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Date: (Filing No. H- )

**EDUCATION AND CULTURAL AFFAIRS**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
126TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1109, L.D. 1542, “Resolve, Regarding Legislative Review of Chapter 180: Performance Evaluation and Professional Growth Systems, a Late-filed Major Substantive Rule of the Department of Education”

Amend the resolve by striking out all of section 1 (page 1, lines 14 to 18 in L.D.) and inserting the following:

**Sec. 1. Adoption. Resolved:** That final adoption of Chapter 180: Performance Evaluation and Professional Growth Systems, a provisionally adopted major substantive rule of the Department of Education that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A outside the legislative rule acceptance period, is authorized only if the following changes are made:

1. The rule must be amended in Section 7 in the part concerning the use of measures of student learning and growth that are considered to be a significant factor in determining the summative effectiveness rating of an educator by:

- A. Deleting the provision that student learning and growth measures must constitute at least 20% of the educator's total score in the first year and 25% or more in subsequent years;
- B. Inserting a provision that the student learning and growth measures based on standardized tests may not constitute more than 10% of the educator's total score; and
- C. Clarifying that the use of measures of student learning and growth must, in accordance with the provisions in Section 12, be developed initially and refined thereafter by the school administrative unit in collaboration with educators and other education stakeholders who are appointed to the initial group and the steering committee to develop, implement and review the performance evaluation and professional development system;

2. The rule must be amended in Section 7 in the part concerning the determination of the teacher of record by:

**COMMITTEE AMENDMENT**

1 A. Deleting the provision that directs the Department of Education to convene a  
2 working group to discuss the criteria related to the determination of the teacher of  
3 record; and

4 B. Inserting a provision to clarify that the criteria for determination of the teacher of  
5 record for a specific student must provide that the teacher has academic contact with  
6 the student for at least 80% of the student's scheduled class time with the teacher;

7 3. The rule must be amended in Section 12 in the part concerning the requirement  
8 that school administrative units must collaborate with educators and other education  
9 stakeholders in developing a performance evaluation and professional development  
10 system by clarifying that a majority of the members of the initial group and the steering  
11 committee formed by the school administrative unit to develop, implement and review  
12 the performance evaluation and professional development system must be educators,  
13 specifically teachers and principals who are subject to the requirements of the rules, and  
14 that the teachers appointed must be representatives of the local education association,  
15 who are appointed by the local education association; and

16 4. The rule must be amended in Section 12 in the part concerning the requirement  
17 that school administrative units must form an initial group and steering committee to  
18 develop, implement and review the performance evaluation and professional development  
19 system by inserting a provision that authorizes the initial group and the steering  
20 committee to agree through a consensus decision-making process, without limitation by  
21 any other provision of the rules established in Chapter 180, on the use of measures of  
22 student learning and growth that are considered to be a significant factor in determining  
23 the summative effectiveness rating of an educator.

24 The Department of Education is not required to hold hearings or undertake further  
25 proceedings prior to final adoption of the rule in accordance with this section; and be it  
26 further

27 **Sec. 2. Maine Educator Effectiveness Council; duties; extension.**

28 **Resolved:** That, notwithstanding Public Law 2011, chapter 635, Part A, section 6,  
29 subsection 5, the Maine Educator Effectiveness Council, referred to in this resolve as "the  
30 council," is authorized to continue to meet, if it so desires, until 90 days after  
31 adjournment of the Second Regular Session of the 126th Legislature.

32 1. The council shall review and recommend any changes necessary to address  
33 unresolved issues in rule Chapter 180: Performance Evaluation and Professional Growth  
34 Systems, which the Department of Education provisionally adopted on March 21, 2013,  
35 and refine provisions in the finally adopted rules authorized in accordance with section 1,  
36 including but not limited to the following issues:

37 A. Methods for aligning the definition and criteria related to the teacher of record for  
38 specific students, within the context of the transition to a proficiency-based  
39 educational system in accordance with the Maine Revised Statutes, Title 20-A,  
40 section 4502, subsection 1;

41 B. Methods for aligning student learning and growth measures within the context of  
42 the transition to a proficiency-based educational system in which students must be  
43 allowed to present multiple types of evidence to demonstrate proficiency in meeting

1 educational standards for advancement and graduation in accordance with the Maine  
2 Revised Statutes, Title 20-A, section 4502, subsection 1 and section 4722-A;

3 C. Methods and protocols for the training of evaluators and peer reviewers to ensure  
4 inter-rater reliability; and

5 D. Methods for connecting effectiveness ratings for teachers and principals with a  
6 system of supports that may include professional development and training as well as  
7 a process for developing and implementing a professional improvement plan.

8 2. The Commissioner of Education shall submit a report regarding the work of the  
9 council to the Joint Standing Committee on Education and Cultural Affairs by December  
10 6, 2013. The report must include the council's recommendations regarding  
11 implementation of the requirements set forth in the Maine Revised Statutes, Title 20-A,  
12 chapter 508, recommendations regarding the duties of the council set forth in Public Law  
13 2011, chapter 635, Part A, section 6, subsection 2 and recommendations regarding the  
14 continuing work of the council. The joint standing committee may introduce a bill  
15 related to the report to the Second Regular Session of the 126th Legislature.

16 3. The Department of Education shall provide staff assistance to the council. The  
17 department may seek and employ grant funds to provide additional assistance.'

## 18 SUMMARY

19 This amendment is one of 2 minority reports of the Joint Standing Committee on  
20 Education and Cultural Affairs. The amendment provides that final adoption of Chapter  
21 180: Performance Evaluation and Professional Growth Systems, a late-filed major  
22 substantive rule of the Department of Education, is authorized contingent upon the  
23 department's making specified changes to the proposed rule. The specific changes are  
24 related to the following provisions of the rule:

25 1. The section concerning the use of measures of student learning and growth that  
26 are considered to be a significant factor in determining the summative effectiveness rating  
27 of an educator;

28 2. The section concerning the determination of the teacher of record for specific  
29 students;

30 3. The section concerning the requirement that school administrative units must  
31 collaborate with educators and other education stakeholders in developing, implementing  
32 and reviewing a performance evaluation and professional development system; and

33 4. The section concerning the requirement that school administrative units must form  
34 a steering committee to review and refine the performance evaluation and professional  
35 development system.

36 The amendment also provides that the Maine Educator Effectiveness Council is  
37 authorized to continue to meet to review specified unresolved issues related to  
38 Department of Education rule Chapter 180, and that the Commissioner of Education must  
39 submit a report on the work of the council, including recommendations regarding  
40 proposed changes to the education statutes or Chapter 180, to the Joint Standing  
41 Committee on Education and Cultural Affairs by December 6, 2013. The joint standing

COMMITTEE AMENDMENT “ ” to H.P. 1109, L.D. 1542

1 committee is authorized to introduce a bill related to the report to the Second Regular  
2 Session of the 126th Legislature.