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April 7, 2010

President Libby Mitchell  
Speaker Hannah Pingree

RE: LD 1799 "An Act to Encourage the Use of Models in the Collection and Use of Student Achievement Data"

Dear President Mitchell and Speaker Pingree,

The Office of the Attorney General has reviewed the language of the federal education funding restrictions in the Application for funds available under the Race To the Top program. This Application (hereafter also "App.") can be found at <http://www2.ed.gov/programs/racetothetop/index.html>.

The Application for funds from the United States Department of Education's Race To The Top program requires that the Attorney General certify that "the State does not have any legal, statutory, or regulatory barriers at the State level to linking data on student achievement (as defined in this notice) or student growth (as defined in this notice) to teachers and principals for the purpose of teacher and principal evaluation." App. at 13. Student achievement is defined to include student assessments. App. at 11. The application and certification must be submitted by June 1, 2010.

The proposed amendment, S-515, prohibits the Department from adopting any model for teacher evaluations that includes student assessments that has not been approved by the stakeholder group. This prohibition is a potential legal barrier to linking student achievement data to teacher/principal assessment; moreover, it leaves open the possibility that the stakeholder group will not approve any such model. In either case, the Department might be prohibited from adopting a model that includes student assessments. Local school units, in turn, are prohibited from using any model that has not been adopted by the Department.

I hope these comments are helpful to your consideration of this bill.

Very truly yours,

A handwritten signature in black ink, appearing to read "L. Pistner".

Linda M. Pistner  
Chief Deputy Attorney General  
State of Maine