

As Amended by House Committee

Session of 2012

HOUSE BILL No. 2634

By Committee on Education

2-6

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, and K.S.A. 72-
4 1413, ~~72-1414, 72-1415, 72-5442, 72-9004 and 72-9005~~ and K.S.A.
5 2011 Supp. 72-5413, 72-9002, 72-9003 and 72-9608 and repealing the
6 existing sections.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (b) ~~No applicant shall be required to complete a teacher preparation~~
36 ~~program prior to certification as a teacher in the following areas of~~

1 instruction: (1) Science; (2) technology; (3) engineering; (4) math; or (5)
2 career technical education.

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

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

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

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

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

16 ~~New Sec. 2. —(a) As used in this section:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 **(2) the evaluation and approval of mentor programs.**

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

1 (d) The state board shall provide any board of education of any
2 school district, upon request, with technical advice and assistance
3 regarding an application for a grant of state moneys.

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

7 ~~New Sec. 3.~~ **New Sec. 2.** Evaluations adopted under K.S.A. 72-9004,
8 and amendments thereto, shall meet the following criteria:

9 (a) ~~Objective~~ **Multiple** measures of student achievement and growth
10 to significantly inform the evaluation. ~~Such objective measures shall~~
11 ~~include:~~

12 ~~(1) Student assessment results from statewide assessments for those~~
13 ~~employees whose responsibilities include instruction in subjects measured~~
14 ~~in statewide assessments;~~

15 ~~(2) methods for assessing student achievement and growth for those~~
16 ~~employees whose responsibilities do not include instruction in subjects~~
17 ~~measured by statewide assessments; and~~

18 ~~(3) student assessment results from locally developed assessments~~
19 ~~and other test measures for those employees whose responsibilities may or~~
20 ~~may not include instruction in subjects measured by statewide~~
21 ~~assessments. **Such multiple measures shall be determined by the state**~~
22 **board of education.**

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

25 (A) Highly effective;

26 (B) effective;

27 (C) progressing; or

28 (D) ineffective.

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

32 ~~(A) Fifty percent based on growth in student achievement as~~
33 ~~measured pursuant to subsection (a); **as the primary factor for the**~~
34 **evaluation.**

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

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

41 (3) As used in this subsection the terms "highly effective,"
42 "effective," "progressing" and "ineffective" shall be defined by the state
43 board **of education** so as to clearly describe the effectiveness of an

1 employee in accordance with the standards for effective employees as
2 established by law or rules and regulations.

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

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

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

15 ~~New Sec. 4. 3.~~ (a) Any moneys received under K.S.A. 72-9608, and
16 amendments thereto, shall be expended towards deficiencies identified
17 through the evaluation procedure set forth in K.S.A. 72-9001 et seq., and
18 amendments thereto, and to support activities identified by the state board
19 **of education** that measure teacher performance, including but not limited to
20 to, growth in student achievement.

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

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

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

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

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

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

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

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

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

21 ~~(d) "State board" means the state board of education.~~

22 ~~Sec. 7. K.S.A. 72-1413 is hereby amended to read as follows: 72-~~
23 ~~1413. (a) The board of education of each school district may establish and~~
24 ~~maintain a mentor teacher program and, commencing with the 2001-02~~
25 ~~school year, may apply *to the state board* for a grant of state moneys for~~
26 ~~the purpose of providing stipends for mentor teachers *paying the costs for*~~
27 ~~*a probationary teacher or administrative employee to attend mentor*~~
28 ~~*programs. The state board shall award such grants of state moneys in*~~
29 ~~*accordance with the provisions of this section.*~~

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

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

42 ~~Sec. 8. K.S.A. 72-1414 is hereby amended to read as follows: 72-~~
43 ~~1414. (a) On or before January 1, 2001, The state board of education shall~~

1 ~~may adopt rules and regulations for the administration of mentor teacher~~
2 ~~programs and shall, which establish:~~

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

6 ~~(2) evaluate and approve the evaluation and approval of mentor~~
7 ~~teacher programs;~~

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

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

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

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

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

36 ~~Sec. 9. K.S.A. 72-1415 is hereby amended to read as follows: 72-~~
37 ~~1415. The state board of education shall provide any board of education of~~
38 ~~any school district, upon request, with technical advice and assistance-~~
39 ~~regarding the establishment and maintenance of a mentor teacher program~~
40 ~~or an application for a grant of state moneys.~~

41 **Sec. 5 4. K.S.A. 72-1412 is hereby amended to read as follows: 72-**
42 **1412. As used in K.S.A. 72-1412 through 72-1415 and section 1, and**
43 **amendments thereto:**

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

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

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

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

24 **~~(e)~~(e) "Probationary teacher" means a certificated teacher to**
25 **whom the provisions of K.S.A. 72-5438 through 72-5443, and**
26 **amendments thereto, do not apply.**

27 **(f) "State board" means the state board of education.**

28 Sec. ~~10~~ 5. K.S.A. 2011 Supp. 72-5413 is hereby amended to read as
29 follows: 72-5413. As used in this act ~~and in acts amendatory thereof or~~
30 ~~supplemental thereto:~~

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

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

39 **(c)** "Professional employee" means any person employed by a board
40 of education in a position which requires a certificate issued by the state
41 board of education or employed by a board of education in a professional,
42 educational or instructional capacity, but shall not mean any such person
43 who is an administrative employee and, commencing in the 2006-2007

1 school year, shall not mean any person who is a retirant from school
2 employment of the Kansas public employees retirement system, regardless
3 of whether an agreement between a board of education and an exclusive
4 representative of professional employees that covers terms and conditions
5 of professional service provides to the contrary.

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

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

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

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

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

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

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

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

11 (l) (1) "Terms and conditions of professional service" means: (A)(i)
12 Salaries and wages, including pay for duties under supplemental contracts;
13 hours and amounts of work; vacation allowance, holiday, sick, extended,
14 sabbatical, and other leave, and number of holidays; retirement; insurance
15 benefits; wearing apparel; pay for overtime; jury duty; grievance
16 procedure; including binding arbitration of grievances; disciplinary
17 procedure; resignations; termination and nonrenewal of contracts, *in*
18 *accordance with state law*; reemployment of professional employees;
19 terms and form of the individual professional employee contract;
20 probationary period; ~~professional employee appraisal procedures;~~
21 *professional employee appraisal procedures in accordance with state law*
22 *and subject to the limitations in subsection (l)(1)(A)(ii)*; each of the
23 foregoing being a term and condition of professional service, regardless of
24 its impact on the employee or on the operation of the educational system;
25 (ii) *on and after the state board of education adopts, by rules and*
26 *regulations, the Kansas education evaluation protocol or a statewide*
27 *evaluation system substantially similar to the Kansas education evaluation*
28 *protocol, for a board of education of any school district, the term "terms*
29 *and conditions of professional service" does not include professional*
30 *employee appraisal procedures*; (B) matters which relate to privileges to
31 be granted the recognized professional employees' organization including,
32 but not limited to, voluntary payroll deductions; use of school or college
33 facilities for meetings; dissemination of information regarding the
34 professional negotiation process and related matters to members of the
35 bargaining unit on school or college premises through direct contact with
36 members of the bargaining unit, the use of bulletin boards on or about the
37 facility, and the use of the school or college mail system to the extent
38 permitted by law; reasonable leaves of absence for members of the
39 bargaining unit for organizational purposes such as engaging in
40 professional negotiation and partaking of instructional programs properly
41 related to the representation of the bargaining unit; any of the foregoing
42 privileges which are granted the recognized professional employees'
43 organization through the professional negotiation process shall not be

1 granted to any other professional employees' organization; and (C) such
2 other matters as the parties mutually agree upon as properly related to
3 professional service including, but not limited to, employment incentive or
4 retention bonuses authorized under K.S.A. 72-8246, and amendments
5 thereto.

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

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

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

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

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

29 **Sec. 6. K.S.A. 72-5442 is hereby amended to read as follows: 72-**
30 **5442. The hearing officer may:**

31 (a) **Administer oaths;**

32 (b) **issue subpoenas for the attendance and testimony of witnesses**
33 **and the production of books, papers and documents relating to any**
34 **matter under investigation;**

35 (c) **authorize depositions to be taken;**

36 (d) **receive evidence and limit lines of questioning and testimony**
37 **which are repetitive, cumulative or irrelevant;**

38 (e) **call and examine witnesses and introduce into the record**
39 **documentary and other evidence;**

40 (f) **regulate the course of the hearing and dispose of procedural**
41 **requests, motions and similar matters; and**

42 (g) **take any other action necessary to make the hearing accord**
43 **with administrative due process.**

1 **Hearings under this section shall not be bound by rules of evidence**
2 **whether statutory, common law or adopted by the rules of court,**
3 **except that, the burden of proof shall initially rest upon the board in**
4 **all instances other than when the allegation is that the teacher's**
5 **contract has been terminated or nonrenewed by reason of the teacher**
6 **having exercised a constitutional right. All relevant evidence shall be**
7 **admissible, except that the hearing officer, in the hearing officer's**
8 **discretion, may exclude any evidence if the hearing officer believes**
9 **that the probative value of such evidence is substantially outweighed**
10 **by the fact that its admission will necessitate undue consumption of**
11 **time. A hearing officer shall consider an evaluation as evidence.**

12 Sec. 7. K.S.A. 2011 Supp. 72-9002 is hereby amended to read as
13 follows: 72-9002. As used in this act:

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

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

19 (b) "State board" means, in the case of school districts and nonpublic
20 schools, the state board of education; and in the case of area vocational-
21 technical schools, the state board of regents.

22 (c) "Employees" means all licensed employees of school districts and
23 of nonpublic schools and all instructional and administrative employees of
24 area vocational-technical schools.

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

26 (e) "Accredited" means accredited by the state board of
27 education."State board" means, in the case of school districts and
28 nonpublic schools, the state board of education, and in the case of area
29 vocational-technical schools, the state board of regents.

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

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

34 ~~Sec. 8.~~ **8.** K.S.A. 2011 Supp. 72-9003 is hereby amended to read as
35 follows: 72-9003. Each board shall adopt a written policy of personnel
36 evaluation procedure in accordance with K.S.A. 72-9002 et seq., and
37 amendments thereto. *For school districts, such policy shall include, but is*
38 *not limited to, the Kansas educator evaluation protocol adopted by the*
39 *state board of education.* Every policy so adopted shall:

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

42 (b) include evaluation procedures applicable to all employees-;

43 (c) provide that all evaluations are to be made in writing and that

1 evaluation documents and responses thereto are to be maintained in a
2 personnel file for each employee for a period of not less than three years
3 from the date each evaluation is made; ;

4 (d) **(1)** except as provided herein **and in subsection (d)(2)**, provide
5 that every employee in the first two consecutive school years of
6 employment shall be evaluated at least one time per semester by not later
7 than the 60th school day of the semester. Any employee who is not
8 employed for the entire semester shall not be required to be evaluated.
9 During the third and fourth years of employment, every employee shall be
10 evaluated at least one time each school year by not later than February 15.
11 After the fourth year of employment, every employee shall be evaluated at
12 least once in every three years not later than February 15 of the school
13 year in which the employee is evaluated; ;

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

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

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

23 ~~Sec. 13.~~ **9.** K.S.A. 72-9004 is hereby amended to read as follows: 72-
24 9004. Evaluation policies adopted under K.S.A. 72-9003, and amendments
25 thereto, shall meet the following guidelines or criteria:

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

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

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

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

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

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

10 ~~(g) The contract of any teacher subject to evaluation under the~~
11 ~~provisions of K.S.A. 72-9001 et seq., and amendments thereto, who~~
12 ~~receives a rating designation of ineffective pursuant to K.S.A. 72-9001 et~~
13 ~~seq., and amendments thereto, in two consecutive school years and has~~
14 ~~been provided an opportunity to participate in professional development~~
15 ~~in accordance with the provisions of K.S.A. 72-9601 et seq., and~~
16 ~~amendments thereto, may be terminated.~~

17 ~~(h)~~(g) Evaluations shall comply with the provisions of K.S.A. 72-9001
18 et seq., and amendments thereto.

19 Sec. ~~14~~ 10. K.S.A. 72-9005 is hereby amended to read as follows:
20 72-9005. (a) Whenever any evaluation is made of an employee, the
21 written document thereof shall be presented to the employee, and the
22 employee shall acknowledge such presentation by his or her signature
23 ~~thereon signing such written document.~~ At any time not later than two (2)
24 weeks after such presentation, the employee may respond thereto in
25 writing.

26 (b) *If an employee receives a rating designation of progressing or*
27 *ineffective pursuant to section 3, and amendments thereto, such employee*
28 *shall be entitled to an in-person conference with the superintendent to*
29 *discuss such employee's evaluation.*

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

38 Sec. ~~15~~ 11. K.S.A. 2011 Supp. 72-9608 is hereby amended to read as
39 follows: 72-9608. (a) In each school year, each school district which is
40 maintaining an approved professional development program shall be
41 eligible to receive from state funds, within the limits of appropriations for
42 professional development, an amount to be determined by the state board
43 on the basis of priorities established through a needs-assessment survey

1 ~~conducted by the state board pursuant to section 4, and amendments~~
2 ~~thereto.~~ In no event shall the amount allocated and distributed to any
3 school district under this act exceed: (1) An amount which is equal to .50
4 of 1% of the amount of the general fund budget of the school district, or an
5 amount equal to 50% of the actual expenses incurred by the school district
6 in maintaining an approved professional development program, whichever
7 is the lesser amount; or (2) an amount which is equal to 50% of the actual
8 expenses incurred by the school district for the provision of innovative and
9 experimental procedures, activities and services, if any of the same are
10 provided and approved by the state board, in a professional development
11 program maintained by the school district and approved by the state board.

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

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

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

22 ~~New Sec.—16:~~ **12.** If any provision of this act, or the application
23 thereof, is held invalid or unconstitutional, it shall be conclusively
24 presumed that the legislature would have enacted the remainder of the act
25 without such invalid or unconstitutional provision.

26 ~~Sec.—17:~~ **13.** K.S.A. 72-1412, K.S.A. ~~72-1413, 72-1414, 72-1415, 72-~~
27 **5442**, 72-9004 and 72-9005 and K.S.A. 2011 Supp. 72-5413, 72-9002, 72-
28 9003 and 72-9608 are hereby repealed.

29 ~~Sec.—18:~~ **14.** This act shall take effect and be in force from and after
30 July 1, 2013, and its publication in the statute book.

31