

# SENATE BILL NO. 122

February 21, 2019, Introduced by Senators HORN, IRWIN, ZORN, LASATA, DALEY, MACGREGOR, POLEHANKI, GEISS, HERTEL, ANANICH, CHANG, RUNESTAD, MCBROOM, BRINKS and MCMORROW and referred to the Committee on Education and Career Readiness.

A bill to amend 1976 PA 451, entitled  
"The revised school code,"  
by amending section 1249 (MCL 380.1249), as amended by 2018 PA 235.

## **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:

1 (a) Evaluates the teacher's or school administrator's job  
2 performance at least annually while providing timely and  
3 constructive feedback.

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

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

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

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

29 (ii) Promotion, retention, and development of teachers and

1 school administrators, including providing relevant coaching,  
2 instruction support, or professional development.

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

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

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

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

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

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

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

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

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

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

28 (c) The annual year-end evaluation ~~shall~~ **must** include specific  
29 performance goals that will assist in improving effectiveness for

1 the next school year and are developed by the school administrator  
2 or his or her designee conducting the evaluation, in consultation  
3 with the teacher, and any recommended training identified by the  
4 school administrator or designee, in consultation with the teacher,  
5 that would assist the teacher in meeting these goals. For a teacher  
6 described in subdivision (d), the school administrator or designee  
7 shall develop, in consultation with the teacher, an individualized  
8 development plan that includes these goals and training and is  
9 designed to assist the teacher to improve his or her effectiveness.

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

19 (i) The midyear progress report ~~shall~~**must** be based at least in  
20 part on student achievement.

21 (ii) The midyear progress report ~~shall~~**must** be aligned with the  
22 teacher's individualized development plan under subdivision (c).

23 (iii) The midyear progress report ~~shall~~**must** include specific  
24 performance goals for the remainder of the school year that are  
25 developed by the school administrator conducting the annual year-  
26 end evaluation or his or her designee and any recommended training  
27 identified by the school administrator or designee that would  
28 assist the teacher in meeting these goals. At the midyear progress  
29 report, the school administrator or designee shall develop, in

1 consultation with the teacher, a written improvement plan that  
2 includes these goals and training and is designed to assist the  
3 teacher to improve his or her rating.

4 (iv) The midyear progress report ~~shall~~**must** not take the place  
5 of an annual year-end evaluation.

6 (e) The performance evaluation system ~~shall~~**must** include  
7 classroom observations to assist in the performance evaluations.  
8 All of the following apply to these classroom observations:

9 (i) A classroom observation ~~shall~~**must** include a review of the  
10 teacher's lesson plan and the state curriculum standard being used  
11 in the lesson and a review of pupil engagement in the lesson.

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

14 (iii) Unless a teacher has received a rating of effective or  
15 highly effective on his or her 2 most recent annual year-end  
16 evaluations, there ~~shall~~**must** be at least 2 classroom observations  
17 of the teacher each school year. ~~Beginning with the 2016-2017~~  
18 ~~school year, at~~**At** least 1 observation must be unscheduled.

19 (iv) ~~Beginning with the 2016-2017 school year, the~~**The** school  
20 administrator responsible for the teacher's performance evaluation  
21 shall conduct at least 1 of the observations. Other observations  
22 may be conducted by other observers who are trained in the use of  
23 the evaluation tool that is used under subdivision (f). These other  
24 observers may be teacher leaders.

25 (v) ~~Beginning with the 2016-2017 school year, a~~**A** school  
26 district, intermediate school district, or public school academy  
27 shall ensure that, within 30 days after each observation, the  
28 teacher is provided with feedback from the observation.

29 (f) For the purposes of conducting annual year-end evaluations

1 under the performance evaluation system, by the beginning of the  
2 2016-2017 school year, the school district, intermediate school  
3 district, or public school academy shall adopt and implement 1 or  
4 more of the evaluation tools for teachers that are included on the  
5 list under subsection (5). However, if a school district,  
6 intermediate school district, or public school academy has 1 or  
7 more local evaluation tools for teachers or modifications of an  
8 evaluation tool on the list under subsection (5), and the school  
9 district, intermediate school district, or public school academy  
10 complies with subsection (3), the school district, intermediate  
11 school district, or public school academy may conduct annual year-  
12 end evaluations for teachers using 1 or more local evaluation tools  
13 or modifications. The evaluation tools ~~shall~~**must** be used  
14 consistently among the schools operated by a school district,  
15 intermediate school district, or public school academy so that all  
16 similarly situated teachers are evaluated using the same evaluation  
17 tool.

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

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

28 (i) The performance evaluation system may allow for exemption  
29 of student growth data for a particular pupil for a school year

1 upon the recommendation of the school administrator conducting the  
2 annual year-end evaluation or his or her designee and approval of  
3 the school district superintendent or his or her designee,  
4 intermediate superintendent or his or her designee, or chief  
5 administrator of the public school academy, as applicable.

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

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

23 (l) The performance evaluation system ~~shall~~**must** provide that,  
24 if a teacher who is not in a probationary period prescribed by  
25 section 1 of article II of 1937 (Ex Sess) PA 4, MCL 38.81, is rated  
26 as ineffective on an annual year-end evaluation, the teacher may  
27 request a review of the evaluation and the rating by the school  
28 district superintendent, intermediate superintendent, or chief  
29 administrator of the public school academy, as applicable. The



1 request for a review must be submitted in writing within 20 days  
2 after the teacher is informed of the rating. Upon receipt of the  
3 request, the school district superintendent, intermediate  
4 superintendent, or chief administrator of the public school  
5 academy, as applicable, shall review the evaluation and rating and  
6 may make any modifications as appropriate based on his or her  
7 review. However, the performance evaluation system ~~shall~~**must** not  
8 allow for a review as described in this subdivision more than twice  
9 in a 3-school-year period.

10 (m) ~~Beginning with the 2016-2017 school year, the~~**The** school  
11 district, intermediate school district, or public school academy  
12 shall provide training to teachers on the evaluation tool or tools  
13 used by the school district, intermediate school district, or  
14 public school academy in its performance evaluation system and on  
15 how each evaluation tool is used. This training may be provided by  
16 a school district, intermediate school district, or public school  
17 academy, or by a consortium consisting of 2 or more of these.

18 (n) ~~Beginning with the 2016-2017 school year, a~~**A** school  
19 district, intermediate school district, or public school academy  
20 shall ensure that training is provided to all evaluators and  
21 observers. The training ~~shall~~**must** be provided by an individual who  
22 has expertise in the evaluation tool or tools used by the school  
23 district, intermediate school district, or public school academy,  
24 which may include either a consultant on that evaluation tool or  
25 framework or an individual who has been trained to train others in  
26 the use of the evaluation tool or tools. This subdivision does not  
27 prohibit a school district, intermediate school district, public  
28 school academy, or consortium consisting of 2 or more of these,  
29 from providing the training in the use of the evaluation tool or

1 tools if the trainer has expertise in the evaluation tool or tools.

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

7 (a) The research base for the evaluation framework,  
8 instrument, and process or, if the school district, intermediate  
9 school district, or public school academy adapts or modifies an  
10 evaluation tool from the list under subsection (5), the research  
11 base for the listed evaluation tool and an assurance that the  
12 adaptations or modifications do not compromise the validity of that  
13 research base.

14 (b) The identity and qualifications of the author or authors  
15 or, if the school district, intermediate school district, or public  
16 school academy adapts or modifies an evaluation tool from the list  
17 under subsection (5), the identity and qualifications of a person  
18 with expertise in teacher evaluations who has reviewed the adapted  
19 or modified evaluation tool.

20 (c) Either evidence of reliability, validity, and efficacy or  
21 a plan for developing that evidence or, if the school district,  
22 intermediate school district, or public school academy adapts or  
23 modifies an evaluation tool from the list under subsection (5), an  
24 assurance that the adaptations or modifications do not compromise  
25 the reliability, validity, or efficacy of the evaluation tool or  
26 the evaluation process.

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

29 (e) A description of the processes for conducting classroom

1 observations, collecting evidence, conducting evaluation  
2 conferences, developing performance ratings, and developing  
3 performance improvement plans.

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

6 (4) If a collective bargaining agreement was in effect for  
7 teachers or school administrators of a school district, ~~public~~  
8 ~~school academy, or intermediate school district, or public school~~  
9 **academy** as of July 19, 2011, if that same collective bargaining  
10 agreement is still in effect as of November 5, 2015, and if that  
11 collective bargaining agreement prevents compliance with subsection  
12 (1), then subsection (1) does not apply to that school district,  
13 ~~public school academy, or intermediate school district, or public~~  
14 **school academy** until after the expiration of that collective  
15 bargaining agreement.

16 (5) The department shall establish and maintain a list of  
17 teacher evaluation tools that have demonstrated evidence of  
18 efficacy and that may be used for the purposes of this section.  
19 That list initially ~~shall~~**must** include at least the evaluation  
20 models recommended in the final recommendations released by the  
21 Michigan council on educator effectiveness in July 2013. The list  
22 ~~shall~~**must** include a statement indicating that school districts,  
23 intermediate school districts, and public school academies are not  
24 limited to only using the evaluation tools that are included on the  
25 list. A school district, intermediate school district, or public  
26 school academy is not required to use an evaluation tool for  
27 teacher evaluations that is the same as it uses for school  
28 administrator evaluations or that has the same author or authors as  
29 the evaluation tool it uses for school administrator evaluations.

1 The department shall promulgate rules establishing standards and  
2 procedures for adding an evaluation tool to or removing an  
3 evaluation tool from the list. These rules ~~shall~~**must** include a  
4 process for a school district, intermediate school district, or  
5 public school academy to submit its own evaluation tool for review  
6 for placement on the list.

7 (6) The training required under subsection (2) ~~shall~~**must** be  
8 paid for from the funds available in the educator evaluation  
9 reserve fund created under section 95a of the state school aid act  
10 **of 1979**, MCL 388.1695a.

11 (7) This section does not affect the operation or  
12 applicability of section 1248.

13 (8) As used in this section, "teacher" means an individual who  
14 has a valid Michigan teaching certificate or authorization or who  
15 is engaged to teach under section 1233b; who is employed, or  
16 contracted for, by a school district, intermediate school district,  
17 or public school academy; and who is assigned by the school  
18 district, intermediate school district, or public school academy to  
19 deliver direct instruction to pupils in any of grades K to 12 as a  
20 teacher of record.

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