AN ACT concerning schools; relating to school employees; performance and evaluation; professional development; amending K.S.A. 72-1412, 72-9004 and 72-9005 and K.S.A. 2011 Supp. 72-5413, 72-9002, 72-9003 and 72-9608 and repealing the existing sections.

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

New Section 1. (a) (1) The board of education of each school district may apply to the state board for a grant of state moneys for the purpose of paying the costs for a probationary teacher or administrative employee to attend mentor programs. The state board shall award such grants of state moneys in accordance with the provisions of this section.

(2) To be eligible to receive a grant of state moneys, a board of education shall submit to the state board an application for a grant. The application shall be prepared in such form and manner as the state board shall require and shall be submitted at a time to be determined and specified by the state board. Approval by the state board of the application is prerequisite to the award of a grant.

(3) Each board of education which is awarded a grant shall make such periodic and special reports of statistical, financial and such other information to the state board as the state board may request.

(b) The state board may adopt rules and regulations, which establish:

(1) Standards and criteria for evaluating and approving mentor programs and applications of school districts for grants; and

(2) the evaluation and approval of mentor programs.

(c) Within the limitations of appropriations therefor, the state board shall determine the amount of grants to be awarded to each school district by considering the number of probationary teachers and administrative employees participating in a mentor program. Upon receipt of a grant of state moneys, in accordance with this section, the amount of the grant shall be deposited in the general fund of a school district. Moneys deposited in the general fund of a school district under this subsection shall be considered reimbursements for the purpose of the school district finance and quality performance act. The full amount of the grant shall be allocated among the probationary teachers and administrative employees employed by the school district.

(d) The state board shall provide any board of education of any
school district, upon request, with technical advice and assistance
regarding an application for a grant of state moneys.
(e) This section shall be part of and supplemental to the provisions of
article 14 of chapter 72 of the Kansas Statutes Annotated, and amendments
thereto.
New Sec. 2. Evaluations adopted under K.S.A. 72-9004, and
amendments thereto, shall meet the following criteria:
(a) Multiple measures of student achievement and growth to
significantly inform the evaluation. Such multiple measures shall be
determined by the state board of education.
(b) (1) An annual designation of each employee in one of the
following rating categories:
   (A) Highly effective;
   (B) effective;
   (C) progressing; or
   (D) ineffective.
   (2) The designation of a rating category under this subsection shall be
based on the employee's performance using growth in student achievement
as measured pursuant to subsection (a) as the primary factor for the
evaluation.
(3) As used in this subsection the terms "highly effective," "effective," "progressing" and "ineffective" shall be defined by the state
board of education so as to clearly describe the effectiveness of an
employee in accordance with the standards for effective employees as
established by law or rules and regulations.
(c) Recommendations for areas in which the employee shall improve
to achieve a higher rating category.
(d) A plan of assistance including, but not limited to, a timeline for
when any recommended improvement is expected to be achieved. If the
employee receives a rating of "progressing" or "ineffective," such plan of
assistance shall also include a process by which such employee is given
the opportunity to correct the identified deficiencies in the employee's
performance.
(e) This section shall be part of and supplemental to the provisions of
article 90 of chapter 72 of the Kansas Statutes Annotated, and amendments
thereto.
New Sec. 3. (a) Grounds for nonrenewal or termination of a contract
of a teacher include, but are not limited to, a teacher's receipt of a rating
designation of ineffective pursuant to K.S.A. 72-9001 et seq., and
amendments thereto, in two consecutive school years and, during such
two-year period, the teacher was provided an opportunity to participate in
appropriate professional development in accordance with the provisions of
K.S.A. 72-9601 et seq., and amendments thereto.
(b) This section shall be part of and supplemental to the provisions of article 54 of chapter 72 of the Kansas Statutes Annotated, and amendments thereto.

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

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

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

Sec. 5. K.S.A. 72-1412 is hereby amended to read as follows: 72-1412. As used in K.S.A. 72-1412 through 72-1415 and section 1, and amendments thereto:

(a) "Administrative employee" means, in the case of a school district, any person who is employed by a board of education in an administrative capacity, and who is fulfilling duties for which an administrator's certificate is required under K.S.A. 72-7513, and amendments thereto.

(b) "Mentor program" means any research-based mentoring program approved by the state board for the purpose of providing probationary teachers and administrative employees with professional support.

(c) "Mentor teacher program" means a program established and maintained by the board of education of a school district for the purpose of providing probationary teachers with professional support and the continuous assistance of an on-site mentor teacher.

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

(e) "Probationary teacher" means a certificated teacher to whom the provisions of K.S.A. 72-5438 through 72-5443, and amendments thereto, do not apply.
(f) "State board" means the state board of education.

Sec. 6. K.S.A. 2011 Supp. 72-5413 is hereby amended to read as follows: 72-5413. As used in this act and in acts amendatory thereof or supplemental thereto:

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

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

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

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

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

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

(g) "Professional negotiation" means meeting, conferring, consulting and discussing in a good faith effort by both parties to reach agreement with respect to the terms and conditions of professional service.

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

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

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

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

(l) (1) "Terms and conditions of professional service" means: (A) (i) Salaries and wages, including pay for duties under supplemental contracts; hours and amounts of work; vacation allowance, holiday, sick, extended, sabbatical, and other leave, and number of holidays; retirement; insurance benefits; wearing apparel; pay for overtime; jury duty; grievance procedure; including binding arbitration of grievances; disciplinary procedure; resignations; termination and nonrenewal of contracts, in accordance with state law; reemployment of professional employees; terms and form of the individual professional employee contract; probationary period; professional employee appraisal procedures in accordance with state law and subject to the limitations in subsection (l) (1)(A)(ii); each of the foregoing being a term and condition of professional service, regardless of its impact on the employee or on the operation of the educational system; (ii) on and after the adoption by the state board of education, by rules and regulations, of the Kansas education evaluation protocol or statewide evaluation system substantially similar to the
Kansas education evaluation protocol, for a board of education of any
school district, the term "terms and conditions of professional service"
does not include professional employee appraisal procedures; (B) matters
which relate to privileges to be granted the recognized professional
employees' organization including, but not limited to, voluntary payroll
deductions; use of school or college facilities for meetings; dissemination
of information regarding the professional negotiation process and related
matters to members of the bargaining unit on school or college premises
through direct contact with members of the bargaining unit, the use of
bulletin boards on or about the facility, and the use of the school or college
mail system to the extent permitted by law; reasonable leaves of absence
for members of the bargaining unit for organizational purposes such as
engaging in professional negotiation and partaking of instructional
programs properly related to the representation of the bargaining unit; any
of the foregoing privileges which are granted the recognized professional
employees' organization through the professional negotiation process shall
not be granted to any other professional employees' organization; and (C)
such other matters as the parties mutually agree upon as properly related to
professional service including, but not limited to, employment incentive or
retention bonuses authorized under K.S.A. 72-8246, and amendments thereto.

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

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

(m) "Secretary" means the secretary of labor or a designee thereof.
(n) "Statutory declaration of impasse date" means June 1 in the
current school year.
(o) "Supplemental contracts" means contracts for employment duties
other than those services covered in the principal or primary contract of
employment of the professional employee and shall include, but not be
limited to, such services as coaching, supervising, directing and assisting
extracurricular activities, chaperoning, ticket-taking, lunchroom
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supervision, and other similar and related activities.

Sec. 7. K.S.A. 2011 Supp. 72-9002 is hereby amended to read as
follows: 72-9002. As used in this act:
(a) "Accredited" means accredited by the state board of education.
(b) "Board" means the board of education of a school district, the
governing authority of any nonpublic school offering any of grades
kindergarten through 12 in accredited schools and the board of control of
an area vocational-technical school.
(b) "State board" means, in the case of school districts and nonpublic
schools, the state board of education; and in the case of area vocational-
technical schools, the state board of regents.
(c) "Employees" means all licensed employees of school districts and
of nonpublic schools and all instructional and administrative employees of
area vocational-technical schools.
(d) "School year" means the period from July 1 to June 30.
(e) "Accredited" means accredited by the state board of
education; "State board" means, in the case of school districts and
nonpublic schools, the state board of education, and in the case of area
vocational-technical schools, the state board of regents.
(f) "Superintendent" means the superintendent of schools, or the
superintendent's designee, for the school district employing the employee.
(g) "Teacher" means any instructor who holds a teacher's certificate
issued by the state board.

Sec. 8. K.S.A. 2011 Supp. 72-9003 is hereby amended to read as
follows: 72-9003. Each board shall adopt a written policy of personnel
evaluation procedure in accordance with K.S.A. 72-9002 et seq., and
amendments thereto. For school districts, such policy shall include, but is
not limited to, the Kansas educator evaluation protocol adopted by the
state board of education. Every policy so adopted shall:
(a) Be prescribed in writing at the time of original adoption and at all
times thereafter when any amendments are adopted.;
(b) Include evaluation procedures applicable to all employees.;
(c) Provide that all evaluations are to be made in writing and that
evaluation documents and responses thereto are to be maintained in a
personnel file for each employee for a period of not less than three years
from the date each evaluation is made.;
(d) (1) Except as provided herein and in subsection (d)(2), provide
that every employee in the first two consecutive school years of
employment shall be evaluated at least one time per semester by not later
than the 60th school day of the semester. Any employee who is not
employed for the entire semester shall not be required to be evaluated.
During the third and fourth years of employment, every employee shall be
evaluated at least one time each school year by not later than February 15.
After the fourth year of employment, every employee shall be evaluated at least once in every three years not later than February 15 of the school year in which the employee is evaluated;

(2) if a teacher receives a rating designation of progressing or ineffective pursuant to K.S.A. 72-9001 et seq., and amendments thereto, in such teacher's most recent evaluation, such teacher shall be evaluated at least one time per semester by not later than the 60th school day of the semester;

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

(f) be approved by the state board.

Sec. 9. K.S.A. 72-9004 is hereby amended to read as follows: 72-9004. Evaluation policies adopted under K.S.A. 72-9003, and amendments thereto, shall meet the following guidelines or criteria:

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

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

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

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

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

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

(g) Evaluations shall comply with the provisions of K.S.A. 72-9001 et
Sec. 10. K.S.A. 72-9005 is hereby amended to read as follows: 72-9005. (a) Whenever any evaluation is made of an employee, the written document thereof shall be presented to the employee, and the employee shall acknowledge such presentation by his or her signature thereon signing such written document. At any time not later than two (2) weeks after such presentation, the employee may respond thereto in writing.

(b) If an employee receives a rating designation of progressing or ineffective pursuant to section 2, and amendments thereto, such employee shall be entitled to an in-person conference with the superintendent to discuss such employee's evaluation.

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

Sec. 11. K.S.A. 2011 Supp. 72-9608 is hereby amended to read as follows: 72-9608. (a) In each school year, each school district which is maintaining an approved professional development program shall be eligible to receive from state funds, within the limits of appropriations for professional development, an amount to be determined by the state board on the basis of priorities established through a needs-assessment survey conducted by the state board pursuant to section 4, and amendments thereto. In no event shall the amount allocated and distributed to any school district under this act exceed: (1) An amount which is equal to .50 of 1% of the amount of the general fund budget of the school district, or an amount equal to 50% of the actual expenses incurred by the school district in maintaining an approved professional development program, whichever is the lesser amount; or (2) an amount which is equal to 50% of the actual expenses incurred by the school district for the provision of innovative and experimental procedures, activities and services, if any of the same are provided and approved by the state board, in a professional development program maintained by the school district and approved by the state board.

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

(c) The state board shall prescribe all forms necessary for reporting
under this act.
(d) Every board shall make such periodic and special reports of
statistical and financial information to the state board as it may request.

New Sec. 12. If any provision of this act, or the application thereof, is
held invalid or unconstitutional, it shall be conclusively presumed that the
legislature would have enacted the remainder of the act without such
invalid or unconstitutional provision.

Supp. 72-5413, 72-9002, 72-9003 and 72-9608 are hereby repealed.

Sec. 14. This act shall take effect and be in force from and after July
1, 2013, and its publication in the statute book.