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BILL ANALYSIS

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Senate Bill 103 (Substitute S-4 as passed by the Senate)
Sponsor: Senator Phil Pavlov
Committee: Education

Date Completed: 10-21-15

RATIONALE

Legislation enacted in 2011 made various changes to the teachers' tenure Act, the public employment relations Act, and the Revised School Code. Among other things, the legislation revised the requirements and procedures for teacher and administrator performance evaluations, and established a broad outline upon which to base those evaluations. The legislation that amended the Revised School Code also established a temporary commission, the Governor's Council on Educator Effectiveness, which was subsequently renamed the Michigan Council for Education Effectiveness.¹ The Council was charged with issuing a report with recommendations on a variety of subjects, including State evaluations tools for teachers and administrators.

In July 2013, the Council issued a report with its final recommendations. While some believe that the legislative changes made in 2011 do not provide enough specificity for teachers and administrators to be evaluated appropriately, others contend that the Council's recommendations place too much emphasis on State control of teacher and administrator evaluation. To address both of those concerns, it has been suggested that some of the Council's recommendations should be incorporated into the Revised School Code.

CONTENT

The bill would amend the Revised School Code to do the following:

- **Delay until the 2017-2018 school year the implementation of teacher and school administrator performance evaluation requirements.**
- **Revise conditions for the measurement and use of student growth and assessment data in conducting the evaluations.**
- **Eliminate a requirement that a school district, intermediate school district (ISD), or public school academy (PSA) adopt a specific evaluation tool prescribed by the State or a local tool consistent with the State tool.**
- **Authorize a school district, ISD, or PSA to develop its own evaluation tool.**
- **Require the evaluation tool used by a school district, ISD, or PSA to be used consistently among all of the schools it operated.**
- **Reduce the portion of a teacher's or administrator's year-end evaluation that must be based on student growth and assessment data.**
- **Require a school district, ISD, or PSA to give teachers and administrators information on the measures used in the evaluation system.**
- **Require a school district, ISD, or PSA to post information online regarding its tools for teacher and administrator evaluations.**
- **Require the Department of Technology, Management, and Budget (DTMB) to establish and maintain a list of recommended evaluation tools.**

¹ The Council was created as the Governor's Council on Educator Effectiveness in Public Act 102 of 2011. Executive Reorganization Order 2012-2 assigned the Council to the Department of Technology, Management, and Budget and renamed it the Michigan Council for Educator Effectiveness. See MCL 18.444.

- **Prohibit a school district, ISD, or PSA from assigning a pupil to be taught in the same subject area for two consecutive years by a teacher who was rated as ineffective for two consecutive years; and require parental or guardian notification if the school district, ISD, or PSA could not comply.**
- **Prohibit issuance of a teaching certificate to an individual who did not meet prescribed conditions, beginning July 1, 2018.**
- **Encourage school districts, ISDs, and PSAs to develop performance evaluation systems meeting the Code's criteria.**

The bill also would repeal a section of the State School Aid Act that created the Educator Evaluation Reserve Fund.

The bill would take effect 90 days after its enactment.

Performance Evaluation System

The Code requires the board of a school district or ISD or the board of directors of a PSA, with the involvement of teachers and school administrators, to adopt and implement for all teachers and administrators a rigorous, transparent, and fair performance evaluation system that does all of the following:

- Evaluates the teacher's or administrator's job performance at least annually while providing timely and constructive feedback.
- Establishes clear approaches to measuring student growth and provides teachers and administrators with relevant data on student growth.
- Evaluates a teacher's or administrator's job performance, using multiple rating categories that take into account data on student growth as a significant factor.
- Uses the evaluations to inform decisions regarding the effectiveness of teachers and administrators; promotion, retention, and development of teachers and administrators; whether to grant tenure and/or full certification; and removing ineffective tenured and untenured teachers and administrators.

For the 2014-2015 school year only, for grades and subjects in which State assessments are administered in compliance with Federal law, student growth had to be measured at least partially using the assessments. For grades and subjects in which State assessments are not required and administered, student growth had to be measured at least partially using alternative assessments that were rigorous and comparable across schools within the school district, ISD, or PSA. The bill specifies that for core content areas in grades and subjects in which State assessments were not required and administered, student growth would have to be measured at least partially by using the alternative assessments, or by using research-based growth measures. These requirements would be ongoing.

Teacher Evaluations

The Code requires the board of a school district, ISD, or PSA to ensure that the performance evaluation system for teachers meets the following conditions:

- The system must include an annual year-end evaluation for all teachers; a mid-year progress report for a teacher who is in the first year of a five-year probationary period for new teachers or who received a rating of minimally effective or ineffective on his or her most recent annual evaluation; and classroom observations to assist in the evaluations.
- For the purposes of conducting the annual year-end evaluations, the school district, ISD, or PSA must adopt and implement the State evaluation tool for teachers that is required under legislation enacted after review of the recommendations contained in the report of the Council on Educator Effectiveness, or a local tool that is consistent with the State evaluation tool.
- The system must assign to each teacher an effectiveness rating of highly effective, effective, minimally effective, or ineffective, based on his or her score on the annual evaluation.
- A school district, ISD, or PSA is encouraged to assign a mentor or coach to each teacher who is subject to a mid-year progress report.

- The system may allow for exemption of student growth data for a particular pupil for a school year upon the recommendation of the school administrator conducting the annual evaluation or his or her designee and approval of the school district or ISD superintendent or PSA chief administrator and his or her designee.
- The system must require the school district, PSA, or ISD to dismiss a teacher from employment if he or she is rated as ineffective on three consecutive annual evaluations.
- The system must permit the school district, ISD, or PSA to conduct a year-end evaluation biennially instead of annually if a teacher is rated as highly effective on three consecutive evaluations.
- The system must permit a teacher to request a review of the evaluation and the rating by the school district or ISD superintendent or PSA chief administrator, as applicable, if the teacher is not in a probationary period and is rated as ineffective on an annual evaluation.

This bill would require a school district, ISD, or PSA, beginning with the 2015-2016 school year, to provide information to teachers on the evaluation tool or tools used by the district, ISD, or PSA in its performance evaluation system and on how each tool was used.

The bill would eliminate the requirement that a school district, ISD, or PSA adopt and implement the State evaluation tool required under enacted legislation or a consistent local evaluation tool. Instead, the bill would require a school district, ISD, or PSA to develop or adopt and implement an evaluation tool. Beginning with the 2015-2016 school year, the tool or tools used by a district, ISD, or PSA would have to be used consistently across the schools it operated so that all similarly situated teachers were evaluated using the same tool. The school district, ISD, or PSA also would have to post information about the tool on its public website.

Currently, beginning with the 2015-2016 school year, at least 50% of a teacher's annual year-end evaluation must be based on student growth and assessment data. The bill would eliminate this requirement. Instead, beginning with the 2017-2018 school year, 25% of the annual year end evaluation would have to be based on student growth and assessment data. Beginning in the 2018-2019 school year, 40% of the evaluation would have to be based on student growth and assessment data.

The Code requires all student growth and assessment data to be measured using the student growth assessment tool required under legislation enacted by the Legislature after review of the recommendations contained in the report of the former Michigan Council for Educator Effectiveness. The bill would delete this provision. Instead, for grades and subjects in which State assessments were administered, and for which student growth and assessment data were available for the most recent three-consecutive-school-year period, at least 40% of student growth would have to be measured using the State assessments. For core content areas in grades and subjects in which State assessments are not required and administered, at least 50% of student growth would have to be measured using research-based growth measures or alternative assessments that were rigorous and comparable across schools within the school district, ISD, or PSA. The bill provides that student growth also could be measured by standards-based, nationally normed assessments, or other national or local assessments, or based on achievement of individualized education program goals.

Beginning with the 2017-2018 school year, an annual evaluation would have to meet the following additional requirements: a) the portion of the evaluation not based on student growth and assessment data would have to be based primarily on a teacher's performance as measured by the evaluation tool developed or adopted by the school district; and b) the portion of the evaluation that was not measured by student growth and assessment data, or the evaluation tool, would have to incorporate criteria enumerated in Section 1248(1)(b)(i)-(iii) not already evaluated by those data or the evaluation tool. (The enumerated criteria include, for example, the teacher's disciplinary and attendance record, relevant special training, and significant accomplishments and contributions.)

Currently, the manner in which a classroom observation is conducted must be prescribed in the evaluation tool. The bill would delete this requirement.

Currently, unless a teacher received a rating of effective or highly effective on his or her two most recent annual year-end evaluations, there must be multiple classroom observations of the teacher each school year. The bill would require at least two, rather than multiple, evaluations under those circumstances. Beginning with the 2015-2016 school year, at least one of the observations would have to be unscheduled, and the school administrator responsible for a teacher's performance evaluation would have to conduct at least one of the observations conducted during the school year. Other observations could be conducted by other observers who were trained in the use of the district's or PSA's evaluation tool. These other observers could be teacher leaders. The bill would not prohibit a school district, ISD, or PSA from considering indicators of teacher performance observed by other individuals who were not trained in the use of the evaluation tool.

The bill would require a school district, ISD, or PSA, beginning with the 2015-2016 school year, to ensure that the teacher was provided with feedback from the observation within 30 days. Failure to provide feedback within 30 days would not prohibit a school district, ISD, or PSA from considering information obtained from that observation in the teacher's evaluation.

The bill specifies that Section 1249 (the section containing these provisions) would not affect the operation or applicability of Section 1248. (Section 1248 pertains to the implementation of various policies in response to personnel decisions that result in a staffing or program reduction or the elimination of a position.)

Administrator Evaluations

Beginning with the 2015-2016 school year, the Code requires the board of a school district or ISD or board of directors of a PSA to ensure that the performance evaluation system for building-level school administrators and for central office-level school administrators who are regularly involved in instructional matters includes at least an annual evaluation for all school administrators by the school district or ISD superintendent or his or her designee, or chief administrator of the PSA, as applicable. (A superintendent or chief administrator must be evaluated by the board or board of directors).

In addition, the applicable board must ensure that the administrator evaluation system meets all of the following conditions:

- A percentage of the evaluation must be based on student growth and assessment data, as required for teacher evaluations.
- The school district, ISD, or PSA must adopt and implement the State evaluation tool for school administrators, or a local tool consistent with the State tool.
- The system must assign to each school administrator an effectiveness rating of highly effective, effective, minimally effective, or ineffective.
- The system must ensure that if a school administrator is rated as minimally effective or ineffective, the person conducting the evaluation develops and requires the administrator to implement an improvement plan to correct the deficiencies.
- The system must provide that, if a school administrator is rated as ineffective on three consecutive annual evaluations, the school district, PSA, or ISD is required to dismiss the administrator from employment.
- The system must provide that, if an administrator is rated as highly effective on three consecutive evaluations, the school district, ISD, or PSA may choose to conduct a year-end evaluation biennially instead of annually.

The portion of the evaluation that is not based on student growth and assessment data must be based on the administrator's proficiency in using the evaluation tool for teachers; the progress made by the school or school district in meeting the goals set forth in the school's school improvement plan or the school district's school improvement plans, as applicable; pupil attendance in the school or school district, as applicable; and student, parent, and teacher feedback, and other information considered pertinent by the superintendent or other administrator conducting the performance evaluation or the school board, ISD board, or PSA board of directors. The bill would eliminate a requirement that an administrator's evaluation include a random

sampling of his or her, or his or her designee's, teacher performance evaluations to assess the administrator's or designee's input in the teacher evaluation system.

The bill also would delete the requirement that the school district, ISD, or PSA adopt and implement the State evaluation tool or a local tool consistent with the State tool. Additionally, the bill would require the measures used by the school district, ISD, or PSA in its evaluation system for school administrators to be used consistently among the schools it operated so that all similarly situated administrators were evaluated using the same measures.

The bill also would make the same changes to the percentage of the evaluation that must be based on student growth and assessment data as proposed for teacher evaluations.

Currently, the dismissal requirement for an ineffective administrator applies only if the three consecutive evaluations are conducted using the same evaluation tool and under the same evaluation system. The bill would delete this condition.

The bill would require the school district, ISD, or PSA to give school administrators information on the measures used in the performance evaluation system and on how each of the measures was used.

Online Information

The bill would require a school district, ISD, or PSA, beginning with the 2017-2018 school year, to post on its website all of the following information about the evaluation tool or tools it used for its teacher and administrator performance evaluation systems:

- The research base for the evaluation framework, instrument, and process.
- The identity and qualification of the author or authors.
- Either evidence of reliability, validity, and efficacy, or a plan for developing that evidence.

If the school district, ISD, or PSA adapted or modified a teacher evaluation tool from the Department of Technology, Management, and Budget (DTMB) list (discussed below), the district, ISD, or PSA would have to post the following:

- The research base for that tool and an assurance that the adaptations or modifications would not compromise the validity of that research base.
- The identity and qualifications of a person with expertise in teacher evaluations who had reviewed the adapted or modified tool.
- An assurance that the adaptations or modifications would not compromise the reliability, validity, or efficacy of the evaluation tool or process.

For its teacher and administrator performance evaluation systems, the school district, ISD, or PSA also would have to post a) the evaluation frameworks and rubrics with detailed descriptors for each performance level on key summative indicators; b) a description of the processes for conducting classroom observations, collecting evidence, conducting evaluation conferences, developing performance ratings, and developing performance improvement plans; and c) a description of the plan for providing evaluators and observers with training.

Evaluation Tool List

The bill would require the DTMB to establish and maintain a list of tools of teacher evaluation tools that had demonstrated evidence of efficacy and could be used for evaluating teachers. The list could include evaluation models recommended in the final recommendations released by the Michigan Council on Educator Effectiveness in July 2013. The list would have to include a statement indicating that school districts, ISDs, and PSAs were not limited to the tools included on the list.

The bill includes similar provisions with regard to tools for evaluating school administrators. The list could include the two evaluation models recommended in the Council's final recommendations.

A school district, ISD, or PSA would not have to use the same evaluation tool for teacher evaluations and administrator evaluations, nor would it have to use evaluation tools that had the same author or authors for both sets of evaluations.

Collective Bargaining Agreement

Under the Code, if a collective bargaining agreement that prevents compliance with the requirement to adopt and implement a performance evaluation system was in effect for teachers or school administrators as of July 19, 2011, the requirement does not apply until after the agreement expires. Under the bill, this exception would apply only if the same agreement were still in effect on the bill's effective date.

Instruction by Ineffective Teachers

Beginning in 2015-2016, if a pupil is assigned to be taught by a teacher who has been rated as ineffective on his or her two most recent annual evaluations, the board of the school district or ISD or the PSA board of directors must notify the pupil's parent or legal guardian. The notice must identify the teacher. The bill would delete these provisions.

Instead, beginning with the 2018-2019 school year, a school district, ISD, or PSA could not assign a pupil to be taught in the same subject area for two consecutive years by a teacher who had been rated as ineffective on his or her two most recent annual evaluations. If the school district, ISD, or PSA were unable to comply with this provision, the board would have to notify the pupil's parent or legal guardian and include an explanation of why the board was unable to comply.

Teaching Certificate

Notwithstanding any other provision of the Code or a rule to the contrary, beginning July 1, 2018, the bill would prohibit the Superintendent of Public Instruction from issuing an initial professional teaching certificate to an individual unless the individual presented evidence satisfactory to the Superintendent demonstrating that the individual had successfully completed at least three full years of classroom teaching, and a) was rated as effective or highly effective on his or her annual year-end performance evaluation for the three consecutive school years immediately preceding his or her application for the certificate, or b) was rated as effective or highly effective for at least three nonconsecutive school years before his or her application and the individual submitted a recommendation from the chief school administrator of the school where he or she was currently employed that he or she should be issued a certificate.

Exceptions to Evaluation System Requirements

Currently, a school district, ISD, or PSA is not required to comply with the Code's requirements regarding the performance evaluation system for teachers and administrators if all of the following apply to a public school operated by the district, ISD, or PSA:

- As of July 19, 2011, the school district, ISD, or PSA had already implemented and is currently using an evaluation system meeting certain conditions for that school.
- The school district, ISD, or PSA notified the former Governor's Council on Educator Effectiveness by November 1, 2011, that it was exempt from the requirements.
- The school district, ISD, or PSA posts a description of its evaluation system on its website.

The criteria for continued use of an existing evaluation system include the following:

- The most significant portion of an individual's evaluation is based on student growth and assessment data, which may include value-added measures.
- The system uses research-based measures to determine student growth.
- The system determines professional competence through multiple direct observations of classroom practices and professional practices throughout the school year.

- Under the system, teacher and administrator effectiveness and ratings, as measured by student achievement and growth data, are factored into teacher retention, promotion, and termination decisions.
- Under the system, performance evaluation results are used to inform professional development for the succeeding year.
- The system ensures that teachers and administrators are evaluated at least annually.

The bill would eliminate the exemption for a school district, ISD, or PSA using an existing system meeting the prescribed criteria. Instead, a school district, ISD, or PSA would be encouraged to adopt and implement a performance evaluation system that met generally the same criteria.

The Code provides that, after July 19, 2011, if a school district, ISD, or PSA begins operating a new public school, or implements a new performance evaluation system for an existing public school, the district, ISD, or PSA is not required to comply with the Code's evaluation system requirements if both of the following apply:

- The system adopted and implemented for that school replicates and is identical to the evaluation system of a public school that meets the criteria for exemption.
- The school district, ISD, or PSA posts a description of the system on its website.

The bill would eliminate this exemption.

Educator Evaluation Reserve Fund

The bill would repeal Section 95a of the State School Aid Act, which created the Educator Evaluation Reserve Fund in the State Treasury, and provided for the allocation to the Fund of up to \$12.1 million from the School Aid Fund and \$2.7 million from the General Fund for the 2014-2015 school year.

MCL 380.1249 et al.

BACKGROUND

As discussed above, the Michigan Council for Educator Effectiveness (MCEE) was established under Public Act 102 of 2011. The Act required the MCEE to issue a report with recommendations for the following: a) State evaluation tools for teachers and administrators, b) student growth and assessment tools for students, c) changes to professional teaching certificate requirements, and d) an evaluation process for local administrator and teacher evaluation tools. In addition to conducting regular meetings, referring to research and reports from a variety of sources, and consulting with subject matter experts, the MCEE conducted a \$6.0 million pilot study of four different educator effectiveness tools in 13 Michigan school districts. The Council was disbanded in June 2013, and its recommendations were issued in a report the following month.²

In its report, the MCEE recommended that classroom evaluation observations should be conducted using one of four evaluation tools: Charlotte Danielson's Framework for Teaching, the Marzano Teacher Evaluation Model, the Thoughtful Classroom, or 5 Dimensions of Teaching and Learning. The report specified that the Legislature should select one of the recommended piloted teacher observation tools through a competitive request for proposal process to serve as the State-selected tool. Once selected, the MCEE suggested that the State should provide technical support and training for the schools that adopted that tool. Under the Council's recommendations, schools would be free to use one of the other recommended tools, but would have to pay for any expenses above base funding provided by the State for the selected tools. The Council suggested that any observer performing an evaluation should be trained in observation protocol, regardless of the tool selected, and recommended the use of multiple teacher evaluations, including at least one unscheduled observation.

² Michigan Council for Educator Effectiveness, "Building an Improvement-Focused System of Educator Evaluation in Michigan: Final Recommendations", July 2013.

The Council also issued recommendations relating to student growth assessments. Among other things, these included continuing to develop or select, and support, assessments that are aligned with State-adopted content standards in core content areas, and high-volume noncore content standards where content standards exist. The MCEE report also suggested changes and recommendations for administrator evaluations, categorizing and providing feedback to teachers and administrators through the evaluation process, professional teaching certification, and a waiver process to exempt schools attempting to develop their own evaluation tools from State requirements.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

It is appropriate for the State to require that districts use research-based evaluation tools. Many school districts are developing educator evaluation tools, or have already implemented their own tools. Those districts would see their efforts wasted if they had to adopt a single tool or model proposed by the DTMB. While the bill would encourage the continued development of local evaluation tools, it would not mandate strict adherence to a particular model. The bill also would require that a significant portion of a teacher's evaluation be based on student growth and assessment data; however, schools would be free to consider various other metrics for the remainder of the evaluation. A school district or PSA would have the flexibility to create or select a model that worked best for it; however, it would have to demonstrate some basis for the model in student growth and education research. This framework would accommodate the differences found in schools across the State, and would allow school districts and PSAs to consider the local needs of their students.

In addition, the bill would require any evaluation system adopted by a school district or PSA to be used consistently by each school operated by the district or PSA. This mandate would ensure that similarly situated teachers and administrators were evaluated under the same standards.

Further, the circumstances pertaining to the State assessment have been changing, and Federal regulations relating to student testing have been and continue to be debated in the United States Congress. By delaying full implementation of the evaluation requirements, the bill would allow some of the debate to be settled before school districts had to implement evaluation systems.

Opposing Argument

While schools would have to adopt an observation tool, the bill provides little in the way of guidance for developing clear metrics. The bill would allow local school districts to continue to create their own teacher evaluation standards, despite recommendations to the contrary from the MCEE and research that establishes the benefits of robust and consistent standards created in other states. Without clear and consistent standards for all districts, it would be difficult to compare teachers and administrators across multiple districts. The bill would do little to change systems that currently rank the majority of teachers as effective or highly effective despite poor outcomes from the State's public school students.

The bill also would not require evaluators to be trained to conduct evaluations based on the model that a school district adopted. Similarly, the bill would not provide funding for such training or for the development and implementation of educator performance evaluation tools. Only those schools that could afford to develop and implement new standards and to train their evaluator appropriately would do so. In districts that did not have clear and robust standards and trained evaluators, teachers and administrators likely would not have confidence that the information supplied in an evaluation was useful, which would undermine the evaluation as an incentive and performance measurement tool.

Legislative Analyst: Jeff Mann

FISCAL IMPACT

State: The bill would have a minimal fiscal impact on the Department of Education. The changes to the teacher certification process, from three years of satisfactory performance currently required for a provisional teaching certificate to three years of effective or highly effective performance that the bill would require for an initial professional teaching certificate, would result in very little cost to the Department. This would not change the process for issuing a teaching certificate and the Center for Education Performance and Innovation (CEPI) currently collects teacher effectiveness ratings, so the information already is readily available. The Department estimates total costs to be \$50,000.

The Department of Technology, Management, and Budget would not incur costs to maintain the list of the four approved teacher evaluation models and the two administrator evaluation models, because those models have already been selected and are known.

The elimination of the Educator Evaluation Reserve Fund would allow \$14.8 million to be allocated to other programs or put into the foundation allowance.

Local: The bill could result in additional costs to schools. Schools and districts would have to review current evaluation systems to ensure that the evaluation model, including the percentage requirement of student achievement and growth, was in line with the Code. If a district's evaluation system were not meeting statutory requirements, the district would have to adopt one of the approved models or develop a system within the district that was supported by research. Either activity would result in additional costs to the district, which would have to pay for one of the models, or devote time and resources toward developing a system that complied with the Code. Since the State would no longer be issuing statewide requests for proposals for the evaluation models, the costs per district could increase as the economies of scale were reduced. The costs would have to come from the operations budget of the district since the Educator Evaluation Reserve Fund would be eliminated. The costs of making an evaluation model, and how many districts would need to create or purchase an evaluation tool, are currently indeterminate.

The elimination of the Evaluation Reserve Fund could have either negative or positive effects on local schools, depending on the current status of a district's evaluation system, and how the \$14.8 million from the Fund were re-appropriated upon its elimination. If a district already has an evaluation system that complies with the Code, then the district would not have had access to the Fund and instead could receive an increase to its foundation allowance or other school funding, depending on the Legislature's re-appropriation of the \$14.8 million. Thus, the impact on the district could be positive.

However, if the district does not currently have an evaluation model that satisfies the statute, the district potentially could receive less from the re-appropriation of the \$14.8 million into the foundation allowance or other programs than it might have with a grant from the Evaluation Reserve Fund, resulting in a negative impact compared with current law. It is not known how many schools would have benefited from the Evaluation Reserve Fund or how many would benefit more if the funds were put into the foundation allowance or any other program funded with these dollars.

There also would be minor costs associated with informing teachers, principals, and the community about the changes to evaluations. There would be ongoing costs associated with ensuring that each teacher was observed twice yearly by either the school principal or his or her designee. Those costs are indeterminate.

The prohibition against schools' assigning pupils to be taught in the same subject for two consecutive years by an ineffective teacher could have indeterminate ramifications for staffing levels and costs at a school.

Fiscal Analyst: Cory Savino

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.