Regular Session, 2012

ACT No. 1

HOUSE BILL NO. 974

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BY REPRESENTATIVES CARTER, KLECKLEY, BROADWATER, CHAMPAGNE, CONNICK, HENRY, HENSGENS, LIGI, LORUSSO, PONTI, ROBIDEAUX, SCHRODER, SEABAUGH, TALBOT, AND THOMPSON AND SENATORS ALARIO AND APPEL

AN ACT

2	To amend and reenact R.S. 17:54(B)(1)(b)(i) and (iii), 81(A) and (P)(1), 81.4, 229, 414.1,
3	441, 442, 443, and 444(B)(1), to enact R.S. 17:418 and 532(C), and to repeal R.S.
4	17:44, 45, 81(I), 154.2, 235.1(E), 346.1, 419, 419.1, 420, 421, 421.1, 421.2, 421.3,
5	421.5, 422, 422.1, 422.2, 422.3, 422.4, 422.5, 431, 444(A) and (B)(2) and (3), 446,
6	461 through 464, and 1207, relative to elementary and secondary education; to
7	provide with respect to teachers and other school employees; to provide with respect
8	to local school superintendents, their employment, and their duties and
9	responsibilities; to provide relative to local school boards and their functions and
10	powers; to provide relative to school personnel decisions; to provide relative to
11	school board reduction in force policies; to provide with respect to the salaries and
12	compensation of teachers and other school employees; to provide relative to tenure
13	for school employees and the removal of tenured and nontenured teachers; to provide
14	for effectiveness; and to provide for related matters.
15	Be it enacted by the Legislature of Louisiana:
16	Section 1. R.S. 17:54(B)(1)(b)(i) and (iii), 81(A) and (P)(1), 81.4, 229, and 414.1
17	are hereby amended and reenacted to read as follows:
18	§54. Officers of boards, election; superintendents, qualifications, appointment and
19	removal.
20	* * *
21	B.(1)
22	* * *

CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

(b)(i)(aa) The superintendent of schools shall be employed by a city, parish, or other local public school board pursuant to a written contract. Such contract shall contain but need not be limited to specific performance objectives. However, for the board of a local public school system that received any variation of a school performance letter grade of "C", "D", or "F", such contract shall establish performance targets at the school and district level as follows: (1) student achievement; (2) student achievement for schools that have received any variation of a school performance letter grade designation of "C", "D", or "F"; (3) graduation rates; (4) graduation rates for schools that have received any variation of a school performance letter grade designation of "C", "D", or "F"; and (5) the percentage of teachers with an "effective" or "highly effective" performance rating. Not less than ninety thirty days prior to the termination of such a contract, the school board shall notify the superintendent of termination of employment under such contract, or in lieu thereof the board and the superintendent may negotiate and enter into a contract for subsequent employment.

- (bb) Each local public school board shall submit a copy of its current employment contract with the superintendent of schools to the state superintendent of education.
- (cc) A local public school board shall notify the state superintendent of education any time it terminates or fails to renew its employment contract with the local school superintendent, along with the reasons therefor.
- (dd) Any employment contract executed, negotiated, or renegotiated after

 July 1, 2012, between a local school board and a superintendent that does not meet

 the requirements established in this Subsection shall be null and void.

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(iii) The superintendent shall be retained during the term of a contract; however, if the superintendent is found incompetent, unworthy, or inefficient or is found to have failed to fulfill the terms and performance objectives of his contract or to comply with school board policy, then the superintendent may shall be removed from office as provided by Subsection C of this Section. Before the superintendent

can be removed during the contract period, he shall have the right to written charges and a fair hearing before the board after reasonable written notice.

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§81. General powers of city, parish, and other local public school boards

A.(1) Each local public school board shall serve in a policymaking capacity that is in the best interests of all students enrolled in schools under the board's jurisdiction. When establishing board policies, each board shall prioritize student achievement, financial efficiency, and workforce development on a local, regional, and statewide basis. When choosing a local superintendent of schools, each board shall select a leader who shall prioritize student achievement and act in the best interests of all students enrolled in schools under the board's jurisdiction.

(2) Each city and parish local public school board shall determine the number of schools to be opened, the location of school houses, and the number of teachers and other school personnel to be employed, and select teachers and all other certified personnel from recommendations made by the city or parish superintendent as required by this Subsection. The boards local school superintendent shall have authority to employ teachers by the month or by the year, and to fix their salaries; provided that there shall be no discrimination as to sex in the fixing thereof and provided further, that it is not the purpose of this Section to require or direct the reduction of any salary, or salary schedule, presently in force. The boards local school superintendent shall see that the provisions of the state school law are complied with.

(2) (3) Each city and parish local public school board shall select teachers and all other certified personnel from recommendations made by the city or parish superintendent regarding delegate authority for the hiring and placement of all school personnel, including those for which state certification is required to the local school superintendent. It shall be the responsibility of the superintendent to ensure that all persons recommended have proper certification, as applicable, and are qualified for the position. Nothing shall prevent a school board from rejecting the

recommendations made by the superintendent and requiring the superintendent to submit additional recommendations.

(3) (4) Each <u>city and parish local public</u> school board shall adopt policies for and establish procedures which require a <u>city or parish local</u> school superintendent to:

- (a) Consult with Delegate to the principal regarding any recommendations made by the superintendent for all decisions regarding the hiring or placement of any teacher or other certified personnel at the school in which the principal is employed, subject to the approval of the local school superintendent. Any recommendations made by the principal shall not be binding upon the superintendent but shall be considered by the superintendent in making his recommendations to the board.
- (b) Consult with teachers regarding any recommendations made by the superintendent for prior to making any decisions regarding the hiring or placement of a principal at the school in which such teachers are employed. Any recommendations made by teachers shall not be binding upon the superintendent but shall be considered by the superintendent in when making his recommendations to the board employment decisions.
- (4) (5) Any policies and procedures adopted by a city or parish local public school board pursuant to the provisions of this Subsection shall be in accordance with all laws, all state rules, regulations, and policies relative to certification of teachers and other personnel, and any court order or restrictions relative to desegregation.
- (6) The superintendent and the school principal shall make all employment-related decisions based upon performance, effectiveness, and qualifications as applicable to each specific position. Effectiveness, as determined pursuant to R.S. 17:3881 through 3905, shall be used as the primary criterion for making personnel decisions; however, in no case shall seniority or tenure be used as the primary criterion when making decisions regarding the hiring, assignment, or dismissal of teachers and other school employees.

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P.(1) No board member shall act in an individual capacity to use the authority of his office or position as a member of the school board in a manner intended to interfere with, compel, or coerce any personnel decision <u>made by the superintendent or a school principal</u>, including the hiring, promotion, discipline, demotion, transfer, discharge, or assignment of work to any school employee. The superintendent, as the instructional leader of the district and its chief executive officer, shall have primary responsibility for personnel actions in the district. Each school board shall approve or disapprove employment of teachers and all other certified personnel from recommendations made by the superintendent regarding the hiring and placement of all personnel for which state certification is required. The superintendent shall make recommendations to the board in open public session at a meeting which has been properly noticed. Prior to the board voting in open session on the superintendent's recommendations, the board shall provide opportunity for public comment:

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§81.4. Reductions in force; dismissal of teachers and other school employees

A. Not later than January 1st, 1984 September 1, 2012, each city and parish local public school board shall develop and adopt rules and policies that delegate reduction in force decisions to the superintendent which it he shall use in dismissing teachers and other employees at any time a reduction in force is instituted by such school board. Such rules and policies shall be made available for inspection by teachers, other school employees, and the general public within ten days after final adoption.

B. Not later than January 1st, 1986, each city and parish school board shall develop and adopt rules and policies which it shall use in dismissing any full-time secretary, teacher's aide, school clerk, or custodian at any time a reduction in force is instituted by that school board. These rules and policies shall be made available for inspection, by any full-time secretary, teacher's aide, school clerk, or custodian, and the general public within ten days after their final adoption.

C. Not later than January 1, 1987, each city and parish school board shall

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2	develop and adopt rules and policies which it shall use in dismissing school
3	employees other than those for which provision is made in Subsections (A) and (B),
4	at any time a reduction in force is instituted by the school board. Such rules and
5	policies shall be made available for inspection by any such school employee and the
6	general public within ten days after their final adoption.
7	B. All reduction in force policies adopted for use in dismissing teachers and
8	administrators shall be based solely upon demand, performance, and effectiveness,
9	as determined by the performance evaluation program as provided in R.S. 17:3881
10	through 3905. Any reduction in force by a superintendent shall be instituted by
11	dismissing the least effective teacher within each targeted subject area or area of
12	certification first, and then proceeding by effectiveness rating until the reduction in
13	force has been accomplished.
14	C. All reduction in force policies adopted by a local school board for use by
15	the superintendent in dismissing school employees who are not evaluated pursuant
16	to R.S. 17:3881 through 3905, shall be based upon the following criteria:
17	(1) Performance and effectiveness as determined by school board policy.
18	(2) Certification or academic preparation, if applicable.
19	D. Not later than January 1, 1996, all All reduction in force policies of the
20	eity and parish local public school boards and special schools as provided in this
21	Section shall include but not be limited to the following minimum standards:
22	(1) Certification, if applicable.
23	(2) Seniority in the system.
24	(3) Tenure of employees.
25	(4) Academic preparation, if applicable, within the employee's field.
26	(5) (a) (1) The right of an employee notified of an action which results from
27	implementation of a reduction in force policy to request in writing a review of such
28	action and to receive notice of the results of such review.
29	(b) (2) The right of an employee to pursue the matter through the school
30	board's adopted grievance procedure.

E. No reduction in force policy adopted by a local public school board shall
include seniority or tenure as the primary criterion to be considered when instituting
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a reduction in force.

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§229. Appointment of visiting teachers, or supervisors of child welfare and attendance

The appointment of parish and city local school superintendent shall appoint visiting teachers, or and supervisors of child welfare and attendance, shall be made by the parish or city school board upon the recommendation of the parish or city superintendent of education; but no person shall be so recommended or so appointed unless certified by the state board of education. It shall be the duty of the parish or city superintendent of education to nominate for the consideration of the school board the person or persons whom he judges to be properly certified and the best qualified and most competent.

Visiting teachers, or supervisors of child welfare and attendance, need not be qualified electors or residents of the parish or city in which they are appointed to serve.

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§414.1. Public elementary and secondary school principals; duties

The principal appointed by the parish or city school board for each public elementary and secondary school shall serve, be appointed by and serve under the overall direction of the parish or city local superintendent of schools; as the administrative officer of the school to which he is assigned. Consistent with the requirements of law and the rules and regulations of the State Board of Elementary and Secondary Education and the parish or city local public school board by which he is employed, he shall have administrative responsibility for the direction and supervision of the personnel and activities and the administration of the affairs of that school.

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1	Section 2. R.S. 17:418 is hereby enacted to read as follows:
2	§418. Salaries; teachers and other school employees
3	A.(1) The governing authority of each local public elementary and secondary
4	school, the state special schools, and the schools and programs administered through
5	the special school district shall establish salary schedules by which to determine the
6	salaries to be paid to teachers and all other school employees. The salaries as
7	provided therein shall be considered as full compensation for all work required and
8	performed within each employee's prescribed scope of duties and responsibilities.
9	(2) Such salary schedules shall be established and published not later than
10	January 1, 2013, and shall become effective for all employees not later than the
11	beginning of the 2013-2014 school year.
12	B.(1) Salary schedules established for teachers, administrators, and other
13	certified school personnel shall be based upon the following criteria, with no one
14	criterion accounting for more than fifty percent of the formula used to compute such
15	employees' salaries:
16	(a) Effectiveness, as determined by the performance evaluation program as
17	provided in R.S. 17:3881 through 3905.
18	(b) Demand inclusive of area of certification, particular school need
19	geographic area, and subject area, which may include advanced degree levels.
20	(c) Experience.
21	(2) No teacher or administrator who is rated "ineffective" pursuant to the
22	performance evaluation program as provided in R.S. 17:3881 through 3905 shall
23	receive a higher salary in the year following the evaluation than he received in the
24	year of the evaluation.
25	C.(1) The amount of the annual salary paid to a teacher or other school
26	employee in any school year shall not be reduced below the amount of such salary
27	paid during the previous school year, nor shall the amount of the annual salary paid
28	to such school personnel be reduced at any time during an academic year.
29	(2) Each vocational agricultural teacher employed by a city, parish, or other
30	local public school board shall teach a twelve-month program for a twelve-month

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1	budget period and shall be paid a proportional salary for a twelve-month budget
2	period according to the salary schedule established by his employing school board.
3	(3) The limitations on the reduction in the amount of the annual salary paid
4	to teachers and other school employees shall not be applicable to:
5	(a) The correction of any accounting errors or to a reduction necessitated by
6	the elimination of a state program or state funding.
7	(b) The reduction of any local salary supplement funded, in whole or in part,
8	from a revenue source requiring voter approval when such voter approval has not
9	been obtained.
10	(c) A teacher or other school employee who has been promoted to a position
11	of higher salary is demoted in accordance with applicable law and local board or
12	special school district policy to a lower position. In such case, the teacher or other
13	school employee shall return to the salary previously received in the lower position
14	from which he was promoted.
15	D. The provisions of this Section shall not apply to any employee who is in
16	the classified service of the state.
17	Section 3. R.S. 17:441, 442, 443, and 444(B)(1) are hereby amended and reenacted
18	and R.S. 17:532(C) is hereby enacted to read as follows:
19	§441. Definitions
20	As used in this Subpart, the word "teacher" means:
21	(1) Any employee of any parish or city a local public school board, state
22	special school, or a school or program administered by the special school district
23	who holds a teacher's certificate and whose legal employment requires such teacher's
24	certificate;
25	(2) Any school lunch supervisor employed by a parish or city <u>local public</u>
26	school board who holds a special parish school lunch supervisor's certificate issued
27	by the department Department of education Education of the state of Louisiana and
28	whose employment requires such certificate. No employee as defined in this
29	Paragraph hired on or after July 1, 2012, shall be eligible to acquire tenure.

§442. Probation and tenure of parish or city school teachers Tenure

Each teacher shall serve a probationary term of three years to be reckoned from the date of his first appointment in the parish or city in which the teacher is serving his probation. During the probationary term the parish or city school board, as the case may be, may dismiss or discharge any probationary teacher upon the written recommendation of the parish or city superintendent of schools, as the case may be, accompanied by valid reasons therefor.

Any teacher found unsatisfactory by the parish or city school board, as the case may be, at the expiration of the said probationary term, shall be notified in writing by the board that he has been discharged or dismissed; in the absence of such notification, such probationary teacher shall automatically become a regular and permanent teacher in the employ of the school board of the parish or city, as the case may be, in which he has successfully served his three year probationary term; all teachers in the employ of any parish or city school board as of July 31, 1946 who hold proper certificates and who have served satisfactorily as teachers in that parish or city for more than three consecutive years, are declared to be regular and permanent teachers in the employ of the school board of that parish or city.

A.(1)(a) A teacher who has acquired tenure before September 1, 2012, retains tenure and is subject to the provisions of this Section.

- (b) Effective beginning on July 1, 2012, a teacher rated "highly effective" for five years within a six-year period pursuant to the performance evaluation program as provided in R.S. 17:3881 through 3905 shall be granted tenure.
- (2) A teacher paid with federal funds shall not be eligible to acquire tenure, nor shall time spent in employment paid with federal funds be counted toward the time required for acquisition of tenure.
- B. The school superintendent shall notify a teacher, in writing, when tenure has been awarded and the teacher is deemed to have acquired tenure on the date specified therein. A teacher who is not awarded tenure remains an at-will employee of the public school board or the special school district but shall acquire tenure upon meeting the criteria established in Subsection A of this Section.

C.(1) Beginning with the 2013-2014 school year, a tenured teacher who receives a performance rating of "ineffective" pursuant to the performance evaluation program as provided in R.S. 17:3881 through 3905 shall immediately lose his tenure and all rights related thereto. If a teacher is rated "highly effective" based on the evidence of the growth portion of the evaluation but is rated "ineffective" according to the observation portion, within thirty days after such finding, the teacher shall be entitled to a second observation by members of a team of three designees, chosen by the local superintendent, which shall not include the principal.

- (2) Such teacher shall reacquire tenure if any of the following applies:
- (a) The teacher's "ineffective" performance rating is reversed pursuant to the grievance procedure established pursuant to R.S. 17:3883(A)(5). In such case, the teacher's tenure shall be immediately reinstated.
- (b) The teacher receives a performance rating of "highly effective" for five years within a six-year period subsequent to receiving an "ineffective" rating as provided in Subsection A of this Section.
- §443. Removal of teachers; procedure; right to appeal

A. The school superintendent may terminate the employment of any nontenured teacher after providing such teacher with the written reasons therefor and providing the teacher the opportunity to respond. The teacher shall have seven days to respond, and such response shall be included in the teacher's personnel file.

A.B.(1) A permanent teacher with tenure shall not be removed from office except upon written and signed charges of poor performance, willful neglect of duty, or incompetency, dishonesty, or immorality, or of being a member of or contributing to any group, organization, movement, or corporation that is by law or injunction prohibited from operating in the state of Louisiana, and then only if found guilty after furnished with a copy of such written charges and given the opportunity to respond. The teacher shall have seven days to respond, and such response shall be included in the teacher's personnel file. At the end of this seven-day time period, the superintendent may terminate the teacher's employment. A teacher shall not be terminated for an "ineffective" performance rating until completion of the grievance

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procedure established pursuant to R.S. 17:3883(A)(5) if a grievance was timely filed. Within seven days after dismissal, a teacher may request and upon request shall be granted a hearing by the school board of the parish or city, as the case may be a panel composed of a designee of the superintendent, a designee of the principal or the administrative head of the state special school in which the teacher was employed, and a designee of the teacher. In no case shall the superintendent, the principal or state special school administrative head, or teacher designate an immediate family member or any full-time employee of the school system by which the teacher was employed who is under the supervision of the person making the designation. Such, which hearing may be private or public, at the option of the teacher, At least twenty days in advance of the date of the hearing, the superintendent with approval of the school board shall furnish the teacher with a copy of the written charges. Such statement of charges shall include a complete and detailed list of the specific reasons for such charges and shall include but not be limited to the following: date and place of alleged offense or offenses, names of individuals involved in or witnessing such offense or offenses, names of witnesses called or to be called to testify against the teacher at said hearing, and whether or not any such charges previously have been brought against the teacher and shall begin within seven business days after receipt of the teacher's request for such hearing. The teacher shall have the right to appear before the board tenure hearing panel with witnesses in on his behalf and with counsel of his selection, all of whom shall be heard by the board panel at said the hearing. For the purpose of conducting hearings hereunder, the board panel shall have the power to issue subpoenas to compel the attendance of all witnesses on behalf of the teacher. Nothing herein contained shall impair the right of appeal to to seek supervisory review from a court of competent jurisdiction.

B: (2) If a permanent teacher is found guilty by a school board, after due and legal hearing as provided herein, on charges of willful neglect of duty, or of incompetency, dishonesty, or immorality, or of being a member of or contributing to any group, organization, movement, or corporation that is by law or injunction prohibited from operating in the state of Louisiana, and ordered removed from office,

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or disciplined by the board, the superintendent with approval of the board shall furnish to the teacher a written statement of recommendation of removal or discipline, which shall include but not be limited to the exact reason(s), offense(s), or instance(s) upon which the recommendation is based. The tenure hearing panel shall submit its recommendation to the superintendent, and the superintendent may choose to reinstate the teacher. If the superintendent does not reinstate the teacher, the superintendent shall notify the teacher of his final determination, in writing, and Such such teacher may, not more than one year sixty days from the date of the said finding, postmarked date of such written notification, petition a court of competent jurisdiction for a full hearing to review whether the action of the school board superintendent, and the was arbitrary or capricious. The court shall have jurisdiction to affirm or reverse the action of the school board superintendent in the matter. The record on review shall be limited to evidence presented to the tenure hearing panel, and the court shall review the matter not later than ten days after the petition has been filed. If the finding action of the school board superintendent is reversed by the court and the teacher is ordered reinstated and restored to duty, the teacher shall be entitled to full pay for any loss of time or salary he or she may have sustained by reason of the action of the said school board superintendent.

C. For the purposes of this Section, immorality shall mean any conviction of a felony offense affecting the public morals enumerated in Part V of Chapter 1 of Title 14 of the Louisiana Revised Statutes of 1950.

D. For purposes of this Section, the results of a teacher's evaluation performed pursuant R.S. 17:3881 through 3905 evaluating the teacher's performance as "ineffective" shall constitute sufficient proof of poor performance, incompetence, or willful neglect of duty and no additional documentation shall be required to substantiate such charges.

§444. Promotions to and employment into positions of higher salary and tenure

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B.(1) Whenever a teacher who has acquired permanent status tenure, as set forth in R.S. 17:442, in a parish or city local public school system or the special

1 school district is promoted by the employing school board superintendent by moving 2 such teacher from a position of lower salary to one of higher salary, such teacher 3 shall not gain permanent status be eligible to earn tenure in the position to which he 4 is promoted, but shall retain permanent status any tenure acquired as a teacher, 5 pursuant to R.S. 17:442. 6 7 §532. Probationary term and tenure 8 9 C. No employee, as defined in R.S. 17:531, hired on or after July 1, 2012, 10 shall be eligible to acquire permanent status. 11 Section 4. R.S. 17:44, 45, 81(I), 154.2, 235.1(E), 346.1, 419, 419.1, 420, 421, 421.1, 12 421.2, 421.3, 421.5, 422, 422.1, 422.2, 422.3, 422.4, 422.5, 431, 444(A) and (B)(2) and (3), 13 446, 461 through 464, and 1207 are hereby repealed in their entirety. 14 Section 5. This Act shall become effective on July 1, 2012; if vetoed by the governor 15 and subsequently approved by the legislature, this Act shall become effective on July 1, 16 2012, or on the day following such approval by the legislature, whichever is later. SPEAKER OF THE HOUSE OF REPRESENTATIVES PRESIDENT OF THE SENATE GOVERNOR OF THE STATE OF LOUISIANA

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APPROVED: