

SUBSTITUTE FOR
SENATE BILL NO. 817

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending section 1249 (MCL 380.1249), as amended by 2011 PA 102.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1249. (1) ~~Not later than September 1, 2011, and subject~~
2 **SUBJECT** to subsection ~~(9)~~, ~~(7)~~, with the involvement of teachers
3 and school administrators, the board of a school district or
4 intermediate school district or board of directors of a public
5 school academy shall adopt and implement for all teachers and
6 school administrators a rigorous, transparent, and fair performance
7 evaluation system that does all of the following:

8 (a) Evaluates the teacher's or school administrator's job
9 performance at least annually while providing timely and

1 constructive feedback.

2 (b) Establishes clear approaches to measuring student growth
3 and provides teachers and school administrators with relevant data
4 on student growth.

5 (c) Evaluates a teacher's or school administrator's job
6 performance, using multiple rating categories that take into
7 account data on student growth as a significant factor. ~~For these~~
8 ~~purposes, student growth shall be measured by national, state, or~~
9 ~~local assessments and other objective criteria. FOR 2014-2015, FOR~~
10 **GRADES AND SUBJECTS IN WHICH STATE ASSESSMENTS ARE ADMINISTERED IN**
11 **COMPLIANCE WITH 20 USC 6311, STUDENT GROWTH MUST BE MEASURED, AT**
12 **LEAST IN PART, USING THE STATE ASSESSMENTS, AND FOR GRADES AND**
13 **SUBJECTS IN WHICH STATE ASSESSMENTS ARE NOT REQUIRED AND**
14 **ADMINISTERED FOR PURPOSES OF 20 USC 6311, STUDENT GROWTH MUST BE**
15 **MEASURED, AT LEAST IN PART, USING ALTERNATIVE ASSESSMENTS THAT ARE**
16 **RIGOROUS AND COMPARABLE ACROSS SCHOOLS WITHIN THE SCHOOL DISTRICT,**
17 **INTERMEDIATE SCHOOL DISTRICT, OR PUBLIC SCHOOL ACADEMY.** If the
18 performance evaluation system implemented by a school district,
19 intermediate school district, or public school academy under this
20 section does not already include the rating of teachers as highly
21 effective, effective, minimally effective, and ineffective, then
22 the school district, intermediate school district, or public school
23 academy shall revise the performance evaluation system ~~within 60~~
24 ~~days after the effective date of the amendatory act that added this~~
25 ~~sentence~~ **NOT LATER THAN SEPTEMBER 19, 2011** to ensure that it rates
26 teachers as highly effective, effective, minimally effective, or
27 ineffective.

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(d) Uses the evaluations, at a minimum, to inform decisions regarding all of the following:

(i) The effectiveness of teachers and school administrators, ensuring that they are given ample opportunities for improvement.

(ii) Promotion, retention, and development of teachers and school administrators, including providing relevant coaching, instruction support, or professional development.

(iii) Whether to grant tenure or full certification, or both, to teachers and school administrators using rigorous standards and streamlined, transparent, and fair procedures.

(iv) Removing ineffective tenured and untenured teachers and school administrators after they have had ample opportunities to improve, and ensuring that these decisions are made using rigorous standards and streamlined, transparent, and fair procedures.

(2) Beginning with the ~~2013-2014~~ **2015-2016** school year, the board of a school district or intermediate school district or board of directors of a public school academy shall ensure that the performance evaluation system for teachers meets all of the following:

(a) The performance evaluation system shall include at least an annual year-end evaluation for all teachers. An annual year-end evaluation shall meet all of the following:

(i) ~~<<For the annual year-end evaluation for the 2013-2014 school year, at least~~ **2015-2016 AND 2016-2017 SCHOOL YEARS, 25% of the annual year-end evaluation shall be based**
~~on student growth and assessment data.>> For the annual year-end evaluation for the 2014-2015 school year, at least 40% of the annual year-end evaluation shall be based on student growth and~~

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~~assessment data. Beginning with the annual year-end evaluation for~~
~~the 2015-2016 school year, at << least-BEGINNING WITH THE ANNUAL~~
~~YEAR-END EVALUATION FOR THE 2017-2018 SCHOOL YEAR,>> 50%-40% of the~~
~~annual year-~~

~~end evaluation shall be based on student growth and assessment~~
~~data. All student growth and assessment data shall be measured~~
~~using the student growth assessment tool that is required under~~
~~legislation enacted by the legislature under subsection (6) after~~
~~review of the recommendations contained in the report of the~~
~~governor's council on FORMER MICHIGAN COUNCIL FOR educator~~
~~effectiveness. submitted under subsection (5).~~

(ii) If there are student growth and assessment data available
for a teacher for at least 3 school years, the annual year-end
evaluation shall be based on the student growth and assessment data
for the most recent 3-consecutive-school-year period. If there are
not student growth and assessment data available for a teacher for
at least 3 school years, the annual year-end evaluation shall be
based on all student growth and assessment data that are available
for the teacher.

(iii) The annual year-end evaluation shall include specific
performance goals that will assist in improving effectiveness for
the next school year and are developed by the school administrator
or his or her designee conducting the evaluation, in consultation
with the teacher, and any recommended training identified by the
school administrator or designee, in consultation with the teacher,
that would assist the teacher in meeting these goals. For a teacher
described in subdivision (b), the school administrator or designee
shall develop, in consultation with the teacher, an individualized
development plan that includes these goals and training and is

1 designed to assist the teacher to improve his or her effectiveness.

2 (b) The performance evaluation system shall include a midyear
3 progress report for a teacher who is in the first year of the
4 probationary period prescribed by section 1 of article II of 1937
5 (Ex Sess) PA 4, MCL 38.81, or who received a rating of minimally
6 effective or ineffective in his or her most recent annual year-end
7 evaluation. The midyear progress report shall be used as a
8 supplemental tool to gauge a teacher's improvement from the
9 preceding school year and to assist a teacher to improve. All of
10 the following apply to the midyear progress report:

11 (i) The midyear progress report shall be based at least in part
12 on student achievement.

13 (ii) The midyear progress report shall be aligned with the
14 teacher's individualized development plan under subdivision (a) (iii).

15 (iii) The midyear progress report shall include specific
16 performance goals for the remainder of the school year that are
17 developed by the school administrator conducting the annual year-
18 end evaluation or his or her designee and any recommended training
19 identified by the school administrator or designee that would
20 assist the teacher in meeting these goals. At the midyear progress
21 report, the school administrator or designee shall develop, in
22 consultation with the teacher, a written improvement plan that
23 includes these goals and training and is designed to assist the
24 teacher to improve his or her rating.

25 (iv) The midyear progress report shall not take the place of an
26 annual year-end evaluation.

27 (c) The performance evaluation system shall include classroom

1 observations to assist in the performance evaluations. All of the
2 following apply to these classroom observations:

3 (i) Except as provided in this subdivision, the manner in which
4 a classroom observation is conducted shall be prescribed in the
5 evaluation tool for teachers described in subdivision (d).

6 (ii) A classroom observation shall include a review of the
7 teacher's lesson plan and the state curriculum standard being used
8 in the lesson and a review of pupil engagement in the lesson.

9 (iii) A classroom observation does not have to be for an entire
10 class period.

11 (iv) Unless a teacher has received a rating of effective or
12 highly effective on his or her 2 most recent annual year-end
13 evaluations, there shall be multiple classroom observations of the
14 teacher each school year.

15 (d) For the purposes of conducting annual year-end evaluations
16 under the performance evaluation system, the school district,
17 intermediate school district, or public school academy shall adopt
18 and implement the state evaluation tool for teachers that is
19 required under legislation enacted by the legislature ~~under~~
20 ~~subsection (6)~~ after review of the recommendations contained in the
21 report of the ~~governor's council on~~ **FORMER MICHIGAN COUNCIL FOR**
22 educator effectiveness. ~~submitted under subsection (5).~~ However, if
23 a school district, intermediate school district, or public school
24 academy has a local evaluation tool for teachers that is consistent
25 with the state evaluation tool, the school district, intermediate
26 school district, or public school academy may conduct annual year-
27 end evaluations for teachers using that local evaluation tool.

1 (e) The performance evaluation system shall assign an
2 effectiveness rating to each teacher of highly effective,
3 effective, minimally effective, or ineffective, based on his or her
4 score on the annual year-end evaluation described in this
5 subsection.

6 (f) As part of the performance evaluation system, and in
7 addition to the requirements of section 1526, a school district,
8 intermediate school district, or public school academy is
9 encouraged to assign a mentor or coach to each teacher who is
10 described in subdivision (b).

11 (g) The performance evaluation system may allow for exemption
12 of student growth data for a particular pupil for a school year
13 upon the recommendation of the school administrator conducting the
14 annual year-end evaluation or his or her designee and approval of
15 the school district superintendent or his or her designee,
16 intermediate superintendent or his or her designee, or chief
17 administrator of the public school academy, as applicable.

18 (h) The performance evaluation system shall provide that, if a
19 teacher is rated as ineffective on 3 consecutive annual year-end
20 evaluations, the school district, public school academy, or
21 intermediate school district shall dismiss the teacher from his or
22 her employment. This subdivision does not affect the ability of a
23 school district, intermediate school district, or public school
24 academy to dismiss an ineffective teacher from his or her
25 employment regardless of whether the teacher is rated as
26 ineffective on 3 consecutive annual year-end evaluations.

27 (i) The performance evaluation system shall provide that, if a

1 teacher is rated as highly effective on 3 consecutive annual year-
2 end evaluations, the school district, intermediate school district,
3 or public school academy may choose to conduct a year-end
4 evaluation biennially instead of annually. However, if a teacher is
5 not rated as highly effective on 1 of these biennial year-end
6 evaluations, the teacher shall again be provided with annual year-
7 end evaluations.

8 (j) The performance evaluation system shall provide that, if a
9 teacher who is not in a probationary period prescribed by section 1
10 of article II of 1937 (Ex Sess) PA 4, MCL 38.81, is rated as
11 ineffective on an annual year-end evaluation, the teacher may
12 request a review of the evaluation and the rating by the school
13 district superintendent, intermediate superintendent, or chief
14 administrator of the public school academy, as applicable. The
15 request for a review must be submitted in writing within 20 days
16 after the teacher is informed of the rating. Upon receipt of the
17 request, the school district superintendent, intermediate
18 superintendent, or chief administrator of the public school
19 academy, as applicable, shall review the evaluation and rating and
20 may make any modifications as appropriate based on his or her
21 review. However, the performance evaluation system shall not allow
22 for a review as described in this subdivision more than twice in a
23 3-school-year period.

24 (3) Beginning with the ~~2013-2014~~**2015-2016** school year, the
25 board of a school district or intermediate school district or board
26 of directors of a public school academy shall ensure that the
27 performance evaluation system for building-level school

1 administrators and for central office-level school administrators
2 who are regularly involved in instructional matters meets all of
3 the following:

4 (a) The performance evaluation system shall include at least
5 an annual year-end evaluation for all school administrators
6 described in this subsection by the school district superintendent
7 or his or her designee, intermediate superintendent or his or her
8 designee, or chief administrator of the public school academy, as
9 applicable, except that a superintendent or chief administrator
10 shall be evaluated by the board or board of directors.

11 (b) ~~For the annual year-end evaluation for the 2013-2014~~
12 ~~school year, at least 25% of the annual year-end evaluation shall~~
13 ~~be based on student growth and assessment data. For the annual~~
14 ~~year-end evaluation for the 2014-2015 school year, at least 40% of~~
15 ~~the annual year-end evaluation shall be based on student growth and~~
16 ~~assessment data. Beginning with the annual year-end evaluation for~~
17 ~~the 2015-2016 school year, at AT least 50% 40% of the annual year-~~
18 ~~end evaluation shall be based on student growth and assessment~~
19 ~~data. The student growth and assessment data to be used for the~~
20 ~~school administrator annual year-end evaluation are the aggregate~~
21 ~~student growth and assessment data that are used in teacher annual~~
22 ~~year-end evaluations in each school in which the school~~
23 ~~administrator works as an administrator or, for a central-office~~
24 ~~level school administrator, for the entire school district or~~
25 ~~intermediate school district.~~

26 (c) The portion of the annual year-end evaluation that is not
27 based on student growth and assessment data shall be based on at

1 least the following for each school in which the school
2 administrator works as an administrator or, for a central-office
3 level school administrator, for the entire school district or
4 intermediate school district:

5 (i) If the school administrator conducts teacher performance
6 evaluations, the school administrator's training and proficiency in
7 using the evaluation tool for teachers described in subsection
8 (2)(d), including a random sampling of his or her teacher
9 performance evaluations to assess the quality of the school
10 administrator's input in the teacher performance evaluation system.
11 If the school administrator designates another person to conduct
12 teacher performance evaluations, the evaluation of the school
13 administrator on this factor shall be based on the designee's
14 training and proficiency in using the evaluation tool for teachers
15 described in subsection (2)(d), including a random sampling of the
16 designee's teacher performance evaluations to assess the quality of
17 the designee's input in the teacher performance evaluation system,
18 with the designee's performance to be counted as if it were the
19 school administrator personally conducting the teacher performance
20 evaluations.

21 (ii) The progress made by the school or school district in
22 meeting the goals set forth in the school's school improvement plan
23 or the school district's school improvement plans.

24 (iii) Pupil attendance in the school or school district.

25 (iv) Student, parent, and teacher feedback, and other
26 information considered pertinent by the superintendent or other
27 school administrator conducting the performance evaluation or the

1 board or board of directors.

2 (d) For the purposes of conducting performance evaluations
3 under the performance evaluation system, the school district,
4 intermediate school district, or public school academy shall adopt
5 and implement the state evaluation tool for school administrators
6 described in this subsection that is required under legislation
7 enacted by the legislature ~~under subsection (6)~~ after review of the
8 recommendations contained in the report of the ~~governor's council~~
9 ~~on~~ **FORMER MICHIGAN COUNCIL FOR** educator effectiveness. ~~submitted~~
10 ~~under subsection (5)~~. However, if a school district, intermediate
11 school district, or public school academy has a local evaluation
12 tool for school administrators described in this subsection that is
13 consistent with the state evaluation tool, the school district,
14 intermediate school district, or public school academy may conduct
15 performance evaluations for school administrators using that local
16 evaluation tool.

17 (e) The performance evaluation system shall assign an
18 effectiveness rating to each school administrator described in this
19 subsection of highly effective, effective, minimally effective, or
20 ineffective, based on his or her score on the evaluation tool
21 described in subdivision (d).

22 (f) The performance evaluation system shall ensure that if a
23 school administrator described in this subsection is rated as
24 minimally effective or ineffective, the person or persons
25 conducting the evaluation shall develop and require the school
26 administrator to implement an improvement plan to correct the
27 deficiencies. The improvement plan shall recommend professional

1 development opportunities and other measures designed to improve
2 the rating of the school administrator on his or her next annual
3 year-end evaluation.

4 (g) The performance evaluation system shall provide that, if a
5 school administrator described in this subsection is rated as
6 ineffective on 3 consecutive annual year-end evaluations, the
7 school district, public school academy, or intermediate school
8 district shall dismiss the school administrator from his or her
9 employment. However, this subdivision applies only if the 3
10 consecutive annual year-end evaluations are conducted using the
11 same evaluation tool and under the same performance evaluation
12 system. This subdivision does not affect the ability of a school
13 district, intermediate school district, or public school academy to
14 dismiss an ineffective school administrator from his or her
15 employment regardless of whether the school administrator is rated
16 as ineffective on 3 consecutive annual year-end evaluations.

17 (h) The performance evaluation system shall provide that, if a
18 school administrator is rated as highly effective on 3 consecutive
19 annual year-end evaluations, the school district, intermediate
20 school district, or public school academy may choose to conduct a
21 year-end evaluation biennially instead of annually. However, if a
22 school administrator is not rated as highly effective on 1 of these
23 biennial year-end evaluations, the school administrator shall again
24 be provided with annual year-end evaluations.

25 ~~—— (4) The governor's council on educator effectiveness is~~
26 ~~created as a temporary commission described in section 4 of article~~
27 ~~v of the state constitution of 1963. All of the following apply to~~

~~the governor's council on educator effectiveness.~~

~~—— (a) The governor's council on educator effectiveness shall consist of the following 5 voting members:~~

~~—— (i) The governor shall appoint 3 members.~~

~~—— (ii) The senate majority leader shall appoint 1 member.~~

~~—— (iii) The speaker of the house of representatives shall appoint 1 member.~~

~~—— (b) In addition to the members appointed under subdivision~~

~~(a), the superintendent of public instruction or his or her designee shall serve as a nonvoting member.~~

~~—— (c) The members appointed under subdivision (a), and the designee of the superintendent of public instruction if he or she appoints a designee, shall have expertise in 1 or more of the following areas: psychometrics, measurement, performance-based educator evaluation models, educator effectiveness, or development of educator evaluation frameworks in other states.~~

~~—— (d) Not later than October 31, 2011, the governor's council on educator effectiveness shall contract with 1 or more additional experts in the areas described in subdivision (c) as the council considers necessary.~~

~~—— (e) The governor shall appoint an advisory committee for the governor's council on educator effectiveness to provide input on the council's recommendations. The advisory committee shall consist of public school teachers, public school administrators, and parents of public school pupils.~~

~~—— (f) The governor's office shall provide staffing and support for the governor's council on educator effectiveness.~~

~~———— (5) Not later than April 30, 2012, the governor's council on educator effectiveness shall submit to the state board, the governor, and the legislature a report that identifies and recommends all of the following for the purposes of this section and that includes recommendations on evaluation processes and other matters related to the purposes of this section:~~

~~———— (a) A student growth and assessment tool. The student growth and assessment tool shall meet all of the following:~~

~~———— (i) Is a value added model that takes into account student achievement and assessment data, and is based on an assessment tool that has been determined to be reliable and valid for the purposes of measuring value added data.~~

~~———— (ii) In addition to measuring student growth in the core subject areas of mathematics, science, English language arts, and social science, will measure student growth in other subject areas.~~

~~———— (iii) Complies with all current state and federal law for students with a disability.~~

~~———— (iv) Has at least a pre and post test.~~

~~———— (v) Is able to be used for pupils of all achievement levels.~~

~~———— (b) A state evaluation tool for teachers. All of the following apply to this recommendation:~~

~~———— (i) In addition to the student growth and assessment tool, the recommended state evaluation tool for teachers may include, but is not limited to, instructional leadership abilities, teacher and pupil attendance, professional contributions, training, progress report achievement, school improvement plan progress, peer input, and pupil and parent feedback.~~

~~1 (ii) The council shall ensure that the recommended state
2 evaluation tool for teachers will allow all special education
3 teachers to be rated.~~

~~4 (iii) The council shall seek input from school districts,
5 intermediate school districts, and public school academies that
6 have already developed and implemented successful, effective
7 performance evaluation systems.~~

~~8 (c) A state evaluation tool for school administrators
9 described in subsection (3). In addition to the student growth and
10 assessment tool, the recommended state evaluation tool for these
11 school administrators may include, but is not limited to, teacher
12 and pupil attendance, graduation rates, professional contributions,
13 training, progress report achievement, school improvement plan
14 progress, peer input, and pupil and parent feedback.~~

~~15 (d) For the purposes of the recommended state evaluation tools
16 for teachers and school administrators under subdivisions (b) and
17 (c), recommended parameters for the effectiveness rating categories
18 for teachers under subsection (2) (c) and for school administrators
19 under subsection (3) (c).~~

~~20 (e) Recommended changes to be made in the requirements for a
21 professional education teaching certificate that will ensure that a
22 teacher is not required to complete additional postsecondary credit
23 hours beyond the credit hours required for a provisional teaching
24 certificate.~~

~~25 (f) A process for evaluating and approving local evaluation
26 tools for teachers under subsection (2) (d) and school
27 administrators under subsection (3) (d).~~

1 (4) ~~(6)~~—It is the intent of the legislature to review the
2 report submitted by the ~~governor's council on~~ **FORMER MICHIGAN**
3 **COUNCIL FOR** educator effectiveness ~~under subsection (5)~~ and to
4 enact appropriate legislation to put into place a statewide
5 performance evaluation system taking into consideration the
6 recommendations contained in the report.

7 (5) ~~(7)~~—If all of the following apply for a public school
8 operated by a school district, intermediate school district, or
9 public school academy, then the school district, intermediate
10 school district, or public school academy is not required to comply
11 with subsection (2) or (3) for that public school:

12 (a) ~~As of the effective date of this subsection,~~ **JULY 19,**
13 **2011,** the school district, intermediate school district, or public
14 school academy ~~has~~ **HAD** already implemented and is currently using a
15 performance evaluation system for that public school that meets all
16 of the following requirements:

17 (i) Under the system, the most significant portion of a
18 teacher's or school administrator's evaluation is based on student
19 growth and assessment data, which may include value-added measures.

20 (ii) The system uses research-based measures to determine
21 student growth. ~~, which~~ **FOR 2014-2015, FOR GRADES AND SUBJECTS IN**
22 **WHICH STATE ASSESSMENTS ARE ADMINISTERED IN COMPLIANCE WITH 20 USC**
23 **6311, STUDENT GROWTH MUST BE MEASURED, AT LEAST IN PART, USING THE**
24 **STATE ASSESSMENTS, AND FOR GRADES AND SUBJECTS IN WHICH STATE**
25 **ASSESSMENTS ARE NOT REQUIRED AND ADMINISTERED FOR PURPOSES OF 20**
26 **USC 6311, STUDENT GROWTH MUST BE MEASURED, AT LEAST IN PART, USING**
27 **ALTERNATIVE ASSESSMENTS THAT ARE RIGOROUS AND COMPARABLE ACROSS**

1 SCHOOLS WITHIN THE SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT,
2 OR PUBLIC SCHOOL ACADEMY. STUDENT GROWTH ALSO may be measured by
3 standards-based, nationally normed assessments **AND OTHER OBJECTIVE**
4 **CRITERIA WHICH MAY INCLUDE OTHER NATIONAL OR LOCAL ASSESSMENTS.**

5 (iii) The system determines professional competence through
6 multiple direct observations of classroom practices and
7 professional practices throughout the school year.

8 (iv) Under the system, teacher effectiveness and ratings, as
9 measured by student achievement and growth data, are factored into
10 teacher retention, promotion, and termination decisions.

11 (v) Under the system, teacher and school administrator
12 performance evaluation results are used to inform teacher
13 professional development for the succeeding year.

14 (vi) The system ensures that teachers and school administrators
15 are evaluated at least annually.

16 (b) The school district, intermediate school district, or
17 public school academy ~~notifies~~ **NOTIFIED** the **FORMER** governor's
18 council on educator effectiveness by November 1, 2011 that it is
19 exempt under this subsection from the requirements of subsections
20 (2) and (3).

21 (c) The school district, intermediate school district, or
22 public school academy posts a description of its evaluation system
23 on its website.

24 **(6)** ~~(8)~~ ~~If, after the effective date of this subsection,~~ **JULY**
25 **19, 2011,** a school district, intermediate school district, or
26 public school academy begins operating a new public school, or
27 implements a new performance evaluation system for a public school

1 it operates, and all of the following apply, then the school
2 district, intermediate school district, or public school academy is
3 not required to comply with subsection (2) or (3) for that public
4 school:

5 (a) The performance evaluation system adopted and implemented
6 for that public school replicates and is identical to the
7 performance evaluation system of a public school that is exempt
8 under subsection ~~(7)~~-(5).

9 (b) The school district, intermediate school district, or
10 public school academy posts a description of the performance
11 evaluation system on its website.

12 (7) ~~(9)~~—If a collective bargaining agreement is in effect for
13 teachers or school administrators of a school district, public
14 school academy, or intermediate school district as of ~~the effective~~
15 ~~date of the 2011 amendatory act that amended this subsection,~~ **JULY**
16 **19, 2011**, and if that collective bargaining agreement prevents
17 compliance with subsection (1), then subsection (1) does not apply
18 to that school district, public school academy, or intermediate
19 school district until after the expiration of that collective
20 bargaining agreement.

21 ~~—(10) A school district, intermediate school district, or~~
22 ~~public school academy shall continue to conduct the evaluations for~~
23 ~~school principals that are currently required by the department~~
24 ~~through the 2010-2011 school year. At the end of the 2010-2011~~
25 ~~school year, a school district, intermediate school district, or~~
26 ~~public school academy shall report the most recently completed or~~
27 ~~determined "effectiveness label" from that evaluation for each~~

- 1 ~~principal who is in place for 2010-2011, in a form and manner~~
- 2 ~~prescribed by the department.~~