

HOUSE BILL No. 5688

March 6, 2018, Introduced by Reps. Johnson, VanSingel and Barrett and referred to the Committee on Education Reform.

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending section 1249 (MCL 380.1249), as amended by 2016 PA 170.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1249. (1) Subject to subsection (4), with the involvement
2 of teachers and school administrators, the board of a school
3 district or intermediate school district or board of directors of a
4 public school academy shall adopt and implement for all teachers
5 and school administrators a rigorous, transparent, and fair
6 performance evaluation system that does all of the following:

7 (a) Evaluates the teacher's or school administrator's job
8 performance at least annually while providing timely and
9 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 student growth and assessment data. Student growth must be
7 measured using multiple measures that may include student learning
8 objectives, achievement of individualized education program goals,
9 nationally normed or locally developed assessments that are aligned
10 to state standards, research-based growth measures, or alternative
11 assessments that are rigorous and comparable across schools within
12 the school district, intermediate school district, or public school
13 academy. If the performance evaluation system implemented by a
14 school district, intermediate school district, or public school
15 academy under this section does not already include the rating of
16 teachers as highly effective, effective, minimally effective, and
17 ineffective, then the school district, intermediate school
18 district, or public school academy shall revise the performance
19 evaluation system not later than September 19, 2011 to ensure that
20 it rates teachers as highly effective, effective, minimally
21 effective, or ineffective.

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

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

26 (ii) Promotion, retention, and development of teachers and
27 school administrators, including providing relevant coaching,

1 instruction support, or professional development.

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

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

9 (2) The board of a school district or intermediate school
10 district or board of directors of a public school academy shall
11 ensure that the performance evaluation system for teachers meets
12 all of the following:

13 (a) The performance evaluation system shall include at least
14 an annual year-end evaluation for all teachers. Beginning with the
15 2015-2016 school year, an annual year-end evaluation shall meet all
16 of the following:

17 (i) For the 2015-2016, 2016-2017, and 2017-2018 school years,
18 25% of the annual year-end evaluation shall be based on student
19 growth and assessment data. Beginning with the 2018-2019 school
20 year, 40% of the annual year-end evaluation shall be based on
21 student growth and assessment data.

22 (ii) Beginning with the 2018-2019 school year, for core
23 content areas in grades and subjects in which state assessments are
24 administered, 50% of student growth must be measured using the
25 state assessments, and the portion of student growth not measured
26 using state assessments must be measured using multiple research-
27 based growth measures or alternative assessments that are rigorous

1 and comparable across schools within the school district,
2 intermediate school district, or public school academy. Student
3 growth also may be measured by student learning objectives or
4 nationally normed or locally adopted assessments that are aligned
5 to state standards, or based on achievement of individualized
6 education program goals.

7 (iii) Beginning with the 2016-2017 school year, the portion of
8 a teacher's annual year-end evaluation that is not based on student
9 growth and assessment data, as described under subparagraph (i),
10 shall be based primarily on a teacher's performance as measured by
11 the evaluation tool developed or adopted by the school district,
12 intermediate school district, or public school academy under
13 subdivision (f).

14 (iv) The portion of a teacher's evaluation that is not
15 measured using student growth and assessment data, as described
16 under subparagraph (i), or using the evaluation tool developed or
17 adopted by the school district, intermediate school district, or
18 public school academy, as described under subparagraph (iii), shall
19 incorporate criteria enumerated in section 1248(1)(b)(i) to (iii)
20 that are not otherwise evaluated under subparagraph (i) or (iii).

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

1 for the teacher.

2 (c) The annual year-end evaluation shall include specific
3 performance goals that will assist in improving effectiveness for
4 the next school year and are developed by the school administrator
5 or his or her designee conducting the evaluation, in consultation
6 with the teacher, and any recommended training identified by the
7 school administrator or designee, in consultation with the teacher,
8 that would assist the teacher in meeting these goals. For a teacher
9 described in subdivision (d), the school administrator or designee
10 shall develop, in consultation with the teacher, an individualized
11 development plan that includes these goals and training and is
12 designed to assist the teacher to improve his or her effectiveness.

13 (d) The performance evaluation system shall include a midyear
14 progress report for a teacher who is in the first year of the
15 probationary period prescribed by section 1 of article II of 1937
16 (Ex Sess) PA 4, MCL 38.81, or who received a rating of minimally
17 effective or ineffective in his or her most recent annual year-end
18 evaluation. The midyear progress report shall be used as a
19 supplemental tool to gauge a teacher's improvement from the
20 preceding school year and to assist a teacher to improve. All of
21 the following apply to the midyear progress report:

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

24 (ii) The midyear progress report shall be aligned with the
25 teacher's individualized development plan under subdivision (c).

26 (iii) The midyear progress report shall include specific
27 performance goals for the remainder of the school year that are

1 developed by the school administrator conducting the annual year-
2 end evaluation or his or her designee and any recommended training
3 identified by the school administrator or designee that would
4 assist the teacher in meeting these goals. At the midyear progress
5 report, the school administrator or designee shall develop, in
6 consultation with the teacher, a written improvement plan that
7 includes these goals and training and is designed to assist the
8 teacher to improve his or her rating.

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

11 (e) The performance evaluation system shall include classroom
12 observations to assist in the performance evaluations. All of the
13 following apply to these classroom observations:

14 (i) A classroom observation shall include a review of the
15 teacher's lesson plan and the state curriculum standard being used
16 in the lesson and a review of pupil engagement in the lesson.

17 (ii) A classroom observation does not have to be for an entire
18 class period.

19 (iii) Unless a teacher has received a rating of effective or
20 highly effective on his or her 2 most recent annual year-end
21 evaluations, there shall be at least 2 classroom observations of
22 the teacher each school year. Beginning with the 2016-2017 school
23 year, at least 1 observation must be unscheduled.

24 (iv) Beginning with the 2016-2017 school year, the school
25 administrator responsible for the teacher's performance evaluation
26 shall conduct at least 1 of the observations. Other observations
27 may be conducted by other observers who are trained in the use of

1 the evaluation tool that is used under subdivision (f). These other
2 observers may be teacher leaders.

3 (v) Beginning with the 2016-2017 school year, a school
4 district, intermediate school district, or public school academy
5 shall ensure that, within 30 days after each observation, the
6 teacher is provided with feedback from the observation.

7 (f) For the purposes of conducting annual year-end evaluations
8 under the performance evaluation system, by the beginning of the
9 2016-2017 school year, the school district, intermediate school
10 district, or public school academy shall adopt and implement 1 or
11 more of the evaluation tools for teachers that are included on the
12 list under subsection (5). However, if a school district,
13 intermediate school district, or public school academy has 1 or
14 more local evaluation tools for teachers or modifications of an
15 evaluation tool on the list under subsection (5), and the school
16 district, intermediate school district, or public school academy
17 complies with subsection (3), the school district, intermediate
18 school district, or public school academy may conduct annual year-
19 end evaluations for teachers using 1 or more local evaluation tools
20 or modifications. The evaluation tools shall be used consistently
21 among the schools operated by a school district, intermediate
22 school district, or public school academy so that all similarly
23 situated teachers are evaluated using the same evaluation tool.

24 (g) The performance evaluation system shall assign an
25 effectiveness rating to each teacher of highly effective,
26 effective, minimally effective, or ineffective, based on his or her
27 score on the annual year-end evaluation described in this

1 subsection.

2 (h) As part of the performance evaluation system, and in
3 addition to the requirements of section 1526, a school district,
4 intermediate school district, or public school academy is
5 encouraged to assign a mentor or coach to each teacher who is
6 described in subdivision (d).

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

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

23 (k) The performance evaluation system shall provide that, if a
24 teacher is rated as highly effective on 3 consecutive annual year-
25 end evaluations, the school district, intermediate school district,
26 or public school academy may choose to conduct a year-end
27 evaluation biennially instead of annually. However, if a teacher is

1 not rated as highly effective on 1 of these biennial year-end
2 evaluations, the teacher shall again be provided with annual year-
3 end evaluations.

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

20 (m) Beginning with the 2016-2017 school year, the school
21 district, intermediate school district, or public school academy
22 shall provide training to teachers on the evaluation tool or tools
23 used by the school district, intermediate school district, or
24 public school academy in its performance evaluation system and on
25 how each evaluation tool is used. This training may be provided by
26 a school district, intermediate school district, or public school
27 academy, or by a consortium consisting of 2 or more of these.

(n) Beginning with the 2016-2017 school year, a school district, intermediate school district, or public school academy shall ensure that training is provided to all evaluators and observers. The training shall be provided by an individual who has expertise in the evaluation tool or tools used by the school district, intermediate school district, or public school academy, which may include either a consultant on that evaluation tool or framework or an individual who has been trained to train others in the use of the evaluation tool or tools. This subdivision does not prohibit a school district, intermediate school district, public school academy, or consortium consisting of 2 or more of these, from providing the training in the use of the evaluation tool or tools if the trainer has expertise in the evaluation tool or tools.

(O) THE PERFORMANCE EVALUATION SYSTEM SHALL PROVIDE THAT A TEACHER'S EVALUATION OR THE EVALUATION OF ANY TEACHER WHO IS SIMILARLY SITUATED TO THAT TEACHER MUST NOT BE CONDUCTED BY A FAMILY MEMBER OF THAT TEACHER OR OF ANY OTHER TEACHER WHO IS SIMILARLY SITUATED TO THAT TEACHER.

(3) Beginning with the 2016-2017 school year, a school district, intermediate school district, or public school academy shall post on its public website all of the following information about the evaluation tool or tools it uses for its performance evaluation system for teachers:

(a) The research base for the evaluation framework, instrument, and process or, if the school district, intermediate school district, or public school academy adapts or modifies an evaluation tool from the list under subsection (5), the research

1 base for the listed evaluation tool and an assurance that the
2 adaptations or modifications do not compromise the validity of that
3 research base.

4 (b) The identity and qualifications of the author or authors
5 or, if the school district, intermediate school district, or public
6 school academy adapts or modifies an evaluation tool from the list
7 under subsection (5), the identity and qualifications of a person
8 with expertise in teacher evaluations who has reviewed the adapted
9 or modified evaluation tool.

10 (c) Either evidence of reliability, validity, and efficacy or
11 a plan for developing that evidence or, if the school district,
12 intermediate school district, or public school academy adapts or
13 modifies an evaluation tool from the list under subsection (5), an
14 assurance that the adaptations or modifications do not compromise
15 the reliability, validity, or efficacy of the evaluation tool or
16 the evaluation process.

17 (d) The evaluation frameworks and rubrics with detailed
18 descriptors for each performance level on key summative indicators.

19 (e) A description of the processes for conducting classroom
20 observations, collecting evidence, conducting evaluation
21 conferences, developing performance ratings, and developing
22 performance improvement plans.

23 (f) A description of the plan for providing evaluators and
24 observers with training.

25 (4) If a collective bargaining agreement was in effect for
26 teachers or school administrators of a school district, public
27 school academy, or intermediate school district as of July 19,

1 2011, if that same collective bargaining agreement is still in
2 effect as of November 5, 2015, and if that collective bargaining
3 agreement prevents compliance with subsection (1), then subsection
4 (1) does not apply to that school district, public school academy,
5 or intermediate school district until after the expiration of that
6 collective bargaining agreement.

7 (5) The department shall establish and maintain a list of
8 teacher evaluation tools that have demonstrated evidence of
9 efficacy and that may be used for the purposes of this section.
10 That list initially shall include at least the evaluation models
11 recommended in the final recommendations released by the Michigan
12 council on educator effectiveness in July 2013. The list shall
13 include a statement indicating that school districts, intermediate
14 school districts, and public school academies are not limited to
15 only using the evaluation tools that are included on the list. A
16 school district, intermediate school district, or public school
17 academy is not required to use an evaluation tool for teacher
18 evaluations that is the same as it uses for school administrator
19 evaluations or that has the same author or authors as the
20 evaluation tool it uses for school administrator evaluations. The
21 department shall promulgate rules establishing standards and
22 procedures for adding an evaluation tool to or removing an
23 evaluation tool from the list. These rules shall include a process
24 for a school district, intermediate school district, or public
25 school academy to submit its own evaluation tool for review for
26 placement on the list.

27 (6) The training required under subsection (2) shall be paid

1 for from the funds available in the educator evaluation reserve
2 fund created under section 95a of the state school aid act, MCL
3 388.1695a.

4 (7) This section does not affect the operation or
5 applicability of section 1248.

6 (8) As used in this section: ~~,"teacher"~~

7 **(A) "FAMILY MEMBER" MEANS AN INDIVIDUAL'S SPOUSE OR SPOUSE'S**
8 **SIBLING OR CHILD, AN INDIVIDUAL'S SIBLING OR SIBLING'S SPOUSE OR**
9 **CHILD, AN INDIVIDUAL'S CHILD OR CHILD'S SPOUSE, OR AN INDIVIDUAL'S**
10 **PARENT OR PARENT'S SPOUSE AND INCLUDES THESE RELATIONSHIPS AS**
11 **CREATED BY ADOPTION OR MARRIAGE.**

12 **(B) "TEACHER"** means an individual who has a valid Michigan
13 teaching certificate or authorization; who is employed, or
14 contracted for, by a school district, intermediate school district,
15 or public school academy; and who is assigned by the school
16 district, intermediate school district, or public school academy to
17 deliver direct instruction to pupils in any of grades K to 12 as a
18 teacher of record.

19 Enacting section 1. This amendatory act takes effect 90 days
20 after the date it is enacted into law.