

SECOND REGULAR SESSION

SENATE BILL NO. 1024

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CUNNINGHAM.

Read 1st time March 1, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

4884S.011

AN ACT

To repeal sections 168.021, 168.102, 168.106, and 168.221, RSMo, and to enact in lieu thereof fourteen new sections relating to teachers.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 168.021, 168.102, 168.106, and 168.221, RSMo, are
2 repealed and fourteen new sections enacted in lieu thereof, to be known as
3 sections 161.106, 161.108, 161.109, 168.021, 168.102, 168.106, 168.221, 168.800,
4 168.805, 168.810, 168.815, 168.820, 168.825, and 168.830, to read as follows:

**161.106. 1. By March 1, 2011, and every two years thereafter, the
2 department of elementary and secondary education shall prepare a
3 report on the effectiveness of the graduates of state-approved teacher
4 preparation programs. The report shall include an analysis of public
5 school student learning gains on statewide assessments by students
6 who were taught by graduates of each state-approved teacher
7 preparation program.**

**8 2. The department shall present the report to the state board of
9 education and provide a copy of the report to the commissioner of
10 higher education, the coordinating board for higher education, and the
11 joint committee on education.**

**161.108. The department of elementary and secondary education
2 shall annually:**

**3 (1) Post on its internet website the percentage of classroom
4 teachers by school who are first-time teachers, temporarily certified
5 teachers, teachers in need of improvement, or out-of-field
6 teachers. Each public school shall provide such information to the**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

7 **department by a date established by the department; and**

8 **(2) Report to the state board of education, joint committee on**
9 **education, president pro tem of the senate and the speaker of the house**
10 **of representatives any school district that does not comply with this**
11 **section.**

161.109. The department of elementary and secondary education
2 **shall annually prepare a report by December 31 on the number of**
3 **classroom teachers, by school district, whose students' declining**
4 **academic performance indicates educational insufficiency. In**
5 **determining educational insufficiency, the department shall use**
6 **multiyear, objective data on declines in student performance. The**
7 **department shall submit the report to the state board of education,**
8 **joint committee on education, president pro tem of the senate and the**
9 **speaker of the house of representatives.**

168.021. 1. Certificates of license to teach in the public schools of the
2 state shall be granted as follows:

3 (1) By the state board, under rules and regulations prescribed by it:

4 (a) Upon the basis of college credit;

5 (b) Upon the basis of examination;

6 (2) By the state board, under rules and regulations prescribed by the state
7 board with advice from the advisory council established by section 168.015 to any
8 individual who presents to the state board a valid doctoral degree from an
9 accredited institution of higher education accredited by a regional accrediting
10 association such as North Central Association. Such certificate shall be limited
11 to the major area of postgraduate study of the holder, shall be issued only after
12 successful completion of the examination required for graduation pursuant to
13 rules adopted by the state board of education, and shall be restricted to those
14 certificates established pursuant to subdivision (1) of subsection 3 of this section;

15 (3) By the state board, which shall issue the professional certificate
16 classification in both the general and specialized areas most closely aligned with
17 the current areas of certification approved by the state board, commensurate with
18 the years of teaching experience of the applicant, and based upon the following
19 criteria:

20 (a) Recommendation of a state-approved baccalaureate-level teacher
21 preparation program;

22 (b) Successful attainment of the Missouri qualifying score on the exit

23 assessment for teachers or administrators designated by the state board of
24 education. Applicants who have not successfully achieved a qualifying score on
25 the designated examinations will be issued a two-year nonrenewable provisional
26 certificate; and

27 (c) Upon completion of a background check and possession of a valid
28 teaching certificate in the state from which the applicant's teacher preparation
29 program was completed;

30 (4) By the state board, under rules prescribed by it, on the basis of a
31 relevant bachelor's degree, or higher degree, and a passing score for the
32 designated exit examination, for individuals whose academic degree and
33 professional experience are suitable to provide a basis for instruction solely in the
34 subject matter of banking or financial responsibility, at the discretion of the state
35 board. Such certificate shall be limited to the major area of study of the holder
36 and shall be restricted to those certificates established under subdivision (1) of
37 subsection 3 of this section. Holders of certificates granted under this subdivision
38 shall be exempt from the teacher tenure act under sections 168.102 to 168.130
39 and each school district shall have the decision-making authority on whether to
40 hire the holders of such certificates; [or]

41 (5) By the state board, under rules and regulations prescribed by it, on
42 the basis of certification by the American Board for Certification of Teacher
43 Excellence (ABCTE) and verification of ability to work with children as
44 demonstrated by sixty contact hours in any one of the following areas as validated
45 by the school principal: sixty contact hours in the classroom, of which at least
46 forty-five must be teaching; sixty contact hours as a substitute teacher, with at
47 least thirty consecutive hours in the same classroom; sixty contact hours of
48 teaching in a private school; or sixty contact hours of teaching as a
49 paraprofessional, for an initial four-year ABCTE certificate of license to teach,
50 except that such certificate shall not be granted for the areas of early childhood
51 education, elementary education, or special education. Upon the completion of
52 the requirements listed in paragraphs (a), (b), (c), and (d) of this subdivision, an
53 applicant shall be eligible to apply for a career continuous professional certificate
54 under subdivision (2) of subsection 3 of this section:

55 (a) Completion of thirty contact hours of professional development within
56 four years, which may include hours spent in class in an appropriate college
57 curriculum;

58 (b) Validated completion of two years of the mentoring program of the

59 American Board for Certification of Teacher Excellence or a district mentoring
60 program approved by the state board of education;

61 (c) Attainment of a successful performance-based teacher evaluation; and

62 (d) Participate in a beginning teacher assistance program;

63 **(6) By the state board, under rules and regulations prescribed by**
64 **it, on the basis of successful completion of a professional education**
65 **training program provided by Teach for America and achievement of**
66 **a passing score on an exit assessment or professional education**
67 **competency examination, as designated by the state board. Upon the**
68 **completion of the requirements listed in paragraphs (a), (b), (c), and (d)**
69 **of this subdivision, an applicant shall be eligible to apply for a career**
70 **continuous professional certification under subdivision (2) of**
71 **subsection 3 of this section:**

72 (a) Completion of thirty contact hours of professional
73 development within four years, which may include hours spent in class
74 in an appropriate college curriculum;

75 (b) Validated completion of a district mentoring program
76 approved by the state board of education;

77 (c) Attainment of a successful performance-based teacher
78 evaluation; and

79 (d) Participation in a beginning teacher assistance program; or

80 **(7) By the state board, under rules and regulations prescribed by**
81 **it, on the basis of demonstrating mastery of professional preparation**
82 **and education competence through the completion of professional**
83 **preparation courses, as specified by the state board, by allowing an**
84 **individual to use his or her teaching experience as a military instructor**
85 **to verify occupational teaching experience for the same number of**
86 **years of instruction provided in one of the branches of the United**
87 **States Armed Forces. For purposes of demonstrating the completion of**
88 **certification requirements in state board rules and regulations, an**
89 **individual is allowed to submit college course credits recommended by**
90 **the American Council on Education, which shall be posted on an official**
91 **American Council on Education transcript. Upon the completion of the**
92 **requirements listed in paragraphs (a), (b), (c), and (d) of this**
93 **subdivision, an applicant shall be eligible to apply for a career**
94 **continuous professional certification under subdivision (2) of**
95 **subsection 3 of this section:**

96 **(a) Completion of thirty contact hours of professional**
97 **development within four years, which may include hours spent in class**
98 **in an appropriate college curriculum;**

99 **(b) Validated completion of a district mentoring program**
100 **approved by the state board of education;**

101 **(c) Attainment of a successful performance-based teacher**
102 **evaluation; and**

103 **(d) Participation in a beginning teacher assistance program.**

104 2. All valid teaching certificates issued pursuant to law or state board
105 policies and regulations prior to September 1, 1988, shall be exempt from the
106 professional development requirements of this section and shall continue in effect
107 until they expire, are revoked or suspended, as provided by law. When such
108 certificates are required to be renewed, the state board or its designee shall grant
109 to each holder of such a certificate the certificate most nearly equivalent to the
110 one so held. Anyone who holds, as of August 28, 2003, a valid PC-I, PC-II, or
111 continuous professional certificate shall, upon expiration of his or her current
112 certificate, be issued the appropriate level of certificate based upon the
113 classification system established pursuant to subsection 3 of this section.

114 3. Certificates of license to teach in the public schools of the state shall
115 be based upon minimum requirements prescribed by the state board of
116 education. The state board shall provide for the following levels of professional
117 certification: an initial professional certificate and a career continuous
118 professional certificate.

119 (1) The initial professional certificate shall be issued upon completion of
120 requirements established by the state board of education and shall be valid based
121 upon verification of actual teaching within a specified time period established by
122 the state board of education. The state board shall require holders of the
123 four-year initial professional certificate to:

124 (a) Participate in a mentoring program approved and provided by the
125 district for a minimum of two years;

126 (b) Complete thirty contact hours of professional development, which may
127 include hours spent in class in an appropriate college curriculum, or for holders
128 of a certificate under subdivision (4) of subsection 1 of this section, an amount of
129 professional development in proportion to the certificate holder's hours in the
130 classroom, if the certificate holder is employed less than full time; and

131 (c) Participate in a beginning teacher assistance program;

132 (2) (a) The career continuous professional certificate shall be issued upon
133 verification of completion of four years of teaching under the initial professional
134 certificate and upon verification of the completion of the requirements articulated
135 in paragraphs (a), (b), and (c) of subdivision (1) of this subsection [or] paragraphs
136 (a), (b), (c), and (d) of subdivision (5) of subsection 1 of this section, **paragraphs**
137 **(a), (b), (c), and (d) of subdivision (6) of subsection 1 of this section, or**
138 **paragraphs (a), (b), (c), and (d) of subdivision (7) of subsection 1 of this**
139 **section.**

140 (b) The career continuous professional certificate shall be continuous
141 based upon verification of actual employment in an educational position as
142 provided for in state board guidelines and completion of fifteen contact hours of
143 professional development per year which may include hours spent in class in an
144 appropriate college curriculum. Should the possessor of a valid career continuous
145 professional certificate fail, in any given year, to meet the fifteen-hour
146 professional development requirement, the possessor may, within two years, make
147 up the missing hours. In order to make up for missing hours, the possessor shall
148 first complete the fifteen-hour requirement for the current year and then may
149 count hours in excess of the current year requirement as make-up hours. Should
150 the possessor fail to make up the missing hours within two years, the certificate
151 shall become inactive. In order to reactivate the certificate, the possessor shall
152 complete twenty-four contact hours of professional development which may
153 include hours spent in the classroom in an appropriate college curriculum within
154 the six months prior to or after reactivating his or her certificate. The
155 requirements of this paragraph shall be monitored and verified by the local school
156 district which employs the holder of the career continuous professional certificate.

157 (c) A holder of a career continuous professional certificate shall be exempt
158 from the professional development contact hour requirements of paragraph (b) of
159 this subdivision if such teacher has a local professional development plan in place
160 within such teacher's school district and meets two of the three following criteria:

161 a. Has ten years of teaching experience as defined by the state board of
162 education;

163 b. Possesses a master's degree; or

164 c. Obtains a rigorous national certification as approved by the state board
165 of education.

166 4. Policies and procedures shall be established by which a teacher who
167 was not retained due to a reduction in force may retain the current level of

168 certification. There shall also be established policies and procedures allowing a
169 teacher who has not been employed in an educational position for three years or
170 more to reactivate his or her last level of certification by completing twenty-four
171 contact hours of professional development which may include hours spent in the
172 classroom in an appropriate college curriculum within the six months prior to or
173 after reactivating his or her certificate.

174 5. The state board shall, upon an appropriate background check, issue a
175 professional certificate classification in the areas most closely aligned with an
176 applicant's current areas of certification, commensurate with the years of
177 teaching experience of the applicant, to any person who is hired to teach in a
178 public school in this state and who possesses a valid teaching certificate from
179 another state or certification under subdivision (4) of subsection 1 of this section,
180 provided that the certificate holder shall annually complete the state board's
181 requirements for such level of certification, and shall establish policies by which
182 residents of states other than the state of Missouri may be assessed a fee for a
183 certificate of license to teach in the public schools of Missouri. Such fee shall be
184 in an amount sufficient to recover any or all costs associated with the issuing of
185 a certificate of license to teach. The board shall promulgate rules to authorize the
186 issuance of a provisional certificate of license, which shall allow the holder to
187 assume classroom duties pending the completion of a criminal background check
188 under section 168.133, for any applicant who:

- 189 (1) Is the spouse of a member of the armed forces stationed in Missouri;
190 (2) Relocated from another state within one year of the date of
191 application;
192 (3) Underwent a criminal background check in order to be issued a
193 teaching certificate of license from another state; and
194 (4) Otherwise qualifies under this section.

195 6. The state board may assess to holders of an initial professional
196 certificate a fee, to be deposited into the excellence in education revolving fund
197 established pursuant to section 160.268, RSMo, for the issuance of the career
198 continuous professional certificate. However, such fee shall not exceed the
199 combined costs of issuance and any criminal background check required as a
200 condition of issuance. Applicants for the initial ABCTE certificate shall be
201 responsible for any fees associated with the program leading to the issuance of
202 the certificate, but nothing in this section shall prohibit a district from developing
203 a policy that permits fee reimbursement.

204 7. Any member of the public school retirement system of Missouri who
205 entered covered employment with ten or more years of educational experience in
206 another state or states and held a certificate issued by another state and
207 subsequently worked in a school district covered by the public school retirement
208 system of Missouri for ten or more years who later became certificated in
209 Missouri shall have that certificate dated back to his or her original date of
210 employment in a Missouri public school.

211 8. The provisions of subdivision (5) of subsection 1 of this section, as well
212 as any other provision of this section relating to the American Board for
213 Certification of Teacher Excellence, shall terminate on August 28, 2014.

 168.102. Sections 168.102 to 168.130 shall be known and may be cited as
2 the "Teacher Tenure Act" and shall become effective July 1, 1970. **These**
3 **sections shall not apply to any teacher hired on or after August 28,**
4 **2010.**

 168.106. The contract between a school district and a permanent teacher
2 shall be known as an indefinite contract and shall continue in effect for an
3 indefinite period, subject only to:

4 (1) Compulsory or optional retirement when the teacher reaches the age
5 of retirement provided by law, or regulation established by the local board of
6 education;

7 (2) Modification by a succeeding indefinite contract or contracts in the
8 manner hereinafter provided;

9 (3) The death of the teacher;

10 (4) Resignation of the teacher with the written consent of the school
11 board;

12 (5) Termination by the board of education after a hearing as hereinafter
13 provided; [and]

14 (6) The revocation of the teacher's certificate; **and**

15 **(7) A decision by the teacher to give up the right to an indefinite**
16 **contract and obtain a professional performance contract as defined in**
17 **section 168.800.**

 168.221. 1. The first five years of employment of all teachers entering the
2 employment of the metropolitan school district shall be deemed a period of
3 probation during which period all appointments of teachers shall expire at the
4 end of each school year. During the probationary period any probationary teacher
5 whose work is unsatisfactory shall be furnished by the superintendent of schools

6 with a written statement setting forth the nature of his incompetency. If
7 improvement satisfactory to the superintendent is not made within one semester
8 after the receipt of the statement, the probationary teacher shall be
9 dismissed. The semester granted the probationary teacher in which to improve
10 shall not in any case be a means of prolonging the probationary period beyond
11 five years and six months from the date on which the teacher entered the employ
12 of the board of education. The superintendent of schools on or before the fifteenth
13 day of April in each year shall notify probationary teachers who will not be
14 retained by the school district of the termination of their services. Any
15 probationary teacher who is not so notified shall be deemed to have been
16 appointed for the next school year. Any principal who prior to becoming a
17 principal had attained permanent employee status as a teacher shall upon
18 ceasing to be a principal have a right to resume his or her permanent teacher
19 position with the time served as a principal being treated as if such time had
20 been served as a teacher for the purpose of calculating seniority and pay
21 scale. The rights and duties and remuneration of a teacher who was formerly a
22 principal shall be the same as any other teacher with the same level of
23 qualifications and time of service.

24 2. After completion of satisfactory probationary services, appointments of
25 teachers shall become permanent, subject to removal for any one or more causes
26 herein described and to the right of the board to terminate the services of all who
27 attain the age of compulsory retirement fixed by the retirement system. In
28 determining the duration of the probationary period of employment in this section
29 specified, the time of service rendered as a substitute teacher shall not be
30 included.

31 3. No teacher whose appointment has become permanent may be removed
32 except for one or more of the following causes: immorality, inefficiency in line of
33 duty, violation of the published regulations of the school district, violation of the
34 laws of Missouri governing the public schools of the state, or physical or mental
35 condition which incapacitates him for instructing or associating with children,
36 and then only by a vote of not less than a majority of all the members of the
37 board, upon written charges presented by the superintendent of schools, to be
38 heard by the board after thirty days' notice, with copy of the charges served upon
39 the person against whom they are preferred, who shall have the privilege of being
40 present, together with counsel, offering evidence and making defense
41 thereto. Notifications received by an employee during a vacation period shall be

42 considered as received on the first day of the school term following. At the
43 request of any person so charged the hearing shall be public. The action and
44 decision of the board upon the charges shall be final. Pending the hearing of the
45 charges, the person charged may be suspended if the rules of the board so
46 prescribe, but in the event the board does not by a majority vote of all the
47 members remove the teacher upon charges presented by the superintendent, the
48 person shall not suffer any loss of salary by reason of the suspension. Inefficiency
49 in line of duty is cause for dismissal only after the teacher has been notified in
50 writing at least one semester prior to the presentment of charges against him by
51 the superintendent. The notification shall specify the nature of the inefficiency
52 with such particularity as to enable the teacher to be informed of the nature of
53 his inefficiency.

54 4. No teacher whose appointment has become permanent shall be demoted
55 nor shall his salary be reduced unless the same procedure is followed as herein
56 stated for the removal of the teacher because of inefficiency in line of duty, and
57 any teacher whose salary is reduced or who is demoted may waive the
58 presentment of charges against him by the superintendent and a hearing thereon
59 by the board. The foregoing provision shall apply only to permanent teachers
60 prior to the compulsory retirement age under the retirement system. Nothing
61 herein contained shall in any way restrict or limit the power of the board of
62 education to make reductions in the number of teachers or principals, or both,
63 because of insufficient funds, decrease in pupil enrollment, or abolition of
64 particular subjects or courses of instruction, except that the abolition of particular
65 subjects or courses of instruction shall not cause those teachers who have been
66 teaching the subjects or giving the courses of instruction to be placed on leave of
67 absence as herein provided who are qualified to teach other subjects or courses
68 of instruction, if positions are available for the teachers in the other subjects or
69 courses of instruction.

70 5. Whenever it is necessary to decrease the number of teachers because
71 of insufficient funds or a substantial decrease of pupil population within the
72 school district, the board of education upon recommendation of the
73 superintendent of schools may cause the necessary number of teachers beginning
74 with those serving probationary periods to be placed on leave of absence without
75 pay, but only in the inverse order of their appointment. Nothing herein stated
76 shall prevent a readjustment by the board of education of existing salary
77 schedules. No teacher placed on a leave of absence shall be precluded from

78 securing other employment during the period of the leave of absence. Each
79 teacher placed on leave of absence shall be reinstated in inverse order of his
80 placement on leave of absence. Such reemployment shall not result in a loss of
81 status or credit for previous years of service. No new appointments shall be made
82 while there are available teachers on leave of absence who are seventy years of
83 age or less and who are adequately qualified to fill the vacancy unless the
84 teachers fail to advise the superintendent of schools within thirty days from the
85 date of notification by the superintendent of schools that positions are available
86 to them that they will return to employment and will assume the duties of the
87 position to which appointed not later than the beginning of the school year next
88 following the date of the notice by the superintendent of schools.

89 6. If any regulation which deals with the promotion of teachers is
90 amended by increasing the qualifications necessary to be met before a teacher is
91 eligible for promotion, the amendment shall fix an effective date which shall allow
92 a reasonable length of time within which teachers may become qualified for
93 promotion under the regulations.

94 7. A teacher whose appointment has become permanent may give up the
95 right to a permanent appointment to participate in the teacher choice
96 compensation package under sections 168.745 to 168.750.

97 **8. This section shall not apply to any teacher hired on or after**
98 **August 28, 2010.**

99 **9. Any teacher whose appointment has become permanent may**
100 **give up the right to a permanent appointment and obtain a professional**
101 **performance contract as defined in section 168.800.**

168.800. 1. For purposes of sections 168.805 to 168.830, the
2 following terms shall mean:

3 (1) "Annual contract", a contract for a period of no longer than
4 one school year that the board of education of the school district may
5 choose to renew or not renew without cause. No classroom teacher
6 shall receive more than seven consecutive annual contracts;

7 (2) "Classroom teacher", any employee of a school district
8 regularly required to be certified under laws relating to the
9 certification of teachers, except superintendents and assistant
10 superintendents;

11 (3) "Department", the department of elementary and secondary
12 education;

- 13 **(4) "Just cause", shall include, but not be limited to the following:**
14 **(a) Immorality;**
15 **(b) Misconduct in office;**
16 **(c) Incompetency;**
17 **(d) Gross insubordination;**
18 **(e) Willful neglect of duty;**
19 **(f) Being convicted of or found guilty of, or entering a plea of**
20 **guilty to, regardless of adjudication of guilt, any crime involving moral**
21 **turpitude;**
22 **(g) Educational insufficiency;**
23 **(5) "Probationary contract", a contract for a period of no longer**
24 **than one school year in which a classroom teacher may be dismissed**
25 **without cause or may resign from the contractual position without**
26 **breach of contract;**
27 **(6) "Professional performance contract", a contract for a period**
28 **of no longer than five school years that the board of education of the**
29 **school district may choose to renew or not renew without cause. A**
30 **professional performance contract may only be offered by the board of**
31 **education of the school district to a classroom teacher:**
32 **(a) Who holds a certificate of license to teach in the public**
33 **schools issued by the state board of education as prescribed under**
34 **rules and regulations promulgated under section 168.021;**
35 **(b) Who has been recommended by the superintendent of the**
36 **school district for such contract and reappointed by the board of**
37 **education based on successful performance of duties and demonstration**
38 **of professional competence; and**
39 **(c) Whose performance is satisfactory after a cumulative review**
40 **of the teacher's effectiveness in the classroom based on objective**
41 **student learning gains.**

168.805. 1. Beginning August 28, 2010, each person newly hired
2 **as a classroom teacher in a Missouri school district shall receive a**
3 **probationary contract.**

4 **2. Classroom teachers shall be eligible for an annual contract**
5 **after successful completion of the term of a probationary contract.**

6 **3. Classroom teachers shall be eligible for a professional**
7 **performance contract after completion of no fewer than five annual**
8 **contracts in the same school district during a period not in excess of**

9 seven successive years, except for leave duly authorized and granted.
10 4. The board of education of a school district may issue a
11 professional performance contract on or after August 28, 2010, to any
12 classroom teacher who has previously held a professional performance
13 contract, or an indefinite contract as defined in section 168.104 or a
14 permanent appointment under section 168.221 in the same or another
15 school district within this state. Any classroom teacher who holds an
16 indefinite contract as defined in section 168.104 or a permanent
17 appointment under section 168.221 may, but shall not be required to,
18 exchange such contract for a professional performance contract in the
19 same district.

168.810. Any classroom teacher employed on the basis of a
2 written offer of a specific position by a duly authorized agent of the
3 board of education of a school district for a stated term of service at a
4 specified salary, who accepted such offer by signing a contract with the
5 district, and who violates the terms of such contract by leaving his or
6 her position without first being released from his or her contract by the
7 board of education of the school district in which the classroom teacher
8 is employed shall be subject to the jurisdiction of the state board of
9 education. The board of education of the school district shall take
10 official action on such violation and provide a copy of its official
11 minutes to the commissioner of education.

168.815. Any classroom teacher with an annual contract may be
2 suspended or dismissed at any time during the term of the contract for
3 just cause. The board of education of the school district shall notify the
4 classroom teacher in writing via certified mail whenever charges are
5 made against the classroom teacher and may suspend such person
6 without pay. If the charges are not sustained, the classroom teacher
7 shall be immediately reinstated and his or her back salary shall be
8 paid.

168.820. 1. Any classroom teacher with a professional
2 performance contract may be suspended or dismissed at any time
3 during the term of the contract for just cause. The board of education
4 of the school district shall notify the classroom teacher in writing via
5 certified mail whenever charges are made against the classroom
6 teacher and may suspend such person without pay. If the charges are
7 not sustained, the classroom teacher shall be immediately reinstated

8 and his or her back salary shall be paid.

9 2. If the classroom teacher wishes to contest the charges, he or
10 she shall, within fifteen days after receipt of written notice, submit a
11 written request for a hearing to the board of education. Such hearing
12 shall be conducted in accordance with one of the following procedures,
13 according to the choice of the classroom teacher:

14 (1) A hearing conducted by the board of education within sixty
15 days after receipt of the written appeal. A majority vote of the
16 membership of the school district's board of education shall be
17 required to sustain the recommendation of the superintendent. The
18 determination of the board of education shall be final as to the
19 sufficiency or insufficiency of the grounds for termination of
20 employment; or

21 (2) A hearing conducted by an administrative law judge assigned
22 by the labor and industrial relations commission. A hearing shall be
23 conducted within sixty days after receipt of the written appeal. The
24 recommendation of the administrative law judge shall be made to the
25 board of education of the school district. A majority vote of the
26 membership of the board of education shall be required to sustain or
27 change the administrative law judge's recommendation. The
28 determination of the board of education of the school district shall be
29 final as to the sufficiency or insufficiency of the grounds for
30 termination of employment.

 168.825. The superintendent or chief school officer of each school
2 district shall report to the commissioner of education the name of any
3 classroom teacher terminated under sections 160.800 to 160.830 within
4 ten business days after the date of final action by the board of
5 education of the school district. The report shall indicate whether the
6 classroom teacher was terminated based on educational insufficiency.

 168.830. 1. The superintendent of each school district shall
2 establish procedures for evaluating the performance of duties and
3 responsibilities of all instructional, administrative, and supervisory
4 personnel employed by the school district. The department of
5 elementary and secondary education shall approve each district's
6 instructional personnel appraisal system and appraisal instruments.

7 2. Each district's instructional personnel appraisal system shall
8 incorporate the following conditions:

9 (1) The system shall be designed to support district and school
10 level improvement plans;

11 (2) The system shall provide appropriate appraisal instruments,
12 procedures, and criteria for continuous quality improvement of the
13 professional skills of instructional personnel;

14 (3) The system shall include a mechanism to give parents an
15 opportunity to provide input into employee performance appraisals
16 where appropriate;

17 (4) In addition to addressing general teaching competencies,
18 school districts shall determine those teaching fields for which special
19 procedures and criteria shall be developed, including a process for
20 determining the professional education competence of a teacher who
21 holds a temporary certificate of license to teach; and

22 (5) A process for monitoring the effective and consistent use of
23 appraisal criteria by supervisors and administrators and a process for
24 evaluating the effectiveness itself in improving the level of instruction
25 and learning in the district's schools.

26 3. Each district's appraisal system may include a peer assistance
27 process. The appraisal system may provide a mechanism for the
28 assistance of persons who are placed on probation as well as offer
29 assistance to other employees who request it.

30 4. The appraisal procedure for instructional personnel and
31 school administrators shall be based primarily on the performance of
32 students assigned to their classrooms or schools, as appropriate. Under
33 this section, a school district's performance appraisal shall not be
34 limited to basing unsatisfactory performance of instructional personnel
35 and school administrators upon student performance, but may include
36 other criteria approved to evaluate instructional personnel and school
37 administrators' performance, or any combination of student
38 performance and other approved criteria. The procedures shall comply
39 with, but are not limited to, the following requirements:

40 (1) An appraisal shall be conducted for each employee at least
41 once a year, except that an appraisal for each first-year teacher shall
42 be conducted at least twice a year. The appraisal shall be based upon
43 sound educational principles and contemporary research in effective
44 educational practices. Criteria shall include, but not be limited to,
45 indicators that relate to the following:

46 **(a) Performance of students. The appraisal shall primarily use**
47 **data and indicators of improvement in student performance assessed**
48 **annually in statewide assessments and by district-determined**
49 **assessments for subjects and grade levels not measured by statewide**
50 **assessments;**

51 **(b) Instructional practice as established through policies of the**
52 **school district's board of education;**

53 **(c) Instructional leadership, as established through the policies**
54 **of the school district's board of education;**

55 **(d) Professional responsibilities, as established by the state**
56 **board of education and through the policies of the school district's**
57 **board of education;**

58 **(2) All personnel shall be fully informed of the criteria and**
59 **procedures associated with the appraisal process before the appraisal**
60 **occurs;**

61 **(3) The school employee responsible for supervising the**
62 **employee shall evaluate the employee's performance. The evaluator**
63 **shall submit a written report of the appraisal to the district's**
64 **superintendent for the purpose of reviewing the employee's**
65 **contract. The evaluator shall submit the written report to the employee**
66 **no later than ten days after the appraisal occurs. The evaluator shall**
67 **discuss the written report of appraisal with the employee. The**
68 **employee shall have the right to initiate a written response to the**
69 **appraisal, and the response shall become a permanent attachment to**
70 **his or her personnel file;**

71 **(4) If an employee is not performing his or her duties in a**
72 **satisfactory manner, the evaluator shall notify the employee in writing**
73 **via certified mail of such determination. The notice shall describe such**
74 **unsatisfactory performance and include notice of the following**
75 **procedural requirements:**

76 **(a) Upon delivery of a notice of unsatisfactory performance, the**
77 **evaluator shall confer with the employee, make recommendations with**
78 **respect to specific areas of unsatisfactory performance, and provide**
79 **assistance in helping to correct deficiencies within a prescribed period**
80 **of time;**

81 **(b) If the employee holds a professional performance contract,**
82 **the employee shall be placed on performance probation and governed**

83 by the provisions of this section for ninety calendar days following the
84 receipt of the notice of unsatisfactory performance to demonstrate
85 corrective action. School holidays and school vacation periods shall
86 not be counted when calculating the ninety day period. During the
87 ninety days, the employee who holds a professional performance
88 contract shall be evaluated periodically and apprised of progress
89 achieved and shall be provided assistance and in-service training
90 opportunities to help correct the noted performance deficiencies. At
91 any time during the ninety days, the employee holding the professional
92 performance contract may request a transfer to another appropriate
93 position with a different supervising administrator. Such a transfer
94 shall not extend the period for correcting performance deficiencies;

95 (c) Within fourteen days after the close of the ninety calendar
96 days, the evaluator shall evaluate whether the performance deficiencies
97 have been corrected and forward a recommendation to the district
98 superintendent. Within fourteen days after receiving the evaluator's
99 recommendation, the superintendent shall notify the employee who
100 holds a professional performance contract in writing whether the
101 performance deficiencies have been satisfactorily corrected and
102 whether the superintendent shall recommend that the board of
103 education continue or terminate his or her employment contract. If the
104 employee wishes to contest the superintendent's recommendation, the
105 employee shall follow the procedures identified in subsection 5 of this
106 section;

107 (d) The district's superintendent shall notify the department of
108 elementary and secondary education of any instructional personnel
109 who receive two consecutive unsatisfactory evaluations and who have
110 been given written notice by the district that their employment is being
111 terminated, is not being renewed, or that the district's board of
112 education intends to terminate or not renew their employment. The
113 department shall conduct an investigation to determine whether action
114 shall be taken against the employee.

115 5. The district's board of education shall establish a procedure
116 to annually review instructional personnel appraisal systems to
117 determine compliance with this section. All revisions to an approved
118 system shall be reviewed and approved by the district's board of
119 education before being used to evaluate instructional personnel. Upon

120 request by a school district, the department of elementary and
121 secondary education shall provide assistance in developing, improving,
122 or reviewing an appraisal system.

123 6. The state board of education shall adopt rules and regulation
124 to establish uniform guidelines for the submission, review, and
125 approval of district procedures for the annual appraisal of
126 instructional personnel and that include criteria for evaluating
127 professional performance. Any rule or portion of a rule, as that term
128 is defined in section 536.010 that is created under the authority
129 delegated in this section shall become effective only if it complies with
130 and is subject to all of the provisions of chapter 536, and, if applicable,
131 section 536.028. This section and chapter 536 are nonseverable and if
132 any of the powers vested with the general assembly pursuant to chapter
133 536, to review, to delay the effective date, or to disapprove and annul
134 a rule are subsequently held unconstitutional, then the grant of
135 rulemaking authority and any rule proposed or adopted after August
136 28, 2010, shall be invalid and void.

Bill ✓

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