

## HOUSE BILL No. 2634

By Committee on Education

2-6

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1 AN ACT concerning schools; pertaining to teacher certification; pertaining  
2 to school employee performance and evaluation; pertaining to  
3 professional development; amending K.S.A. 72-1412, 72-1413, 72-  
4 1414, 72-1415, 72-9004 and 72-9005 and K.S.A. 2011 Supp. 72-5413,  
5 72-9002, 72-9003 and 72-9608 and repealing the existing sections.  
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 New Section 1. (a) As used in this section:

9 (1) "Applicant" means a person who:

10 (A) Is seeking certification as a teacher at the secondary level in the  
11 state of Kansas; and

12 (B) has provided documentation to the state board verifying that the  
13 applicant has secured a commitment from a board to be hired as a teacher  
14 in that school district subject to receiving such certification as a teacher.

15 (2) "Board" means the board of education of any public school  
16 district.

17 (3) "Career technical education" shall have the same meaning as such  
18 term is defined in K.S.A. 72-4412, and amendments thereto.

19 (4) "Subject matter assessment" means an assessment designated by  
20 the state board to measure the individual's teaching knowledge in the  
21 subject matter for which the individual is seeking certification.

22 (5) "Teach for America participant" means a person who:

23 (A) Is seeking certification as a teacher at the secondary level in the  
24 state of Kansas;

25 (B) has successfully completed the two-year teaching program  
26 conducted by teach for America, inc.; and

27 (C) has provided documentation to the state board verifying that the  
28 applicant has secured a commitment from a board to be hired as a teacher  
29 in that school district subject to receiving certification as a teacher.

30 (6) "Teacher preparation program" means professional education  
31 pedagogy coursework provided at an accredited college or university  
32 engaged in teacher preparation.

33 (7) "State board" means the state board of education.

34 (b) No applicant shall be required to complete a teacher preparation  
35 program prior to certification as a teacher in the following areas of  
36 instruction: (1) Science; (2) technology; (3) engineering; (4) math; or (5)

1 career technical education.

2 (c) No teach for America participant shall be required to complete a  
3 teacher preparation program prior to certification as a teacher.

4 (d) The state board shall require successful completion of a subject  
5 matter assessment, as determined by the state board, for all applicants and  
6 teach for America participants prior to certification as a teacher.

7 (e) An applicant or teach for America participant shall only be  
8 authorized to teach in the subject or subjects specified on the face of the  
9 certificate to teach.

10 (f) The state board shall adopt rules and regulations necessary to  
11 carry out the provisions of this section.

12 (g) This section shall be part of and supplemental to the provisions of  
13 article 13 of chapter 72 of the Kansas Statutes Annotated, and amendments  
14 thereto.

15 New Sec. 2. (a) As used in this section:

16 (1) "Board" means the board of education of any public school  
17 district.

18 (2) "Program" means the teacher performance incentive program.

19 (3) "School year" means the period from July 1 to June 30.

20 (4) "State board" means the state board of education.

21 (5) "Teacher" means any instructor who holds a teacher's certificate  
22 issued by the state board, and who has received a rating designation of  
23 highly effective pursuant to K.S.A. 72-9001 *et seq.*, and amendments  
24 thereto, in such instructor's most recent evaluation.

25 (6) "Teacher team" means a group of teachers who collaboratively  
26 instruct pupils or students in a classroom setting.

27 (b) The teacher performance incentive program is hereby established,  
28 and shall be administered by the state department of education. The  
29 program shall reward teachers who have increased student achievement for  
30 at-risk pupils, as defined in section 2, and amendments thereto.

31 (c) The state board shall determine the process for nominating  
32 teachers for awards under the program. Each school year, a teacher or  
33 teacher team may be nominated by the board. The application for such  
34 nomination shall be submitted in such form and manner as prescribed by  
35 the state board, and shall contain such information as the state board shall  
36 require.

37 (d) Each school year, within the limitations of appropriations therefor,  
38 the state board shall determine the number of awards to be made under the  
39 program. Performance incentive awards made under the program shall be  
40 in the amount of \$5,000, and shall be paid to the school district in which  
41 such award winner is employed. The state board shall certify to the  
42 director of accounts and reports the award amounts due to each district  
43 pursuant to this section. Such certification, and the amount payable, shall

1 be approved by the director of the budget. The director of accounts and  
2 reports shall draw warrants on the state treasurer payable to the district  
3 treasurer of each district receiving an award, pursuant to vouchers  
4 approved by the state board. Upon receipt of such warrant, each district  
5 treasurer shall deposit the amount of such award in the general fund of the  
6 district. Award funds shall be expended solely for the purpose of rewarding  
7 the teacher or teacher team identified in the nomination. If a teacher team  
8 is identified in a nomination, each teacher within the teacher team shall be  
9 paid a portion of the total amount of the performance incentive award as  
10 determined by the board.

11 New Sec. 3. Evaluations adopted under K.S.A. 72-9004, and  
12 amendments thereto, shall meet the following criteria:

13 (a) Objective measures of student achievement and growth to  
14 significantly inform the evaluation. Such objective measures shall include:

15 (1) Student assessment results from statewide assessments for those  
16 employees whose responsibilities include instruction in subjects measured  
17 in statewide assessments;

18 (2) methods for assessing student achievement and growth for those  
19 employees whose responsibilities do not include instruction in subjects  
20 measured by statewide assessments; and

21 (3) student assessment results from locally developed assessments  
22 and other test measures for those employees whose responsibilities may or  
23 may not include instruction in subjects measured by statewide  
24 assessments.

25 (b) (1) An annual designation of each employee in one of the  
26 following rating categories:

27 (A) Highly effective;

28 (B) effective;

29 (C) progressing; or

30 (D) ineffective.

31 (2) The designation of a rating category under this subsection shall be  
32 based on the employee's performance using the following allocations to  
33 determine the employee's overall performance:

34 (A) Fifty percent based on growth in student achievement as  
35 measured pursuant to subsection (a);

36 (B) forty percent based on input received from supervisors, peers,  
37 parents and students during the school year on such employee's  
38 performance; and

39 (C) ten percent based on contributions by the employee to the  
40 profession including, but not limited to, educator collaboration, leadership  
41 and professional development.

42 (3) As used in this subsection the terms "highly effective,"  
43 "effective," "progressing" and "ineffective" shall be defined by the state

1 board so as to clearly describe the effectiveness of an employee in  
2 accordance with the standards for effective employees as established by  
3 law or rules and regulations.

4 (c) Recommendations for areas in which the employee shall improve  
5 to achieve a higher rating category.

6 (d) A plan of assistance including, but not limited to, a timeline for  
7 when any recommended improvement is expected to be achieved. If the  
8 employee receives a rating of "progressing" or "ineffective," such plan of  
9 assistance shall also include a process by which such employee is given  
10 the opportunity to correct the identified deficiencies in the employee's  
11 performance within 90 school days from the date the plan of assistance is  
12 implemented.

13 (e) This section shall be part of and supplemental to the provisions of  
14 article 90 of chapter 72 of the Kansas Statutes Annotated, and amendments  
15 thereto.

16 New Sec. 4. (a) Any moneys received under K.S.A. 72-9608, and  
17 amendments thereto, shall be expended towards deficiencies identified  
18 through the evaluation procedure set forth in K.S.A. 72-9001 *et seq.*, and  
19 amendments thereto, and to support activities identified by the state board  
20 that measure teacher performance, including but not limited to, growth in  
21 student achievement.

22 (b) The state board shall adopt any rules and regulations relating to  
23 expenditures of state aid which the state board deems necessary to  
24 administer and enforce the professional development act.

25 (c) This section shall be part of and supplemental to the professional  
26 development act.

27 New Sec. 5. (a) Except as provided in subsection (b), a pupil shall  
28 not be instructed for two consecutive school years by two consecutive  
29 teachers, each of whom received a rating designation of ineffective  
30 pursuant to K.S.A. 72-9001 *et seq.*, and amendments thereto, in the school  
31 year immediately preceding the school year in which the pupil is placed in  
32 the respective teacher's classroom.

33 (b) If compliance under this section is rendered unreasonable as  
34 determined by the board of education of the school district, then the parent  
35 of such pupil shall be notified in writing prior to the commencement of the  
36 second year that such pupil will be instructed by a teacher who has  
37 received a rating designation of ineffective pursuant to K.S.A. 72-9001 *et*  
38 *seq.*, and amendments thereto.

39 Sec. 6. K.S.A. 72-1412 is hereby amended to read as follows: 72-  
40 1412. As used in K.S.A. 72-1412 through 72-1415, and amendments  
41 thereto:

42 (a) *"Administrative employee" means, in the case of a school district,*  
43 *any person who is employed by a board of education in an administrative*

1 *capacity, and who is fulfilling duties for which an administrator's*  
2 *certificate is required under K.S.A. 72-7513, and amendments thereto.*

3 (b) ~~"Mentor teacher program" means a~~ *any research-based mentoring*  
4 ~~program established and maintained by the board of education of a school~~  
5 ~~district approved by the state board for the purpose of providing~~  
6 ~~probationary teachers and administrative employees with professional~~  
7 ~~support and the continuous assistance of an on-site mentor teacher.~~

8 (b) ~~"Mentor teacher" means a certificated teacher who has completed~~  
9 ~~at least three consecutive school years of employment in the school~~  
10 ~~district, has been selected by the board of education of the school district~~  
11 ~~on the basis of having demonstrated exemplary teaching ability as~~  
12 ~~indicated by criteria established by the state board of education, and has~~  
13 ~~participated in and successfully completed a training program for mentor~~  
14 ~~teachers provided for by the board of education of the school district in~~  
15 ~~accordance with guidelines prescribed by the state board of education. The~~  
16 ~~primary function of a mentor teacher shall be to provide probationary~~  
17 ~~teachers with professional support and assistance. A mentor teacher may~~  
18 ~~provide assistance and guidance to not more than two probationary~~  
19 ~~teachers.~~

20 (c) "Probationary teacher" means a certificated teacher to whom the  
21 provisions of K.S.A. 72-5438 through 72-5443, and amendments thereto,  
22 do not apply.

23 (d) *"State board" means the state board of education.*

24 Sec. 7. K.S.A. 72-1413 is hereby amended to read as follows: 72-  
25 1413. (a) ~~The board of education of each school district may establish and~~  
26 ~~maintain a mentor teacher program and, commencing with the 2001-02~~  
27 ~~school year, may apply to the state board for a grant of state moneys for~~  
28 ~~the purpose of providing stipends for mentor teachers paying the costs for~~  
29 ~~a probationary teacher or administrative employee to attend mentor~~  
30 ~~programs. The state board shall award such grants of state moneys in~~  
31 ~~accordance with the provisions of this section.~~

32 (b) To be eligible to receive a grant of state moneys ~~for maintenance~~  
33 ~~of a mentor teacher program~~, a board of education shall submit to the state  
34 board of education an application for a grant ~~and a description of the~~  
35 ~~program~~. The application ~~and description~~ shall be prepared in such form  
36 and manner as the state board shall require and shall be submitted at a time  
37 to be determined and specified by the state board. Approval by the state  
38 board of ~~the program and~~ the application is prerequisite to the award of a  
39 grant.

40 (c) Each board of education which is awarded a grant ~~for~~  
41 ~~maintenance of a mentor teacher program~~ shall make such periodic and  
42 special reports of statistical ~~and~~, financial ~~and such other~~ information to  
43 the state board of education ~~as it~~ *as the state board may request.*

1       Sec. 8. K.S.A. 72-1414 is hereby amended to read as follows: 72-  
2 1414. (a) ~~On or before January 1, 2001, The state board of education shall~~  
3 ~~may~~ adopt rules and regulations for the administration of mentor teacher  
4 ~~programs and shall~~, which establish:

5       (1) ~~Establish~~ Standards and criteria for evaluating and approving  
6 mentor teacher programs and applications of school districts for grants;  
7 ~~and~~

8       (2) ~~evaluate and approve the evaluation and approval of~~ mentor  
9 teacher programs;

10       (3) ~~establish criteria for determination of exemplary teaching ability~~  
11 ~~of certificated teachers for qualification as mentor teachers;~~

12       (4) ~~prescribe guidelines for the selection by boards of education of~~  
13 ~~mentor teachers and for the provision by boards of education of training~~  
14 ~~programs for mentor teachers;~~

15       (5) ~~be responsible for awarding grants to school districts; and~~

16       (6) ~~request of and receive from each school district which is awarded~~  
17 ~~a grant for maintenance of a mentor teacher program reports containing~~  
18 ~~information with regard to the effectiveness of the program.~~

19       (b) ~~Subject to the availability of appropriations for mentor teacher~~  
20 ~~programs maintained by school districts, and within the limits of any such~~  
21 ~~appropriations~~ *Within the limitations of appropriations therefor*, the state  
22 board of education shall determine the amount of grants to be awarded to  
23 ~~each~~ school districts by multiplying an amount not to exceed \$1,000  
24 ~~district~~ by considering the number of ~~mentor probationary~~ teachers and  
25 ~~administrative employees~~ participating in ~~the~~ a mentor program  
26 maintained by a school district. The product is the amount of the grant to  
27 be awarded to the district. Upon receipt of a grant of state moneys for  
28 maintenance of a mentor teacher program, the amount of the grant shall be  
29 deposited in the general fund of the school district. Moneys deposited in  
30 the general fund of a school district under this subsection shall be  
31 considered reimbursements for the purpose of the school district finance  
32 and quality performance act. The full amount of the grant shall be  
33 allocated among the ~~mentor probationary~~ teachers and ~~administrative~~  
34 ~~employees~~ employed by the school district so as to provide a mentor  
35 teacher with an annual stipend in an amount not to exceed \$1,000. Such  
36 annual stipend shall be over and above the regular salary to which the  
37 mentor teacher is entitled for the school year.

38       Sec. 9. K.S.A. 72-1415 is hereby amended to read as follows: 72-  
39 1415. The state board of education shall provide any board of education of  
40 any school district, upon request, with technical advice and assistance  
41 regarding the establishment and maintenance of a mentor teacher program  
42 or an application for a grant of state moneys.

43       Sec. 10. K.S.A. 2011 Supp. 72-5413 is hereby amended to read as

1 follows: 72-5413. As used in this act ~~and in acts amendatory thereof or~~  
2 ~~supplemental thereto:~~

3 (a) The term "persons" includes one or more individuals,  
4 organizations, associations, corporations, boards, committees,  
5 commissions, agencies, or their representatives.

6 (b) "Board of education" means the state board of education pursuant  
7 to its authority under K.S.A. 76-1001a and 76-1101a, and amendments  
8 thereto, the board of education of any school district, the board of control  
9 of any area vocational-technical school and the board of trustees of any  
10 community college.

11 (c) "Professional employee" means any person employed by a board  
12 of education in a position which requires a certificate issued by the state  
13 board of education or employed by a board of education in a professional,  
14 educational or instructional capacity, but shall not mean any such person  
15 who is an administrative employee and, commencing in the 2006-2007  
16 school year, shall not mean any person who is a retirant from school  
17 employment of the Kansas public employees retirement system, regardless  
18 of whether an agreement between a board of education and an exclusive  
19 representative of professional employees that covers terms and conditions  
20 of professional service provides to the contrary.

21 (d) "Administrative employee" means, in the case of a school district,  
22 any person who is employed by a board of education in an administrative  
23 capacity and who is fulfilling duties for which an administrator's certificate  
24 is required under K.S.A. 72-7513, and amendments thereto; and, in the  
25 case of an area vocational-technical school or community college, any  
26 person who is employed by the board of control or the board of trustees in  
27 an administrative capacity and who is acting in that capacity and who has  
28 authority, in the interest of the board of control or the board of trustees, to  
29 hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or  
30 discipline other employees, or responsibly to direct them or to adjust their  
31 grievances, or effectively to recommend a preponderance of such actions,  
32 if in connection with the foregoing, the exercise of such authority is not of  
33 a merely routine or clerical nature, but requires the use of independent  
34 judgment.

35 (e) "Professional employees' organizations" means any one or more  
36 organizations, agencies, committees, councils or groups of any kind in  
37 which professional employees participate, and which exist for the purpose,  
38 in whole or part, of engaging in professional negotiation with boards of  
39 education with respect to the terms and conditions of professional service.

40 (f) "Representative" means any professional employees' organization  
41 or any person it authorizes or designates to act in its behalf or any person a  
42 board of education authorizes or designates to act in its behalf.

43 (g) "Professional negotiation" means meeting, conferring, consulting

1 and discussing in a good faith effort by both parties to reach agreement  
2 with respect to the terms and conditions of professional service.

3 (h) "Mediation" means the effort through interpretation and advice by  
4 an impartial third party to assist in reconciling a dispute concerning terms  
5 and conditions of professional service which arose in the course of  
6 professional negotiation between a board of education or its  
7 representatives and representatives of the recognized professional  
8 employees' organization.

9 (i) "Fact-finding" means the investigation by an individual or board  
10 of a dispute concerning terms and conditions of professional service which  
11 arose in the course of professional negotiation, and the submission of a  
12 report by such individual or board to the parties to such dispute which  
13 includes a determination of the issues involved, findings of fact regarding  
14 such issues, and the recommendation of the fact-finding individual or  
15 board for resolution of the dispute.

16 (j) "Strike" means an action taken for the purpose of coercing a  
17 change in the terms and conditions of professional service or the rights,  
18 privileges or obligations thereof, through any failure by concerted action  
19 with others to report for duty including, but not limited to, any work  
20 stoppage, slowdown, or refusal to work.

21 (k) "Lockout" means action taken by a board of education to provoke  
22 interruptions of or prevent the continuity of work normally and usually  
23 performed by the professional employees for the purpose of coercing  
24 professional employees into relinquishing rights guaranteed by this act and  
25 the act of which this section is amendatory.

26 (l) (1) "Terms and conditions of professional service" means: (A)  
27 Salaries and wages, including pay for duties under supplemental contracts;  
28 hours and amounts of work; vacation allowance, holiday, sick, extended,  
29 sabbatical, and other leave, and number of holidays; retirement; insurance  
30 benefits; wearing apparel; pay for overtime; jury duty; grievance  
31 procedure; including binding arbitration of grievances; disciplinary  
32 procedure; resignations; termination and nonrenewal of contracts, *in*  
33 *accordance with state law*; reemployment of professional employees;  
34 terms and form of the individual professional employee contract;  
35 probationary period; ~~professional employee appraisal procedures~~; each of  
36 the foregoing being a term and condition of professional service,  
37 regardless of its impact on the employee or on the operation of the  
38 educational system; (B) matters which relate to privileges to be granted the  
39 recognized professional employees' organization including, but not limited to,  
40 voluntary payroll deductions; use of school or college facilities for  
41 meetings; dissemination of information regarding the professional  
42 negotiation process and related matters to members of the bargaining unit  
43 on school or college premises through direct contact with members of the



1 bargaining unit, the use of bulletin boards on or about the facility, and the  
2 use of the school or college mail system to the extent permitted by law;  
3 reasonable leaves of absence for members of the bargaining unit for  
4 organizational purposes such as engaging in professional negotiation and  
5 partaking of instructional programs properly related to the representation  
6 of the bargaining unit; any of the foregoing privileges which are granted  
7 the recognized professional employees' organization through the  
8 professional negotiation process shall not be granted to any other  
9 professional employees' organization; and (C) such other matters as the  
10 parties mutually agree upon as properly related to professional service  
11 including, but not limited to, employment incentive or retention bonuses  
12 authorized under K.S.A. 72-8246, and amendments thereto.

13 (2) Nothing in this act, and amendments thereto, shall authorize the  
14 diminution of any right, duty or obligation of either the professional  
15 employee or the board of education which have been fixed by statute or by  
16 the constitution of this state. Except as otherwise expressly provided in  
17 this subsection (1), the fact that any matter may be the subject of a statute  
18 or the constitution of this state does not preclude negotiation thereon so  
19 long as the negotiation proposal would not prevent the fulfillment of the  
20 statutory or constitutional objective.

21 (3) Matters which relate to the duration of the school term, and  
22 specifically to consideration and determination by a board of education of  
23 the question of the development and adoption of a policy to provide for a  
24 school term consisting of school hours, are not included within the  
25 meaning of terms and conditions of professional service and are not  
26 subject to professional negotiation.

27 (m) "Secretary" means the secretary of labor or a designee thereof.

28 (n) "Statutory declaration of impasse date" means June 1 in the  
29 current school year.

30 (o) "Supplemental contracts" means contracts for employment duties  
31 other than those services covered in the principal or primary contract of  
32 employment of the professional employee and shall include, but not be  
33 limited to, such services as coaching, supervising, directing and assisting  
34 extracurricular activities, chaperoning, ticket-taking, lunchroom  
35 supervision, and other similar and related activities.

36 Sec. 11. K.S.A. 2011 Supp. 72-9002 is hereby amended to read as  
37 follows: 72-9002. As used in this act:

38 (a) *"Accredited" means accredited by the state board of education.*

39 (b) "Board" means the board of education of a school district, the  
40 governing authority of any nonpublic school offering any of grades  
41 kindergarten through 12 in accredited schools and the board of control of  
42 an area vocational-technical school.

43 ~~(b) "State board" means, in the case of school districts and nonpublic~~

1 schools, the state board of education; and in the case of area vocational-  
2 technical schools, the state board of regents.

3 (c) "Employees" means all licensed employees of school districts and  
4 of nonpublic schools and all instructional and administrative employees of  
5 area vocational-technical schools.

6 (d) "School year" means the period from July 1 to June 30.

7 (e) ~~"Accredited" means accredited by the state board of education.~~  
8 "State board" means, in the case of school districts and nonpublic schools,  
9 the state board of education, and in the case of area vocational-technical  
10 schools, the state board of regents.

11 (f) "Superintendent" means the superintendent of schools, or the  
12 superintendent's designee, for the school district employing the employee.

13 (g) "Teacher" means any instructor who holds a teacher's certificate  
14 issued by the state board.

15 Sec. 12. K.S.A. 2011 Supp. 72-9003 is hereby amended to read as  
16 follows: 72-9003. Each board shall adopt a written policy of personnel  
17 evaluation procedure in accordance with K.S.A. 72-9002 *et seq.*, and  
18 amendments thereto. *For school districts, such policy shall include, but is*  
19 *not limited to, the Kansas educator evaluation protocol adopted by the*  
20 *state board of education.* Every policy so adopted shall:

21 (a) Be prescribed in writing at the time of original adoption and at all  
22 times thereafter when any amendments are adopted; ;

23 (b) include evaluation procedures applicable to all employees; ;

24 (c) provide that all evaluations are to be made in writing and that  
25 evaluation documents and responses thereto are to be maintained in a  
26 personnel file for each employee for a period of not less than three years  
27 from the date each evaluation is made; ;

28 (d) except as provided herein, provide that every employee in the first  
29 two consecutive school years of employment shall be evaluated at least  
30 one time per semester by not later than the 60<sup>th</sup> school day of the semester.  
31 Any employee who is not employed for the entire semester shall not be  
32 required to be evaluated. During the third and fourth years of employment,  
33 every employee shall be evaluated at least one time each school year by  
34 not later than February 15. After the fourth year of employment, every  
35 employee shall be evaluated at least once in every three years not later  
36 than February 15 of the school year in which the employee is evaluated; ;

37 (e) *for school districts, provide, at a minimum, the guidelines*  
38 *described in the Kansas educator evaluation protocol adopted by the state*  
39 *board of education; and*

40 (f) *be approved by the state board.*

41 Sec. 13. K.S.A. 72-9004 is hereby amended to read as follows: 72-  
42 9004. Evaluation policies adopted under K.S.A. 72-9003, and amendments  
43 thereto, shall meet the following guidelines or criteria:

1 (a) Consideration shall be given to the following employee attributes:  
2 Efficiency, personal qualities, professional deportment, ability, results and  
3 performance, including improvement in the academic performance of  
4 pupils or students insofar as the evaluated employee has authority to cause  
5 such academic improvement, in the case of teachers, the capacity to  
6 maintain control of pupils or students, and such other matters as may be  
7 deemed material.

8 (b) Community attitudes toward, support for and expectations with  
9 regard to educational programs shall be reflected.

10 (c) The original policy and amendments thereto shall be developed by  
11 the board in cooperation with the persons responsible for making  
12 evaluations and the persons who are to be evaluated, and, to the extent  
13 practicable, consideration shall be given to comment and suggestions from  
14 other community interests.

15 (d) Evaluations of the chief administrator employed by a board shall  
16 be made by the board. The board shall place primary responsibility upon  
17 members of the administrative staff in making evaluations of other  
18 employees.

19 (e) Persons to be evaluated shall participate in their evaluations, and  
20 shall be afforded the opportunity for self-evaluation.

21 (f) The contract of any person subject to evaluation shall not be  
22 nonrenewed on the basis of incompetence unless an evaluation of such  
23 person has been made prior to notice of nonrenewal of the contract and  
24 unless the evaluation is in substantial compliance with the board's policy  
25 of personnel evaluation procedure as filed with the state board in  
26 accordance with the provisions of K.S.A. 72-9003, and amendments  
27 thereto.

28 (g) *The contract of any teacher subject to evaluation under the*  
29 *provisions of K.S.A. 72-9001 et seq., and amendments thereto, who*  
30 *receives a rating designation of ineffective pursuant to K.S.A. 72-9001 et*  
31 *seq., and amendments thereto, in two consecutive school years and has*  
32 *been provided an opportunity to participate in professional development*  
33 *in accordance with the provisions of K.S.A. 72-9601 et seq., and*  
34 *amendments thereto, may be terminated.*

35 (h) *Evaluations shall comply with the provisions of K.S.A. 72-9001 et*  
36 *seq., and amendments thereto.*

37 Sec. 14. K.S.A. 72-9005 is hereby amended to read as follows: 72-  
38 9005. (a) Whenever any evaluation is made of an employee, the written  
39 document thereof shall be presented to the employee, and the employee  
40 shall acknowledge such presentation by ~~his or her signature thereon~~  
41 *signing such written document*. At any time not later than two (2) weeks  
42 after such presentation, the employee may respond thereto in writing.

43 (b) *If an employee receives a rating designation of progressing or*

1 *ineffective pursuant to section 3, and amendments thereto, such employee*  
2 *shall be entitled to an in-person conference with the superintendent to*  
3 *discuss such employee's evaluation.*

4 (c) Except by order of a court of competent jurisdiction, evaluation  
5 documents and responses thereto shall be available only to the evaluated  
6 employee, the board, the appropriate administrative staff members  
7 designated by the board, the school board attorney upon request of the  
8 board, the state board of education as provided in K.S.A. 72-7515, *and*  
9 *amendments thereto*, the board and the administrative staff of any school  
10 to which such employee applies for employment, and other persons  
11 specified by the employee in writing ~~to his or her board.~~

12 Sec. 15. K.S.A. 2011 Supp. 72-9608 is hereby amended to read as  
13 follows: 72-9608. (a) In each school year, each school district which is  
14 maintaining an approved professional development program shall be  
15 eligible to receive from state funds, within the limits of appropriations for  
16 professional development, an amount to be determined by the state board  
17 on the basis of priorities established ~~through a needs assessment survey~~  
18 ~~conducted by the state board pursuant to section 4, and amendments~~  
19 *thereto*. In no event shall the amount allocated and distributed to any  
20 school district under this act exceed: (1) An amount which is equal to .50  
21 of 1% of the amount of the general fund budget of the school district, or an  
22 amount equal to 50% of the actual expenses incurred by the school district  
23 in maintaining an approved professional development program, whichever  
24 is the lesser amount; or (2) an amount which is equal to 50% of the actual  
25 expenses incurred by the school district for the provision of innovative and  
26 experimental procedures, activities and services, if any of the same are  
27 provided and approved by the state board, in a professional development  
28 program maintained by the school district and approved by the state board.

29 (b) If the amount of appropriations for professional development  
30 programs is insufficient to pay in full the amount each school district is  
31 determined to be eligible to receive for the school year, the state board  
32 shall prorate the amount appropriated among all school districts which are  
33 eligible to receive state aid under the provisions of this act in proportion to  
34 the amount each school district is determined to be eligible to receive.

35 (c) The state board shall prescribe all forms necessary for reporting  
36 under this act.

37 (d) Every board shall make such periodic and special reports of  
38 statistical and financial information to the state board as it may request.

39 New Sec. 16. If any provision of this act, or the application thereof, is  
40 held invalid or unconstitutional, it shall be conclusively presumed that the  
41 legislature would have enacted the remainder of the act without such  
42 invalid or unconstitutional provision.

43 Sec. 17. K.S.A. 72-1412, 72-1413, 72-1414, 72-1415, 72-9004 and

1 72-9005 and K.S.A. 2011 Supp. 72-5413, 72-9002, 72-9003 and 72-9608  
2 are hereby repealed.

3 Sec. 18. This act shall take effect and be in force from and after July  
4 1, 2013, and its publication in the statute book.

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