

# SENATE BILL NO. 969

March 17, 2022, Introduced by Senators POLEHANKI, MOSS, HOLLIER, WOJNO, BUMSTEAD, BRINKS, MCBROOM, BAYER, ALEXANDER, CHANG and BULLOCK 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 2019 PA 6.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1249. (1) Subject to ~~subsection~~**subsections** (4) **and (7)**,  
2 with the involvement of teachers and school administrators, the  
3 board of a school district or intermediate school district or board  
4 of directors of a public school academy shall adopt and implement  
5 for all teachers and school administrators a rigorous, transparent,

1 and fair performance evaluation system that does all of the  
2 following:

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

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

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

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

29 (i) The effectiveness of teachers and school administrators,

1 ensuring that they are given ample opportunities for improvement.

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

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

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

12 (2) ~~The~~ **Subject to subsection (7), the** board of a school  
13 district or intermediate school district or board of directors of a  
14 public school academy shall ensure that the performance evaluation  
15 system for teachers meets all of the following:

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

19 (i) ~~For the 2018-2019 school year, 25% of the annual year-end~~  
20 ~~evaluation must be based on student growth and assessment data.~~  
21 ~~Beginning with the 2019-2020 school year, 40%~~ **Forty percent** of the  
22 annual year-end evaluation must be based on student growth and  
23 assessment data.

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

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

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

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

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

27 (c) The annual year-end evaluation must include specific  
28 performance goals that will assist in improving effectiveness for  
29 the next school year and are developed by the school administrator

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

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

18 (i) The midyear progress report must be based at least in part  
19 on student achievement.

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

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

1 includes these goals and training and is designed to assist the  
2 teacher to improve his or her rating.

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

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

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

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

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

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

24 (v) A school district, intermediate school district, or public  
25 school academy shall ensure that, within 30 days after each  
26 observation, the teacher is provided with feedback from the  
27 observation.

28 (f) For the purposes of conducting annual year-end evaluations  
29 under the performance evaluation system, by the beginning of the

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

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

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

26 (i) The performance evaluation system may allow for exemption  
27 of student growth data for a particular pupil for a school year  
28 upon the recommendation of the school administrator conducting the  
29 annual year-end evaluation or his or her designee and approval of

1 the school district superintendent or his or her designee,  
2 intermediate superintendent or his or her designee, or chief  
3 administrator of the public school academy, as applicable.

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

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

21 (l) The performance evaluation system must provide that, if a  
22 teacher who is not in a probationary period ~~prescribed by~~**under**  
23 section 1 of article II of 1937 (Ex Sess) PA 4, MCL 38.81, is rated  
24 as ineffective on an annual year-end evaluation, the teacher may  
25 request a review of the evaluation and the rating by the school  
26 district superintendent, intermediate superintendent, or chief  
27 administrator of the public school academy, as applicable. The  
28 request for a review must be submitted in writing within 20 days  
29 after the teacher is informed of the rating. Upon receipt of the

1 request, the school district superintendent, intermediate  
2 superintendent, or chief administrator of the public school  
3 academy, as applicable, shall review the evaluation and rating and  
4 may make any modifications as appropriate based on his or her  
5 review. However, the performance evaluation system must not allow  
6 for a review as described in this subdivision more than twice in a  
7 3-school-year period.

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

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

29 (3) A school district, intermediate school district, or public

1 school academy shall post on its public website all of the  
2 following information about the evaluation tool or tools it uses  
3 for its performance evaluation system for teachers:

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

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

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

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

26 (e) A description of the processes for conducting classroom  
27 observations, collecting evidence, conducting evaluation  
28 conferences, developing performance ratings, and developing  
29 performance improvement plans.

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

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

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

1 school academy to submit its own evaluation tool for review for  
2 placement on the list.

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

7 ~~(6) (7)~~ This section does not affect the operation or  
8 applicability of section 1248.

9 **(7) A school district, intermediate school district, or public**  
10 **school academy is not required to evaluate the performance of any**  
11 **teacher under this section for the 2021-2022 school year.**

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