

# **SENATE . . . . . No. 02315**

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## The Commonwealth of Massachusetts

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SENATE, June 20, 2012

Senate, June 20, 2012 – New draft of Senate, No. 2197 reported from the committee on Education.

For the committee,

SONIA CHANG-DIAZ.

The Commonwealth of Massachusetts

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**In the Year Two Thousand Twelve**  
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An Act providing for the implementation of education evaluation systems in school districts.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. The purpose of this act is to assure the effective implementation of the  
2 education evaluation system adopted by the board of elementary and secondary education by  
3 providing training for teachers and administrators in evaluation and supervision; to assure that  
4 indicators of job performance as evidenced by evaluation and other factors are the primary  
5 factors in school staffing decisions; and to create a system of data collection to assess the  
6 effectiveness of the evaluation system in achieving its purposes.

7           SECTION 2. Section 1I of chapter 69 of the General Laws, as appearing in the 2010  
8 Official Edition, is hereby amended by inserting after the fifth paragraph the following  
9 paragraph:-

10           The board shall establish and maintain a data system to collect information from school  
11 districts for the purpose of assessing the effectiveness of district evaluation systems in assuring  
12 effective teaching and administrative leadership in the public schools. Such information shall be  
13 made available in the aggregate to the public; provided, however, that any data or information

14 that school districts, the department or both create, send or receive in connection with educator  
15 evaluation that is evaluative in nature and which may be linked to an individual educator,  
16 including information concerning an educator's formative assessment or evaluation or  
17 summative evaluation or performance rating or the student learning, growth and achievement  
18 data that may be used as part of an individual educator's evaluation, shall be considered  
19 personnel information within the meaning of subclause (c) of clause Twenty-sixth of section 7 of  
20 chapter 4 and shall not be subject to disclosure under said clause Twenty-sixth of said section 7  
21 of said chapter 4 or under section 10 of chapter 66.

22 SECTION 3. Section 42 of chapter 71 of the General Laws, as so appearing, is hereby  
23 amended by striking out the seventh paragraph and inserting in place thereof the following  
24 paragraph:-

25 Nothing in this section or section 41 shall affect the right of a superintendent to lay off  
26 teachers pursuant to reductions in force or reorganization resulting from declining enrollment or  
27 other budgetary reasons. No teacher with professional teacher status shall be laid off pursuant to  
28 a reduction in force or reorganization if there is a teacher without such status for whose position  
29 the covered employee is currently certified or if there is a less qualified teacher with such status  
30 holding the same or similar position for which the covered employee is currently certified. No  
31 teacher with such status shall be displaced in accordance with the terms of a collective  
32 bargaining agreement or otherwise by a more senior teacher with such status unless the more  
33 senior teacher is currently certified pursuant to section 38G and is at least as qualified for the  
34 position as the junior teacher holding the position. The criteria for determining a qualified  
35 teacher under this paragraph shall be subject to the collective bargaining provisions of chapter  
36 150E; provided, however, that any such collectively bargained for qualifications shall include, as

37 the primary factors, indicators of job performance, including overall ratings resulting from  
38 comprehensive evaluations conducted consistent with section 38 and the best interests of the  
39 students in the school or district; and provided further, that for the purposes of this paragraph, no  
40 distinction shall be made between the overall performance ratings established by the board of  
41 elementary and secondary education finding that the teacher has met or exceeded acceptable  
42 performance standards developed under said section 38 and that are defined by the board as  
43 proficient and exemplary. The school committee and the collective bargaining representative  
44 may negotiate for seniority or length of service only as a tie-breaker in personnel actions under  
45 this paragraph among teachers whose qualifications are no different using the qualifications  
46 collectively bargained for in accordance with this paragraph.

47 SECTION 4. Section 59B of said chapter 71, as so appearing, is hereby amended by  
48 striking out the first paragraph and inserting in place thereof the following paragraph:-

49 The superintendent of a school district shall appoint principals for each public school  
50 within the district at levels of compensation determined in accordance with policies established  
51 by the school committee. Principals employed under this section shall be the educational  
52 administrators and managers of their schools and shall supervise the operation and management  
53 of their schools and school property, subject to the supervision and direction of the  
54 superintendent. Principals employed under this section shall be responsible, consistent with  
55 district personnel policies and budgetary restrictions and subject to the approval of the  
56 superintendent, for hiring all teachers, athletic coaches, instructional or administrative aides and  
57 other personnel assigned to the school and for terminating all such personnel, subject to review  
58 and prior approval by the superintendent and subject to this chapter. Prior to any assignment to a  
59 school of a teacher previously employed in another school in the district including, but not

60 limited to, voluntary transfer, involuntary transfer, reduction in force, and recall, the  
61 superintendent shall consult in good faith with the principal concerning the assignment and  
62 application of any collectively bargained for selection criteria. In the case of an assignment in  
63 connection with the involuntary transfer or recall of a teacher to another school, any collectively  
64 bargained for selection criteria shall include the factors set forth in the seventh paragraph of  
65 section 42. The principal of any school which requires an examination for student admission  
66 shall be solely and exclusively responsible for hiring all teachers, instructional or administrative  
67 aides and other personnel and for terminating all such personnel without the requirement of  
68 review or prior approval by the superintendent before such hiring or termination. This section  
69 shall not prevent a person from serving as the principal of 2 or more elementary schools or the  
70 use of teaching principals in such schools.

71           SECTION 5. In order to fund the evaluation training program developed by the  
72 department of elementary and secondary education for all evaluators and for all teachers,  
73 principals and administrators required to be evaluated under section 38 of chapter 71 of the  
74 General Laws in school districts participating in the commonwealth's Race to the Top activities,  
75 the department of elementary and secondary education shall pay \$3,500,000 of the cost of  
76 providing training for evaluators and school teams, consistent with the approved Race to the Top  
77 grant, and districts shall pay the additional costs for school team training and the costs associated  
78 with providing training for evaluators. The additional district funding required to implement  
79 school team and evaluator training is estimated at \$5,000,000 for fiscal year 2013. Consistent  
80 with federal law, the department of elementary and secondary education shall encourage districts  
81 to use federal Title II-A grant funds, in addition to any other available funds, for such training.  
82 The department of elementary and secondary education shall require all such districts to develop

83 and submit, in coordination with each district's annual Title II-A needs assessment, a plan for  
84 funding the training required to implement the educator evaluation system using available local,  
85 state and federal funds. The department shall review and approve such plans. Beginning in  
86 school year 2012-2013, any such district that has not already commenced an evaluation training  
87 program shall not require teachers to be evaluated until the district has published an evaluation  
88 training schedule for teachers, principals and administrators who are required to be evaluated  
89 under said section 38 of said chapter 71. Each such district shall publish a training schedule not  
90 later than October 1, 2012. The department shall submit a report to the chairs of the joint  
91 committee on education not later than December 31, 2012 describing how such training is being  
92 funded by the commonwealth and the districts.

93           SECTION 6. All school districts required to adopt and implement evaluation systems  
94 consistent with 603 CMR 35.00 for the 2013-2014 school year shall provide an evaluation  
95 training program developed by the department of elementary and secondary education for all  
96 evaluators and for all teachers, principals and administrators required to be evaluated under  
97 section 38 of chapter 71. The district funding required to train school teams and evaluators in  
98 school districts required to implement evaluation systems for the 2013-2014 school year is  
99 estimated at \$5,200,000 for fiscal year 2014. Consistent with federal law, the department of  
100 elementary and secondary education shall encourage such districts to use federal Title II-A grant  
101 funds, in addition to any other available funds, for such training. The department of elementary  
102 and secondary education shall require all such districts to develop and submit, in coordination  
103 with each district's annual Title II-A needs assessment, a plan for funding the training required to  
104 implement the educator evaluation system, using available local, state, and federal funds. The  
105 department shall review and approve such plans. Beginning in the school year 2013-2014, any

106 such district that has not already commenced an evaluation training program shall not require  
107 teachers to be evaluated until the district has published an evaluation training schedule for  
108 teachers, principals, and administrators who are required to be evaluated under said section 38 of  
109 said chapter 71. Each such district shall publish a training schedule not later than October 1,  
110 2013. The department shall submit a report to the chairs of the joint committee on education not  
111 later than December 31, 2013 describing how such training is being funded by the  
112 commonwealth and the districts.

113           SECTION 7. Notwithstanding any other general or special law to the contrary and for the  
114 purposes of assuring adequate resources for implementing an evaluation training program for  
115 teachers and administrators in every school district, districts implementing the new evaluation  
116 system in fiscal year 2013 shall allocate some or all of its fiscal year 2013 chapter 70  
117 professional development allotment in fiscal year 2013 to implement an evaluation training  
118 program for all teachers and administrators. Districts implementing the new evaluation system  
119 in fiscal year 2014 shall allocate some or all of its chapter 70 professional development allotment  
120 in fiscal year 2014 to implement an evaluation training program for teachers and administrators.

121           SECTION 8. There shall be established a board of elementary and secondary education  
122 educator evaluation data advisory committee which shall consist of the commissioner of  
123 elementary and secondary education or a designee, who shall serve as chair, the secretary of  
124 education or a designee, the senate and house chairs of the joint committee on education or their  
125 respective designees and 9 persons to be appointed by the governor from among the  
126 organizations which participated in the educator evaluation task force. The committee shall  
127 provide recommendations to the board of elementary and secondary education concerning what  
128 information shall be collected for the purpose of assessing the effectiveness of district evaluation

129 systems in assuring effective teaching and administrative leadership in public schools and how  
130 such information shall be made available to the public. Such information may include surveys of  
131 teachers and administrators and data related to implementation of the district evaluation system  
132 and the district evaluation training program, percentage of staff evaluated, the number of  
133 teachers granted professional teacher status, the number of teachers and administrators  
134 voluntarily and involuntarily leaving employment in the district, the percentage of teachers and  
135 administrators in each performance ranking and data tracking aggregate changes in performance  
136 ranking. The committee shall file a report not later than December 31, 2012 with the clerks of the  
137 senate and house of representatives who shall forward it to the joint committee on education. The  
138 report shall include recommendations to the board concerning the information to be collected  
139 annually, how such information shall be made available to the public annually and the  
140 advisability of engaging a researcher to study the data and provide a report to the board, together  
141 with suggested questions and focus for such research.

142           SECTION 9. Sections 2 and 3 shall take effect on September 1, 2016; provided, however,  
143 that collective bargaining agreements negotiated after the effective date of this act shall be  
144 subject to said sections 2 and 3 on and after September 1, 2016.