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Date: (Filing No. S-)

EDUCATION AND CULTURAL AFFAIRS

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**STATE OF MAINE
SENATE
126TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 585, L.D. 1540, Bill, “An Act To Fix and Improve the System Used To Evaluate or Rate Public Schools in Maine”

Amend the bill by striking out everything after the title and inserting the following:

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the school grades reported on May 1, 2013 by the Commissioner of Education as part of the school performance grading system designed by the Department of Education have resulted in significant controversy over the methodology developed to assess public schools in the State; and

Whereas, this controversy demonstrates the need for a thorough review of state policy to ensure that the assessment of public schools by the Department of Education proceeds in a manner that preserves public confidence that the interests of students, educators and school administrative units across the State have been given due consideration; and

Whereas, the protection of the interests of students, educators and school administrative units requires that the process for assessing the performance of public schools be temporarily interrupted pending the necessary review of the school laws; and

Whereas, in order for the task force to be convened under this legislation to review systems for assessing the performance of public schools and prepare a report in time for submission to the 126th Legislature, the review needs to be initiated as soon as possible; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

COMMITTEE AMENDMENT

1 **Sec. 1. 20-A MRSA §6214** is enacted to read:

2 **§6214. School assessment system; annual reports**

3 Beginning with the 2014-2015 school year, the commissioner shall implement a
4 school assessment system to measure school performance and student proficiency in
5 achieving the knowledge and skills described in the parameters for essential instruction
6 and graduation requirements established under section 6209, subsection 2 and department
7 rules established pursuant to this chapter.

8 **1. Performance and proficiency measures.** The measures of school performance
9 and student proficiency implemented under this section must include multiple measures
10 of student achievement and may include, but are not limited to, the use of:

11 A. Summative assessments aligned with the grade level expectations of the
12 parameters for essential instruction and graduation requirements established under
13 section 6209, subsection 2;

14 B. Formative assessments that measure student growth over time; and

15 C. Information of the state assessment program under section 6204 on student
16 achievement reported by the department in compliance with applicable federal
17 statutes and regulations regarding student assessment as required by the federal No
18 Child Left Behind Act of 2001, 20 United States Code, Chapter 70.

19 **2. Annual reports.** The commissioner shall annually report the statewide and
20 school level results of the school assessment system with regard to the performance of
21 schools and the proficiency of students in each of the State's elementary and secondary
22 schools.

23 A. The commissioner shall provide each participating school with a profile of school
24 performance and student proficiency based upon data from the school assessment
25 system.

26 B. When a report is made under this subsection for purposes of comparative analysis
27 of elementary and secondary schools, the reporting mechanisms and the categories
28 reported must be uniform for each school compared at the elementary level or the
29 secondary level.

30 C. Notwithstanding any other provision of this section, the commissioner may not
31 provide a report of the statewide or school level results of the school assessment
32 system until the final adoption of rules in accordance with subsection 3.

33 **3. Rules.** The department shall adopt rules to implement the school assessment
34 system established pursuant to this section. The rules adopted by the department must
35 specify the methods to be used as part of the annual assessment of the performance of
36 elementary and secondary schools and the proficiency of elementary and secondary
37 school students. Rules adopted pursuant to this subsection are major substantive rules as
38 defined in Title 5, chapter 375, subchapter 2-A.

39 Nothing in this section may be construed to prevent or inhibit the department from
40 providing annual reports of the results of the state assessment program required by
41 section 6204 to meet the federal statutes and regulations pertaining to student assessment

1 as required by the federal No Child Left Behind Act of 2001, 20 United States Code,
2 Chapter 70.

3 **Sec. 2. Legislative finding.** The Legislature finds that there is a need to design
4 and implement an effective school assessment system pursuant to the Maine Revised
5 Statutes, Title 20-A, section 6214 that:

6 1. Engages teachers, administrators, school officials, parents, students and state
7 officials in the design of a constructive school assessment system;

8 2. Is more comprehensive and better encourages improvement in school performance
9 and student achievement; and

10 3. Supersedes the school performance grading system developed by the Department
11 of Education and introduced on May 1, 2013.

12 **Sec. 3. Temporary interruption of school performance grading system.**
13 Notwithstanding the Maine Revised Statutes, Title 20-A, section 6214 or any other
14 provision of law and regardless of the school grades reported on May 1, 2013 by the
15 Commissioner of Education as part of a school performance grading system, neither the
16 Department of Education nor any other state agency may report or publish grades for
17 schools in the State as part of a school performance grading system after the effective
18 date of this section until the Legislature enacts legislation that expressly authorizes the
19 Department of Education or another state agency to finally adopt rules to implement a
20 school assessment system as set forth in Title 20-A, section 6214, subsection 3.

21 Nothing in this section may be construed to prevent or inhibit the Department of
22 Education from providing annual reports of the results of the state assessment program
23 required by the Maine Revised Statutes, Title 20-A, section 6204 to meet the federal
24 statutes and regulations pertaining to student assessment as required by the federal No
25 Child Left Behind Act of 2001, 20 United States Code, Chapter 70.

26 **Sec. 4. Task force to design a school assessment system.** The Commissioner
27 of Education shall convene a task force to develop a system to evaluate or rate the
28 performance of public schools in the State.

29 1. The task force must include, but is not limited to, representatives of the following
30 entities and stakeholder groups:

31 A. Department of Education;

32 B. State Board of Education;

33 C. Teachers;

34 D. School boards;

35 E. Superintendents;

36 F. Principals;

37 G. Parents;

38 H. Maine Education Policy Research Institute; and

39 I. Students.

1 2. The school assessment system developed by the task force must include, but is not
2 limited to, the following elements:

3 A. Accurate measures of student progress over at least 3 years;

4 B. Rates of postsecondary school attendance and enlistment in the United States
5 Armed Forces over at least 3 years;

6 C. A peer group comparison that takes into account, but is not limited to, utilization
7 of special education services, the number of students eligible for free or reduced-price
8 meals, local and county unemployment data and median household income;

9 D. School attendance rates;

10 E. Graduation rates; and

11 F. Interviews with parents of students, members of governing boards of school
12 administrative units, teachers and other education leaders about the overall school
13 environment.

14 3. The school assessment system may not use a bell curve, and a school may not be
15 penalized because of the failure of students to take certain standardized tests.

16 4. The task force shall provide opportunities for the public and interested parties to
17 provide input regarding the development of the school assessment system and shall give
18 notice to the public and interested parties of the task force's meetings during which the
19 public may provide testimony or feedback on the proposed models under consideration
20 by the task force.

21 5. The task force shall review the requirements of the Maine Revised Statutes, Title
22 20-A, chapter 222 and the school assessment systems that have been implemented in
23 other states and jurisdictions and shall develop a school assessment system that will best
24 serve the academic and developmental needs of students in this State.

25 6. The Commissioner of Education shall submit a report on the review required by
26 subsection 5 to the Joint Standing Committee on Education and Cultural Affairs no later
27 than November 1, 2013. The report must include the task force's findings and
28 recommendations and any necessary legislation regarding the implementation of a school
29 assessment system. The committee is authorized to report out a bill to the Second Regular
30 Session of the 126th Legislature related to the recommendations included in this report.

31 **Sec. 5. Rules.** In adopting the rules required under the Maine Revised Statutes,
32 Title 20-A, section 6214 related to implementing a school assessment system consistent
33 with the requirements of Title 20-A, chapter 222, the Department of Education shall
34 adopt rules that are consistent with the recommendations of the task force submitted as
35 part of the report required under section 4, subsection 6. The department shall file
36 provisionally adopted major substantive rules with the Legislature by the January 10,
37 2014 statutory deadline for the submission of major substantive rules to be reviewed by
38 the Legislature.

39 **Emergency clause.** In view of the emergency cited in the preamble, this
40 legislation takes effect when approved.'

SUMMARY

1
2 This amendment, which is the majority report for the Joint Standing Committee on
3 Education and Cultural Affairs, strikes and replaces the concept draft with an emergency
4 bill that proposes to accomplish the following initiatives:

5 1. It provides that, beginning with the 2014-2015 school year and only after the
6 adoption of major substantive rules by the Department of Education, the Commissioner
7 of Education shall implement a school assessment system to measure school performance
8 and student proficiency in achieving the knowledge and skills described in the parameters
9 for essential instruction and graduation requirements established under the Maine Revised
10 Statutes, Title 20-A, section 6209, subsection 2 and Department of Education Rule
11 Chapter 132: Learning Results: Parameters for Essential Instruction;

12 2. It provides that, until those rules are adopted, notwithstanding Title 20-A, section
13 6214 or any other provision of law, neither the department nor any other state agency
14 may take any action based on the school grades reported on May 1, 2013 by the
15 Commissioner of Education as part of a school performance grading system;

16 3. It provides that, notwithstanding any other provisions of Title 20-A, chapter 222,
17 the commissioner may not provide a report of the statewide or school level results of the
18 school assessment program until the final adoption of department rules adopted in
19 accordance with Title 20-A, section 6214, subsection 3. It also provides that this
20 provision may not be construed to prevent or inhibit the department from providing
21 reports to comply with the federal statutes and regulations pertaining to student
22 assessment as required by the federal No Child Left Behind Act of 2001. It also provides
23 that the rules must be consistent with the recommendations reported by the task force to
24 develop a system to evaluate or rate the performance of public schools in the State;

25 4. It directs the commissioner to convene a task force to review school assessment
26 systems that have been implemented in other states and to develop a system to evaluate or
27 rate the performance of public schools in this State;

28 5. It provides that the commissioner must report the task force's findings,
29 recommendations and any necessary legislation with respect to the implementation of a
30 school assessment system to the Joint Standing Committee on Education and Cultural
31 Affairs no later than November 1, 2013 and authorizes the joint standing committee to
32 report out a bill to the Second Regular Session of the 126th Legislature related to the
33 recommendations included in this report; and

34 6. It provides that the department must file provisionally adopted major substantive
35 rules by January 10, 2014 to implement the school assessment system and that the rules
36 must specify the methods to be used as part of the annual assessment of the performance
37 of elementary and secondary schools and the proficiency of elementary and secondary
38 school students beginning with the 2014-2015 school year.