

**CORRECTED**  
*SESSION OF 2012*

**SUPPLEMENTAL NOTE ON SUBSTITUTE FOR HOUSE  
BILL NO. 2634**

As Amended by House Committee of the Whole

**Brief\***

Sub. for HB 2634, as amended, would make changes in school employee performance evaluations. School employee evaluations would be based on multiple measures of student achievement and growth, which would be developed by the State Board of Education (State Board). (School employees in this bill would be defined as all licensed employees of school districts and of nonpublic schools.) The bill would provide an annual designation of each employee in one of the following categories: highly effective, effective, progressing, or ineffective, as defined by the State Board. The designation would be based on performance using growth in student achievement as the primary evaluation factor. Evaluations would include recommendations for improvement and a plan of assistance, including time lines for expected improvement. Teachers receiving a rating of “progressing” or “ineffective” would be subject to an evaluation at least one time per semester, but not later than the 60th school day of the semester, regardless of that teacher's year of employment. Teachers receiving a highly effective and effective rating would be evaluated under current law, which provides that after the fourth year of employment every employee is evaluated at least once every three years.

The bill would allow grounds for non-renewal or termination of a teacher's contract to include, but not be limited to, a teacher's receipt of a rating designation of

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

ineffective in two consecutive school years. During this two-year period, the teacher would be provided an opportunity to participate in appropriate professional development. (This section would only be applicable to teachers who have earned due process protections and rights under KSA 72-5445.)

The bill would allow a local board of education to apply to the State Board for a grant of state funds subject to appropriation to pay for a probationary teacher or administrative employee to attend mentor programs. Such programs would be developed according to rules and regulations developed by the State Board. This provision would be in addition to the current mentor teacher program.

The bill would require moneys received for professional development to be used to deal with deficiencies identified in the evaluation process.

The bill would eliminate evaluations as a mandatory negotiable item in collective bargaining agreements, after such time as the State Board adopts, *via* rules and regulations, the Kansas Educator Evaluation Protocol (KEEP) or a statewide evaluation system substantially similar to KEEP.

Provisions of the bill would take effect on July 1, 2013.

## **Background**

This bill originated as a part of the Governor's Excellence in Education Act. Portions of the Governor's bill, with some adjustments, were presented in the original HB 2634. At the hearing on the bill, there was one proponent, a representative of the Governor's Office. Opponents of the bill included representatives of the WaKeeney School District, Kansas National Education Association, and United School Administrators. A representative of the Kansas Association of School Boards presented neutral testimony.

The Committee made several amendments to the bill described below:

- Eliminated the section pertaining to alternative teacher certification and the teacher performance incentive program;
- Modified the measures used to determine the various valuation designations;
- Eliminated the requirement that a teacher rated as "ineffective" eventually must be removed from the classroom;
- Reinstated the current mentor teacher program;
- Amended the provision removing evaluations from collective bargaining negotiations, making this provision applicable when the KEEP is fully implemented; and
- Eliminated the provision related to a due process hearing that would have placed the burden of proof to rebut the presumption of ineffectiveness on the teacher in cases where the teacher had been rated ineffective in the two most recent evaluations.

The initial bill was adopted, as amended, by the House Education Committee. Then, it was referred to House Appropriations and re-referred to House Education. The House Education Committee then made additional amendments which resulted in the adoption of a substitute bill. The provisions added included inserting the language adding grounds for non-renewal or termination of a teacher's contract to include, but not be limited to, a rating of ineffective in two consecutive years. This amendment also included a provision whereby the teacher would be provided an opportunity to participate in appropriate professional development.

The House Education Committee also amended the bill by removing a provision that would have required a hearing officer in a due process hearing to consider an evaluation as evidence.

Finally, the House Education Committee made a technical amendment to the bill.

The House Committee of the Whole made an amendment to make the grounds for nonrenewal or termination of a contract based on ineffectiveness applicable only to teachers who have earned due process protections and rights under KSA 72-5445.

According to the Division of the Budget fiscal note on the original bill, \$1.1 million from the State General Fund would be needed for the mentor teacher program. The fiscal note went on to indicate *The FY 2013 Governor's Budget Report* had recommended expenditures at that level. The fiscal note went on to estimate \$1.0 million of state general funds would be needed to implement the Teacher Performance Incentive Program. There was no fiscal note for the amended bill.