

# SENATE BILL No. 817

February 25, 2014, Introduced by Senators PAPPAGEORGE, PAVLOV, COLBECK, NOFS, HANSEN and HILDENBRAND and referred to the Committee on Education.

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       to subsection ~~(9)~~, ~~(7)~~, with the involvement of teachers and school  
3       administrators, the board of a school district or intermediate  
4       school district or board of directors of a public school academy  
5       shall adopt and implement for all teachers and school  
6       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  
10      constructive feedback.

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

4 (c) Evaluates a teacher's or school administrator's job  
5 performance, using multiple rating categories that take into  
6 account data on student growth as a significant factor. For these  
7 purposes, student growth shall be measured by national, state, or  
8 local assessments and other objective criteria. If the performance  
9 evaluation system implemented by a school district, intermediate  
10 school district, or public school academy under this section does  
11 not already include the rating of teachers as highly effective,  
12 effective, minimally effective, and ineffective, then the school  
13 district, intermediate school district, or public school academy  
14 shall revise the performance evaluation system ~~within 60 days after~~  
15 ~~the effective date of the amendatory act that added this sentence~~  
16 **NOT LATER THAN SEPTEMBER 19, 2011** to ensure that it rates teachers  
17 as highly effective, effective, minimally effective, or  
18 ineffective.

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

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

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

26 (iii) Whether to grant tenure or full certification, or both, to  
27 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 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 assessment data. Beginning with the annual year-end evaluation for the 2015-2016 school year, at~~ **AT** ~~least 50% 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).~~

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

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

20           (b) The performance evaluation system shall include a midyear  
21 progress report for a teacher who is in the first year of the  
22 probationary period prescribed by section 1 of article II of 1937  
23 (Ex Sess) PA 4, MCL 38.81, or who received a rating of minimally  
24 effective or ineffective in his or her most recent annual year-end  
25 evaluation. The midyear progress report shall be used as a  
26 supplemental tool to gauge a teacher's improvement from the  
27 preceding school year and to assist a teacher to improve. All of

1 the following apply to the midyear progress report:

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

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

6 (iii) The midyear progress report shall include specific  
7 performance goals for the remainder of the school year that are  
8 developed by the school administrator conducting the annual year-  
9 end evaluation or his or her designee and any recommended training  
10 identified by the school administrator or designee that would  
11 assist the teacher in meeting these goals. At the midyear progress  
12 report, the school administrator or designee shall develop, in  
13 consultation with the teacher, a written improvement plan that  
14 includes these goals and training and is designed to assist the  
15 teacher to improve his or her rating.

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

18 (c) The performance evaluation system shall include classroom  
19 observations to assist in the performance evaluations. All of the  
20 following apply to these classroom observations:

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

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

27 (iii) A classroom observation does not have to be for an entire

1 class period.

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

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

19 (e) The performance evaluation system shall assign an  
20 effectiveness rating to each teacher of highly effective,  
21 effective, minimally effective, or ineffective, based on his or her  
22 score on the annual year-end evaluation described in this  
23 subsection.

24 (f) As part of the performance evaluation system, and in  
25 addition to the requirements of section 1526, a school district,  
26 intermediate school district, or public school academy is  
27 encouraged to assign a mentor or coach to each teacher who is

1 described in subdivision (b).

2 (g) The performance evaluation system may allow for exemption  
3 of student growth data for a particular pupil for a school year  
4 upon the recommendation of the school administrator conducting the  
5 annual year-end evaluation or his or her designee and approval of  
6 the school district superintendent or his or her designee,  
7 intermediate superintendent or his or her designee, or chief  
8 administrator of the public school academy, as applicable.

9 (h) The performance evaluation system shall provide that, if a  
10 teacher is rated as ineffective on 3 consecutive annual year-end  
11 evaluations, the school district, public school academy, or  
12 intermediate school district shall dismiss the teacher from his or  
13 her employment. This subdivision does not affect the ability of a  
14 school district, intermediate school district, or public school  
15 academy to dismiss an ineffective teacher from his or her  
16 employment regardless of whether the teacher is rated as  
17 ineffective on 3 consecutive annual year-end evaluations.

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

26 (j) The performance evaluation system shall provide that, if a  
27 teacher who is not in a probationary period prescribed by section 1

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

15 (3) Beginning with the ~~2013-2014~~**2015-2016** school year, the  
16 board of a school district or intermediate school district or board  
17 of directors of a public school academy shall ensure that the  
18 performance evaluation system for building-level school  
19 administrators and for central office-level school administrators  
20 who are regularly involved in instructional matters meets all of  
21 the following:

22 (a) The performance evaluation system shall include at least  
23 an annual year-end evaluation for all school administrators  
24 described in this subsection by the school district superintendent  
25 or his or her designee, intermediate superintendent or his or her  
26 designee, or chief administrator of the public school academy, as  
27 applicable, except that a superintendent or chief administrator



1 shall be evaluated by the board or board of directors.

2 (b) ~~For the annual year-end evaluation for the 2013-2014~~  
3 ~~school year, at least 25% of the annual year-end evaluation shall~~  
4 ~~be based on student growth and assessment data. For the annual~~  
5 ~~year-end evaluation for the 2014-2015 school year, at least 40% of~~  
6 ~~the annual year-end evaluation shall be based on student growth and~~  
7 ~~assessment data. Beginning with the annual year-end evaluation for~~  
8 ~~the 2015-2016 school year, at~~ **AT** least 50% of the annual year-end  
9 evaluation shall be based on student growth and assessment data.

10 The student growth and assessment data to be used for the school  
11 administrator annual year-end evaluation are the aggregate student  
12 growth and assessment data that are used in teacher annual year-end  
13 evaluations in each school in which the school administrator works  
14 as an administrator or, for a central-office level school  
15 administrator, for the entire school district or intermediate  
16 school district.

17 (c) The portion of the annual year-end evaluation that is not  
18 based on student growth and assessment data shall be based on at  
19 least the following for each school in which the school  
20 administrator works as an administrator or, for a central-office  
21 level school administrator, for the entire school district or  
22 intermediate school district:

23 (i) If the school administrator conducts teacher performance  
24 evaluations, the school administrator's training and proficiency in  
25 using the evaluation tool for teachers described in subsection  
26 (2)(d), including a random sampling of his or her teacher  
27 performance evaluations to assess the quality of the school

1 administrator's input in the teacher performance evaluation system.  
2 If the school administrator designates another person to conduct  
3 teacher performance evaluations, the evaluation of the school  
4 administrator on this factor shall be based on the designee's  
5 training and proficiency in using the evaluation tool for teachers  
6 described in subsection (2)(d), including a random sampling of the  
7 designee's teacher performance evaluations to assess the quality of  
8 the designee's input in the teacher performance evaluation system,  
9 with the designee's performance to be counted as if it were the  
10 school administrator personally conducting the teacher performance  
11 evaluations.

12 (ii) The progress made by the school or school district in  
13 meeting the goals set forth in the school's school improvement plan  
14 or the school district's school improvement plans.

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

16 (iv) Student, parent, and teacher feedback, and other  
17 information considered pertinent by the superintendent or other  
18 school administrator conducting the performance evaluation or the  
19 board or board of directors.

20 (d) For the purposes of conducting performance evaluations  
21 under the performance evaluation system, the school district,  
22 intermediate school district, or public school academy shall adopt  
23 and implement the state evaluation tool for school administrators  
24 described in this subsection that is required under legislation  
25 enacted by the legislature ~~under subsection (6)~~ after review of the  
26 recommendations contained in the report of the ~~governor's council~~  
27 ~~on~~ **FORMER MICHIGAN COUNCIL FOR** educator effectiveness. ~~submitted~~

1 ~~under subsection (5).~~ However, if a school district, intermediate  
2 school district, or public school academy has a local evaluation  
3 tool for school administrators described in this subsection that is  
4 consistent with the state evaluation tool, the school district,  
5 intermediate school district, or public school academy may conduct  
6 performance evaluations for school administrators using that local  
7 evaluation tool.

8 (e) The performance evaluation system shall assign an  
9 effectiveness rating to each school administrator described in this  
10 subsection of highly effective, effective, minimally effective, or  
11 ineffective, based on his or her score on the evaluation tool  
12 described in subdivision (d).

13 (f) The performance evaluation system shall ensure that if a  
14 school administrator described in this subsection is rated as  
15 minimally effective or ineffective, the person or persons  
16 conducting the evaluation shall develop and require the school  
17 administrator to implement an improvement plan to correct the  
18 deficiencies. The improvement plan shall recommend professional  
19 development opportunities and other measures designed to improve  
20 the rating of the school administrator on his or her next annual  
21 year-end evaluation.

22 (g) The performance evaluation system shall provide that, if a  
23 school administrator described in this subsection is rated as  
24 ineffective on 3 consecutive annual year-end evaluations, the  
25 school district, public school academy, or intermediate school  
26 district shall dismiss the school administrator from his or her  
27 employment. However, this subdivision applies only if the 3

consecutive annual year-end evaluations are conducted using the same evaluation tool and under the same performance evaluation system. This subdivision does not affect the ability of a school district, intermediate school district, or public school academy to dismiss an ineffective school administrator from his or her employment regardless of whether the school administrator is rated as ineffective on 3 consecutive annual year-end evaluations.

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

~~———— (4) The governor's council on educator effectiveness is created as a temporary commission described in section 4 of article 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.~~

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

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

~~—— (c) A state evaluation tool for school administrators described in subsection (3). In addition to the student growth and~~

~~assessment tool, the recommended state evaluation tool for these school administrators may include, but is not limited to, teacher and pupil attendance, graduation rates, professional contributions, training, progress report achievement, school improvement plan progress, peer input, and pupil and parent feedback.~~

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

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

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

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

(5) ~~(7)~~—If all of the following apply for a public school operated by a school district, intermediate school district, or public school academy, then the school district, intermediate

1 school district, or public school academy is not required to comply  
2 with subsection (2) or (3) for that public school:

3 (a) As of ~~the effective date of this subsection,~~ **JULY 19,**  
4 **2011**, the school district, intermediate school district, or public  
5 school academy ~~has~~ **HAD** already implemented and is currently using a  
6 performance evaluation system for that public school that meets all  
7 of the following requirements:

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

11 (ii) The system uses research-based measures to determine  
12 student growth, which may be measured by standards-based,  
13 nationally normed assessments.

14 (iii) The system determines professional competence through  
15 multiple direct observations of classroom practices and  
16 professional practices throughout the school year.

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

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

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

25 (b) The school district, intermediate school district, or  
26 public school academy ~~notifies~~ **NOTIFIED** the **FORMER** governor's  
27 council on educator effectiveness by November 1, 2011 that it is



1 exempt under this subsection from the requirements of subsections  
2 (2) and (3).

3 (c) The school district, intermediate school district, or  
4 public school academy posts a description of its evaluation system  
5 on its website.

6 (6) ~~(8)—If, after the effective date of this subsection, JULY~~  
7 **19, 2011**, a school district, intermediate school district, or  
8 public school academy begins operating a new public school, or  
9 implements a new performance evaluation system for a public school  
10 it operates, and all of the following apply, then the school  
11 district, intermediate school district, or public school academy is  
12 not required to comply with subsection (2) or (3) for that public  
13 school:

14 (a) The performance evaluation system adopted and implemented  
15 for that public school replicates and is identical to the  
16 performance evaluation system of a public school that is exempt  
17 under subsection ~~(7)~~ **(5)**.

18 (b) The school district, intermediate school district, or  
19 public school academy posts a description of the performance  
20 evaluation system on its website.

21 (7) ~~(9)—If a collective bargaining agreement is in effect for~~  
22 teachers or school administrators of a school district, public  
23 school academy, or intermediate school district as of ~~the effective~~  
24 ~~date of the 2011 amendatory act that amended this subsection, JULY~~  
25 **19, 2011**, and if that collective bargaining agreement prevents  
26 compliance with subsection (1), then subsection (1) does not apply  
27 to that school district, public school academy, or intermediate

1 school district until after the expiration of that collective  
2 bargaining agreement.

3 ~~—— (10) A school district, intermediate school district, or~~  
4 ~~public school academy shall continue to conduct the evaluations for~~  
5 ~~school principals that are currently required by the department~~  
6 ~~through the 2010-2011 school year. At the end of the 2010-2011~~  
7 ~~school year, a school district, intermediate school district, or~~  
8 ~~public school academy shall report the most recently completed or~~  
9 ~~determined "effectiveness label" from that evaluation for each~~  
10 ~~principal who is in place for 2010-2011, in a form and manner~~  
11 ~~prescribed by the department.~~