

The Shrinking Use of Growth: Teacher Evaluation Legislation since ESSA

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In the late 2000s and early 2010s, in response to shortcomings in the procedures used to evaluate the effectiveness of K–12 teachers, federal policymakers began to incentivize states to adopt teacher evaluation systems that included measures of student growth for teachers in all grades and subjects as a significant factor in the evaluation.¹ Particularly in response to the Race to the Top grant competition and the federal government's granting of waivers from some provisions of the No Child Left Behind Act, the majority of states ultimately enacted legislation to incorporate measures of student growth (e.g., value-added methods, schoolwide growth, or student learning objectives) into teacher evaluations.²

More recently, however—partly as a result of implementation challenges, public opinion, and lawsuits challenging their legality³—the Every Student Succeeds Act, passed in December 2015, does not continue this focus on student growth as part of teacher evaluations and does not require states to have a teacher evaluation system.⁴

Without a federal incentive or mandate to include measures of student growth in a state's teacher evaluation system (let alone

have such systems at all), we have seen a de-emphasis on growth, and in some cases a complete removal of evaluation systems of any kind, in the state legislation introduced. This brief provides an overview of such legislation from the passage of ESSA in December 2015 through May 2018, including analysis of whether each bill retains or eliminates the evaluation system; whether it reduces, increases, maintains, or eliminates student growth as a component of the system (if retained); and whether the bill was ultimately enacted.

Background

Historically, teacher evaluations have not provided useful information to distinguish between high-performing and low-performing teachers. Infrequent observations resulted in nearly all teachers being rated as adequate,⁵ despite indications otherwise.⁶

The goal behind incorporating student growth into the evaluation and improving teacher observation practices was to better differentiate teacher performance. Prompted by research suggesting that student test scores are related to teacher

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quality,⁷ the Obama administration sought to incentivize states to include student growth measures in teacher evaluation systems. Both the Race to the Top grant program and the Elementary and Secondary Education Act (ESEA) Flexibility Waivers required selected and participating states to develop evaluation systems that included measures of student growth for teachers in all grades and subjects as a significant factor in the evaluation.⁸ For those teachers in subject areas or grade areas not included in the statewide assessment, states were provided flexibility in how to measure student growth. Such flexibility enabled states to use “alternative measures of student learning and performance such as student results on pre-tests, end-of-course tests, and objective performance-based assessments; student learning objectives; student performance on English language proficiency assessments; and other measures of student achievement that are rigorous and comparable across schools within [a local educational agency.]”⁹ Ultimately between the Race to the Top grant applications and the ESEA waivers, nearly all states redesigned their teacher evaluation systems to include student growth for all teachers.¹⁰

As states adopted new evaluation systems that included student growth, problems with implementation began to emerge, and lawsuits challenging the use of student growth measures were filed in Florida, New Mexico, New York, Tennessee, and Texas.¹¹ Public opinion of the evaluation systems was also problematic for several reasons. In some cases, parents opted their students out of testing due to the development of new tests as well as in protest over the scores being used for teacher evaluation purposes.¹² Similarly, in some cases,

teachers were dissatisfied with the implementation of the evaluation systems that incorporated student growth measures.¹³ Finally, overall, state and district implementation of the evaluation systems has not resulted in better differentiation among teachers’ performance. Instead, in some states, state regulations have diminished the role of student growth in the weighting criteria such that teachers can be rated effective while having low growth scores.¹⁴

In part due to these challenges with the teacher evaluation systems from approximately 2009 through 2014, in 2015 Congress responded by incorporating language into ESSA that would provide states flexibility in modifying or developing new teacher evaluation systems. Specifically, ESSA provides states with funding to help develop “rigorous, transparent, and fair evaluation and support” systems that are “based in part on evidence of student achievement, which may include student growth” as well as other measures of educator performance.¹⁵ Importantly, states can use the funding to develop new evaluation systems to modify their systems so that the measures can better differentiate between effective and non-effective teachers or potentially to eliminate student growth measures entirely.

Method

Using a legislative database to identify bills that pertained to a teacher evaluation system using student academic growth measures,¹⁶ we reviewed state bills that were filed (or reintroduced) after the passage of ESSA in December 2015 until May 2018. We cross-referenced our list with a resource provided by the Education Commission of the States to determine if

there were any enacted or vetoed bills we had missed.¹⁷

We then coded the bills based on characteristics of the legislative language, which resulted in classification of the bills into the following categories:

- *Addresses the weight of growth in the evaluation*
- *Postpones implementation of the current system*
- *Allows or prohibits specific types of assessments to calculate growth*
- *Allows or prohibits specific types of growth models*
- *Requires a revision to the teacher evaluation system*
- *Requires a study of the evaluation system*
- *Other*

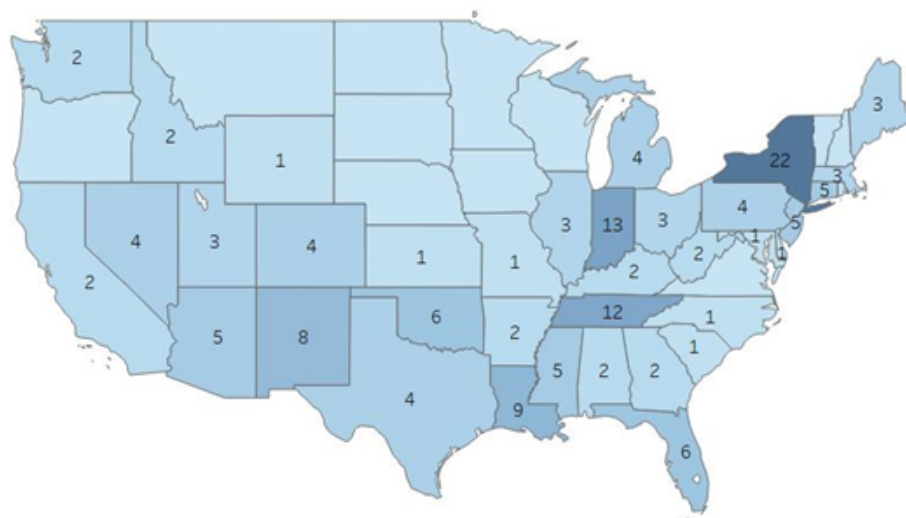
In some cases bills fit within multiple categories; therefore, the totals for each category do not add up to the total number of bills.

While engaging in the coding, we identified companion bills (i.e., identical bills introduced in both chambers of the state’s legislature). These pairs of bills, and other pairs that appeared to contain substantial amounts of duplicate language, were each combined into a single record so that they would not disproportionately influence the analysis.

Analysis

Elimination of 43 companion or highly duplicated bills resulted in a total of 158 unique bills filed in 37 states that in some way dealt with the use of student growth in teacher evaluation systems (Figure 1). As the figure shows, Florida, New Mexico, New York, Tennessee, and Texas—states in which lawsuits were brought against the state’s teacher evaluation system—are among this

group. New York, which faced multiple lawsuits, had the most bills filed (31 total, 22 unique). Thirty-two of the 158 unique bills were subsequently enacted and five were vetoed.¹⁸ A full list of the bills and their status can be found in the Appendix.



Note: Hawaii and Alaska are not shown. Hawaii had four unique bills; Alaska had no bills.

Figure 1. Numbers of unique growth-related bills

Weight of Growth in the Evaluation

Of the 158 unique bills we analyzed, 84 bills in 33 states addressed the weight of growth in the evaluation. The majority of these bills (41) would reduce or potentially reduce the weight. Table 1 shows the distribution of bills.

Change in growth	Number of Bills	Enacted
Increase	3	0
No change	13	4
Potential reduction	28	4
Reduction	20	4
Elimination	20	1

Table 1. Bills addressing the weight of growth in the evaluation

Interestingly, all three of the bills increasing the weight of growth (Arizona SB 1282, California AB 2826, and New York SB 4210) increased it to the same percentage of the evaluation (50%). The California bill was the only one of the three in which the state had not already required student growth as part of the teacher's evaluation, and it made this new inclusion of growth contingent, by district, on its permissibility under district collective bargaining agreements.

Of the bills that explicitly maintain student growth at its current weight, some proposed adding data from other types of student achievement measures to be determined locally (e.g., Florida HB 7069, New York S 5648, and Pennsylvania SB 756). In one bill, the locally-determined measure would apply to teachers in untested grades or subjects (Indiana HB 1220 and Tennessee HB67/SB250). Another bill reduced the percentage of the value-added component but maintained the overall percentage for growth measures (Louisiana HB 651).

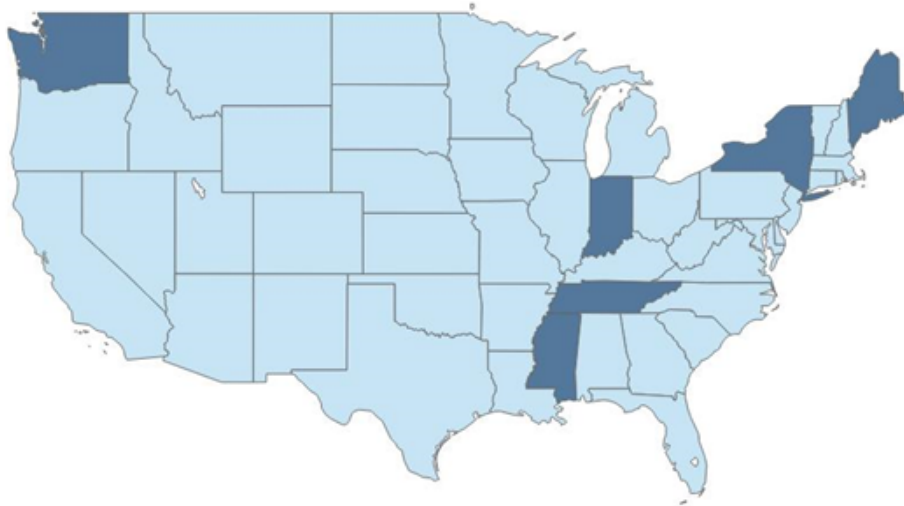
Bills that would potentially reduce the weight of growth in the evaluation largely proposed changing from a state-determined weight to a district-determined weight, which may be none (e.g., Maryland HB 633 and South Carolina HB 3969/S 534; these were not included in the "Elimination" category). Others would allow districts to establish their own evaluation systems which could include student growth. For example, Kentucky's SB 1 would require districts to develop their own evaluation systems that include multiple measures of effectiveness.

The bills that would reduce the weight of student growth in the evaluation reduce it to anywhere from 35% to as little as 5%. Looking only at the bills that were enacted, the reduced weights range from 35% (Georgia SB 364) to 20% (Nevada AB 320).

Finally, there were 20 bills that proposed eliminating student growth from the evaluation. Idaho's HB 571, which was enacted, prohibits the use of standardized testing in any way in teacher evaluations.

Postpones system implementation

Eighteen of the 158 unique bills proposed postponing the use of the evaluation system (Figure 2). In some cases, the postponement was proposed so that a study of the evaluation system could be conducted (these were also included under “Requires a study” below). Four of the bills were enacted; three of them, two in Tennessee and one in Indiana, postponed implementation due to technical issues with the state’s assessment during that school year.

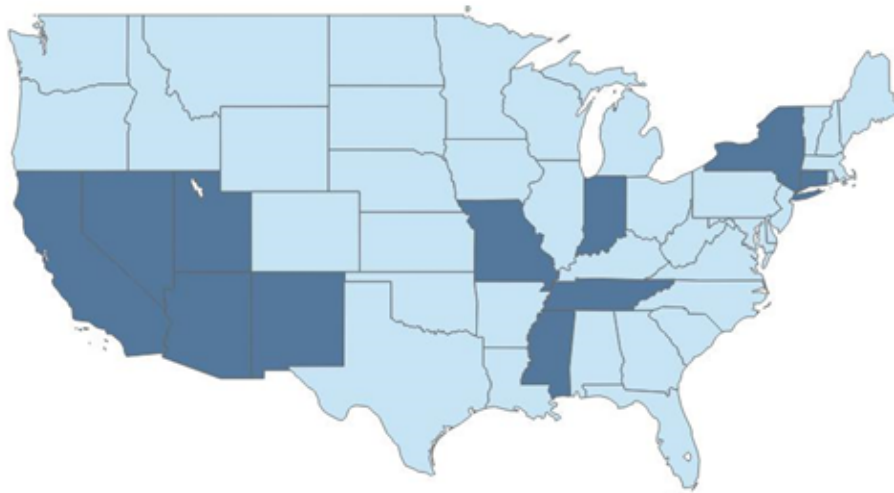


Note: Hawaii and Alaska are not shown. Neither had bills related to postponing the evaluation systems.

Figure 2. States with bills postponing the evaluation system

Assessment-specific

Of the 158 unique bills, 17—five of which were enacted—would allow or prohibit specific types of assessments to calculate growth (Figure 3). For example, New York A 3630 would have prohibited use of state-designed or state-administered tests for this purpose. Similarly, Utah HB 201 would prohibit using end-of-level assessments as part of educator evaluation, but would allow the use of other student achievement tests. Some bills would allow teachers to substitute scores from a local measure instead of from the state assessment (e.g., New York 1719). One pair of bills in New Mexico proposed a pilot to use short-cycle assessments (HB 158 and HB 105).

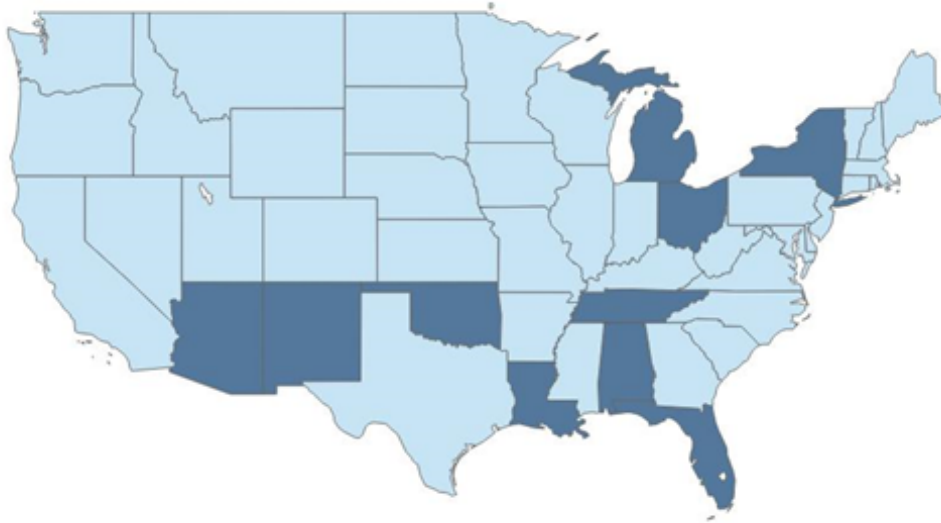


Note: Hawaii and Alaska are not shown. Neither had bills related to specific assessments.

Figure 3. States with assessment-specific bills

Model-specific

Similar to the assessment-specific language, there were 18 bills—4 enacted—that would allow or prohibit specific types of models used to calculate student growth (Figure 4).



Note: Hawaii and Alaska are not shown. Neither had bills related to evaluation models.

Figure 4. States with model-specific bills

The model-specific bills were generally against the use of value-added methodologies. For instance, Oklahoma HB 2269 and New Mexico HB 248 explicitly prohibited the use of such methodologies, and a Michigan bill (SB 133) banned the use of value-added growth and project analytics systems developed for ESSA as a mandatory part of teacher evaluation.¹⁹

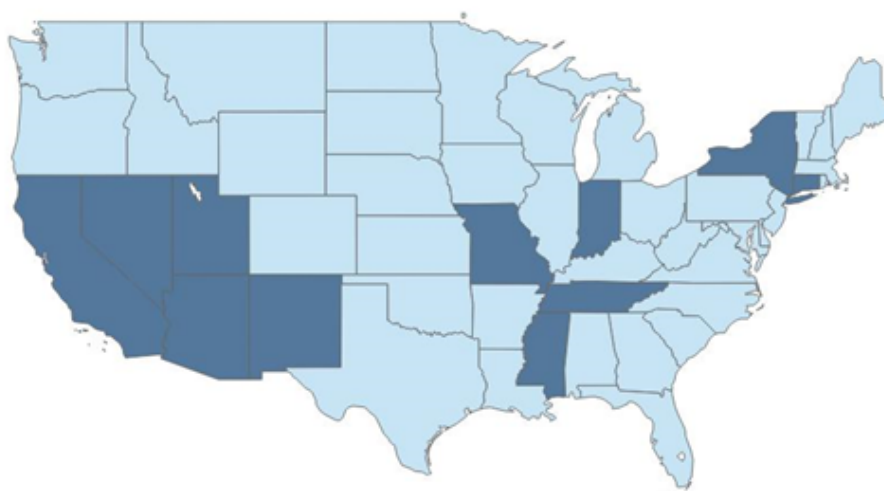
A few of the model-specific bills pertained to methods to be used when individual student test scores are not available. For instance, an Ohio bill (SB 240) proposed prohibiting, for evaluating teachers in untested grades and subjects, the use of schoolwide growth measures (i.e., the average growth of all students at the school where the teacher works) and of student learning objectives (which are based on alternative data sources such as classwork). Similarly, a set of Tennessee bills (HB 1686/SB 1854) would have required using a portfolio growth model for preschool and kindergarten teachers. Conversely, a set of bills in New York would have required the use of student learning objectives (A 5866/S3690 and S 5326).

Other model-specific bills were broader. For instance, a pair of Tennessee bills (HB 2127 and SB 2271) required that all

methodologies used in evaluating teachers and principals are “valid” and aligned to the Standards for Educational and Psychological Testing. Other bills would alter model requirements, for example by mandating that they take into consideration student characteristics such as disability or poverty status (New York S 5124 and Louisiana HB 130). Similarly, there were bills to ensure that the teacher was responsible for instruction, either as measured by whether a student was assigned to the teacher for the full academic year (Arizona SB 1171 and SB 1497) or incorporating a factor in the evaluation if the teacher was assigned a student teacher during the evaluation period (Michigan HB 5473/SB 774).

Requires revision to the system

Eleven bills proposed a revision to the evaluation system (Figure 5). One was enacted (Arkansas SB 647) and another was vetoed and the veto overridden (North Carolina SB 257). These bills typically included general language; for example, New York legislation proposed revising the system to include “multiple tried-and-true methods of measurements for determining individual success” (A 9182).

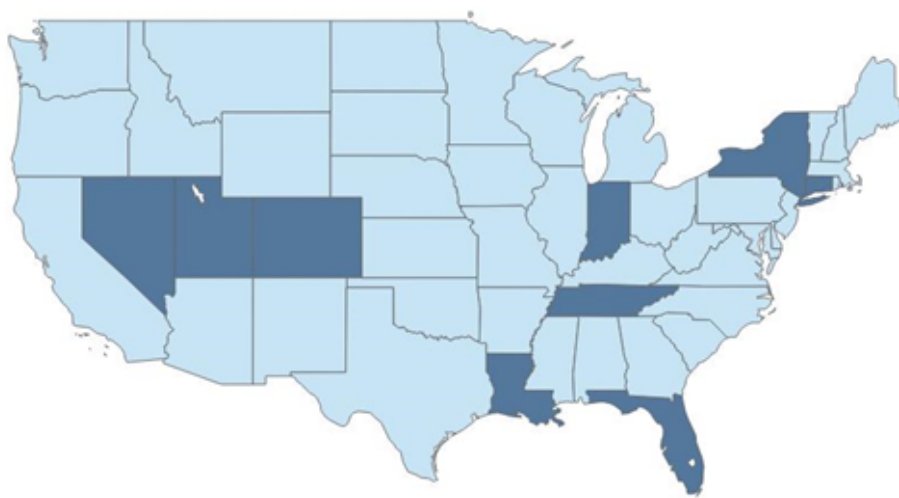


Note: Hawaii and Alaska are not shown. Hawaii had bills proposing a revision to the evaluation system; Alaska did not.

Figure 5. States with bills proposing revisions to the evaluation system

Requires a study

Eleven bills—4 of which were enacted—proposed requiring a study of the state’s teacher evaluation system (Figure 6). Typically, the study would examine what measures should be part of a teacher evaluation system (e.g., Connecticut SB 1018, Indiana SB 108). Occasionally the study was geared towards better understanding the underlying data. Louisiana’s HR 158, which was enacted, requested the state’s department of education to examine the validity of data collected from value-added methodologies and to include its findings and recommendations in an annual report to the legislature. After an issue with its testing vendor, Tennessee proposed that the state’s board study the accuracy of the state’s assessment data for teacher evaluation purposes (HB 1453 and SB 2242).

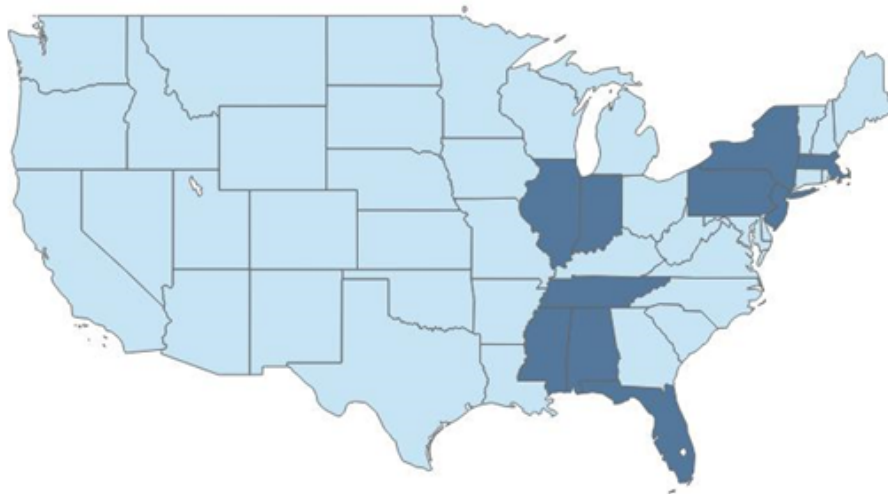


Note: Hawaii and Alaska are not shown. Neither had bills requiring a study.

Figure 6. States with bills proposing a study of the evaluation system

Other

Fourteen bills—2 enacted—pertained to growth in teacher evaluations but could not be otherwise classified (Figure 7). Of these, a group of bills proposed extending the evaluation system to other types of schools, such as charters (e.g., Pennsylvania HB 97) and schools in receivership (Mississippi HB 192). Other bills would provide expert support related to the evaluation system (e.g., Illinois SB 449, Florida HB 773 and HB 549; Indiana HB 1004 and HB 1339). One set of companion bills would prohibit the use of student growth as the only factor used to determine the placement of a classroom teacher (Florida HB 401/SB 930).



Note: Hawaii and Alaska are not shown. Neither had bills classified as “Other.”

Figure 7. Other bills related to growth in evaluation systems

Summary

With reauthorization of ESEA, the transition to ESSA, and the latter’s absence of mandated state teacher evaluation systems and their inclusion of student growth, state legislatures appear to be taking advantage of this flexibility and rolling back changes to their teacher evaluation systems that they made during the Obama administration. The changes largely are related to diminishing the weight of growth in the evaluation system, eliminating growth entirely, and/or allowing districts, rather than the state, to determine their evaluation frameworks.

Notably, the bills we analyzed do not reflect all proposed or enacted legislative changes related to teacher evaluations, as some states may have passed bills prior to the enactment of

ESSA. For example, in 2015 Florida reduced the percentage of student growth included in its evaluation system from 50% to 35% (Florida HB 7069). Additionally, this analysis did not capture changes made to a teacher evaluation system where the state board of education has the authority to do so without legislative approval. For example, the Connecticut state board eliminated the use of student achievement scores as part of its teacher evaluation framework in 2017.²⁰ Similarly, states may conduct studies or refinements to the evaluation system without legislation. Thus, there may be additional states considering changes to their evaluation systems through other means, but again, these proposed changes would not be detected via the bills analyzed.

Recommendations

While we recognize the public perception and implementation challenges related to teacher evaluation systems that include student growth measures,²¹ we believe that the complete elimination of student growth as part of teacher evaluation systems is a step backward and an overcorrection to those challenges. As noted, while ESSA does not require such evaluation systems, their value and potential value are clear.

Rather than respond to the challenges of using growth measures in evaluation systems by eliminating their use, we recommend that states first consider less drastic measures such as:

- *postponing the use of student growth for employment decisions while refinements to the system can be made;*
- *carrying out special studies to better understand the growth model; and/or*
- *reviewing evaluation requirements for teachers who teach in untested grades and subjects so that the measures used more accurately reflect their performance.*

Pursuing such refinements, rather than reversing efforts to make teacher evaluation more meaningful and reflective of performance, is the best first step toward improving states' evaluation systems.

Appendix: Bill List

State	Bill	Year	Status	Growth	Amount of Growth	Postpone	Assessment-Specific	Model-Specific	Revision to System	Study	Other
Alabama	SB 316	2016	Indefinitely Postponed					Y			
Alabama	SB 429	2016	Failed								Y
Arizona	SB 1282	2017	Failed	Y	Increases						
Arizona	HB 2377	2017	Failed	Y	Reduction						
Arkansas	HB 1424	2017	Enacted	Y	Potential reduction						
Arkansas	SB 647	2017	Enacted						Y		
California	AB 2826	2016	Vetoed	Y	Potential addition						
California	AB 1035	2017	Enacted				Y				
Colorado	HB 1016	2016	Failed							Y	
Colorado	SB 105	2016	Failed	Y	Potential reduction						
Colorado	SB 67	2017	Failed	Y	Reduction						
Connecticut	SB 380	2016	Failed				Y				
Connecticut	HB 5030/SB 695	2017	Failed				Y				
Connecticut	HB 6824	2017	Failed						Y		
Connecticut	SB 683	2017	Failed						Y		
Connecticut	SB 1018	2017	Failed							Y	
Delaware	HB 399	2016	Enacted	Y	Reduction						
Florida	SB 1360	2016	Failed					Y			
Florida	HB 773/ HB 549	2017	Failed								Y
Florida	HB 1249	2017	Failed	Y	Maintains						
Florida	HB 7069	2017	Enacted	Y	Maintains						
Georgia	SB 364	2016	Enacted	Y	Reduction						
Georgia	HB 1061	2016	Failed	Y	Reduction						

State	Bill	Year	Status	Growth	Amount of Growth	Postpone	Assessment-Specific	Model-Specific	Revision to System	Study	Other
Hawaii	HB 2733/HB 2730/SB 2586/SB 2592	2016	In House/Senate	Y	Eliminate						
Hawaii	SB 2596/HB 813	2016	Committee deferred						Y		
Hawaii	HCR 205-2/SCR 157-2	2016	In House/Senate						Y		
Hawaii	HCR 206-2/SCR 117-2/SCR 155-2	2016	In House/Senate	Y	Eliminate						
Idaho	HB 515	2016	Enacted	Y	Maintains						
Idaho	HB 571	2016	Enacted	Y	Eliminate						
Illinois	SB 449	2017	Enacted								Y
Illinois	HB 3022/SB 1740	2017	Re-referred to committee	Y	Potential reduction						
Indiana	HB 1003	2016	Enacted			Y					
Indiana	SB 139	2016	Failed			Y					
Indiana	HB 1004/HB 1339	2016	Failed								Y
Indiana	SB 35	2017	Failed	Y	Potential reduction						
Indiana	SB 108	2017	Enacted							Y	
Indiana	SB 311/SB 286	2017	Failed			Y					
Indiana	HB 1220	2017	Failed	Y	Maintains						
Indiana	SB 407	2017	Enacted				Y				
Indiana	SB 471	2017	Failed			Y					
Indiana	SB 503/HB 1372	2017	Failed			Y					
Indiana	HB 1590/HB 1591	2017	Failed	Y	Eliminate						

State	Bill	Year	Status	Growth	Amount of Growth	Postpone	Assessment-Specific	Model-Specific	Revision to System	Study	Other
Indiana	HB 1003	2017	Enacted							Y	
Kentucky	SB1	2016	Failed	Y	Eliminate						
Kentucky	SB1	2017	Enacted	Y	Potential reduction						
Louisiana	HB 479	2016	Failed	Y	Reduction						
Louisiana	HB 543	2016	Failed						Y		
Louisiana	HB 650	2016	Failed	Y	Reduction						
Louisiana	HB 723/SB 279	2016	Failed	Y	Potential reduction						
Louisiana	SB 477/SB 342	2016	Enacted	Y	Reduction						
Louisiana	HB 130	2017	Enacted					Y			
Louisiana	HB 532	2017	Failed	Y	Eliminate						
Louisiana	HR 158	2017	Enacted							Y	
Maine	LD 1459	2015	Enacted			Y					
Maine	LD 49	2017	Passed Senate	Y	Maintains						
Maine	LD 633	2017	Vetoed	Y	Potential reduction						
Maryland	HB 633	2016	Failed	Y	Potential reduction						
Massachusetts	SB 4	2016	Failed	Y	Potential reduction						
Massachusetts	H 234/S 308/S 1486	2017	In Senate	Y	Potential reduction						
Michigan	SB 133	2017	Enacted					Y			
Michigan	HB 4369/SB 217	2017	In House	Y	Potential reduction						
Mississippi	HB 963	2016	Failed			Y					
Mississippi	HB 1531	2016	Failed	Y	Potential reduction						

State	Bill	Year	Status	Growth	Amount of Growth	Postpone	Assessment-Specific	Model-Specific	Revision to System	Study	Other
Mississippi	HB 192	2017	Failed								Y
Mississippi	HB 1227/HB 997	2017	Failed	Y	Potential reduction						
Missouri	HB 2	2016	Enacted				Y				
Nevada	AB 7	2016	Enacted				Y				
Nevada	AB 212	2017	Failed	Y	Eliminate						
Nevada	AB 320	2017	Enacted	Y	Reduction						
Nevada	SB 497	2017	Enacted							Y	
New Jersey	A 4122/S 2668	2016	Failed	Y	Eliminate						
New Jersey	A 4063	2016	Failed	Y	Reduction						
New Mexico	SB 34	2016	Failed	Y	Reduction						
New Mexico	HB 105	2017	Vetoed				Y				
New Mexico	HB 125	2017	Vetoed	Y	Reduction						
New Mexico	HB 158	2017	Failed				Y				
New Mexico	HB 241	2017	Vetoed	Y	Eliminate						
New Mexico	HB 248	2017	Failed	Y	Eliminate			Y			
New Mexico	HB 350	2017	Failed	Y	Reduction						
New Mexico	SB 470	2017	Failed	Y	Eliminate						
New York	A 1719	2017	In Assembly				Y				
New York	S 5954	2015/2016	Failed			Y					
New York	SB 4210	2016	Failed	Y	Increases						
New York	S 5648	2016	Failed	Y	Maintains						
New York	S 5124	2016	Failed					Y			
New York	S 5921/A 8247	2016	Failed	Y	Maintains						
New York	S 5298	2016	Failed			Y					
New York	AB 9336	2016	Failed				Y				
New York	AB 9461/ SB 7632	2016	Failed			Y				Y	

State	Bill	Year	Status	Growth	Amount of Growth	Postpone	Assessment-Specific	Model-Specific	Revision to System	Study	Other
New York	AB 9626/AB 10057/SB 7463	2016	Failed	Y	Eliminate						
New York	A 9829/S 7641	2016	Failed								Y
New York	A 9182	2016	Failed						Y		
New York	A 7663	2016	Failed				Y		Y		
New York	A 10569/S 8034	2016	Failed								Y
New York	S 1782	2017	In Senate	Y	Eliminate						
New York	A 2815	2017	In Assembly	Y	Potential reduction				Y		
New York	A 3420/S 4390	2017	In Assembly	Y	Eliminate						
New York	A 3630	2017	In Assembly				Y				
New York	A 4016	2017	In Assembly						Y		
New York	A 5866/S 3690	2017	In Assembly	Y	Reduction			Y			
New York	S 5326	2017	In Senate					Y			
North Carolina	SB 257	2017	Vetoed but veto overridden						Y		
Ohio	SB 240	2017	In Senate	Y	Reduction			Y			
Oklahoma	HB 2265	2016	Failed	Y	Potential reduction						
Oklahoma	HB 2269	2016	Failed					Y			
Oklahoma	HB 2945	2016	Failed	Y	Potential reduction						
Oklahoma	HB 2957	2016	Enacted	Y	Potential reduction						
Oklahoma	SB 1350	2016	Failed	Y	Potential reduction						
Oklahoma	HB 1161	2017	Failed	Y	Potential reduction						

State	Bill	Year	Status	Growth	Amount of Growth	Postpone	Assessment-Specific	Model-Specific	Revision to System	Study	Other
Pennsylvania	HB 97	2017	Passed Senate								Y
Pennsylvania	HB 1202	2017	In House								Y
Pennsylvania	SB 756	2017	In Senate	Y	Maintains						
Pennsylvania	HB 530	2016/2016	Passed Senate								Y
South Carolina	HB 3969/S 534	2017	Enacted	Y	Potential reduction						
Tennessee	HB1453/SB2242	2015	Failed			Y				Y	
Tennessee	HB 2522/SB 2162	2016	Failed			Y					
Tennessee	SB 2242	2016	Failed			Y					
Tennessee	SB 2508	2016	Enacted			Y					
Tennessee	HB2127/SB2271	2016	Failed					Y			
Tennessee	HB67/SB250	2017	In Senate	Y	Maintains						
Texas	HB 1333	2017	Failed	Y	Eliminate						
Texas	HB 2941/SB 2200	2017	Failed	Y	Maintains						
Texas	HB 3692	2017	Failed	Y	Eliminate						
Texas	SB 1785	2017	Failed	Y	Eliminate						
Utah	HB 201	2016	Enacted				Y				
Utah	SJR 11	2016	Failed							Y	
Utah	HB 231	2017	Enacted	Y	Maintains						Y
Washington	SB 5749	2015/2016	Failed			Y					
Washington	HB 2019 /SB 5748	2015/2016	Failed	Y	Maintains						
West Virginia	HB2524	2017	Failed	Y	Eliminate						
Wyoming	HB 0037	2016	Passed Senate	Y	Potential reduction						

Notes

1. Michelle Croft & Richard Buddin, "Applying Value-Added Methods to Teachers in Untested Grades and Subjects," *Journal of Law and Education* (2015): 1–22.
2. U.S. Department of Education, ESEA Flexibility State-by-State Implementation Timeline Chart (2013, June 14), available at <https://www2.ed.gov/policy/elsec/guid/esea-flexibility/eseaflexstchart614.doc>.
3. Stephen Sawchuk, "Teacher Evaluation Heads to the Courts," *Education Week*, Oct. 6, 2015, <http://www.edweek.org/ew/section/multimedia/teacher-evaluation-heads-to-the-courts.html>; David Griffith, *The 2014 PDF/Gallup Poll: Part Two* (ASCD, September 2014), available at <http://inservice.ascd.org/the-2014-pdkgallup-poll-part-two/>; Michelle Croft, "Teacher Evaluation System Design and Student Growth Measures: What can be Learned from Legal Challenges" (presentation, American Educational Research Association Annual Meeting, San Antonio, TX, April 27–May 1, 2017).
4. Every Student Succeeds Act of 2015, § 1111(e)(1)(B)(iii)(IX) and (X).
5. Daniel Weisberg, Susan Sexton, Jennifer Mulhern, and David Keeling, *The Widget Effect: Our National Failure to Acknowledge and Act on Differences in Teacher Effectiveness* (Brooklyn, NY: The New Teacher Project, 2009), <https://tntp.org/publications/view/the-widget-effect-failure-to-act-on-differences-in-teacher-effectiveness>.
6. Jason A. Grissom and Susanna Loeb, "Assessing Principals' Assessments: Subjective Evaluations of Teacher Effectiveness in Low- and High-Stakes Environments," *Education Finance and Policy* (in press); Larry E. Frase and William Streshly, "Lack of Accuracy, Feedback, and Commitment in Teacher Evaluation," *Journal of Personnel Evaluation in Education* 8, no. 1 (1994): 47–57; and Donal M. Medley and Homer Coker, "The Accuracy of Principals' Judgments of Teacher Performance," *Journal of Educational Research* 80, no. 4 (1987): 242–247.
7. Croft & Buddin, "Applying Value-Added Methods."
8. "Race to the Top Fund; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2010," 74 *Fed. Reg.* 59844 (November 18, 2009); U.S. Department of Education, *ESEA Flexibility Policy Document* (2012, June 7), available at <https://www2.ed.gov/policy/eseaflex/approved-requests/flexrequest.doc>.
9. U.S. Department of Education, *ESEA Flexibility Policy Document*.
10. National Council on Teacher Quality, *State-by-State Evaluation Timeline Briefs* (National Council on Teacher Quality, 2016), available at <https://www.nctq.org/publications/State-by-State-Evaluation-Timeline-Briefs>.
11. The first group of lawsuits related to the use of schoolwide growth measures for teachers in untested grades and subjects. Both Florida's *Cook v. Stewart* and Tennessee's *Wagner v. Haslam* challenged the use of schoolwide growth measures and in both cases the court found the evaluation policies constitutional under a rational basis standard but not necessarily wise. The *Wagner* court noted that policies can be implemented incrementally such that improvements can be made over time. See Croft, "Teacher Evaluation System Design"; and Sawchuk, "Teacher Evaluation Heads to the Courts."
12. Oren Pizmony-Levy and Nancy Green Saraisky, *Who Opt's Out and Why? Results From a National Survey on Opting Out of Standardized Tests* (Columbia University, 2016), available at https://www.tc.columbia.edu/media/news/docs/Opt_Out_National-Survey----FINAL-FULL-REPORT.pdf.
13. See e.g., Rose French, "Teachers Frustrated over Evaluations Tied to Test Results," *Atlanta Journal-Constitution* (2016, January 30), available at <https://www.myajc.com/news/local-education/teachers-frustrated-over-evaluations-tied-test-results/xKcYPeGI8WJQMsch5XM4I/>; Matthew A. Kraft, *Teacher Accountability Reforms and the Supply of New Teachers*, Working Paper (2018), available at <https://scholar.harvard.edu/mkraft/publications/teacher-accountability-reforms-and-supply-new-teachers>; and Lois K. Solomon, "School Board Vows to Improve Teacher Evaluations," *Orlando Sun Sentinel* (2018, January 25), available at <http://www.sun-sentinel.com/news/education/fl-pb-schools-teacher-evaluations-20180125-story.html>.
14. Kate Walsh, Nithya Joseph, Kili Lakis, and Sam Lubell, *Running in Place: How New Teacher Evaluations Fail to Live Up to Promises* (National Council on Teacher Quality, 2017).
15. Every Student Succeeds Act of 2015, § 2103(b)(3)(A).
16. We used the database FiscalNote with the following search term: (teacher AND evaluation) OR (teacher AND performance) OR ("assessment growth"~20 AND teacher) OR (educator AND evaluation) OR (educator AND performance) OR ("assessment growth"~20 AND educator). Bills that pertained to performance pay or other types of growth measures (e.g., New York bill A 7144 proposing the inclusion of "character growth") were omitted.
17. Stephanie Aragon, *Policy Snapshot: Teacher Evaluation. Education Commission of the States Trends in Teacher Evaluation* (Education Commission of the States, 2018), available at https://www.ecs.org/wp-content/uploads/Teacher_Evaluations.pdf; and Liana Loewus, "Are States Changing Course on Teacher Evaluation?" *Education Week* 37(13) (2017, November 28), available at <https://www.edweek.org/ew/articles/2017/11/15/are-states-changing-course-on-teacher-evaluation.html>.
18. One bill—North Carolina SB 257—was vetoed but the veto was overridden. It is counted as an enacted bill.
19. However, the state used a student growth percentile model that would not be affected by the bill.
20. Kathleen Megan, "State Eliminates Test Scores from Teacher Evaluations," *Hartford Courant* (2017, April 5), available at <http://www.courant.com/education/hc-state-board-education-teacher-evaluations-20170405-story.html>.
21. Walsh et al., *Running in Place*; and Croft, *Teacher Evaluation System Design*.