 student learning and growth must be factored into the summative effectiveness rating of  
23 an educator and reference to large-scale, norm-referenced standardized tests must be  
24 deleted.
- 25          13. In section 7, subsection 3, paragraph C, the word "subject" must be changed to  
26 "knowledge and skills" and the word "pre-assessment" must be changed to "comparable  
27 pre-assessment."
- 28          14. Section 7, subsection 3, paragraph D, subparagraph (2) must be deleted.
- 29          15. Section 7, subsection 4 must provide that school administrative units must use a  
30 student learning objective framework or comparable structure to develop and record  
31 student learning and growth measures, and the school administrative unit must establish  
32 in its PEPG system handbook criteria for:
- 33           A. The identification of content standards;  
34           B. The selection of assessments;  
35           C. Setting growth targets, if applicable;  
36           D. The size of an instructional cohort; and  
37           E. The length of the instructional interval of time.

1 Subsection 4 must also provide that individual education plan goals are important tools  
2 for individualizing instruction and learning and may be used to establish an appropriate  
3 basis for measuring student growth, but progress toward completion of an individual  
4 education plan may not be used as a growth measure in the evaluation of a teacher.

5 16. Section 7, subsection 5 must be deleted and replaced with a provision regarding  
6 the use of state assessment results for tested subjects and grades that provides that the  
7 Maine Educational Assessment for Mathematics and English Language Arts/Literacy  
8 State Assessment results must be used as one measure of student learning and growth for  
9 teachers in the corresponding grades and subjects. These results must:

10 A. Be attributed to teachers of record in accordance with the criteria for a teacher of  
11 record in section 7, subsection 2; and

12 B. Be used in such a way that they meet the criteria for permissible measures in  
13 section 7, subsection 3.

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

17 18. In section 12, subsection 1, paragraph D, the word "numerical" must be replaced  
18 with the word "mathematical" and a provision must be added providing that in a system  
19 that uses a matrix approach, the outcomes on the matrix must prevent a teacher whose  
20 rating on student learning and growth is not satisfactory from being rated effective.

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

25 20. The text of section 14 must be moved to section 13 and identified as subsection  
26 2.

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

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

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

1 and must ensure that the steering committee develops a plan for monitoring and  
2 evaluating the results of the pilot project.

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

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

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

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

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

## 29 SUMMARY

30 This bill directs school administrative units to use state assessment data for English  
31 language arts and math as a measure of performance for teachers and as a measure of  
32 performance for principals. It clarifies the law regarding the usage of summative  
33 effectiveness ratings for certain categories of performance rating. It adds an additional  
34 component to the rules regarding monitoring of the performance evaluation and  
35 professional growth systems. The bill also directs the Department of Education to amend  
36 its rules regarding performance evaluation and professional growth systems.