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Interim report / New Jersey Educator Effectiveness Task Force.

By New Jersey Educator Effectiveness Task Force.

Trenton, N.J: New Jersey Dept. of Education, 2011.

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Creating a better system: recommendations for a systemic approach to improving educator effectiveness / by EQUATE.

By EQUATE (N.J.)

[Trenton, N.J.] : Educators for the Quality Assessment of Teacher Effectiveness, 2011

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<http://dSPACE.njstatelib.org:8080/xmlui/bitstream/handle/10929/21926/e242011d.pdf?sequence=1&isAllowed=y>

"Compromise Caffeine, and Trade-Offs: Behind NJ's New Tenure Reform Bill," NJ SPOTLIGHT, 8-7-12

"At long last, Gov. Christie signs tenure reform deal," The Star-Ledger, 8-7-12

"Hailing 'great day for good teachers,' Christie signs tenure reforms," The Times, 8-7-12

"Christie signs tenure bill," The Record, 8-7-12

"New law alters teachers' tenures," The Philadelphia Inquirer, 8-7-12

"Christie Hails Tenure Bill as Victory," The Wall Street Journal, 8-7-12

"Christie Signs Bill Overhauling Job Guarantees for Teachers," The New York Times, 8-7-12

"Christie signs tenure bill," Home News Tribune, 8-7-12

"Tenure Bill Becomes Law," Asbury Park Press, 8-7-12

"Gov. Christie signs teacher tenure bill," Daily Record, 8-7-12

"Teacher tenure reforms now law," The Daily Journal, 8-7-12

"Christie signs tenure bill into law," Courier-News, 8-7-12

"Christie signs major teacher-tenure overhaul," Burlington County Times, 8-7-12

"N.J. toughens standards for teacher tenure," The Press of Atlantic City, 8-7-12

"Governor Christie and NJEA Make Peace For A Day," New Jersey 101.5, 8-7-12

"Christie Enacts Tenure-Law Overhaul for New Jersey Teachers," Bloomberg Press, 8-7-12

"School officials, teachers union respond to Christie's tenure reform legislation," Gloucester County Times, 8-7-12

"Local educators support new tenure law," New Jersey Herald, 8-7-12

"Christie signs major teacher-tenure overhaul," The Trentonian, 8-7-12

LAW/RWH

Title 18A.
Subtitle 3.
Chapter 6.
Article 18.(New)
Teacher
Effectiveness and
Accountability for
the Children of
New Jersey Act.
§§1-3, 12, 13, 16,
17, 24, 19, 21, 14,
15 & 20 –
C.18A:6-117-
18A:6-129
§11 –
C.18A:28-5.1
§§22, 23, 25, 26
& 18 –
C.18A:6-17.1 to
18A:6-17.5
§27 - Repealer
§28 - Note

P.L.2012, CHAPTER 26, *approved August 6, 2012*
Senate Committee Substitute (*First Reprint*) for
Senate, No. 1455

1 **AN ACT** concerning school employees, revising various parts of the
2 statutory law, and supplementing chapters 6 and 28 of Title 18A
3 of the New Jersey Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. (New section) This act shall be known and may be cited as
9 the “Teacher Effectiveness and Accountability for the Children of
10 New Jersey (TEACHNJ) Act.”

11
12 2. (New section) The Legislature finds and declares that:
13 a. The goal of this legislation is to raise student achievement
14 by improving instruction through the adoption of evaluations that
15 provide specific feedback to educators, inform the provision of
16 aligned professional development, and inform personnel decisions;
17 b. The New Jersey Supreme Court has found that a multitude
18 of factors play a vital role in the quality of a child’s education,

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ABU committee amendments adopted June 21, 2012.

1 including effectiveness in teaching methods and evaluations.
2 Changing the current evaluation system to focus on improved
3 student outcomes, including objective measures of student growth,
4 is critical to improving teacher effectiveness, raising student
5 achievement, and meeting the objectives of the federal "No Child
6 Left Behind Act of 2001"; and

7 c. Existing resources from federal, State, and local sources
8 should be used in ways consistent with this law.
9

10 3. (New section) As used in sections ¹[13 through 18, 20
11 through 22, and 25] 12 through 17, 19 through 21, and 24¹ of
12 P.L. , c. (C.) (pending before the Legislature as this
13 bill):

14 ¹["Business day" means any day other than Saturday, Sunday, or
15 a nationally or State recognized holiday.]¹

16 "Corrective action plan" means a written plan developed by a
17 teaching staff member serving in a supervisory capacity in
18 collaboration with the teaching staff member to address deficiencies
19 as outlined in an evaluation. The corrective action plan shall
20 include timelines for corrective action, responsibilities of the
21 individual teaching staff member and the school district for
22 implementing the plan, and specific support that the district shall
23 provide.

24 ¹"Evaluation" means a process based on the individual's job
25 description, professional standards and Statewide evaluation criteria
26 that incorporates analysis of multiple measures of student progress
27 and multiple data sources. Such evaluation shall include formal
28 observations, as well as post conferences, conducted and prepared
29 by an individual employed in the district in a supervisory role and
30 capacity and possessing a school administrator certificate, principal
31 certificate, or supervisor certificate.¹

32 "Individual professional development plan" means a written
33 statement of goals developed by a teaching staff member serving in
34 a supervisory capacity in collaboration with a teaching staff
35 member, that: aligns with professional standards for teachers set
36 forth in N.J.A.C.6A:9-3.3 and the New Jersey Professional
37 Development Standards; derives from the annual evaluation
38 process; identifies professional goals that address specific
39 individual, district or school needs, or both; and grounds
40 professional development activities in objectives related to
41 improving teaching, learning, and student achievement. The
42 individual professional development plan shall include timelines for
43 implementation, responsibilities of the employee and the school
44 district for implementing the plan, and specific support and periodic
45 feedback that the district shall provide.

46 "Ineffective" or "partially effective" means the employee
47 receives an annual summative evaluation rating of "ineffective" or

1 “partially effective” based on the performance standards for his
2 position established through the evaluation rubric adopted by the
3 board of education and approved by the commissioner.

4 “Multiple objective measures of student learning” means the
5 results of formal and informal assessments of students. Such
6 measures may include a combination of, but are not limited to:
7 teacher-set goals for student learning; student performance
8 assessments, including portfolio projects, problem-solving
9 protocols, and internships; teacher-developed assessments;
10 standardized assessments; and district-established assessments.

11 “Professional standards” means the New Jersey Professional
12 Standards for Teachers and the New Jersey Professional Standards
13 for School Leaders recommended by the commissioner and adopted
14 by the State Board of Education.¹

15 “Teaching staff member” means a member of the professional
16 staff of any district or regional board of education, or any board of
17 education of a county vocational school, holding office, position or
18 employment of such character that the qualifications, for such
19 office, position or employment, require him to hold a valid and
20 effective standard, provisional or emergency certificate, appropriate
21 to his office, position or employment, issued by the State Board of
22 Examiners and includes a school nurse and a school athletic trainer.

23
24 4. N.J.S.18A:6-9 is amended to read as follows:

25 18A:6-9. The commissioner shall have jurisdiction to hear and
26 determine, without cost to the parties, all controversies and disputes
27 arising under the school laws, excepting those governing higher
28 education, or under the rules of the state board or of the
29 commissioner. For the purposes of this Title, controversies and
30 disputes concerning the conduct of school elections shall not be
31 deemed to arise under the school laws.

32 Notwithstanding the provisions of this section to the contrary, an
33 arbitrator shall hear and make a final determination on a
34 controversy and dispute arising under subarticle B of article 2 of
35 chapter 6 of Title 18A of the New Jersey Statutes (C.18A:6-10 et
36 seq.).

37 (cf: P.L.1995, c.278, s.24)

38
39 5. N.J.S.18A:6-11 is amended to read as follows:

40 18A:6-11. Any charge made against any employee of a board of
41 education under tenure during good behavior and efficiency shall be
42 filed with the secretary of the board in writing, and a written
43 statement of evidence under oath to support such charge shall be
44 presented to the board. The board of education shall forthwith
45 provide such employee with a copy of the charge, a copy of the
46 statement of the evidence and an opportunity to submit a written
47 statement of position and a written statement of evidence under oath

1 with respect thereto. After consideration of the charge, statement of
2 position and statements of evidence presented to it, the board shall
3 determine by majority vote of its full membership whether there is
4 probable cause to credit the evidence in support of the charge and
5 whether such charge, if credited, is sufficient to warrant a dismissal
6 or reduction of salary. The board of education shall forthwith
7 notify the employee against whom the charge has been made of its
8 determination, personally or by certified mail directed to his last
9 known address. In the event the board finds that such probable
10 cause exists and that the charge, if credited, is sufficient to warrant
11 a dismissal or reduction of salary, then it shall forward such written
12 charge to the commissioner for a hearing pursuant to N.J.S. 18A:6-
13 16, together with a certificate of such determination. [Provided,
14 however, that if the charge is inefficiency, prior to making its
15 determination as to certification, the board shall provide the
16 employee with written notice of the alleged inefficiency, specifying
17 the nature thereto, and allow at least 90 days in which to correct and
18 overcome the inefficiency.] The consideration and actions of the
19 board as to any charge shall not take place at a public meeting.

20 (cf: P.L.1975, c. 304, s. 1)

21

22 6. N.J.S.18A:6-13 is amended to read as follows:

23 18A:6-13. If the board does not make such a determination
24 within 45 '[business]' days after receipt of the written charge [, or
25 within 45 days after the expiration of the time for correction of the
26 inefficiency, if the charge is of inefficiency], the charge shall be
27 deemed to be dismissed and no further proceeding or action shall be
28 taken thereon.

29 (cf: N.J.S.18A:6-13)

30

31 7. N.J.S.18A:6-14 is amended to read as follows:

32 18A:6-14. Upon certification of any charge to the commissioner,
33 the board may suspend the person against whom such charge is
34 made , with or without pay, but, if the determination of the charge
35 by the [Commissioner of Education] arbitrator is not made within
36 [120 calendar] '[105 business] 120 calendar' days after
37 certification of the charges, excluding all delays which are granted
38 at the request of such person, then the full salary (except for said
39 [120] '[105 business] 120' days) of such person shall be paid
40 beginning on the one hundred [twenty-first] '[sixth business]
41 twenty-first' day until such determination is made. Should the
42 charge be dismissed at any stage of the process, the person shall be
43 reinstated immediately with full pay from the first day of such
44 suspension. Should the charge be dismissed at any stage of the
45 process and the suspension be continued during an appeal
46 therefrom, then the full pay or salary of such person shall continue
47 until the determination of the appeal. However, the board of

1 education shall deduct from said full pay or salary any sums
2 received by such employee or officers by way of pay or salary from
3 any substituted employment assumed during such period of
4 suspension. Should the charge be sustained on the original hearing
5 or an appeal therefrom, and should such person appeal from the
6 same, then the suspension may be continued unless and until such
7 determination is reversed, in which event he shall be reinstated
8 immediately with full pay as of the time of such suspension.
9 (cf: P.L.1971, c.435, s.2)

10

11 8. N.J.S.18A:6-16 is amended to read as follows:

12 18A:6-16. Upon receipt of such a charge and certification, or of
13 a charge lawfully made to the commissioner, the commissioner or
14 the person appointed to act in the commissioner's behalf in the
15 proceedings shall examine the charges and certification. The
16 individual against whom the charges are certified shall have 15
17 **'[business]'** days to submit a written response to the charges to the
18 commissioner. Upon a showing of good cause, the commissioner
19 may grant an extension of time. The commissioner shall render a
20 determination on the sufficiency of charges **[and shall refer the case**
21 **to the Office of Administrative Law, if appropriate,]** as set forth
22 below within **[15] 10** **'[business]'** days immediately following the
23 period provided for a written response to the charges.

24 If, following receipt of the written response to the charges, the
25 commissioner is of the opinion that they are not sufficient to
26 warrant dismissal or reduction in salary of the person charged, he
27 shall dismiss the same and notify said person accordingly. If,
28 however, he shall determine that such charge is sufficient to warrant
29 dismissal or reduction in salary of the person charged, he shall
30 **[within 10 days of making that determination]** refer the case to **[the**
31 **Office of Administrative Law]** an arbitrator pursuant to section
32 '[23] 22' of P.L. , c. (C.) (pending before the Legislature as
33 this bill) for further proceedings, except that when a motion for
34 summary decision has been made prior to that time, the
35 commissioner may retain the matter for purposes of deciding the
36 motion.

37 (cf: P.L.1998, c.42, s.2)

38

39 9. N.J.S.18A:28-5 is amended to read as follows:

40 18A:28-5. a. The services of all teaching staff members
41 employed prior to the effective date of P.L. , c. (C.) (pending
42 before the Legislature as this bill) in the positions of teacher,
43 principal, other than administrative principal, assistant principal,
44 vice-principal, assistant superintendent, and all school nurses
45 including school nurse supervisors, head school nurses, chief school
46 nurses, school nurse coordinators, and any other nurse performing
47 school nursing services, school athletic trainer and such other

1 employees as are in positions which require them to hold
2 appropriate certificates issued by the board of examiners, serving in
3 any school district or under any board of education, excepting those
4 who are not the holders of proper certificates in full force and effect
5 and school business administrators shared by two or more school
6 districts, shall be under tenure during good behavior and efficiency
7 and they shall not be dismissed or reduced in compensation except
8 for inefficiency, incapacity, or conduct unbecoming such a teaching
9 staff member or other just cause and then only in the manner
10 prescribed by subarticle B of article 2 of chapter 6 of this Title,
11 after employment in such district or by such board for:

12 **[(a)]** (1) Three consecutive calendar years, or any shorter period
13 which may be fixed by the employing board for such purpose; or

14 **[(b)]** (2) Three consecutive academic years, together with
15 employment at the beginning of the next succeeding academic year;
16 or

17 **[(c)]** (3) The equivalent of more than three academic years
18 within a period of any four consecutive academic years.

19 b. The services of all teaching staff members employed on or
20 after the effective date of P.L. , c. (C.) (pending before the
21 Legislature as this bill) in the position of teacher, principal, other
22 than administrative principal, assistant principal, vice-principal,
23 assistant superintendent, and all school nurses, including school
24 nurse supervisors, head school nurses, chief school nurses, school
25 nurse coordinators, and any other nurse performing school nursing
26 services, school athletic trainer and such other employees as are in
27 positions which require them to hold appropriate certificates issued
28 by the board of examiners, serving in any school district or under
29 any board of education, excepting those who are not the holders of
30 proper certificates in full force and effect, and school business
31 administrators shared by two or more school districts, shall be
32 under tenure during good behavior and efficiency and they shall not
33 be dismissed or reduced in compensation except for inefficiency,
34 incapacity, or conduct unbecoming such a teaching staff member or
35 other just cause and then only in the manner prescribed by
36 subarticle B of article 2 of chapter 6 of this Title, after employment
37 in such district or by such board for:

38 (1) Four consecutive calendar years; or

39 (2) Four consecutive academic years, together with employment
40 at the beginning of the next succeeding academic year; or

41 (3) The equivalent of more than four academic years within a
42 period of any five consecutive academic years.

43 In order to achieve tenure pursuant to this subsection, a teacher
44 shall also complete a district mentorship program during the initial
45 year of employment and receive a rating of effective or highly
46 effective in two annual summative evaluations within the first three
47 years of employment after the initial year of employment in which

1 the teacher completes the district mentorship program. In order to
2 achieve tenure pursuant to this subsection, a principal, assistant
3 principal, and vice-principal shall also receive a rating of effective
4 or highly effective in two annual summative evaluations within the
5 first three years of employment with the first effective rating being
6 received on or after the completion of the second year of
7 employment.

8 For purposes of this subsection, “effective” or “highly effective”
9 means the employee has received an annual summative evaluation
10 rating of “effective” or “highly effective” based on the performance
11 standards for his position established through the evaluation rubric
12 adopted by the board of education and approved by the
13 commissioner.

14 c. For purposes of this chapter, tenure in any of the
15 administrative or supervisory positions enumerated herein shall
16 accrue only by employment in that administrative or supervisory
17 position. Tenure so accrued shall not extend to any other
18 administrative or supervisory position and nothing herein shall limit
19 or restrict tenure rights which were or may be acquired pursuant to
20 N.J.S.18A:28-6 in a position in which the individual actually
21 served.

22 (cf: P.L.1999, c.87, s.3)

23

24 10. N.J.S.18A:28-6 is amended to read as follows:

25 18A:28-6. a. Any such teaching staff member under tenure or
26 eligible to obtain tenure under this chapter, who is transferred or
27 promoted with his consent to another position covered by this
28 chapter on or after July 1, 1962, shall not obtain tenure in the new
29 position until after:

30 **[(a)]** (1) the expiration of a period of employment of two
31 consecutive calendar years in the new position unless a shorter
32 period is fixed by the employing board for such purpose; or

33 **[(b)]** (2) employment for two academic years in the new
34 position together with employment in the new position at the
35 beginning of the next succeeding academic year; or

36 **[(c)]** (3) employment in the new position within a period of any
37 three consecutive academic years, for the equivalent of more than
38 two academic years;

39 provided that the period of employment in such new position
40 shall be included in determining the tenure and seniority rights in
41 the former position held by such teaching staff member, and in the
42 event the employment in such new position is terminated before
43 tenure is obtained therein, if he then has tenure in the district or
44 under said board of education, such teaching staff member shall be
45 returned to his former position at the salary which he would have
46 received had the transfer or promotion not occurred together with

1 any increase to which he would have been entitled during the period
2 of such transfer or promotion.

3 b. Any such teaching staff member under tenure or eligible to
4 obtain tenure under this chapter, who is transferred or promoted
5 with his consent to another position covered by this chapter on or
6 after the effective date of P.L. , c. (C.) (pending the
7 Legislature as this bill), shall not obtain tenure in the new position
8 until after:

9 (1) the expiration of a period of employment of two consecutive
10 calendar years in the new position; or

11 (2) employment for two academic years in the new position
12 together with employment in the new position at the beginning of
13 the next succeeding academic year; or

14 (3) employment in the new position within a period of any three
15 consecutive academic years, for the equivalent of more than two
16 academic years;

17 provided that the period of employment in such new position
18 shall be included in determining the tenure and seniority rights in
19 the former position held by such teaching staff member, and in the
20 event the employment in such new position is terminated before
21 tenure is obtained therein, if he then has tenure in the district or
22 under said board of education, such teaching staff member shall be
23 returned to his former position at the salary which he would have
24 received had the transfer or promotion not occurred together with
25 any increase to which he would have been entitled during the period
26 of such transfer or promotion.

27 In order to receive tenure pursuant to this subsection, a teacher,
28 principal, assistant principal, and vice-principal shall be evaluated
29 as effective or highly effective in two annual summative evaluations
30 within the first three years of employment in the new position.

31 For purposes of this subsection, “effective” or “highly effective”
32 means the employee has received an annual summative evaluation
33 rating of “effective” or “highly effective” based on the performance
34 standards for his position established through the evaluation rubric
35 adopted by the board of education and approved by the
36 commissioner.

37 (cf: N.J.S.18A:28-6)

38

39 11. (New section) A tenured teaching staff member who has
40 been rated effective or highly effective on his most recent annual
41 summative evaluation, and who accepts employment in the same
42 position in an underperforming school shall be under tenure in that
43 position in the new district during good behavior and efficiency and
44 shall not be dismissed or reduced in compensation except for
45 inefficiency, incapacity, or conduct unbecoming such a teaching
46 staff member or other just cause and then only in the manner
47 prescribed by subarticle B of article 2 of chapter 6 of this Title,

1 after the employee receives a rating of effective or highly effective
2 in at least one of the annual summative evaluations within the first
3 two years of employment in the new school.

4 For purposes of this subsection, “effective” or “highly effective”
5 means the employee has received an annual summative evaluation
6 rating of “effective” or “highly effective” based on the performance
7 standards for his position established through the evaluation rubric
8 adopted by the board of education and approved by the
9 commissioner.

10 As used in this section, “underperforming school” means a
11 school which has been identified by the Department of Education as
12 a “focus school” or a “priority school” for any year within a two
13 year period.

14
15 ¹[12. (New section) a. If the decision of the arbitrator is in
16 support of the tenure charges, the Commissioner of Education shall
17 notify the State Board of Examiners, in writing, of the decision.

18 b. The State Board of Examiners shall only review a tenure
19 charge case referred to an arbitrator pursuant to N.J.S.18A:6-16 if it
20 has received notification pursuant to subsection a. of this section.]¹

21

22 ¹[13.] 12.¹ (New section) a. In order to ensure the
23 effectiveness of its teachers, each school shall convene a school
24 improvement panel. A panel shall include the principal, or his
25 designee ¹[who is serving in a supervisory capacity]¹, an assistant
26 or vice-principal, and a teacher. ¹The principal’s designee shall be
27 an individual employed in the district in a supervisory role and
28 capacity who possesses a school administrator certificate, principal
29 certificate, or supervisor certificate.¹ The teacher shall be a person
30 with a demonstrated record of success in the classroom who shall be
31 selected in consultation with the majority representative. An
32 individual teacher shall not serve more than three consecutive years
33 on any one school improvement panel. In the event that an assistant
34 or vice-principal is not available to serve on the panel, the principal
35 shall appoint an additional member to the panel, ¹[who is serving in
36 a supervisory capacity] who is employed in the district in a
37 supervisory role and capacity and who possesses a school
38 administrator certificate, principal certificate, or supervisor
39 certificate¹.

40 Nothing in this section shall prevent a district that has entered a
41 shared services agreement for the functions of the school
42 improvement panel from providing services under that shared
43 services agreement.

44 b. The panel shall oversee the mentoring of teachers and
45 conduct evaluations of teachers, including an annual summative
46 evaluation, provided that the teacher on the school improvement
47 panel shall not be included in the evaluation process, except in

1 those instances in which the majority representative has agreed to
2 the contrary. The panel shall also identify professional
3 development opportunities for all instructional staff members that
4 are tailored to meet the unique needs of the students and staff of the
5 school.

6 c. The panel shall conduct a mid-year evaluation of any
7 employee in the position of teacher who is evaluated as ineffective
8 or partially effective in his most recent annual summative
9 evaluation, provided that the teacher on the school improvement
10 panel shall not be included in the mid-year evaluation process,
11 except in those instances in which the majority representative has
12 agreed to the contrary .

13 d. Information related to the evaluation of a particular
14 employee shall be maintained by the school district, shall be
15 confidential, and shall not be accessible to the public pursuant to
16 P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and supplemented.

17
18 **'[14.] 13.'** (New section) a. In order to ensure the
19 effectiveness of the schools in the district, the superintendent of
20 schools or his designee shall conduct evaluations of each principal
21 employed by the school district, including an annual summative
22 evaluation.

23 b. The principal, in conjunction with the superintendent or his
24 designee, shall conduct evaluations of each assistant principal and
25 vice-principal employed in his school, including an annual
26 summative evaluation.

27 c. The superintendent or his designee and the principal, as
28 appropriate, shall conduct a mid-year evaluation of any principal,
29 assistant principal, or vice-principal who is evaluated as ineffective
30 or partially effective in his most recent annual summative
31 evaluation.

32 d. Information related to the evaluation of a particular
33 employee shall be maintained by the school district, shall be
34 confidential, and shall not be accessible to the public pursuant to
35 P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and supplemented.

36
37 **'[15.] 14.'** (New section) a. A board of education shall
38 implement a researched-based mentoring program that pairs
39 effective, experienced teachers with first-year teachers to provide
40 observation and feedback, opportunities for modeling, and
41 confidential support and guidance in accordance with the
42 Professional Standards for Teachers and the evaluation rubric.

43 b. The mentoring program shall: enhance teacher knowledge
44 of, and strategies related to, the core curriculum content standards
45 in order to facilitate student achievement and growth; identify
46 exemplary teaching skills and educational practices necessary to
47 acquire and maintain excellence in teaching; and assist first-year

1 teachers in the performance of their duties and adjustment to the
2 challenges of teaching. To the greatest extent feasible, mentoring
3 activities shall be developed in consultation with the school
4 improvement panels established pursuant to section ¹[13] 12¹ of
5 P.L. , c. (C.) (pending before the Legislature as this bill) in
6 order to be responsive to the unique needs of different teachers in
7 different instructional settings.

8
9 ¹[16.] 15¹ (New section) a. A board of education, principal, or
10 superintendent shall provide its teaching staff members with
11 ongoing professional development that supports student
12 achievement and with an individual professional development plan.
13 To the greatest extent feasible, professional development
14 opportunities shall be developed in consultation with the school
15 improvement panels established pursuant to section ¹[13] 12¹ of
16 P.L. , c. (C.) (pending before the Legislature as this bill) in
17 order to be responsive to the unique needs of different instructional
18 staff members in different instructional settings.

19 b. A board of education, principal, or superintendent shall
20 provide additional professional development for any teaching staff
21 member who fails or is struggling to meet the performance
22 standards established by the board, as documented in the teaching
23 staff member's annual summative evaluation. The additional
24 professional development shall be designed to correct the needs
25 identified in the annual summative evaluation.

26 A corrective action plan shall be developed by the teaching staff
27 member and a teaching staff member serving in a supervisory
28 capacity to address deficiencies outlined in the evaluation when the
29 employee is rated ineffective or partially effective. The corrective
30 action plan shall include timelines for corrective action and
31 responsibilities of the teaching staff member and the school district
32 for implementation of the plan.

33 c. All funds budgeted by a school district for professional
34 development shall be used primarily to provide the professional
35 development required pursuant to the provisions of P.L. , c. (C.)
36 (pending before the Legislature as this bill).

37
38 ¹[17.] 16¹ (New section) a. A school district shall annually
39 submit to the Commissioner of Education, for review and approval,
40 the evaluation rubrics that the district will use to assess the
41 effectiveness of its teachers, principals, assistant principals, and
42 vice-principals and all other teaching staff members. The board
43 shall ensure that an approved rubric meets the minimum standards
44 established by the State Board of Education.

45 b. Notwithstanding the provisions of subsection a. of this
46 section, a school district may choose to use the model evaluation
47 rubric established by the commissioner pursuant to subsection f. of

1 section ~~'[18] 17'~~ of P.L. , c. (C.) (pending before the
2 Legislature as this bill) to assess the effectiveness of its teachers,
3 principals, assistant principals, and vice-principals and all other
4 teaching staff members. In the case in which the district fails to
5 submit a rubric for review and approval, the model rubric shall be
6 used by the district to assess the effectiveness of its teachers,
7 principals, assistant principals, and vice-principals and all other
8 teaching staff members.

9
10 ~~'[18.] 17.'~~ (New section) a. The Commissioner of Education
11 shall review and approve evaluation rubrics submitted by school
12 districts pursuant to section ~~'[17] 16'~~ of P.L. , c. (C.)
13 (pending before the Legislature as this bill). The board of education
14 shall adopt a rubric approved by the commissioner.

15 b. The State Board of Education shall promulgate regulations
16 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
17 (C.52:14B-1 et seq.), to set standards for the approval of evaluation
18 rubrics for teachers, principals, assistant principals, and vice-
19 principals. The standards at a minimum shall include:

20 (1) four defined annual rating categories for teachers, principals,
21 assistant principals, and vice-principals: ineffective, partially
22 effective, effective, and highly effective;

23 (2) a provision requiring that the rubric be partially based on
24 multiple objective measures of student learning that use student
25 growth from one year's measure to the next year's measure;

26 (3) a provision that allows the district, in grades in which a
27 standardized test is not required, to determine the methods for
28 measuring student growth;

29 (4) ~~'[a provision that multiple measures of practice and student~~
30 ~~learning be used in rating effectiveness with specific measures and~~
31 ~~implementation processes]~~ a provision that multiple measures of
32 practice and student learning be used in conjunction with
33 professional standards of practice using a comprehensive evaluation
34 process in rating effectiveness with specific measures and
35 implementation processes. Standardized assessments shall be used
36 as a measure of student progress but shall not be the predominant
37 factor in the overall evaluation of a teacher';

38 (5) a provision that the rubric be based on the professional
39 standards for that employee;

40 (6) a provision ensuring that performance measures used in the
41 rubric are linked to student achievement;

42 (7) a requirement that the employee receive multiple
43 observations during the school year which shall be used in
44 evaluating the employee ~~'[~~, at least one annual summative
45 evaluation for the school year, and a conference with his superior or
46 superiors following this evaluation ~~']'~~;

1 (8) a provision that requires that at each observation of a
2 teacher, either the principal, his designee who ¹['is serving in a
3 supervisory capacity] shall be an individual employed in the district
4 in a supervisory role and capacity and who possesses a school
5 administrator certificate, principal certificate, or supervisor
6 certificate¹, the vice-principal, or the assistant principal shall be
7 present;

8 (9) an opportunity for the employee to improve his effectiveness
9 from ¹['routine']¹ evaluation feedback;

10 (10) guidelines for school districts regarding training and the
11 demonstration of competence on the evaluation system to support
12 its implementation;

13 (11) a process for ongoing monitoring and calibration of the
14 observations to ensure that the observation protocols are being
15 implemented correctly and consistently;

16 (12) a performance framework, associated evaluation tools, and
17 observation protocols, including training and observer calibration
18 resources;

19 (13) a process for a school district to obtain the approval of the
20 commissioner to utilize other evaluation tools; and

21 (14) a process for ensuring that the results of the evaluation help
22 to inform instructional development.

23 c. A board of education shall adopt a rubric approved by the
24 commissioner by December 31, 2012.

25 d. Beginning no later than January 31, 2013, a board of
26 education shall implement a pilot program to test and refine the
27 evaluation rubric.

28 e. Beginning with the 2013-2014 school year, a board of
29 education shall ensure implementation of the approved, adopted
30 evaluation rubric for all educators in all elementary, middle, and
31 high schools in the district. Results of evaluations shall be used to
32 identify and provide professional development to teaching staff
33 members. Results of evaluations shall be provided to the
34 commissioner, as requested, on a regular basis.

35 f. The commissioner shall establish a model evaluation rubric
36 that may be utilized by a school district to assess the effectiveness
37 of its teaching staff members.

38
39 ¹['19.] 18.¹ (New section) Any tenure charge transmitted to the
40 Office of Administrative Law pursuant to N.J.S.18A:6-16 prior to
41 the effective date of P.L. , c. (C.) (pending before the
42 Legislature as this bill) shall be determined in accordance with the
43 provisions of subarticle B of Article 2 of chapter 6 of Title 18A of
44 the New Jersey Statutes, N.J.S.18A:6-10 et seq., as the same read
45 prior to the effective date of P.L. , c. (C.) (pending before the
46 Legislature as this bill).

1 ~~'[20] 19.'~~¹ (New section) A school district's evaluation rubric
2 approved by the commissioner pursuant to section ~~'[17] 16'~~¹ of
3 P.L. , c. (C.) (pending before the Legislature as this bill)
4 shall not be subject to collective negotiations.

5
6 ~~'[21.] 20.'~~¹ (New section) The Department of Education shall
7 provide the funds necessary to effectuate the provisions of this act.

8
9 ~~'[22.] 21.'~~¹ (New section) No collective bargaining agreement
10 or other contract entered into by a school district after July 1, 2013
11 shall conflict with the educator evaluation system established
12 pursuant to P.L. , c. (C.) (pending before the Legislature as
13 this bill). A district with an existing collective bargaining
14 agreement on July 1 2013 which conflicts in whole or in part with
15 the educator evaluation system established pursuant to that act, shall
16 implement in accordance with that act those provisions not in
17 conflict with the collective bargaining agreement.

18 ~~'Notwithstanding the provisions of this act, aspects of evaluation~~
19 ~~not superseded by statute or regulation shall continue to be~~
20 ~~mandatory subjects of collective negotiations.~~¹

21
22 ~~'[23.] 22.'~~¹ (New section) a. The Commissioner of Education
23 shall maintain a panel of 25 permanent arbitrators to hear matters
24 pursuant to N.J.S.18A:6-16. Of the 25 arbitrators, eight arbitrators
25 shall be designated by the New Jersey Education Association, three
26 arbitrators shall be designated by the American Federation of
27 Teachers, nine arbitrators shall be designated by the New Jersey
28 School Boards Association, and five arbitrators shall be designated
29 by the New Jersey Principals and Supervisors Association. The
30 commissioner shall inform the appropriate designating entity when
31 a vacancy exists. If the appropriate entity does not designate an
32 arbitrator within 30 ~~'[business]'~~¹ days, the commissioner shall
33 designate an arbitrator to fill that vacancy.

34 All arbitrators designated pursuant to this section shall serve on
35 the American Arbitration Association panel of labor arbitrators and
36 shall be members of the National Academy of Arbitrators. The
37 arbitrators shall have knowledge and experience in the school
38 employment sector. Arbitrators on the permanent panel shall be
39 assigned by the commissioner randomly to hear cases.

40 b. The following provisions shall apply to a hearing conducted
41 by an arbitrator pursuant to N.J.S.18A:6-16, except as otherwise
42 provided pursuant to P.L. , c. (C.) (pending before the
43 Legislature as this bill):

44 (1) The hearing shall be held before the arbitrator within ~~'[30~~
45 ~~business] 45'~~¹ days of the assignment of the arbitrator to the case;

1 (2) The arbitrator shall receive no more than \$1250 per day
2 and no more than \$7500 per case. The costs and expenses of the
3 arbitrator shall be borne by the State of New Jersey;

4 (3) Upon referral of the case for arbitration, the employing
5 board of education shall provide all evidence including, but not
6 limited to, documents, electronic evidence, statements of witnesses,
7 and a list of witnesses with a complete summary of their testimony,
8 to the employee or the employee's representative. The employing
9 board of education shall be precluded from presenting any
10 additional evidence at the hearing, except for purposes of
11 impeachment of witnesses. At least 10 ¹['business'] days prior to
12 the hearing, the employee shall provide all evidence upon which he
13 will rely including, but not limited to, documents, electronic
14 evidence, statements of witnesses, and a list of witnesses with a
15 complete summary of their testimony, to the employing board of
16 education or its representative. The employee shall be precluded
17 from presenting any additional evidence at the hearing except for
18 purposes of impeachment of witnesses.

19 Discovery shall not include depositions, and interrogatories shall
20 be limited to 25 without subparts.

21 c. The arbitrator shall determine the case under the American
22 Arbitration Association labor arbitration rules. In the event of a
23 conflict between the American Arbitration Association labor
24 arbitration rules and the procedures established pursuant to this
25 section, the procedures established pursuant to this section shall
26 govern.

27 d. Notwithstanding the provisions of N.J.S.18A:6-25 or any
28 other section of law to the contrary, the arbitrator shall render a
29 written decision within ¹['30 business'] 45¹ days of the start of the
30 hearing.

31 e. ¹['An appeal of the'] The¹ arbitrator's determination shall be
32 final and binding and may not be appealable to the
33 ¹['Commissioner'] commissioner¹ or the State Board of Education.
34 The determination shall be subject to judicial review and
35 enforcement as provided pursuant to N.J.S.2A:24-7 through
36 N.J.S.2A:24-10.

37 ¹f. Timelines set forth herein shall be strictly followed; the
38 arbitrator or any involved party shall inform the commissioner of
39 any timeline that is not adhered to.

40 g. An arbitrator may not extend the timeline of holding a hearing
41 beyond 45 days of the assignment of the arbitrator to the case
42 without approval from the commissioner. An arbitrator may not
43 extend the timeline for rendering a written decision within 45 days
44 of the start of the hearing without approval from the commissioner.
45 Extension requests shall occur before the 41st day of the respective
46 timelines set forth herein. The commissioner shall approve or
47 disapprove extension requests within five days of receipt.

1 h. The commissioner may remove any arbitrator from an
2 arbitration case or an arbitration panel if an arbitrator does not
3 adhere to the timelines set forth herein without approval from the
4 commissioner. If the commissioner removes an arbitrator from an
5 arbitration case, the commissioner shall refer the case to a new
6 arbitrator within five days. The newly-assigned arbitrator shall
7 convene a new hearing and then render a written decision within 45
8 days of being referred the case.¹

9
10 ¹[24.] 23.¹ (New section) a. In the event that the matter before
11 the arbitrator pursuant to section ¹[23] 22¹ of this act is employee
12 inefficiency pursuant to section ¹[26] 25¹ of this act, in rendering a
13 decision the arbitrator shall only consider whether or not:

14 (1) the employee's evaluation failed to adhere substantially to
15 the evaluation process, including, but not limited to providing a
16 corrective action plan;

17 (2) there is a mistake of fact in the evaluation;

18 (3) the charges would not have been brought but for
19 considerations of political affiliation, nepotism, union activity,
20 discrimination as prohibited by State or federal law, or other
21 conduct prohibited by State or federal law; or

22 (4) the district's actions were arbitrary and capricious.

23 b. In the event that the employee is able to demonstrate that any
24 of the provisions of paragraph (1) through (4) of subsection a. of
25 this section are applicable, the arbitrator shall then determine if that
26 fact materially affected the outcome of the evaluation. If the
27 arbitrator determines that it did not materially affect the outcome of
28 the evaluation, the arbitrator shall render a decision in favor of the
29 board and the employee shall be dismissed.

30 c. The evaluator's determination as to the quality of an
31 employee's classroom performance shall not be subject to an
32 arbitrator's review.

33 d. The board of education shall have the ultimate burden of
34 demonstrating to the arbitrator that the statutory criteria for tenure
35 charges have been met.

36 e. The hearing shall be held before the arbitrator within ¹[30
37 business] 45¹ days of the assignment of the arbitrator to the case.
38 The arbitrator shall render a written decision within ¹[30 business]
39 45¹ days of the start of the hearing.

40
41 ¹[25.] 24.¹ (New section) The State Board of Education shall
42 promulgate regulations pursuant to the "Administrative Procedure
43 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), in accordance with an
44 expeditious time frame, to set standards for the approval of
45 evaluation rubrics for all teaching staff members, other than those
46 included under the provisions of subsection b. of section ¹[18] 17¹

1 of P.L. , c. (C.) (pending before the Legislature as this bill).
2 The standards at a minimum shall include: four defined annual
3 rating categories: ineffective, partially effective, effective, and
4 highly effective.

5

6 **'[26.] 25.'** (New section) a. Notwithstanding the provisions of
7 N.J.S.18A:6-11 or any other section of law to the contrary, in the
8 case of a teacher, principal, assistant principal, and vice-principal:

9 (1) the superintendent shall promptly file with the secretary of
10 the board of education a charge of inefficiency whenever the
11 employee is rated ineffective or partially effective in an annual
12 summative evaluation and the following year is rated ineffective in
13 the annual summative evaluation;

14 (2) if the employee is rated partially effective in two consecutive
15 annual summative evaluations or is rated ineffective in an annual
16 summative evaluation and the following year is rated partially
17 effective in the annual summative evaluation, the superintendent
18 shall promptly file with the secretary of the board of education a
19 charge of inefficiency, except that the superintendent upon a written
20 finding of exceptional circumstances may defer the filing of tenure
21 charges until after the next annual summative evaluation. If the
22 employee is not rated effective or highly effective on this annual
23 summative evaluation, the superintendent shall promptly file a
24 charge of inefficiency.

25 b. Within 30 **'[business]'** days of the filing, the board of
26 education shall forward a written charge to the commissioner,
27 unless the board determines that the evaluation process has not been
28 followed.

29 c. Notwithstanding the provisions of N.J.S.18A:6-16 or any
30 other section of law to the contrary, upon receipt of a charge
31 pursuant to subsection a. of this section, the commissioner shall
32 examine the charge. The individual against whom the charges are
33 filed shall have 10 **'[business]'** days to submit a written response
34 to the charges to the commissioner. The commissioner shall, within
35 five **'[business]'** days immediately following the period provided
36 for a written response to the charges, refer the case to an arbitrator
37 and appoint an arbitrator to hear the case, unless he determines that
38 the evaluation process has not been followed.

39 d. The only evaluations which may be used for purposes of this
40 section are those evaluations conducted in accordance with a rubric
41 adopted by the board and approved by the commissioner pursuant to
42 P.L. , c. (C.) (pending before the Legislature as this bill).

43

44 **'[27.] 26.'** (New section) The commissioner shall have the
45 authority to extend the timelines in the tenure charge process upon a
46 showing of exceptional circumstances.

1 ¹~~28.~~ 27.¹ The following section is repealed:
2 Section 1 of P.L.1998, c. 42 (C.52:14B-10.1).

3
4 ¹~~29.~~ 28.¹ This act shall take effect in the 2012-2013 school
5 year, except that section ¹~~18~~ 17¹ of this act shall take effect
6 immediately. The Department of Education shall take such
7 anticipatory administrative action in advance thereof as shall be
8 necessary for the implementation of this act.

9

10

11

12

13 _____
14 “Teacher Effectiveness and Accountability for the Children of
New Jersey (TEACHNJ) Act.”

SENATE, No. 1455

STATE OF NEW JERSEY
215th LEGISLATURE

INTRODUCED FEBRUARY 6, 2012

Sponsored by:
Senator M. TERESA RUIZ
District 29 (Essex)

SYNOPSIS

“Teacher Effectiveness and Accountability for the Children of New Jersey (TEACHNJ) Act.”

CURRENT VERSION OF TEXT

As introduced.



S1455 RUIZ

2

1 AN ACT concerning school employees, revising various parts of the
2 statutory law, and supplementing chapters 6 and 28 of Title 18A
3 of the New Jersey Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. (New section) This act shall be known and may be cited as
9 the "Teacher Effectiveness and Accountability for the Children of
10 New Jersey (TEACHNJ) Act."

11
12 2. (New section) The Legislature finds and declares:

13 a. The goal of this legislation is to raise student achievement
14 by improving instruction through the adoption of evaluations that
15 provide specific feedback to educators, inform the provision of
16 aligned professional development, and inform personnel decisions.

17 b. The New Jersey Supreme Court has found that a multitude
18 of factors play a vital role in the quality of a child's education,
19 including effectiveness in teaching methods and evaluations.
20 Changing the current evaluation system to focus on improved
21 student outcomes, including objective measures of student growth,
22 is critical to improving teacher effectiveness, raising student
23 achievement, and meeting the objectives of the federal "No Child
24 Left Behind Act of 2001."

25 c. Existing resources from federal, State, and local sources
26 should be used in ways consistent with this law.

27
28 3. N.J.S.18A:6-11 is amended to read as follows:

29 18A:6-11. Any charge made against any employee of a board of
30 education under tenure during good behavior and efficiency shall be
31 filed with the secretary of the board in writing, and a written
32 statement of evidence under oath to support such charge shall be
33 presented to the board. The board of education shall forthwith
34 provide such employee with a copy of the charge, a copy of the
35 statement of the evidence and an opportunity to submit a written
36 statement of position and a written statement of evidence under oath
37 with respect thereto. After consideration of the charge, statement of
38 position and statements of evidence presented to it, the board shall
39 determine by majority vote of its full membership whether there is
40 probable cause to credit the evidence in support of the charge and
41 whether such charge, if credited, is sufficient to warrant a dismissal
42 or reduction of salary. The board of education shall forthwith
43 notify the employee against whom the charge has been made of its
44 determination, personally or by certified mail directed to his last
45 known address. In the event the board finds that such probable

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

Matter underlined thus is new matter.

S1455 RUIZ

1 cause exists and that the charge, if credited, is sufficient to warrant
2 a dismissal or reduction of salary, then it shall forward such written
3 charge to the commissioner for a hearing pursuant to N.J.S. 18A:6-
4 16, together with a certificate of such determination. **【Provided,**
5 however, that if the charge is inefficiency, prior to making its
6 determination as to certification, the board shall provide the
7 employee with written notice of the alleged inefficiency, specifying
8 the nature thereto, and allow at least 90 days in which to correct and
9 overcome the inefficiency. **】** The consideration and actions of the
10 board as to any charge shall not take place at a public meeting.

11 (cf: P.L.1975, c. 304, s. 1)

12

13 4. N.J.S.18A:6-13 is amended to read as follows:

14 18A:6-13. If the board does not make such a determination
15 within 45 days after receipt of the written charge **【,** or within 45
16 days after the expiration of the time for correction of the
17 inefficiency, if the charge is of inefficiency**】**, the charge shall be
18 deemed to be dismissed and no further proceeding or action shall be
19 taken thereon.

20 (cf: N.J.S.18A:6-13)

21

22 5. N.J.S.18A:6-16 is amended to read as follows:

23 18A:6-16. Upon receipt of such a charge and certification, or of
24 a charge lawfully made to the commissioner, the commissioner or
25 the person appointed to act in the commissioner's behalf in the
26 proceedings shall examine the charges and certification. The
27 individual against whom the charges are certified shall have 15 days
28 to submit a written response to the charges to the commissioner.
29 Upon a showing of good cause, the commissioner may grant an
30 extension of time. The commissioner shall render a determination
31 on the sufficiency of charges and shall refer the case to the Office
32 of Administrative Law, if appropriate, as set forth below within
33 **【15】** 10 days immediately following the period provided for a
34 written response to the charges.

35 If, following receipt of the written response to the charges, the
36 commissioner is of the opinion that they are not sufficient to
37 warrant dismissal or reduction in salary of the person charged, he
38 shall dismiss the same and notify said person accordingly. If,
39 however, he shall determine that such charge is sufficient to warrant
40 dismissal or reduction in salary of the person charged, he shall
41 **【within 10 days of making that determination】** refer the case to the
42 Office of Administrative Law for further proceedings, except that
43 when a motion for summary decision has been made prior to that
44 time, the commissioner may retain the matter for purposes of
45 deciding the motion.

46 (cf: P.L.1998, c.42, s.2)

S1455 RUIZ

1 6. N.J.S.18A:28-5 is amended to read as follows:

2 18A:28-5. a. The services of all teaching staff members
3 employed prior to the effective date of P.L. , c. (C.) (pending
4 before the Legislature as this bill) in the positions of teacher,
5 principal, other than administrative principal, assistant principal,
6 vice-principal, assistant superintendent, and all school nurses
7 including school nurse supervisors, head school nurses, chief school
8 nurses, school nurse coordinators, and any other nurse performing
9 school nursing services, school athletic trainer and such other
10 employees as are in positions which require them to hold
11 appropriate certificates issued by the board of examiners, serving in
12 any school district or under any board of education, excepting those
13 who are not the holders of proper certificates in full force and effect
14 and school business administrators shared by two or more school
15 districts, shall be under tenure during good behavior and efficiency
16 and they shall not be dismissed or reduced in compensation except
17 for inefficiency, incapacity, or conduct unbecoming such a teaching
18 staff member or other just cause and then only in the manner
19 prescribed by subarticle B of article 2 of chapter 6 of this Title,
20 after employment in such district or by such board for:

21 **[(a)]** (1) Three consecutive calendar years, or any shorter period
22 which may be fixed by the employing board for such purpose; or

23 **[(b)]** (2) Three consecutive academic years, together with
24 employment at the beginning of the next succeeding academic year;
25 or

26 **[(c)]** (3) The equivalent of more than three academic years
27 within a period of any four consecutive academic years.

28 b. The services of all teaching staff members employed on or
29 after the effective date of P.L. , c. (C.) (pending before the
30 Legislature as this bill) in the position of assistant superintendent,
31 school nurse, including school nurse supervisors, head school
32 nurses, chief school nurses, school nurse coordinators, and any
33 other nurse performing school nursing services, school athletic
34 trainer and such other employees as are in positions which require
35 them to hold appropriate certificates issued by the board of
36 examiners, serving in any school district or under any board of
37 education, excepting employees in the position of teacher, principal,
38 assistant principal, and vice-principal, those who are not the holders
39 of proper certificates in full force and effect, and school business
40 administrators shared by two or more school districts, shall be
41 under tenure during good behavior and efficiency and they shall not
42 be dismissed or reduced in compensation except for inefficiency,
43 incapacity, or conduct unbecoming such a teaching staff member or
44 other just cause and then only in the manner prescribed by
45 subarticle B of article 2 of chapter 6 of this Title, after employment
46 in such district or by such board for:

47 (1) Three consecutive calendar years, or any shorter period
48 which may be fixed by the employing board for such purpose; or

1 (2) Three consecutive academic years, together with
2 employment at the beginning of the next succeeding academic year;
3 or

4 (3) The equivalent of more than three academic years within a
5 period of any four consecutive academic years.

6 c. The services of all teaching staff members employed on or
7 after the effective date of P.L. , c. (C.)(pending before the
8 Legislature as this bill) by a district or a board in the position of
9 teacher, principal, other than administrative principal, assistant
10 principal, and vice-principal shall be under tenure during good
11 behavior and efficiency and they shall not be dismissed or reduced
12 in compensation except for inefficiency, incapacity, or conduct
13 unbecoming such a teaching staff member or other just cause and
14 then only in the manner prescribed by subarticle B of article 2 of
15 chapter 6 of this Title, after the employee receives a rating of
16 effective or highly effective in each of three consecutive annual
17 summative evaluations with the first effective rating being received
18 on or after the completion of the second year of employment.

19 In order to achieve tenure pursuant to this subsection, a teacher
20 shall also complete a district mentorship program during the initial
21 year of employment.

22 For purposes of this subsection, “effective” or “highly effective”
23 means the employee has received an annual summative evaluation
24 rating of “effective” or “highly effective” based on the performance
25 standards for his position established through the evaluation rubric
26 adopted by the board of education and approved by the
27 commissioner.

28 d. For purposes of this chapter, tenure in any of the
29 administrative or supervisory positions enumerated herein shall
30 accrue only by employment in that administrative or supervisory
31 position. Tenure so accrued shall not extend to any other
32 administrative or supervisory position and nothing herein shall limit
33 or restrict tenure rights which were or may be acquired pursuant to
34 N.J.S.18A:28-6 in a position in which the individual actually
35 served.

36 (cf: P.L.1999, c.87, s.3)

37

38 7. N.J.S.18A:28-6 is amended to read as follows:

39 18A:28-6. Any such teaching staff member under tenure or
40 eligible to obtain tenure under this chapter, who is transferred or
41 promoted with his consent to another position covered by this
42 chapter on or after July 1, 1962, shall not obtain tenure in the new
43 position until after:

44 (a) the expiration of a period of employment of two consecutive
45 calendar years in the new position unless a shorter period is fixed
46 by the employing board for such purpose; or

1 (b) employment for two academic years in the new position
2 together with employment in the new position at the beginning of
3 the next succeeding academic year; or

4 (c) employment in the new position within a period of any three
5 consecutive academic years, for the equivalent of more than two
6 academic years;

7 provided that the period of employment in such new position
8 shall be included in determining the tenure and seniority rights in
9 the former position held by such teaching staff member, and in the
10 event the employment in such new position is terminated before
11 tenure is obtained therein, if he then has tenure in the district or
12 under said board of education, such teaching staff member shall be
13 returned to his former position at the salary which he would have
14 received had the transfer or promotion not occurred together with
15 any increase to which he would have been entitled during the period
16 of such transfer or promotion.

17 In order to receive tenure pursuant to this section, a teacher,
18 principal, assistant principal, or vice-principal shall be evaluated as
19 effective or highly effective in three consecutive annual summative
20 evaluations.

21 For purposes of this subsection, “effective” or “highly effective”
22 means the employee has received an annual summative evaluation
23 rating of “effective” or “highly effective” based on the performance
24 standards for his position established through the evaluation rubric
25 adopted by the board of education and approved by the
26 commissioner.

27 (cf: N.J.S.18A:28-6)

28

29 8. N.J.S.18A:28-10 is amended to read as follows:

30 18A:28-10. **【Dismissals】** Except as otherwise provided in
31 section 23 of P.L. , c. (C.) (pending before the Legislature as
32 this bill), dismissals resulting from any such reduction shall not be
33 made by reason of residence, age, sex, marriage, race, religion or
34 political affiliation but shall be made on the basis of seniority
35 according to standards to be established by the commissioner with
36 the approval of the state board.

37 (cf: N.J.S.18A:28-10)

38

39 9. N.J.S. 18A:28-12 is amended to read as follows:

40 18A:28-12. **【If】** Except as otherwise provided in section 23 of
41 P.L. , c. (C.) (pending before the Legislature as this bill), if
42 any teaching staff member shall be dismissed as a result of such
43 reduction, such person shall be and remain upon a preferred eligible
44 list in the order of seniority for reemployment whenever a vacancy
45 occurs in a position for which such person shall be qualified and he
46 shall be reemployed by the body causing dismissal, if and when
47 such vacancy occurs and in determining seniority, and in computing
48 length of service for reemployment, full recognition shall be given

1 to previous years of service, and the time of service by any such
2 person in or with the military or naval forces of the United States or
3 of this State, subsequent to September 1, 1940, and the time of
4 service of any member of the American Merchant Marine during
5 World War II who is declared by the United States Department of
6 Defense to be eligible for federal veterans' benefits, shall be
7 credited to him as though he had been regularly employed in such a
8 position within the district during the time of such military or naval
9 service, except that the period of that service shall not be credited
10 toward more than four years of employment or seniority credit.

11 (cf: P.L.1991, c.389, s.3)

12

13 10. (New section) A teacher, principal, assistant principal, or
14 vice-principal under tenure pursuant to State law who accepts
15 employment in the same position in an underperforming school
16 district shall be under tenure in that position in the new district
17 during good behavior and efficiency and shall not be dismissed or
18 reduced in compensation except for inefficiency, incapacity, or
19 conduct unbecoming such a teaching staff member or other just
20 cause and then only in the manner prescribed by subarticle B of
21 article 2 of chapter 6 of this Title, after the employee receives a
22 rating of effective or highly effective in each of two consecutive
23 annual summative evaluations.

24 For purposes of this subsection, "effective" or "highly effective"
25 means the employee has received an annual summative evaluation
26 rating of "effective" or "highly effective" based on the performance
27 standards for his position established through the evaluation rubric
28 adopted by the board of education and approved by the
29 commissioner.

30

31 11. (New section) Notwithstanding N.J.S.18A:6-17 or any other
32 section of law to the contrary, any tenure charge transmitted to the
33 Office of Administrative Law pursuant to N.J.S.18A:6-16 shall be
34 adjudicated in an expeditious and timely manner as follows:

35 a. The initial hearing on the charge shall commence within 30
36 days of its transmittal to the Office of Administrative Law.

37 b. Upon transmittal of the charge, the employing board of
38 education shall provide all evidence to the employee or the
39 employee's representative. At least 10 days prior to the hearing, the
40 employee shall provide all evidence upon which he will rely to the
41 employing board of education or its representative. Both parties
42 shall be precluded from presenting any additional evidence at the
43 hearing except for purposes of impeachment of witnesses.

44 c. Notwithstanding the provisions of N.J.S.18A:6-25 or any
45 other section of law to the contrary, the final determination on the
46 controversy or dispute shall be rendered within 30 days of the start
47 of the hearing by the administrative law judge.

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1 12. (New section) a. If the decision of the administrative law
2 judge is in support of the tenure charges, the Commissioner of
3 Education shall notify the State Board of Examiners, in writing, of
4 the decision.

5 b. The State Board of Examiners shall only review a tenure
6 charge case referred to an administrative law judge pursuant to
7 N.J.S.18A:6-16 if it has received notification pursuant to subsection
8 a. of this section.

9
10 13. (New section) For the purposes of sections 14 through 18 of
11 P.L. , c. (C.) (pending before the Legislature as this bill),
12 “ineffective” or “partially effective” means the employee receives
13 an annual summative evaluation rating of “ineffective” or “partially
14 effective” based on the performance standards for his position
15 established through the evaluation rubric adopted by the board of
16 education and approved by the commissioner.

17
18 14. (New section) a. In order to ensure the effectiveness of its
19 teachers, each school shall convene a school improvement panel. A
20 panel shall include the principal, an assistant or vice-principal, and
21 a teacher from the district who shall not be employed at the school
22 at which the panel is convened. The teacher shall be a person with
23 a demonstrated record of success in the classroom. An individual
24 teacher shall not serve more than three consecutive years on any
25 one school improvement panel. In the event that an assistant or
26 vice-principal is not available to serve on the panel, the principal
27 shall appoint an additional member to the panel.

28 b. The panel shall oversee the mentoring of teachers and
29 conduct evaluations of teachers, including an annual summative
30 evaluation. The panel shall also identify professional development
31 opportunities for all instructional staff members that are tailored to
32 meet the unique needs of the students and staff of the school.

33 c. The panel shall conduct a mid-year evaluation of any
34 employee in the position of teacher who is evaluated as ineffective
35 or partially ineffective in his most recent annual summative
36 evaluation.

37 d. Information related to the evaluation of a particular
38 employee shall be maintained by the school district, shall be
39 confidential, and shall not be accessible to the public pursuant to
40 P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and supplemented.

41
42 15. (New section) a. In order to ensure the effectiveness of the
43 schools in the district, the superintendent of schools or his designee
44 shall conduct evaluations of each principal employed by the school
45 district, including an annual summative evaluation.

46 b. The principal, in conjunction with the superintendent or his
47 designee, shall conduct evaluations of each assistant principal and

1 vice-principal employed in his school, including an annual
2 summative evaluation.

3 c. The superintendent or his designee and the principal, as
4 appropriate, shall conduct a mid-year evaluation of any principal,
5 assistant principal, or vice-principal who is evaluated as ineffective
6 or partially effective in his most recent annual summative
7 evaluation.

8 d. Information related to the evaluation of a particular
9 employee shall be maintained by the school district, shall be
10 confidential, and shall not be accessible to the public pursuant to
11 P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and supplemented.

12
13 16. (New section) a. The superintendent shall identify the pool
14 of qualified candidates from which the principal shall select
15 teachers, assistant principals, and vice-principals for his school.

16 Notwithstanding the provisions of section 1 of P.L.1995, c.125
17 (C.18A:27-4.1) to the contrary, a superintendent of schools may not
18 recommend a candidate for employment as a teacher, assistant
19 principal, or vice-principal to the board of education for
20 appointment as a new employee of the district without the consent
21 of the principal of the school at which the employee will be
22 assigned upon employment.

23 b. Except as otherwise provided pursuant to N.J.S.18A:28-10,
24 an employee in the position of teacher, assistant principal, or vice-
25 principal may be assigned to another school in the district only with
26 the mutual consent of the principal and the employee. The school
27 improvement panel may make recommendations to the principal on
28 the assignment of an employee, but it shall be the responsibility of
29 the principal to make a formal determination on the assignment.

30 In the event that no principal in the district consents to the
31 assignment of a teacher, assistant principal or vice-principal, and
32 the person in the prior school year was rated effective or highly
33 effective, the person shall be placed in the priority hiring pool in
34 accordance with the provisions of section 23 of P.L. ,c. (C.)
35 (pending before the Legislature as this act).

36 c. Notwithstanding any provision of law to the contrary, the
37 principal shall revoke the tenure granted to an employee in the
38 position of teacher, assistant principal, or vice-principal, regardless
39 of when the employee acquired tenure, if the employee is evaluated
40 as ineffective or partially effective in one year's annual summative
41 evaluation and in the next year's annual summative evaluation the
42 employee does not show improvement by being evaluated in a
43 higher rating category. The only evaluations which may be used by
44 the principal for tenure revocation are those evaluations conducted
45 in the 2013-2014 school year and thereafter which use the rubric
46 adopted by the board and approved by the commissioner. The
47 school improvement panel may make recommendations to the
48 principal on a teacher's tenure revocation.

1 d. The revocation of the tenure status of a teacher, assistant
2 principal, or vice-principal shall not be subject to grievance or
3 appeal except where the ground for the grievance or appeal is that
4 the principal failed to adhere substantially to the evaluation process.
5 Any such appeal initiated by an employee shall be directed to an
6 administrative law judge within 30 days of the revocation of the
7 employee's tenure status. The appeal shall be reviewed by an
8 administrative law judge within 30 days of the receipt of the appeal.

9 e. Information related to the revocation of an individual
10 employee's tenure status shall be maintained by the school district,
11 shall be confidential, and shall not be accessible to the public
12 pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and
13 supplemented.

14 f. Notwithstanding any provision of law to the contrary, in the
15 case of all nontenured teachers, assistant principals or vice-
16 principals, including those whose tenure is revoked pursuant to this
17 section, the principal shall have the sole authority to determine to
18 terminate the employment of that person or not renew the
19 employment contract. The principal shall inform the superintendent
20 of his determination and that determination by the principal may not
21 be overruled by the superintendent or the board of education.

22
23 17. (New section) a. Notwithstanding any provision of law to
24 the contrary, the superintendent, or a designee with expertise in
25 school district personnel, shall revoke the tenure granted to a
26 principal, regardless of when the principal acquired tenure, if the
27 principal is evaluated as ineffective or partially effective in one
28 year's annual summative evaluation and in the next year's annual
29 summative evaluation the principal does not show improvement by
30 being evaluated in a higher rating category. The only evaluations
31 which may be used by the superintendent or a designee for tenure
32 revocation are those evaluations conducted in the 2013-2014 school
33 year and thereafter which use the rubric adopted by the board and
34 approved by the commissioner.

35 b. Except as otherwise provided pursuant to N.J.S.18A:28-10, a
36 principal may be assigned to another school in the district only with
37 the mutual consent of the principal and the superintendent.

38 c. Notwithstanding the provisions of section 1 of P.L.1995,
39 c.125 (C.18A:27-4.1) to the contrary, a superintendent of schools
40 may not recommend a candidate for employment as a principal to
41 the board of education for appointment as a new employee of the
42 district without the consent of the candidate to a particular school
43 assignment upon employment.

44 d. The revocation of the tenure status of a principal shall not be
45 subject to grievance or appeal except where the ground for the
46 grievance or appeal is that the superintendent or designee failed to
47 adhere substantially to the evaluation process. Any such appeal
48 initiated by a principal shall be made to an administrative law judge

1 within 30 days of the revocation of the principal's tenure status. The
2 appeal shall be reviewed by an administrative law judge within 30
3 days of the receipt of the appeal.

4 e. Information related to the revocation of an individual
5 principal's tenure status shall be maintained by the school district,
6 shall be confidential, and shall not be accessible to the public
7 pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and
8 supplemented.

9
10 18. (New section) A teacher, principal, assistant principal, or
11 vice-principal whose tenure is revoked pursuant to the provisions of
12 section 16 or 17 of P.L. , c. (C.) (pending before the
13 Legislature as this bill) shall reacquire tenure in that position, in the
14 event that a determination has been made to continue his
15 employment in the district, during good behavior and efficiency and
16 shall not be dismissed or reduced in compensation except for
17 inefficiency, incapacity, or conduct unbecoming such a teaching
18 staff member or other just cause and then only in the manner
19 prescribed by subarticle B of article 2 of chapter 6 of this Title,
20 after the employee receives a rating of effective or highly effective
21 in each of two consecutive annual summative evaluations.

22
23 19. (New section) a. A board of education shall implement a
24 researched-based mentoring program that pairs effective,
25 experienced teachers with first-year teachers to provide observation
26 and feedback, opportunities for modeling, and confidential support
27 and guidance in accordance with the Professional Standards for
28 Teachers and the evaluation rubric.

29 b. The mentoring program shall: enhance teacher knowledge
30 of, and strategies related to, the core curriculum content standards
31 in order to facilitate student achievement and growth; identify
32 exemplary teaching skills and educational practices necessary to
33 acquire and maintain excellence in teaching; and assist first-year
34 teachers in the performance of their duties and adjustment to the
35 challenges of teaching. To the greatest extent feasible, mentoring
36 activities shall be developed in consultation with the school
37 improvement panels established pursuant to section 14 of P.L. , c.
38 (C.) (pending before the Legislature as this bill) in order to be
39 responsive to the unique needs of different teachers in different
40 instructional settings.

41
42 20. (New section) a. A board of education shall provide its
43 teaching staff members with ongoing professional development that
44 supports student achievement. To the greatest extent feasible,
45 professional development opportunities shall be developed in
46 consultation with the school improvement panels established
47 pursuant to section 14 of P.L. , c. (C.) (pending before the
48 Legislature as this bill) in order to be responsive to the unique

1 needs of different instructional staff members in different
2 instructional settings.

3 b. A board of education shall provide additional professional
4 development for any teaching staff member who fails or is
5 struggling to meet the performance standards established by the
6 board, as documented in the teaching staff member's annual
7 summative evaluation. The additional professional development
8 shall be designed to correct the needs identified in the annual
9 summative evaluation.

10 c. All funds budgeted by a school district for professional
11 development shall be used primarily to provide the professional
12 development required pursuant to the provisions of P.L. , c. (C.)
13 (pending before the Legislature as this bill).

14

15 21. (New section) a. A school district shall annually submit to
16 the Commissioner of Education, for review and approval, the
17 evaluation rubrics that the district will use to assess the
18 effectiveness of its teachers, principals, assistant principals, and
19 vice-principals. The board shall ensure that an approved rubric
20 meets the minimum standards established by the State Board of
21 Education.

22 b. Notwithstanding the provisions of subsection a. of this
23 section, a school district may choose to use the model evaluation
24 rubric established by the commissioner pursuant to subsection f. of
25 section 22 of P.L. , c. (C.) (pending before the Legislature as
26 this bill) to assess the effectiveness of its teachers, principals,
27 assistant principals, and vice-principals. In the case in which the
28 district fails to submit a rubric for review and approval, the model
29 rubric shall be used by the district to assess the effectiveness of its
30 teachers, principals, assistant principals, and vice-principals.

31

32 22. (New section) a. The Commissioner of Education shall
33 review and approve evaluation rubrics submitted by school districts
34 pursuant to section 21 of P.L. , c. (C.) (pending before the
35 Legislature as this bill).

36 b. The State Board of Education shall promulgate regulations
37 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
38 (C.52:14B-1 et seq.) to set standards for the approval of evaluation
39 rubrics for teachers, principals, assistant principals, and vice-
40 principals. The standards at a minimum shall include:

41 (1) four defined annual rating categories for teachers, principals,
42 assistant principals, and vice-principals: ineffective, partially
43 effective, effective, and highly effective;

44 (2) a provision requiring that the rubric be partially based on
45 multiple objective measures of student learning that use student
46 growth from one year's quantifiable measure to the next year's
47 quantifiable measure;

- 1 (3) a provision that allows the district, in grades in which a
2 standardized test is not required, to determine the method for
3 measuring student growth;
 - 4 (4) a provision that multiple measures of practice and student
5 learning be used in rating effectiveness with specific measures and
6 implementation processes;
 - 7 (5) a provision that the rubric be based on the professional
8 standards for that employee;
 - 9 (6) a provision ensuring that all performance measures used in
10 the rubric are linked to student achievement;
 - 11 (7) a requirement that the employee receive multiple
12 observations during the school year which shall be used in
13 evaluating the employee, at least one annual summative evaluation
14 for the school year, and a conference with his superior or superiors
15 following this evaluation;
 - 16 (8) a provision that requires that at each observation of a
17 teacher, either the principal, the vice-principal, or the assistant
18 principal shall be present;
 - 19 (9) an opportunity for the employee to improve his effectiveness
20 from routine evaluation feedback;
 - 21 (10) guidelines for school districts regarding training on the
22 evaluation system to support its implementation;
 - 23 (11) a process for ongoing monitoring and calibration of the
24 observations to ensure that the observation protocols are being
25 implemented correctly and consistently;
 - 26 (12) a performance framework, associated evaluation tools, and
27 observation protocols, including training and observer calibration
28 resources; and
 - 29 (13) a process for a school district to obtain the approval of the
30 commissioner to utilize other evaluation tools.
- 31 c. A board of education shall adopt a rubric approved by the
32 commissioner by December 31, 2012.
 - 33 d. Beginning no later than January 31, 2013, a board of
34 education shall implement a pilot program to test and refine the
35 evaluation rubric.
 - 36 e. Beginning with the 2013-2014 school year, a board of
37 education shall ensure implementation of the approved, adopted
38 evaluation rubric for all educators in all elementary, middle, and
39 high schools in the district. Results of evaluations shall be used to
40 identify and provide professional development to teaching staff
41 members. Results of evaluations shall be provided to the
42 commissioner, as requested, on a regular basis.
 - 43 f. The commissioner shall establish a model evaluation rubric
44 that may be utilized by a school district to assess the effectiveness
45 of its teachers, principals, assistant principals, and vice-principals.
 - 46
 - 47 23. (New section) a. Beginning with the 2014-2015 school
48 year, in the event of a reduction in force, tenured and nontenured

1 teachers, principals, assistant principals and vice-principals, other
2 than those who acquired tenure prior to the effective date of P.L. ,
3 c. (C.) (pending before the Legislature as this bill) and
4 continuously maintain their tenure, shall be dismissed based on
5 district and school needs in each certification area, and then in the
6 following order:

7 (1) rating of ineffective on the annual summative evaluation
8 from the previous school year, and then on the basis of seniority;

9 (2) rating of partially effective on the annual summative
10 evaluation from the previous school year, and then on the basis of
11 seniority;

12 (3) rating of effective on the annual summative evaluation from
13 the previous school year, and then on the basis of seniority;

14 (4) rating of highly effective on the annual summative
15 evaluation from the previous school year, and then on the basis of
16 seniority.

17 b. Beginning in the 2014-2015 school year, in the event of a
18 reduction in force for a teacher, principal, assistant principal or
19 vice-principal or the inability of a principal and teacher, assistant
20 principal or vice-principal to reach mutual consent on the
21 assignment of the employee to a school pursuant to subsection a. of
22 section 16 of P.L. ,c. (C.) (pending before the Legislature as
23 this bill), a teacher, principal, assistant principal or vice principal
24 who has acquired tenure on or after the effective date of P.L. ,
25 c. (C.) (pending before the Legislature as this bill) whose
26 position is eliminated due to a reduction in force or who is unable to
27 be assigned to a school due to the inability of the principal and the
28 employee to reach mutual consent, shall be designated by the school
29 district as a member of a priority hiring pool. A member of a
30 priority hiring pool shall be provided an opportunity to interview
31 for vacant in-district teaching positions for which he is qualified
32 before a principal may consider outside applicants. In order to
33 qualify as a member of the priority hiring pool, the employee shall
34 have received an effective or highly effective rating on the prior
35 school year's annual summative evaluation.

36 c. A member of the priority hiring pool shall continue to
37 receive his salary and benefits in the 12 months following
38 designation as a member of the pool or until such time as he secures
39 another position within the district or submits his resignation.

40 d. Notwithstanding any provision of law to the contrary, in the
41 event that the teacher has not secured an in-district teaching
42 position within 12 months following designation as a member of the
43 pool, the district shall place the teacher on an unpaid leave of
44 absence. The teacher shall remain a member of the priority hiring
45 pool until such time as he secures employment in the district.

46 e. In the event that a member of a priority hiring pool secures
47 employment in the district in a position that is comparable to the
48 position that he previously held, the district shall compensate the

1 member at the same level that was received during his employment
2 in the position that he previously held.

3
4 24. (New section) Any tenure charge transmitted to the Office
5 of Administrative Law pursuant to N.J.S.18A:6-16 prior to the
6 effective date of P.L. , c. (C.) (pending before the Legislature
7 as this bill) shall be determined in accordance with the provisions of
8 subarticle B of Article 2 of chapter 6 of Title 18A of the New Jersey
9 Statutes, N.J.S.18A:6-10 et seq., as the same read prior to the
10 effective date of P.L. , c. (C.) (pending before the Legislature
11 as this bill).

12
13 25. (New section) The provisions of N.J.S.18A:28-5, N.J.S.
14 18A:28-6, and section 10 and sections 13 through 22 of the
15 “Teacher Effectiveness and Accountability for the Children of New
16 Jersey (TEACHNJ) Act,” P.L. , c. (C.) (pending before the
17 Legislature as this bill) shall apply to a charter school that is
18 established pursuant to P.L.1995, c.426 (C.18A:36A-1 et seq.).

19
20 26. (New section) A school district’s evaluation rubric
21 approved by the commissioner pursuant to section 21 of P.L. , c.
22 (C.) (pending before the Legislature as this bill) shall not be
23 subject to collective negotiations.

24
25 27. (New section) The Department of Education shall provide
26 the funds necessary to effectuate the provisions of this act.

27
28 28. (New section) No collective bargaining agreement or other
29 contract entered into by a school district after July 1, 2013 shall
30 conflict with the educator evaluation system established pursuant to
31 P.L. , c. (C.) (pending before the Legislature as this bill). A
32 district with an existing collective bargaining agreement on July 1
33 2013 which conflicts in whole or in part with the educator
34 evaluation system established pursuant to that act, shall implement
35 in accordance with that act those provisions not in conflict with the
36 collective bargaining agreement.

37
38 29. The following section is repealed:
39 Section 1 of P.L.1998, c. 42 (C.52:14B-10.1).

40
41 30. This act shall take effect in the 2013-2014 school year,
42 except that section 22 of this act shall take effect immediately. The
43 Department of Education shall take such anticipatory administrative
44 action in advance thereof as shall be necessary for the
45 implementation of this act.

STATEMENT

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This bill requires each school district to annually submit to the Commissioner of Education the evaluation rubric that the district will use to assess the effectiveness of its teachers, principals, assistant principals, and vice-principals. The district may use the model rubric which the commissioner is required to establish or it may use one that meets the minimum standards provided in the bill.

Under current law, teachers, principals, and other teaching staff members whose positions require that they hold a certificate issued by the State Board of Examiners receive tenure after completing three years of employment in a school district. This bill provides that a person who is employed as a teacher, principal, assistant principal, or vice-principal on or after the bill's effective date will receive tenure after the employee receives a rating of effective or highly effective in each of three consecutive annual summative evaluations, with the first effective rating being received on or after the completion of the second year of employment. This means that, under the bill, a newly hired employee in one of these positions could qualify for tenure after 4 or more years of employment in the district, depending on his evaluations. Also, in the case of a teacher, he must complete a mentorship program in the first year of employment. All other school district employees currently eligible for tenure will be able to obtain tenure after a three-year period of employment, as established by existing law.

The bill provides that a teacher, principal, assistant principal, or vice-principal who is transferred or promoted to another position in the same district must be evaluated as effective or highly effective in three consecutive annual summative evaluations in order to qualify for tenure in the new position. In the case of any teacher, principal, assistant principal, or vice-principal under tenure who accepts employment in the same position in an underperforming school district, that person will be eligible for tenure after being evaluated as effective or highly effective in two consecutive annual summative evaluations.

The bill provides for mutual consent by the principal and a teacher, assistant principal and vice-principal for assignment to another school in the district. If no principal consents to an employee's placement, and that employee was rated effective or highly effective in the prior year, then the employee would be placed in a priority hiring pool, in accordance with the provisions of the bill. The superintendent will identify a pool of qualified candidates from which the principal will select teachers, assistant principals, and vice-principals for his school. In the case of a candidate for employment for teacher, assistant or vice-principal in a district, the bill provides that the superintendent may not recommend that person to the board of education for appointment in the district without the consent of the principal of the school at

1 which the person will be assigned upon appointment. In the case of
2 a principal, both the principal and the superintendent must consent
3 to the assignment of the principal to a particular school. In
4 addition, when a person is a candidate for employment as a
5 principal in the district, the superintendent may not recommend the
6 person to the board of education for appointment without the
7 consent of the candidate to a particular school assignment upon
8 employment.

9 In order to ensure the effectiveness of its teachers, the bill directs
10 each school to convene a school improvement panel. The panel will
11 include the principal, an assistant or vice-principal, and a teacher
12 who will not be employed at the school at which the panel is
13 convened. The panel will: oversee the mentoring of teachers;
14 conduct evaluations of teachers; and identify professional
15 development opportunities for all instructional staff members.

16 Under the bill the principal must revoke the tenure granted to an
17 employee in the position of teacher, assistant principal, or vice-
18 principal, regardless of when the employee acquired tenure, if the
19 employee is evaluated as ineffective or partially effective in one
20 year's annual summative evaluation and in the next year's annual
21 summative evaluation the employee does not show improvement.
22 Similarly, the bill provides that the superintendent, or his designee,
23 must revoke a principal's tenure, regardless of when the principal
24 acquired tenure, if the principal is evaluated as ineffective or
25 partially effective in one year's annual summative evaluation and in
26 the next year's annual summative evaluation the principal does not
27 show improvement. Under the bill, the revocation of the tenure
28 status of a teacher, principal, assistant principal, or vice-principal
29 will not be subject to grievance or appeal except where the ground
30 for the grievance or appeal is that the principal, superintendent or
31 the superintendent's designee failed to adhere substantially to the
32 evaluation process.

33 The bill provides that, beginning in the 2014-2015 school year,
34 in the event of a reduction in force or the inability of a teacher,
35 assistant principal or vice-principal to reach mutual consent on the
36 assignment of the employee, the employee who acquires tenure on
37 or after the effective date of the bill and whose position was
38 eliminated due to a reduction in force or who is unable to be
39 assigned to a school due to the inability of the principal and
40 employee to reach mutual consent, must be designated by the
41 school district as a member of a priority hiring pool. A member of
42 a priority hiring pool must be provided an opportunity to interview
43 for vacant in-district teaching positions for which he is qualified
44 before a principal may consider outside applicants. A member will
45 continue to receive his salary and benefits in the 12 months
46 following placement in the pool, or until such time as he secures
47 another position within the district or submits his resignation. In
48 the event that the teacher has not secured an in-district teaching

1 position within 12 months of being placed in the pool, the district
2 will place the teacher on an unpaid leave of absence but will keep
3 him in the priority hiring pool until such time as he secures
4 employment in the district.

5 Under the bill, each board of education must:

- 6 • implement a mentoring program in which effective
7 experienced teachers are paired with first-year teachers to
8 provide confidential support and guidance;
- 9 • provide its teaching staff members with ongoing
10 professional development and provide additional
11 professional development for any teaching staff member
12 who fails or is struggling to meet the performance
13 standards established by the board for his job.

14 This bill streamlines the process under the current tenure hearing
15 laws by establishing timelines designed to expedite the process.
16 The bill shortens the timeframe under which the Commissioner of
17 Education must render a determination on the sufficiency of a
18 tenure charge and refer the case to the Office of Administrative Law
19 from a 25-day period to a 10-day period. The bill provides that the
20 hearing on a tenure charge before an administrative law judge will
21 be held within 30 days of the transmittal of the charge to the Office
22 of Administrative Law. The bill further provides that the final
23 determination on the charge will be made by an administrative law
24 judge rather than the Commissioner of Education and such
25 determination must be made within 30 days of the start of the
26 hearing. Under current law, a determination of any controversy or
27 dispute must be made within 60 days after the close of the hearing.
28 The bill also provides that the State Board of Examiners may only
29 review those tenure cases in which the administrative law judge's
30 findings were in support of the charges.

31 The bill repeals section 1 of P.L.1998, c.42 (C.52:14B-10.1),
32 which outlines the procedure tenure cases currently follow when
33 referred to the Office of Administrative Law.

34 The provisions of this bill will take effect in the 2013-2014
35 school year, except that the provision of the bill that sets forth the
36 requirements of the new evaluation rubric will take effect
37 immediately.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1455**

STATE OF NEW JERSEY

DATED: JUNE 18, 2012

The Senate Budget and Appropriations Committee reports favorably Senate Committee Substitute to Senate Bill No. 1455.

The committee substitute requires each school district to submit annually to the Commissioner of Education, for review and approval, an evaluation rubric that the district will use to assess the effectiveness of its teaching staff members. The district may use the model rubric which the commissioner is required to establish or it may use one that meets the minimum standards provided in the substitute. A board of education must: adopt a rubric approved by the commissioner by December 31, 2012; implement a pilot program to test the rubric beginning no later than January 31, 2013; and beginning with the 2013-2014 school year, ensure implementation of the rubric for all educators in the district.

Under current law, all teaching staff members whose positions require that they hold a certificate issued by the State Board of Examiners receive tenure after completing three years of employment in a school district. This substitute provides that all teaching staff members employed on or after the substitute's effective date will become tenured after completing four years of employment in the school district. According to the provisions of the substitute, teachers, principals, assistant principals, and vice-principals will have the following additional requirements for acquiring tenure:

- a teacher will be required to complete a district mentorship program and receive a rating of effective or highly effective in two annual summative evaluations within the first three years after the initial year in which the teacher completes the mentorship program; and
- a principal, assistant principal, or vice-principal will be required to be rated as effective or highly effective in two annual summative evaluations within the first three years of employment following the initial year of employment.

The substitute provides that a teacher, principal, assistant principal, or vice-principal who is transferred or promoted to another position in the same district on or after the effective date of the substitute must meet the current statutory requirement of two years of employment in

the new position in order to acquire tenure in that position, but additionally the employee must be evaluated as effective or highly effective in two annual summative evaluations within the first three years of employment in the new position. In the case of any tenured teacher, principal, assistant principal, or vice-principal who has been rated effective or highly effective on his most recent annual summative evaluation, and who accepts employment in the same position in an underperforming school in another district, that person will be eligible for tenure after being evaluated as effective or highly effective in at least one annual summative evaluation within the first two years of employment in the underperforming school.

In order to ensure the effectiveness of its teachers, the substitute directs each public school to convene a school improvement panel. The panel will include the principal, or his designee who is serving in a supervisory capacity, an assistant or vice-principal, and a teacher. The teacher will be selected in consultation with the majority representative and must have a demonstrated record of success in the classroom. The panel will: oversee the mentoring of teachers; conduct evaluations of teachers, provided that the teacher on the panel will not be included in the evaluation process unless the majority representative has agreed to the contrary; and identify professional development opportunities for all instructional staff members.

Under the substitute, each board of education must implement a mentoring program in which effective experienced teachers are paired with first-year teachers to provide observation and feedback, opportunities for modeling, and confidential support and guidance. The substitute also provides that the board of education, the principal or the superintendent must provide teaching staff members with ongoing professional development and provide additional professional development for any teaching staff member who fails or is struggling to meet the performance standards established by the board for his job. When a teaching staff member is rated ineffective or partially effective, a corrective action plan must also be developed to address deficiencies outlined in the employee's evaluation.

Under the provisions of the substitute the superintendent of schools is required to promptly file a charge of inefficiency whenever a tenured teacher, principal, assistant principal, and vice-principal is rated ineffective or partially effective in an annual summative evaluation and in the following year the employee is rated ineffective. A charge of inefficiency must also be filed when the employee is rated partially effective in two years or is rated ineffective in one year's annual summative evaluation and in the next year is rated partially effective, however in this case, upon a written finding of exceptional circumstances, the superintendent may defer filing the tenure charge until after the next annual summative evaluation.

The substitute requires binding arbitration for contested cases involving the dismissal or reduction in compensation of tenured

employees in the school district. These contested cases will no longer be referred to Administrative Law Judges, and the final determination on the case will no longer be made by the Commissioner of Education, which is the process under current law. The substitute provides that the Commissioner of Education will maintain a panel of 25 arbitrators, with eight designated by the New Jersey Education Association, three designated by the American Federation of Teachers, nine designated by the New Jersey School Boards Association, and five designated by the New Jersey Principals and Supervisors Association. The substitute includes a cap on the costs of the arbitration, with the arbitrator being limited to no more than \$1250 per day and no more than \$7500 per case. The costs and expenses of the arbitrator will be borne by the State. Arbitrators will be assigned by the commissioner randomly to hear cases.

The substitute provides that for a charge of inefficiency filed against a teacher, principal, assistant principal, or vice-principal based on the rating given in an annual summative evaluation, as described above, the board of education must forward the charge to the commissioner within 30 business days of the filing, unless the board determines that the evaluation process has not been followed. If the charge is forwarded to the commissioner, the individual against whom the charges are filed will have 10 business days to submit a written response to the charges to the commissioner, and the commissioner, unless he determines that the evaluation process has not been followed, is required to forward the case to the arbitrator within five business day following the period provided for the response to the charges. The hearing before the arbitrator must be held within 30 business days of his assignment to the case, and he must render a decision within 30 business days of the start of the hearing.

In rendering a decision on one of these cases, the arbitrator is only permitted to consider whether or not:

- the employee's evaluation failed to adhere substantially to the evaluation process;
- there is a mistake of fact in the evaluation;
- the charges would not have been brought but for considerations of political affiliation, nepotism, union activity, discrimination, or other conduct prohibited by State or federal law; or
- the district's actions were arbitrary and capricious.

If the employee is able to demonstrate that any of these facts are applicable, the arbitrator must then determine if that fact materially affected the outcome of the evaluation and if it did not, the arbitrator is required to decide in favor of the board and the employee must be dismissed.

The substitute repeals section 1 of P.L.1998, c.42 (C.52:14B-10.1), which outlines the procedure tenure cases currently follow when referred to the Office of Administrative Law.

The provisions of this substitute will take effect in the 2013-2014 school year, except that the provision of the substitute that requires the State Board of Education to promulgate regulations to set standards for the approval of evaluation rubrics and sets forth the minimum requirements of the new evaluation rubric, will take effect immediately.

FISCAL IMPACT:

The Office of Legislative Services (OLS) anticipates that the Senate Committee Substitute for Senate Bill No. 1455 of 2012 will lead to an indeterminate change in costs incurred by local school districts, and an indeterminate increase in costs incurred by the State.

School District Costs and Savings

- The number of tenure hearings may increase, which would contribute to increased costs. S-1455 (SCS) requires that a superintendent file tenure charges with the board of education against a teacher, principal, assistant principal, or vice-principal who receives a low rating in consecutive annual summative evaluations. Relative to current law, where the filing of charges is left to the discretion of the superintendent, there may be an increase in the number of tenure hearings and the associated costs.
- S-1455 (SCS) establishes a timeframe in which an arbitrator must complete a tenure hearing and render a decision. A school district that retains outside legal representation in its tenure cases may experience a reduction in legal costs associated with tenure hearings.
- Under current law, a school district may suspend an employee, with or without pay, once tenure charges are certified by the board of education to the Commissioner of Education. However, an employee who is suspended without pay will begin to receive full pay if the arbitrator has not made a determination after 120 calendar days. The substitute changes this to 105 business days, thereby increasing the amount of time that may elapse before the employee's pay is resumed, leading to a possible cost savings to school districts.

State Costs

Section 22 of S-1455 (SCS) specifies that the Department of Education will provide the funding necessary to effectuate the provisions of the substitute. Based on this provision, there are four potential costs that the State may incur:

- The State would incur additional costs for compensating arbitrators who preside over tenure proceedings. The substitute sets their

compensation at \$1,250 per day, not to exceed \$7,500 per case. The OLS does not anticipate any savings associated with shifting tenure cases from administrative law judges to arbitrators. To the extent that administrative law judges hear cases unrelated to tenure, the proposed shift would likely not lead to a reduction in administrative law judges.

- S-1455 (SCS) requires that all school districts adopt an evaluation rubric for teaching staff members that is approved by the commissioner. If one uses the information included in the department's Notice of Grant Opportunity (NGO) for the teacher effectiveness and principal effectiveness pilot programs, and extrapolates the cost Statewide, the potential cost of adopting such rubrics is \$52.4 million for classroom teachers and \$11.9 million for administrators; the NGO did not include comparable information for other teaching staff members. As noted in the NGO, the actual cost is contingent on decisions made by school districts, and may be higher or lower.
- S-1455 (SCS) requires that each school establish a school improvement panel, and that a teacher serves on that panel. The inclusion of a teacher on the panel would likely lead to an expenditure increase, since this would likely require additional compensation.
- The substitute requires that each board of education establishes a mentoring program for first-year teachers. Under current State Board of Education regulations, the cost of the current required mentorship is borne by the novice teacher, if State funds are not available. The substitute would presumably shift the cost of the mentorship program to the State.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1455**

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 21, 2012

The Assembly Budget Committee reports favorably Senate Bill No. 1455 (SCS), with committee amendments.

As amended, this bill requires each school district to submit annually to the Commissioner of Education, for review and approval, an evaluation rubric that the district will use to assess the effectiveness of its teaching staff members. The district may use the model rubric which the commissioner is required to establish or it may use one that meets the minimum standards provided in the bill. A board of education must: adopt a rubric approved by the commissioner by December 31, 2012; implement a pilot program to test the rubric beginning no later than January 31, 2013; and beginning with the 2013-2014 school year, ensure implementation of the rubric for all educators in the district.

Under current law, all teaching staff members whose positions require that they hold a certificate issued by the State Board of Examiners receive tenure after completing three years of employment in a school district. This bill provides that all teaching staff members employed on or after the bill's effective date will become tenured after completing four years of employment in the school district. According to the provisions of the bill, teachers, principals, assistant principals, and vice-principals will have the following additional requirements for acquiring tenure:

- a teacher will be required to complete a district mentorship program and receive a rating of effective or highly effective in two annual summative evaluations within the first three years after the initial year in which the teacher completes the mentorship program; and
- a principal, assistant principal, or vice-principal will be required to be rated as effective or highly effective in two annual summative evaluations within the first three years of employment following the initial year of employment.

The bill provides that a teacher, principal, assistant principal, or vice-principal who is transferred or promoted to another position in the

same district on or after the effective date of the bill must meet the current statutory requirement of two years of employment in the new position in order to acquire tenure in that position, but additionally the employee must be evaluated as effective or highly effective in two annual summative evaluations within the first three years of employment in the new position. In the case of any tenured teacher, principal, assistant principal, or vice-principal who has been rated effective or highly effective on his most recent annual summative evaluation, and who accepts employment in the same position in an underperforming school in another district, that person will be eligible for tenure after being evaluated as effective or highly effective in at least one annual summative evaluation within the first two years of employment in the underperforming school.

In order to ensure the effectiveness of its teachers, the bill directs each public school to convene a school improvement panel. The panel will include the principal, or his designee, an assistant or vice-principal, and a teacher. The principal's designee must be an individual employed in the district in a supervisory role and capacity who possesses a school administrator certificate, principal certificate, or supervisor certificate. The teacher will be selected in consultation with the majority representative and must have a demonstrated record of success in the classroom. The panel will: oversee the mentoring of teachers; conduct evaluations of teachers, provided that the teacher on the panel will not be included in the evaluation process unless the majority representative has agreed to the contrary; and identify professional development opportunities for all instructional staff members.

Under the bill, each board of education must implement a mentoring program in which effective experienced teachers are paired with first-year teachers to provide observation and feedback, opportunities for modeling, and confidential support and guidance. The bill also provides that the board of education, the principal or the superintendent must provide teaching staff members with ongoing professional development and provide additional professional development for any teaching staff member who fails or is struggling to meet the performance standards established by the board for his job. When a teaching staff member is rated ineffective or partially effective, a corrective action plan must also be developed to address deficiencies outlined in the employee's evaluation.

Under the provisions of the bill the superintendent of schools is required to promptly file a charge of inefficiency whenever a tenured teacher, principal, assistant principal, and vice-principal is rated ineffective or partially effective in an annual summative evaluation and in the following year the employee is rated ineffective. A charge of inefficiency must also be filed when the employee is rated partially effective in two years or is rated ineffective in one year's annual summative evaluation and in the next year is rated partially effective,

however in this case, upon a written finding of exceptional circumstances, the superintendent may defer filing the tenure charge until after the next annual summative evaluation.

The bill requires binding arbitration for contested cases involving the dismissal or reduction in compensation of tenured employees in the school district. These contested cases will no longer be referred to Administrative Law Judges, and the final determination on the case will no longer be made by the Commissioner of Education, which is the process under current law. The bill provides that the Commissioner of Education will maintain a panel of 25 arbitrators, with eight designated by the New Jersey Education Association, three designated by the American Federation of Teachers, nine designated by the New Jersey School Boards Association, and five designated by the New Jersey Principals and Supervisors Association. The bill includes a cap on the costs of the arbitration, with the arbitrator being limited to no more than \$1250 per day and no more than \$7500 per case. The costs and expenses of the arbitrator will be borne by the State. Arbitrators will be assigned by the commissioner randomly to hear cases.

The bill provides that for a charge of inefficiency filed against a teacher, principal, assistant principal, or vice-principal based on the rating given in an annual summative evaluation, as described above, the board of education must forward the charge to the commissioner within 30 days of the filing, unless the board determines that the evaluation process has not been followed. If the charge is forwarded to the commissioner, the individual against whom the charges are filed will have 10 days to submit a written response to the charges to the commissioner, and the commissioner, unless he determines that the evaluation process has not been followed, is required to forward the case to the arbitrator within five business day following the period provided for the response to the charges. The hearing before the arbitrator must be held within 45 days of his assignment to the case, and he must render a decision within 45 days of the start of the hearing.

In rendering a decision on one of these cases, the arbitrator is only permitted to consider whether or not:

- the employee's evaluation failed to adhere substantially to the evaluation process;
- there is a mistake of fact in the evaluation;
- the charges would not have been brought but for considerations of political affiliation, nepotism, union activity, discrimination, or other conduct prohibited by State or federal law; or
- the district's actions were arbitrary and capricious.

If the employee is able to demonstrate that any of these facts are applicable, the arbitrator must then determine if that fact materially affected the outcome of the evaluation and if it did not, the arbitrator is

required to decide in favor of the board and the employee must be dismissed.

The bill repeals section 1 of P.L.1998, c.42 (C.52:14B-10.1), which outlines the procedure tenure cases currently follow when referred to the Office of Administrative Law.

The provisions of this bill will take effect in the 2012-2013 school year, except that the provision of the bill that requires the State Board of Education to promulgate regulations to set standards for the approval of evaluation rubrics and sets forth the minimum requirements of the new evaluation rubric, will take effect immediately.

FISCAL IMPACT:

The Office of Legislative Services (OLS) anticipates that the Senate Committee Substitute for Senate Bill No. 1455 (1R) of 2012 will lead to an indeterminate change in costs incurred by local school districts, and an indeterminate increase in costs incurred by the State.

School District Costs and Savings

- The number of tenure hearings may increase, which would contribute to increased costs. S-1455 (SCS) (1R) requires that a superintendent file tenure charges with the board of education against a teacher, principal, assistant principal, or vice-principal who receives a low rating in consecutive annual summative evaluations. Relative to current law, where the filing of charges is left to the discretion of the superintendent, there may be an increase in the number of tenure hearings and the associated costs.
- S-1455 (SCS) (1R) establishes a timeframe in which an arbitrator must complete a tenure hearing and render a decision. A school district that retains outside legal representation in its tenure cases may experience a reduction in legal costs associated with tenure hearings.

State Costs

Section 20 of S-1455 (SCS) (1R) specifies that the Department of Education will provide the funding necessary to effectuate the provisions of the substitute. Based on this provision, there are four potential costs that the State may incur:

- The State would incur additional costs for compensating arbitrators who preside over tenure proceedings. The substitute sets their compensation at \$1,250 per day, not to exceed \$7,500 per case. The OLS does not anticipate any savings associated with shifting tenure cases from administrative law judges to arbitrators. To the extent that

administrative law judges hear cases unrelated to tenure, the proposed shift would likely not lead to a reduction in administrative law judges.

- S-1455 (SCS) (1R) requires that all school districts adopt an evaluation rubric for teaching staff members that is approved by the commissioner. If one uses the information included in the department's Notice of Grant Opportunity (NGO) for the teacher effectiveness and principal effectiveness pilot programs, and extrapolates the cost Statewide, the potential cost of adopting such rubrics is \$52.4 million for classroom teachers and \$11.9 million for administrators; the NGO did not include comparable information for other teaching staff members. As noted in the NGO, the actual cost is contingent on decisions made by school districts, and may be higher or lower.
- S-1455 (SCS) (1R) requires that each school establish a school improvement panel, and that a teacher serves on that panel. The inclusion of a teacher on the panel would likely lead to an expenditure increase, since this would likely require additional compensation.
- The substitute requires that each board of education establishes a mentoring program for first-year teachers. Under current State Board of Education regulations, the cost of the current required mentorship is borne by the novice teacher, if State funds are not available. The substitute would presumably shift the cost of the mentorship program to the State.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- add definitions of "evaluation," "multiple objective measures of student learning," and "professional standards";
- remove references to "business" days so that "calendar" days are referred to throughout the bill;
- provide that the principal's designee on a school improvement panel, which will be conducting teacher evaluations, must be an individual employed in the district in a supervisory role and capacity who possess a school administrator certificate, principal certificate, or supervisor certificate;
- include a statement providing that aspects of evaluation which are not superseded by statute or regulation will continue to be mandatory subjects of collective negotiation; and
- permit the Commissioner of Education to remove an arbitrator from an arbitration case or from an arbitration panel if the arbitrator does not adhere to the timelines set forth in the bill without approval from the commissioner.

LEGISLATIVE FISCAL ESTIMATE
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1455
STATE OF NEW JERSEY
215th LEGISLATURE

DATED: JUNE 25, 2012

SUMMARY

Synopsis: “Teacher Effectiveness and Accountability for the Children of New Jersey (TEACHNJ) Act”

Type of Impact: Expenditure Increase from the General Fund; Indeterminate Change in Expenditures Among School Districts

Agencies Affected: Department of Education; Local School Districts

Office of Legislative Services Estimate

| Fiscal Impact | <u>Year 1</u> | <u>Year 2</u> | <u>Year 3</u> |
|----------------------|--|----------------------|----------------------|
| State Cost | Indeterminate Cost Increase – See comments below | | |
| Local Cost | Indeterminate Cost Change – See comments below | | |

- The Office of Legislative Services (OLS) anticipates that the Senate Committee Substitute for Senate Bill No. 1455 of 2012 will lead to an increase in State expenditures. The four areas in which State costs are likely to increase are: 1) the costs associated with adopting new evaluation rubrics for teaching staff members, 2) compensating arbitrators who hear tenure cases, 3) paying the cost of stipends for teachers who participate in the required school improvement teams, and 4) a possible shift in the cost of teacher mentorship programs from the novice teachers to the State.
- The OLS notes that the Senate Committee Substitute for Senate Bill No. 1455 would lead to an indeterminate change in costs incurred by local school districts. Under the substitute, district costs may rise as a result of an increased number of tenure hearings. On the other hand, districts costs may decline due to: 1) a possible decrease in legal costs incurred for each tenure hearing, and 2) a decrease in the amount of salary that must be paid to an employee who has been suspended without pay after the certification of tenure charges.

BILL DESCRIPTION

The Senate Committee Substitute for Senate Bill No. 1455 of 2012 changes how teaching staff members obtain tenure, the procedures by which these individuals are evaluated, the process by which tenure charges, specifically for inefficiency, are filed, and how any tenure charge is resolved. Under the substitute, the amount of time that must elapse before a teaching staff member may obtain tenure is increased from three years to four years. Additionally, in order to obtain tenure, a classroom teacher must complete a one-year mentorship program in the first year of teaching, and in at least two of the three subsequent years, receive “effective” or “highly effective” ratings on the annual summative evaluations. Similarly, a principal, assistant principal, or vice-principal must receive ratings of “effective” or “highly effective” on at least two annual summative evaluations, with the first such rating occurring on or after the completion of the second year of employment.

The Senate Committee Substitute for Senate Bill No. 1455 requires that school districts annually submit the evaluation rubric that they will use to evaluate teaching staff members to the Commissioner of Education for review and approval. Among other things, the evaluation rubric must include four rating categories: ineffective, partially effective, effective, and highly effective.

The substitute also changes the manner in which tenure cases are heard. Under current law, tenure cases are heard by an administrative law judge. The bill requires that the commissioner maintain a list of arbitrators who would now make the final administrative decision in tenure cases. The arbitrators would be compensated no more than \$1,250 per day, and no more than \$7,500 per case.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS anticipates that the Senate Committee Substitute for Senate Bill No. 1455 of 2012 will lead to an indeterminate increase in State expenditures and an indeterminate change in school district expenditures.

Increased State Expenditures

The Senate Committee Substitute for Senate Bill No. 1455 specifies that the Department of Education will provide the funding necessary to effectuate the provisions of this bill. The OLS has identified four costs that would be incurred by the State. First, the State would incur the cost of paying arbitrators to hear tenure cases. Under current law, tenure cases are heard by an administrative law judge; under the substitute, all tenure cases would instead be heard by an arbitrator who will be compensated at a per diem rate of no more than \$1,250, not to exceed \$7,500 per case. The total cost that would be incurred is indeterminate, as the OLS cannot predict the number of tenure cases that would be heard after enactment of the substitute. To the

extent that administrative law judges would continue to hear cases unrelated to tenure, the OLS does not anticipate any reduction in the number of judges to offset the cost of the arbitrators.

Second, the substitute requires that school districts adopt an evaluation rubric for classroom teachers, principals, assistant principals, vice-principals, and all other teaching staff members that is approved by the Commissioner of Education. The Department of Education's Notice of Grant Opportunity (NGO) for two current pilot evaluation programs, one for teachers and one for principals, detailed the grant amounts that would be awarded to districts based on the number of teachers and administrators in the district. The NGO indicated that the award amounts were derived based on the costs of known teacher and principal evaluation instruments. The OLS estimated the cost of Statewide implementation based on the grant amounts included in the NGO and the number of teachers, principals, and other administrators identified in the dataset that lists all certificated staff employed in school districts. The analysis yielded an estimated cost of \$52.4 million for the teacher evaluation, and an additional \$11.9 million for the principal evaluation. There would potentially be an additional indeterminate cost associated with evaluating other teaching staff members.

Third, S-1455 (SCS) requires that each school form a school improvement panel that includes a teacher as one of the members. A classroom teacher assigned to serve on the panel would likely receive additional compensation for assuming additional responsibilities. The amount would likely be determined in the collective bargaining agreement and cannot be determined in this analysis.

Fourth, the substitute requires that first-year teachers complete a mentorship program. Under current State Board of Education regulations, the cost of the currently required mentorship is borne by the teacher if State funds are not available. The substitute would presumably shift the cost of the new mentorship program to the State.

School District Costs and Savings

The OLS is not able to determine the net effect of the substitute on the costs incurred by school districts. There are three factors that may affect the costs that districts incur, but it is not clear if potential cost increases will exceed possible savings.

First, S-1455 (SCS) may increase the number of tenure cases that are heard. Currently, a superintendent has discretion when determining whether to file tenure charges against an employee with the district board of education. The substitute would require a superintendent to file charges, on the grounds of inefficiency, if an employee is rated as ineffective on two consecutive annual summative evaluations. The loss of discretion would likely lead to more charges being filed with the board of education, and possibly leading to tenure hearings. While the State would pay the expense associated with the arbitrator, the district would still incur legal costs, particularly if the district employs outside counsel for the proceedings.

Second, the substitute establishes a specific timeframe in which the tenure case must be completed. To the extent that this timeframe is shorter than the length of a typical tenure case under current law, it is plausible that a district that uses outside counsel for its tenure cases may incur fewer costs per case.

Third, under current law, a school district may suspend an employee, with or without pay, once tenure charges have been certified by the board of education to the commissioner. However, an employee who is suspended without pay will begin to receive full pay if a determination is not made after 120 calendar days. The substitute changes this to 105 business days, thereby increasing the amount of time that may elapse before the employee's pay is resumed, leading to a possible savings for school districts.

SCS for S1455

4

Section: Education

*Analyst: Allen T. Dupree
Lead Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE
 [First Reprint]
 SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1455
STATE OF NEW JERSEY
215th LEGISLATURE

DATED: JULY 17, 2012

SUMMARY

Synopsis: “Teacher Effectiveness and Accountability for the Children of New Jersey (TEACHNJ) Act”

Type of Impact: Expenditure Increase from the General Fund; Indeterminate Change in Expenditures Among School Districts

Agencies Affected: Department of Education; Local School Districts

Office of Legislative Services Estimate

| Fiscal Impact | <u>Year 1</u> | <u>Year 2</u> | <u>Year 3</u> |
|----------------------|--|----------------------|----------------------|
| State Cost | Indeterminate Cost Increase – See comments below | | |
| Local Cost | Indeterminate Cost Change – See comments below | | |

- The Office of Legislative Services (OLS) anticipates that the Senate Committee Substitute (1R) for Senate Bill No. 1455 of 2012 will lead to an increase in State expenditures. The four areas in which State costs are likely to increase are: 1) the costs associated with adopting new evaluation rubrics for teaching staff members, 2) compensating arbitrators who hear tenure cases, 3) paying the cost of stipends for teachers who participate in the required school improvement teams, and 4) a possible shift in the cost of teacher mentorship programs from the novice teachers to the State.
- The OLS notes that the Senate Committee Substitute (1R) for Senate Bill No. 1455 would lead to an indeterminate change in costs incurred by local school districts. Under the substitute, district costs may rise as a result of an increased number of tenure hearings. On the other hand, district costs may decline due to a possible decrease in legal costs incurred for each tenure hearing.

BILL DESCRIPTION

The Senate Committee Substitute (1R) for Senate Bill No. 1455 of 2012 changes how teaching staff members obtain tenure, the procedures by which these individuals are evaluated, the process by which tenure charges, specifically for inefficiency, are filed, and how any tenure charge is resolved. Under the substitute, the amount of time that must elapse before a teaching staff member may obtain tenure is increased from three years to four years. Additionally, in order to obtain tenure, a classroom teacher must complete a one-year mentorship program in the first year of teaching, and in at least two of the three subsequent years, receive “effective” or “highly effective” ratings on the annual summative evaluations. Similarly, a principal, assistant principal, or vice-principal must receive ratings of “effective” or “highly effective” on at least two annual summative evaluations, with the first such rating occurring on or after the completion of the second year of employment.

The Senate Committee Substitute (1R) for Senate Bill No. 1455 requires that school districts annually submit the evaluation rubric that they will use to evaluate teaching staff members to the Commissioner of Education for review and approval. Among other things, the evaluation rubric must include four rating categories: ineffective, partially effective, effective, and highly effective.

The substitute also changes the manner in which tenure cases are heard. Under current law, tenure cases are heard by an administrative law judge. The bill requires that the commissioner maintain a list of arbitrators who would now make the final administrative decision in tenure cases. The arbitrators would be compensated no more than \$1,250 per day, and no more than \$7,500 per case.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS anticipates that the Senate Committee Substitute (1R) for Senate Bill No. 1455 of 2012 will lead to an indeterminate increase in State expenditures and an indeterminate change in school district expenditures.

Increased State Expenditures

The Senate Committee Substitute (1R) for Senate Bill No. 1455 specifies that the Department of Education will provide the funding necessary to effectuate the provisions of this bill. The OLS has identified four costs that would be incurred by the State. First, the State would incur the cost of paying arbitrators to hear tenure cases. Under current law, tenure cases are heard by an administrative law judge; under the substitute, all tenure cases would instead be heard by an arbitrator who will be compensated at a per diem rate of no more than \$1,250, not to exceed \$7,500 per case. The total cost that would be incurred is indeterminate, as the OLS cannot predict the number of tenure cases that would be heard after enactment of the substitute. To the

extent that administrative law judges would continue to hear cases unrelated to tenure, the OLS does not anticipate any reduction in the number of judges to offset the cost of the arbitrators.

Second, the substitute requires that school districts adopt an evaluation rubric for classroom teachers, principals, assistant principals, vice-principals, and all other teaching staff members that is approved by the Commissioner of Education. The Department of Education's Notice of Grant Opportunity (NGO) for two current pilot evaluation programs, one for teachers and one for principals, detailed the grant amounts that would be awarded to districts based on the number of teachers and administrators in the district. The NGO indicated that the award amounts were derived based on the costs of known teacher and principal evaluation instruments. The OLS estimated the cost of Statewide implementation based on the grant amounts included in the NGO and the number of teachers, principals, and other administrators identified in the dataset that lists all certificated staff employed in school districts. The analysis yielded an estimated cost of \$52.4 million for the teacher evaluation, and an additional \$11.9 million for the principal evaluation. There would potentially be an additional indeterminate cost associated with evaluating other teaching staff members.

Third, the substitute requires that each school form a school improvement panel that includes a teacher as one of the members. A classroom teacher assigned to serve on the panel would likely receive additional compensation for assuming additional responsibilities. The amount would likely be determined in the collective bargaining agreement and cannot be determined in this analysis.

Fourth, the substitute requires that first-year teachers complete a mentorship program. Under current State Board of Education regulations, the cost of the currently required mentorship is borne by the teacher if State funds are not available. The substitute would presumably shift the cost of the new mentorship program to the State.

School District Costs and Savings

The OLS is not able to determine the net effect of the substitute on the costs incurred by school districts. There are two factors that may affect the costs that districts incur, but it is not clear if potential cost increases will exceed possible savings.

First, the substitute may increase the number of tenure cases that are heard. Currently, a superintendent has discretion when determining whether to file tenure charges against an employee with the district board of education. The substitute would require a superintendent to file charges, on the grounds of inefficiency, if an employee is rated as ineffective on two consecutive annual summative evaluations. The loss of discretion would likely lead to more charges being filed with the board of education, and possibly leading to tenure hearings. While the State would pay the expense associated with the arbitrator, the district would still incur legal costs, particularly if the district employs outside counsel for the proceedings.

Second, the substitute establishes a specific timeframe in which the tenure case must be completed. To the extent that this timeframe is shorter than the length of a typical tenure case under current law, it is plausible that a district that uses outside counsel for its tenure cases may incur fewer costs per case.

Section: Education

*Analyst: Allen T. Dupree
Lead Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY, No. 3060

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED JUNE 14, 2012

Sponsored by:

Assemblyman PATRICK J. DIEGNAN, JR.

District 18 (Middlesex)

Assemblyman RALPH R. CAPUTO

District 28 (Essex)

Assemblywoman MILA M. JASEY

District 27 (Essex and Morris)

Assemblywoman BONNIE WATSON COLEMAN

District 15 (Hunterdon and Mercer)

Assemblyman CRAIG J. COUGHLIN

District 19 (Middlesex)

Co-Sponsored by:

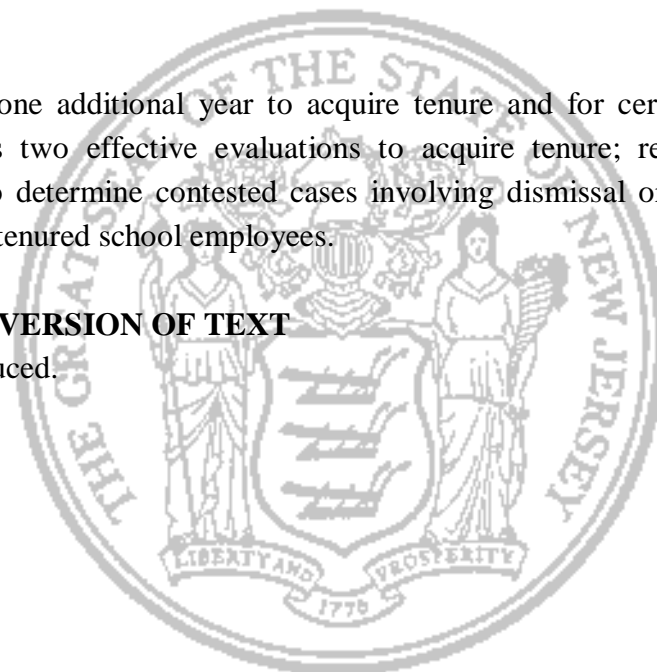
Assemblyman O'Donnell, Assemblywoman Vainieri Huttle, Assemblymen Cryan, McKeon, Assemblywoman Stender, Assemblyman Giblin, Assemblywomen Caride and Quijano

SYNOPSIS

Requires one additional year to acquire tenure and for certain employees also requires two effective evaluations to acquire tenure; requires binding arbitration to determine contested cases involving dismissal or compensation reduction of tenured school employees.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/22/2012)

1 AN ACT concerning school district employees, revising various
2 parts of the statutory law, and supplementing chapter 6 of Title
3 18A of the New Jersey Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. (New section) Legislature finds and declares that:

9 a. The State of New Jersey depends upon a well-educated
10 society. New Jersey's public schools play an integral role in our
11 common welfare by developing our next generation of citizens who
12 will contribute to a healthy, productive, and prosperous society;

13 b. Educational research clearly establishes the critical role that
14 teachers and school leaders play in student achievement and school
15 success;

16 c. It is critically important that New Jersey dedicate its
17 resources and policies to attract, develop, and retain high quality
18 candidates to the field of education to serve as teachers and school
19 leaders; and

20 d. Therefore, it is in the public interest for the State of New
21 Jersey to develop a fair and comprehensive system to promote
22 educator effectiveness through:

23 (1) the proactive recruitment of talented candidates to the
24 education profession;

25 (2) the establishment of a strong system of employee evaluation
26 based upon professional standards of practice and multiple
27 measures of performance;

28 (3) a commitment to the professional growth of educators
29 through a strong investment in educator professional development
30 with on-the-job support and peer mentoring; and

31 (4) balancing the goal of raising student achievement with the
32 operation of a fair employment system, which recognizes the due
33 process rights of educators concerning their employment and also
34 promotes efficiencies in employment dispute resolution to reduce
35 costs to the taxpayers of New Jersey.

36
37 2. N.J.S.18A:6-9 is amended to read as follows:

38 18A:6-9. The commissioner shall have jurisdiction to hear and
39 determine, without cost to the parties, all controversies and disputes
40 arising under the school laws, excepting those governing higher
41 education, or under the rules of the state board or of the
42 commissioner. For the purposes of this Title, controversies and
43 disputes concerning the conduct of school elections shall not be
44 deemed to arise under the school laws.

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

Matter underlined thus is new matter.

1 Notwithstanding the provisions of this section to the contrary, an
2 arbitrator shall make the final administrative determination on a
3 controversy and dispute arising under subarticle B of article 2 of
4 chapter 6 of Title 18A of the New Jersey Statutes (C.18A:6-10 et
5 seq.).

6 (cf: P.L.1995, c.278, s.24)

7
8 3. N.J.S.18A:6-11 is amended to read as follows:

9 18A:6-11. Any charge made against any employee of a board of
10 education under tenure during good behavior and efficiency shall be
11 filed with the secretary of the board in writing, and a written
12 statement of evidence under oath to support such charge shall be
13 presented to the board. The board of education shall forthwith
14 provide such employee with a copy of the charge, a copy of the
15 statement of the evidence and an opportunity to submit a written
16 statement of position and a written statement of evidence under oath
17 with respect thereto. After consideration of the charge, statement of
18 position and statements of evidence presented to it, the board shall
19 determine by majority vote of its full membership whether there is
20 probable cause to credit the evidence in support of the charge and
21 whether such charge, if credited, is sufficient to warrant a dismissal
22 or reduction of salary. The board of education shall forthwith
23 notify the employee against whom the charge has been made of its
24 determination, personally or by certified mail directed to his last
25 known address. In the event the board finds that such probable
26 cause exists and that the charge, if credited, is sufficient to warrant
27 a dismissal or reduction of salary, then it shall forward such written
28 charge to the commissioner [for a hearing pursuant to N.J.S. 18A:6-
29 16, together with a certificate of such determination. Provided,
30 however, that if] or person appointed to act in the commissioner's
31 behalf who shall examine the charges and certification and refer the
32 case to the Public Employment Relations Commission for
33 assignment of an arbitrator pursuant to section 13 of
34 P.L. , c. (C.) (pending before the Legislature as this bill) for
35 further proceedings. If the charge is inefficiency, prior to making
36 its determination as to certification, the board shall provide the
37 employee with written notice of the alleged inefficiency , specifying
38 the nature thereto [, and allow at least 90 days in which to correct
39 and overcome the inefficiency] in the notice and within the
40 employee's annual summative evaluation. The consideration and
41 actions of the board as to any charge shall not take place at a public
42 meeting.

43 (cf: P.L.1975, c. 304, s. 1)

44
45 4. N.J.S.18A:6-13 is amended to read as follows:

46 18A:6-13. If the board does not make such a determination
47 within 45 days after receipt of the written charge [, or within 45

1 days after the expiration of the time for correction of the
2 inefficiency, if the charge is of inefficiency], the charge shall be
3 deemed to be dismissed and no further proceeding or action shall be
4 taken thereon.

5 (cf: N.J.S.18A:6-13)

6

7 5. N.J.S.18A:6-14 is amended to read as follows:

8 18A:6-14. Upon certification of any charge to the commissioner,
9 the board may suspend the person against whom such charge is
10 made, with or without pay, but, if the determination of the charge
11 by the [Commissioner of Education] arbitrator is not made within
12 120 calendar days after certification of the charges, excluding all
13 delays which are granted at the request of such person, then the full
14 salary (except for said 120 days) of such person shall be paid
15 beginning on the one hundred twenty-first day until such
16 determination is made. Should the charge be dismissed, the person
17 shall be reinstated immediately with full pay from the first day of
18 such suspension. Should the charge be dismissed and the
19 suspension be continued during an appeal therefrom, then the full
20 pay or salary of such person shall continue until the determination
21 of the appeal. However, the board of education shall deduct from
22 said full pay or salary any sums received by such employee or
23 officers by way of pay or salary from any substituted employment
24 assumed during such period of suspension. Should the charge be
25 sustained on the original hearing or an appeal therefrom, and should
26 such person appeal from the same, then the suspension may be
27 continued unless and until such determination is reversed, in which
28 event he shall be reinstated immediately with full pay as of the time
29 of such suspension.

30 (cf: P.L.1971, c.435, s.2)

31

32 6. N.J.S.18A:6-16 is amended to read as follows:

33 18A:6-16. Upon receipt of such a charge and certification, or of
34 a charge lawfully made to the commissioner, the commissioner or
35 the person appointed to act in the commissioner's behalf in the
36 proceedings shall examine the charges and certification. The
37 individual against whom the charges are certified shall have [15]
38 10 days to submit a written response to the charges to the
39 commissioner. [Upon a showing of good cause, the commissioner
40 may grant an extension of time.] The commissioner shall render a
41 determination on the sufficiency of charges as set forth below
42 within [15] 10 days immediately following the period provided for
43 a written response to the charges.

44 If, following receipt of the written response to the charges, the
45 commissioner is of the opinion that they are not sufficient to
46 warrant dismissal or reduction in salary of the person charged, he
47 shall dismiss the same and notify said person accordingly. If,

1 however, he shall determine that such charge is sufficient to warrant
2 dismissal or reduction in salary of the person charged, he shall
3 within 10 days of making that determination refer the case to [the
4 Office of Administrative Law] an arbitrator pursuant to section 13
5 of P.L. , c. (C.) (pending before the Legislature as this bill) for
6 further proceedings, except that when a motion for summary
7 decision to dismiss the charges has been made by the person
8 charged prior to that time, the commissioner may retain the matter
9 for purposes of deciding the motion.

10 (cf: P.L.1998, c.42, s.2)

11
12 7. N.J.S.18A:6-20 is amended to read as follows:

13 18A:6-20. Any party to any dispute or controversy or charged
14 therein, may be represented by counsel at any hearing held in or
15 concerning the same and shall have the right to testify, and produce
16 witnesses to testify on his behalf and to cross-examine witnesses
17 produced against him, and to have compulsory process by subpoena
18 to compel the attendance of witnesses to testify and to produce
19 books and documents in such hearing when issued by (a) the
20 president of the board of education, if the hearing is to be held
21 before such board, or (b) the commissioner, if the hearing is to be
22 held before him or on his behalf, or (c) the president and secretary
23 of the State board, if the hearing is to be held before such board or
24 before one of its committees, or (d) the chairman of the board of
25 trustees of the State or county college or industrial school, if the
26 hearing is to be held before such board , or (e) an arbitrator, if the
27 hearing is to be held before such person.

28 The subpoena shall be served in the same manner as subpoenas
29 issued out of the Superior Court are served.

30 (cf: P.L.1994, c.48, s.50)

31
32 8. N.J.S.18A:17-2 is amended to read as follows:

33 18A:17-2. a. Any secretary, assistant secretary, school business
34 administrator or business manager of a board of education of any
35 school district who has or shall have devoted his full time to the
36 duties of his office and has or shall have served therein for three
37 consecutive calendar years if employed prior to the effective date of
38 P.L. , c. (C.) (pending before the Legislature as this bill) or
39 four consecutive calendar years if employed on or after the effective
40 date of P.L. , c. (C.) (pending before the Legislature as this
41 bill), and

42 b. Any person holding any secretarial or clerical position or
43 employment under a board of education of any school district or
44 under any officer thereof, after

45 1. The expiration of a period of employment of three
46 consecutive calendar years in the district if employed prior to the
47 effective date of P.L. , c. (C.) (pending before the Legislature
48 as this bill) or four consecutive calendar years if employed on or

1 after the effective date of P.L. , c. (C.) (pending before the
2 Legislature as this bill) or such shorter period as may be fixed by
3 the board or officer employing him, or

4 2. Employment for three consecutive academic years, together
5 with employment at the beginning of the next succeeding academic
6 year if employed prior to the effective date of P.L. , c. (C.)
7 (pending before the Legislature as this bill) or four consecutive
8 academic years, together with employment at the beginning of the
9 next succeeding academic year, if employed on or after the effective
10 date of P.L. , c. (C.) (pending before the Legislature as this
11 bill), an academic year being the period between the time when
12 school opens in the district after the general summer vacation and
13 the beginning of the next succeeding summer vacation, and

14 c. Any person, who has acquired, or shall hereafter acquire,
15 tenure in any secretarial or clerical office, position or employment
16 under the board of education of a school district and has been
17 appointed district clerk or secretary, or shall hereafter be appointed
18 secretary of said district, as such secretary,

19 shall hold his office, position or employment under tenure during
20 good behavior and efficiency and shall not be dismissed or
21 suspended or reduced in compensation, except for neglect,
22 misbehavior or other offense and only in the manner prescribed by
23 subarticle B of article 2 of chapter 6 of this title.

24 (cf: N.J.S.18A:17-2)

25

26 9. N.J.S.18A:28-5 is amended to read as follows:

27 18A:28-5. a. The services of all teaching staff members
28 employed prior to the effective date of P.L. , c. (C.) (pending
29 before the Legislature as this bill) in the positions of teacher,
30 principal, other than administrative principal, assistant principal,
31 vice-principal, assistant superintendent, and all school nurses
32 including school nurse supervisors, head school nurses, chief school
33 nurses, school nurse coordinators, and any other nurse performing
34 school nursing services, school athletic trainer and such other
35 employees as are in positions which require them to hold
36 appropriate certificates issued by the board of examiners, serving in
37 any school district or under any board of education, excepting those
38 who are not the holders of proper certificates in full force and effect
39 and school business administrators shared by two or more school
40 districts, shall be under tenure during good behavior and efficiency
41 and they shall not be dismissed or reduced in compensation except
42 for inefficiency, incapacity, or conduct unbecoming such a teaching
43 staff member or other just cause and then only in the manner
44 prescribed by subarticle B of article 2 of chapter 6 of this Title,
45 after employment in such district or by such board for:

46 **[(a)]** (1)Three consecutive calendar years, or any shorter period
47 which may be fixed by the employing board for such purpose; or

1 **[(b)]** (2) Three consecutive academic years, together with
2 employment at the beginning of the next succeeding academic year;
3 or

4 **[(c)]** (3) The equivalent of more than three academic years
5 within a period of any four consecutive academic years.

6 b. The services of all teaching staff members employed on or
7 after the effective date of P.L. , c. (C.) (pending before the
8 Legislature as this bill) in the positions of teacher, principal, other
9 than administrative principal, assistant principal, vice-principal,
10 assistant superintendent, and all school nurses including school
11 nurse supervisors, head school nurses, chief school nurses, school
12 nurse coordinators, and any other nurse performing school nursing
13 services, school athletic trainer and such other employees as are in
14 positions which require them to hold appropriate certificates issued
15 by the board of examiners, serving in any school district or under
16 any board of education, excepting those who are not the holders of
17 proper certificates in full force and effect and school business
18 administrators shared by two or more school districts, shall be
19 under tenure during good behavior and efficiency and they shall not
20 be dismissed or reduced in compensation except for inefficiency,
21 incapacity, or conduct unbecoming such a teaching staff member or
22 other just cause and then only in the manner prescribed by
23 subarticle B of article 2 of chapter 6 of this Title, after employment
24 in such district or by such board for:

25 (1) Four consecutive calendar years, or any shorter period which
26 may be fixed by the employing board for such purpose; or

27 (2) Four consecutive academic years, together with employment
28 at the beginning of the next succeeding academic year; or

29 (3) The equivalent of more than four academic years within a
30 period of any five consecutive academic years.

31 In order to achieve tenure pursuant to this subsection, a teacher
32 shall complete a district mentorship program during the initial year
33 of employment and be evaluated “effective” or “highly effective” in
34 two annual summative evaluations by the certified supervisor.

35 In order to achieve tenure pursuant to this subsection, a principal,
36 assistant principal, or vice-principal shall complete a district
37 residency program pursuant to N.J.A.C.6A:9-12.5 and be evaluated
38 “effective” or “highly effective” in two annual summative
39 evaluations by the certified supervisor.

40 For the purposes of this section:

41 “effective” and “highly effective” means the employee has
42 received an annual summative evaluation rating of “effective” or
43 “highly effective” based on the performance standards for his
44 position established through the evaluation rubric adopted by the
45 board of education and approved by the commissioner; and

46 “certified supervisor” means an employee of a board of
47 education qualified to perform the duties of supervision including a
48 school district superintendent, assistant superintendent, principal,

1 assistant principal, vice-principal, director, supervisor of
2 instruction, or other job title that requires the employee to hold a
3 supervisor or administrator endorsement, and who is designated by
4 the board of education to supervise instruction and teaching staff
5 members.

6 c. For purposes of this chapter, tenure in any of the
7 administrative or supervisory positions enumerated herein shall
8 accrue only by employment in that administrative or supervisory
9 position. Tenure so accrued shall not extend to any other
10 administrative or supervisory position and nothing herein shall limit
11 or restrict tenure rights which were or may be acquired pursuant to
12 N.J.S.18A:28-6 in a position in which the individual actually
13 served.

14 (cf: P.L.1999, c.87, s.3)

15

16 10. (New section) As used in used sections 11 through 18 of
17 P.L. , c. (C.) (pending before the Legislature as this bill):

18 “Appropriate administrator” means a certified supervisor who
19 holds an administrative certificate with a principal endorsement or a
20 chief school administrator, and who is serving in such position and
21 directly supervises teaching staff members in the district;

22 “Certified supervisor” means an employee of a board of
23 education qualified to perform the duties of supervision including a
24 school district superintendent, assistant superintendent, principal,
25 assistant principal, vice-principal, director, supervisor of
26 instruction, or other job title that requires the employee to hold a
27 supervisor or administrator endorsement, and who is designated by
28 the board of education to supervise instruction and teaching staff
29 members;

30 “Corrective action plan” means a written plan developed by the
31 certified supervisor in consultation with the teacher, principal,
32 assistant principal, or vice-principal to address deficiencies as
33 outlined in that employee’s evaluation. The corrective action plan
34 shall include timelines for corrective action and the responsibilities
35 of the teacher, principal, assistant principal, or vice-principal and
36 the school district for implementing the plan;

37 “Multiple measures of student progress” means the results of
38 formal and informal assessment of students which may include, but
39 are not limited to: teacher-set goals for student learning; student
40 performance assessments such as portfolios, projects, problem-
41 solving protocols, and internships; observations of and discussions
42 with students; and valid and reliable teacher-developed,
43 standardized, and district-established assessments;

44 “Professional development plan” means a written statement of
45 goals developed by the certified supervisor, in collaboration with
46 the teacher, that aligns with the professional standards for teachers
47 set forth in State Board of Education regulations at N.J.A.C.6A:9-
48 3.3; derives from the annual evaluation process; identifies

1 professional goals that address specific individual, district, or
2 school needs; and grounds professional development activities in
3 objectives related to improving teaching, learning, and student
4 achievement;

5 “Professional growth plan” means a written statement developed
6 by the certified supervisor, in collaboration with the principal,
7 assistant principal, or vice-principal, that aligns with the
8 professional standards for school leaders set forth in State Board of
9 Education regulations at N.J.A.C.6A:9-3.4; derives from the
10 evaluation process; identifies professional goals that address
11 specific, individual, district, or school needs; and grounds
12 professional development activities in objectives related to
13 improving teaching, learning, and student achievement;

14 “Professional standards” means the New Jersey Professional
15 Standards for Teachers and New Jersey Standards for Teachers as
16 incorporating the Interstate Teacher Assessment and Support
17 Consortium (InTASC) Model Core Teacher Standards and the New
18 Jersey Professional Standards for School Leaders as incorporating
19 the Interstate School Leaders Licensure Consortium (ISLLC) as
20 appropriate to each role.

21

22 11. (New section) a. A rating of ineffective in the annual
23 summative evaluation of a tenured teacher, principal, assistant
24 principal, or vice-principal shall constitute a notice of an alleged
25 inefficiency in performance pursuant to N.J.S.18A:6-11. The
26 district shall institute a corrective action plan developed by the
27 certified supervisor, in consultation with the employee, based upon
28 the findings of the evaluation. The employee shall be required to
29 implement corrective action consistent with the plan under the
30 supervision of the certified supervisor.

31 b. If a tenured teacher, principal, assistant principal, or vice-
32 principal receives a second consecutive ineffective rating in the
33 annual summative evaluation after a corrective action plan has been
34 implemented for a year, the appropriate administrator may file a
35 tenure charge against the employee with the board of education
36 pursuant to N.J.S.18A:6-11. If the appropriate administrator
37 determines not to file tenure charges with the board of education,
38 then the employee shall continue with the corrective action plan
39 developed pursuant to this section.

40 c. If a tenured teacher, principal, assistant principal, or vice-
41 principal receives a third consecutive ineffective rating on the
42 annual summative evaluation after a corrective action plan has been
43 implemented for two years, the appropriate administrator shall file a
44 tenure charge against the employee with the board of education
45 pursuant to N.J.S.18A:6-11.

46 d. For purposes of this section, “ineffective” means the
47 employee receives an annual summative evaluation rating of
48 “ineffective” based on the performance standards for his position

1 established through the evaluation process adopted by the board of
2 education and approved by the commissioner.

3

4 12. (New section) a. A board of education shall mutually
5 develop with the majority representative and implement a research-
6 based mentoring program that pairs effective, experienced teachers
7 with first-year teachers to provide observation and feedback,
8 opportunities for modeling, and confidential support and guidance
9 in accordance with the Professional Standards for Teachers and the
10 evaluation process.

11 The mentoring program shall: enhance teacher knowledge of,
12 and strategies related to, the core curriculum content standards in
13 order to facilitate student achievement and growth; identify
14 exemplary teaching skills and educational practices necessary to
15 acquire and maintain excellence in teaching; and assist first-year
16 teachers in the performance of their duties and adjustment to the
17 challenges of teaching. To the greatest extent feasible, mentoring
18 activities shall be developed in order to be responsive to the unique
19 needs of different teachers in different instructional settings.

20 b. A board of education shall ensure that any certified
21 supervisor possessing a principal endorsement pursuant to State
22 Board of Education regulations and serving in the role of principal
23 shall complete the two-year residency program.

24

25 13. (New section) a. The Public Employment Relations
26 Commission shall maintain a panel of 24 permanent arbitrators to
27 hear matters pursuant to N.J.S.18A:6-16. Of the 24 arbitrators, 10
28 arbitrators shall be designated by the New Jersey Education
29 Association, four arbitrators shall be designated by the New Jersey
30 Principals and Supervisors Association, and 10 arbitrators shall be
31 designated by the New Jersey School Boards Association. All
32 arbitrators designated pursuant to this section shall be members of
33 the National Academy of Arbitrators and shall have at least five
34 years of experience in hearing matters in a school or public sector
35 context. The arbitrators shall register with, and receive appropriate
36 training from, the Public Employment Relations Commission from
37 information prepared by the Department of Education in
38 consultation with the New Jersey Education Association, the New
39 Jersey Principals and Supervisors Association, and the New Jersey
40 School Boards Association. The training program shall include
41 information on the State evaluation process and ethics training
42 pursuant to the School Ethics Act, P.L.1991, c.393 (C.18A:12-21 et
43 seq.).

44 b. Upon referral of a case for arbitration, the Public
45 Employment Relations Commission shall within 10 days provide
46 the parties with a list of five arbitrators. The parties are encouraged
47 to agree to an arbitrator from the submitted list and to advise the
48 Public Employment Relations Commission of their agreement. If

1 within 10 days of receiving the list of arbitrators the parties are
2 unable to mutually agree upon the selection of an arbitrator, each
3 party shall strike unacceptable names from the list, number the
4 remaining names in order of preference, and return the list to the
5 Public Employment Relations Commission. If a party does not
6 return the list within the time specified, all arbitrators on the list
7 shall be deemed acceptable. From among the arbitrators who have
8 been mutually approved by the parties, and in accordance with the
9 designated order of mutual preference, the Public Employment
10 Relations Commission shall invite an arbitrator to serve. If the
11 parties fail to agree on any of the arbitrators listed, or if an
12 acceptable arbitrator is unable to serve, or if for any other reason
13 the appointment cannot be made from the submitted list, the Public
14 Employment Relations Commission shall have the authority to
15 make the appointment from among other members of the panel of
16 arbitrators without the submission of additional lists.

17 c. The following provisions shall apply to a hearing conducted
18 by an arbitrator pursuant to N.J.S.18A:6-16:

19 (1) The hearing shall be held before the arbitrator within 30
20 days of the assignment of the arbitrator to the case;

21 (2) The costs and expenses of the arbitrator and any
22 administrative costs for the services of the Public Employment
23 Relations Commission shall be borne by the State of New Jersey;

24 (3) Upon referral of the case for arbitration, the employing
25 board of education shall provide all evidence including, but not
26 limited to, documents, electronic evidence, statements of witnesses,
27 and a list of witnesses with a complete summary of their testimony,
28 to the employee or the employee's representative, unless good cause
29 exists to allow for the production of additional evidence or
30 additional time. The employing board of education shall be
31 precluded from presenting any additional evidence at the hearing,
32 except for purposes of impeachment of witnesses, unless a showing
33 of good cause to the arbitrator is made. At least 10 days prior to the
34 hearing, the employee shall provide all evidence upon which he will
35 rely including, but not limited to, documents, electronic evidence,
36 statements of witnesses, and a list of witnesses with a complete
37 summary of their testimony, to the employing board of education or
38 its representative, unless good cause exists to allow for the
39 production of additional evidence or additional time. The employee
40 shall be precluded from presenting any additional evidence at the
41 hearing except for purposes of impeachment of witnesses, unless a
42 showing of good cause to the arbitrator is made;

43 (4) Direct evidence as to an evaluation shall be provided to the
44 arbitrator, absent good cause;

45 (5) All information related to the evaluation of an employee,
46 provided to the arbitrator, shall be maintained by the school district,
47 shall be confidential, and shall not be accessible to the public

1 pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and
2 supplemented.

3 d. The arbitrator shall determine the case under the American
4 Arbitration Association labor arbitration rules. In the event of a
5 conflict between the American Arbitration Association labor
6 arbitration rules and the procedures established pursuant to this
7 section, the procedures established pursuant to this section shall
8 govern.

9 e. Notwithstanding the provisions of N.J.S.18A:6-25 or any
10 other section of law to the contrary, the arbitrator shall render a
11 written decision within 60 days of the start of the hearing.

12 f. Any time limitation set forth in this section may be extended
13 by the arbitrator upon a showing of good cause.

14 g. The decision of the arbitrator shall be a final and binding
15 administrative decision and may not be appealed to either the
16 Commissioner of Education or the State Board of Education. The
17 decision of the arbitrator shall be subject to judicial review and
18 enforcement as provided pursuant to N.J.S.2A:24-7 through
19 N.J.S.2A:24-10.

20 h. The Public Employment Relations Commission shall publish
21 and maintain all written opinions rendered by an arbitrator.

22
23 14. (New section) a. If the decision of the arbitrator is in
24 support of termination of the employee, the Commissioner of
25 Education shall notify the State Board of Examiners, in writing, of
26 the decision.

27 b. The State Board of Examiners shall only review a tenure
28 charge case referred to an arbitrator pursuant to N.J.S.18A:6-16 if it
29 has received notification pursuant to subsection a. of this section.

30
31 15. (New section) Any tenure charge received by the
32 Commissioner of Education pursuant to N.J.S.18A:6-16 prior to the
33 effective date of P.L. , c. (C.) (pending before the Legislature
34 as this bill), shall be determined in accordance with the provisions
35 of subarticle B of article 2 of chapter 6 of Title 18A of the New
36 Jersey Statutes, as the same read prior to the effective date of
37 P.L. , c. (C.) (pending before the Legislature as this bill).

38
39 16. (New section) a. The Commissioner of Education shall
40 review and approve an evaluation rubric developed by a school
41 district's chief school administrator in consultation with the
42 district's tenured teachers, principals, assistant principals, and vice-
43 principals. The school district shall use the rubric to assess the
44 effectiveness of its teachers, principals, assistant principals and
45 vice-principals. The evaluations shall be conducted by certified
46 supervisors. The commissioner shall ensure that an approved
47 rubric meets the minimum standards established by the State Board
48 of Education.

- 1 b. The State Board of Education shall promulgate regulations
2 pursuant to the “Administrative Procedure Act,” P.L.1968, c.410
3 (C.52:14B-1 et seq.), to set standards for the approval of evaluation
4 rubrics for teachers, principals, assistant principals, and vice-
5 principals. The standards at a minimum shall provide that:
- 6 (1) there are four defined annual rating categories for teachers,
7 principals, assistant principals, and vice-principals: “ineffective”
8 means the employee is deficient in meeting performance standards,
9 “approaching effective” means the employee is in need of
10 improvement in one or more performance standards, “effective”
11 means the employee has satisfactorily met all performance
12 standards, and “highly effective” means that the employee
13 demonstrates outstanding performance;
- 14 (2) multiple measures of student progress are used and reviewed
15 in conjunction with professional standards of practice using a
16 comprehensive research and standards-based evaluation process.
17 Standardized assessments shall be used as a measure of student
18 progress but shall not be the determining factor in the attainment of
19 performance;
- 20 (3) each teacher, principal, assistant principal, or vice-principal
21 evaluation is conducted by a certified supervisor using an
22 evaluation rubric approved by the commissioner. The rubric shall
23 reflect professional standards, and be based upon a comprehensive
24 review of an employee’s performance that reflects both professional
25 standards of practice and multiple measures of student progress;
- 26 (4) an evaluation: promotes professional excellence and
27 improves professional competence; identifies deficiencies; and
28 provides a basis for the review of performance and
29 recommendations regarding employment;
- 30 (5) evaluation observations occur: at least two times during the
31 school year for a tenured teacher, principal, assistant principal, or
32 vice-principal; and at least four times during the school year for a
33 non-tenured teacher, principal, assistant principal, or vice-principal;
- 34 (6) for an announced observation, a teacher, principal, assistant
35 principal, or vice-principal receives a pre-conference between the
36 employee and the certified supervisor conducting the evaluation.
37 For all observations, an employee shall receive a post-observation
38 conference;
- 39 (7) a certified supervisor consider the following in evaluating a
40 teacher, principal, assistant principal, and vice-principal:
- 41 (a) school or class size and composition;
- 42 (b) mobility and transfer rates;
- 43 (c) the employee’s years of service and experience in the
44 profession; and
- 45 (d) any other related factors that may impact performance,
46 expectations, and levels;
- 47 (8) each teacher, principal, assistant principal, or vice-principal,
48 who is evaluated as highly effective, effective, and approaching

1 effective, has an annual summative conference accompanied by a
2 written report, and an individual professional development plan or
3 professional growth plan which is mutually developed by the
4 teacher, principal, assistant principal, or vice-principal and the
5 certified supervisor;

6 (9) certified supervisors who evaluate teachers, principals,
7 assistant principals, or vice-principals are fully trained in the
8 evaluation rubric, criteria, and procedures utilized by the district
9 and on how to provide support through the evaluation process
10 before evaluating a teacher, principal, assistant principal, or vice-
11 principal;

12 (10) all teachers, principals, assistant principals, or vice-
13 principals are trained in the evaluation rubric, criteria, and
14 observation and mentoring model;

15 (11) the evaluation is based on the professional standards for
16 that employee;

17 (12) there is an opportunity for the employee to improve his
18 effectiveness from routine evaluation feedback;

19 (13) an ineffective rating in an annual summative evaluation
20 triggers the preparation of a corrective action plan for the employee
21 which addresses the specific areas needing improvement as
22 identified in the evaluation;

23 (14) there are guidelines for school districts regarding training
24 on the evaluation system to support its implementation;

25 (15) there is a process established by the chief school
26 administrator for ongoing monitoring and calibration of the
27 observations to ensure that the observation protocols are being
28 implemented correctly and consistently;

29 (16) there is a performance framework, associated evaluation
30 tools, and observation protocols, including training and observer
31 calibration resources; and

32 (17) there is a process for a school district to obtain the approval
33 of the commissioner to utilize other evaluation tools.

34 c. A school district's evaluation rubric approved by the
35 commissioner pursuant to this section shall not be subject to
36 collective negotiations.

37
38 17. (New section) a. A board of education shall adopt an
39 evaluation rubric approved by the commissioner by June 30, 2013.

40 b. Beginning no later than December 31, 2013, a board of
41 education shall implement a pilot program to test and refine the
42 evaluation rubric.

43 c. Beginning with the 2014-2015 school year, a board of
44 education shall implement the approved, adopted evaluation rubric
45 for all teachers, principals, assistant principals, and vice-principals
46 in all elementary, middle, and high schools in the district. The
47 results of evaluations shall be used to identify and provide
48 professional development to teachers, principals, assistant

1 principals, and vice-principals. The results of evaluations shall be
2 provided to the commissioner as requested, on a regular basis.

3 The commissioner shall have the authority to delay the
4 implementation of the rubric as required pursuant to this subsection
5 until the 2015-2016 school year.

6 d. The commissioner shall establish a model evaluation rubric
7 that may be utilized by a school district to assess the effectiveness
8 of its teachers, principals, assistant principals, and vice-principals.

9
10 18. (New section) The Department of Education shall provide
11 school districts with adequate fiscal support to implement the
12 evaluation system, to provide training on the evaluation framework,
13 criteria, and procedures, and to create the professional supports,
14 mentorship programs, and other required assistance in order to
15 effectuate the provisions of this act.

16
17 19. The following section is repealed:
18 Section 1 of P.L.1998, c.42 (C.52:14B-10.1).

19
20 20. This act shall take on the 90th day after the date of
21 enactment, but the Commissioner of Education and the Director of
22 the Public Employment Relations Commission may take such
23 anticipatory administrative action in advance thereof as shall be
24 necessary for the implementations of this act.

25
26

27 STATEMENT

28
29 Under current law, teachers, principals, and other teaching staff
30 members whose position requires that they hold a certificate issued
31 by the State Board of Examiners become tenured after completing
32 three years of employment in a school district. Current law also
33 provides that a school board secretary, school business
34 administrator, or any person holding a secretarial or clerical
35 position in a school district will become tenured after completing
36 three years of employment in a school district. This bill provides
37 that a person employed in any of these positions on or after the
38 bill's effective date will become tenured after completing four years
39 of employment in a school district. The bill also provides that in
40 order to acquire tenure a teacher will additionally be required to
41 complete a district mentorship program and be evaluated as
42 "effective" or "highly effective" in two annual summative
43 evaluations. A principal, assistant principal, and a vice-principal
44 will additionally be required to complete a district residency
45 program and be evaluated as "effective" or "highly effective" in
46 two annual summative evaluations in order to acquire tenure.

47 Under the provisions of the bill, the Commissioner of Education
48 will review and approve an evaluation rubric developed by a school

1 district's chief school administrator in consultation with the
2 district's tenured teachers, principals, assistant principals, and vice-
3 principals. The standards for the evaluation rubric are required to
4 include: four annual rating categories – ineffective, approaching
5 effective, effective, and highly effective; multiple measures of
6 student progress, including standardized assessments, but these may
7 not be the determining factor in the attainment of performance; a
8 requirement that a certified supervisor must conduct the evaluation
9 of a teacher, principal, assistant principal, or vice-principal and the
10 evaluation process must be based upon a comprehensive review of
11 an employee's performance that reflects both professional standards
12 of practice and multiple measures of student progress; and a
13 requirement that evaluation observations must occur at least two
14 times during the school year for tenured teachers, principals,
15 assistant principals, and vice-principals and at least four times
16 during a school year for persons in these positions who have not
17 acquired tenure.

18 Under the provisions of the bill, in the case of a tenured teacher,
19 principal, assistant principal, or vice-principal who receives an
20 ineffective rating on the annual summative evaluation, the district is
21 to institute a corrective action plan developed by the certified
22 supervisor, in consultation with the employee, based upon the
23 findings of the evaluation. The employee will be required to
24 implement corrective action consistent with the plan. If the
25 employee receives a second consecutive ineffective rating in the
26 annual summative evaluation after a corrective action plan has been
27 implemented for a year, the appropriate administrator may file a
28 tenure charge against the employee with the board of education. If
29 the appropriate administrator determines not to file tenure charges
30 with the board of education, then the employee will continue with
31 the corrective action plan. If the employee receives a third
32 consecutive ineffective rating after a corrective action plan has been
33 implemented for two years, the appropriate administrator must file a
34 tenure charge against the employee.

35 This bill will also require binding arbitration for contested cases
36 involving the dismissal or reduction in compensation of tenured
37 employees of a school district. These contested cases will no longer
38 be referred to Administrative Law Judges, and the final
39 determination on the case will no longer be made by the
40 Commissioner of Education, which is the process under current law.
41 The bill provides that the Public Employment Relations
42 Commission will maintain a panel of 24 permanent arbitrators to
43 hear these matters. Of the 24 arbitrators, ten will be designated by
44 the New Jersey Education Association, four will be designated by
45 the New Jersey Principals and Supervisors Association, and ten will
46 be designated by the New Jersey School Boards Association.

47 The Commissioner of Education will continue to determine
48 whether or not there is a contested case. If a determination is made

1 that there is a contested case, the Public Employment Relations
2 Commission will provide the parties with a list of five arbitrators.
3 If within 10 days of receiving the list of arbitrators the parties are
4 unable to mutually agree upon the selection of an arbitrator, each
5 party will strike unacceptable names from the list, number the
6 remaining names in order of preference, and return the list to the
7 Public Employment Relations Commission. If a party does not
8 return the list within the time specified, all arbitrators on the list
9 will be deemed acceptable. From among the arbitrators who have
10 been mutually approved by the parties, and in accordance with the
11 designated order of mutual preference, the Public Employment
12 Relations Commission will invite an arbitrator to serve. If the
13 parties fail to agree on any of the arbitrators listed, or if an
14 acceptable arbitrator is unable to serve, or if for any other reason
15 the appointment cannot be made from the submitted list, the Public
16 Employment Relations Commission will have the authority to make
17 the appointment from among other members of the panel of
18 arbitrators without the submission of additional lists.

19 The bill provides that the hearing before the arbitrator will be
20 held within 30 days of the assignment of the arbitrator to the case
21 and that the arbitrator will render a decision within 60 days of the
22 start of the hearing. The decision of the arbitrator will be deemed
23 final and binding, and will not be appealable to the Commissioner
24 of Education or State Board of Education. The bill provides for a
25 limited number of instances in which the decision of the arbitrator
26 will be subject to judicial review, enforcement, or vacation.

27 The bill repeals certain sections of law which refer to the process
28 pursuant to which an Administrative Law Judge would hear
29 contested cases involving tenured school employees.

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3060

STATE OF NEW JERSEY

DATED: JUNE 14, 2012

The Assembly Education Committee reports favorably Assembly Bill No. 3060.

Under current law, teachers, principals, and other teaching staff members whose position requires that they hold a certificate issued by the State Board of Examiners become tenured after completing three years of employment in a school district. Current law also provides that a school board secretary, school business administrator, or any person holding a secretarial or clerical position in a school district will become tenured after completing three years of employment in a school district. This bill provides that a person employed in any of these positions on or after the bill's effective date will become tenured after completing four years of employment in a school district. The bill also provides that in order to acquire tenure a teacher will additionally be required to complete a district mentorship program and be evaluated as "effective" or "highly effective" in two annual summative evaluations. A principal, assistant principal, and a vice-principal will additionally be required to complete a district residency program and be evaluated as "effective" or "highly effective" in two annual summative evaluations in order to acquire tenure.

Under the provisions of the bill, the Commissioner of Education will review and approve an evaluation rubric developed by a school district's chief school administrator in consultation with the district's tenured teachers, principals, assistant principals, and vice-principals. The standards for the evaluation rubric are required to include: four annual rating categories – ineffective, approaching effective, effective, and highly effective; multiple measures of student progress, including standardized assessments, but these may not be the determining factor in the attainment of performance; a requirement that a certified supervisor must conduct the evaluation of a teacher, principal, assistant principal, or vice-principal and the evaluation process must be based upon a comprehensive review of an employee's performance that reflects both professional standards of practice and multiple measures of student progress; and a requirement that evaluation observations must occur at least two times during the school year for tenured teachers, principals, assistant principals, and vice-principals and at least four times during a school year for persons in these positions who have not acquired tenure.

Under the provisions of the bill, in the case of a tenured teacher, principal, assistant principal, or vice-principal who receives an ineffective rating on the annual summative evaluation, the district is to institute a corrective action plan developed by the certified supervisor, in consultation with the employee, based upon the findings of the evaluation. The employee will be required to implement corrective action consistent with the plan. If the employee receives a second consecutive ineffective rating in the annual summative evaluation after a corrective action plan has been implemented for a year, the appropriate administrator may file a tenure charge against the employee with the board of education. If the appropriate administrator determines not to file tenure charges with the board of education, then the employee will continue with the corrective action plan. If the employee receives a third consecutive ineffective rating after a corrective action plan has been implemented for two years, the appropriate administrator must file a tenure charge against the employee.

This bill will also require binding arbitration for contested cases involving the dismissal or reduction in compensation of tenured employees of a school district. These contested cases will no longer be referred to Administrative Law Judges, and the final determination on the case will no longer be made by the Commissioner of Education, which is the process under current law. The bill provides that the Public Employment Relations Commission will maintain a panel of 24 permanent arbitrators to hear these matters. Of the 24 arbitrators, ten will be designated by the New Jersey Education Association, four will be designated by the New Jersey Principals and Supervisors Association, and ten will be designated by the New Jersey School Boards Association.

The Commissioner of Education will continue to determine whether or not there is a contested case. If a determination is made that there is a contested case, the Public Employment Relations Commission will provide the parties with a list of five arbitrators. If within 10 days of receiving the list of arbitrators the parties are unable to mutually agree upon the selection of an arbitrator, each party will strike unacceptable names from the list, number the remaining names in order of preference, and return the list to the Public Employment Relations Commission. If a party does not return the list within the time specified, all arbitrators on the list will be deemed acceptable. From among the arbitrators who have been mutually approved by the parties, and in accordance with the designated order of mutual preference, the Public Employment Relations Commission will invite an arbitrator to serve. If the parties fail to agree on any of the arbitrators listed, or if an acceptable arbitrator is unable to serve, or if for any other reason the appointment cannot be made from the submitted list, the Public Employment Relations Commission will have the authority to make the appointment from among other

members of the panel of arbitrators without the submission of additional lists.

The bill provides that the hearing before the arbitrator will be held within 30 days of the assignment of the arbitrator to the case and that the arbitrator will render a decision within 60 days of the start of the hearing. The decision of the arbitrator will be deemed final and binding, and will not be appealable to the Commissioner of Education or State Board of Education. The bill provides for a limited number of instances in which the decision of the arbitrator will be subject to judicial review, enforcement, or vacation.

The bill repeals certain sections of law which refer to the process pursuant to which an Administrative Law Judge would hear contested cases involving tenured school employees.

MINORITY STATEMENT

By Assemblywoman DeCroce and Assemblymen Wolfe and Rumana

The sponsor of this bill should be commended for his efforts to reform the current tenure process. However, during this legislative session several other tenure bills have also been introduced. We believe the provisions included in those bills should also be debated and given due consideration in order to develop a comprehensive bill that establishes a fair and effective tenure system.

Therefore, we are withholding our support for this legislation at this time.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 3060

STATE OF NEW JERSEY

DATED: JUNE 21, 2012

The Assembly Budget Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 3060.

This Assembly Committee Substitute requires each school district to submit annually to the Commissioner of Education, for review and approval, an evaluation rubric that the district will use to assess the effectiveness of its teaching staff members. The district may use the model rubric which the commissioner is required to establish or it may use one that meets the minimum standards provided in the substitute. A board of education must: adopt a rubric approved by the commissioner by December 31, 2012; implement a pilot program to test the rubric beginning no later than January 31, 2013; and beginning with the 2013-2014 school year, ensure implementation of the rubric for all educators in the district.

Under current law, all teaching staff members whose positions require that they hold a certificate issued by the State Board of Examiners receive tenure after completing three years of employment in a school district. This substitute provides that all teaching staff members employed on or after the substitute's effective date will become tenured after completing four years of employment in the school district. According to the provisions of the substitute, teachers, principals, assistant principals, and vice-principals will have the following additional requirements for acquiring tenure:

- a teacher will be required to complete a district mentorship program and receive a rating of effective or highly effective in two annual summative evaluations within the first three years after the initial year in which the teacher completes the mentorship program; and
- a principal, assistant principal, or vice-principal will be required to be rated as effective or highly effective in two annual summative evaluations within the first three years of employment following the initial year of employment.

The substitute provides that a teacher, principal, assistant principal, or vice-principal who is transferred or promoted to another position in the same district on or after the effective date of the substitute must meet the current statutory requirement of two years of employment in

the new position in order to acquire tenure in that position, but additionally the employee must be evaluated as effective or highly effective in two annual summative evaluations within the first three years of employment in the new position. In the case of any tenured teacher, principal, assistant principal, or vice-principal who has been rated effective or highly effective on his most recent annual summative evaluation, and who accepts employment in the same position in an underperforming school in another district, that person will be eligible for tenure after being evaluated as effective or highly effective in at least one annual summative evaluation within the first two years of employment in the underperforming school.

In order to ensure the effectiveness of its teachers, the substitute directs each public school to convene a school improvement panel. The panel will include the principal, or his designee, an assistant or vice-principal, and a teacher. The principal's designee must be an individual employed in the district in a supervisory role and capacity who possesses a school administrator certificate, principal certificate, or supervisor certificate. The teacher will be selected in consultation with the majority representative and must have a demonstrated record of success in the classroom. The panel will: oversee the mentoring of teachers; conduct evaluations of teachers, provided that the teacher on the panel will not be included in the evaluation process unless the majority representative has agreed to the contrary; and identify professional development opportunities for all instructional staff members.

Under the substitute, each board of education must implement a mentoring program in which effective experienced teachers are paired with first-year teachers to provide observation and feedback, opportunities for modeling, and confidential support and guidance. The substitute also provides that the board of education, the principal or the superintendent must provide teaching staff members with ongoing professional development and provide additional professional development for any teaching staff member who fails or is struggling to meet the performance standards established by the board for his job. When a teaching staff member is rated ineffective or partially effective, a corrective action plan must also be developed to address deficiencies outlined in the employee's evaluation.

Under the provisions of the substitute the superintendent of schools is required to promptly file a charge of inefficiency whenever a tenured teacher, principal, assistant principal, and vice-principal is rated ineffective or partially effective in an annual summative evaluation and in the following year the employee is rated ineffective. A charge of inefficiency must also be filed when the employee is rated partially effective in two years or is rated ineffective in one year's annual summative evaluation and in the next year is rated partially effective, however in this case, upon a written finding of exceptional

circumstances, the superintendent may defer filing the tenure charge until after the next annual summative evaluation.

The substitute requires binding arbitration for contested cases involving the dismissal or reduction in compensation of tenured employees in the school district. These contested cases will no longer be referred to Administrative Law Judges, and the final determination on the case will no longer be made by the Commissioner of Education, which is the process under current law. The substitute provides that the Commissioner of Education will maintain a panel of 25 arbitrators, with eight designated by the New Jersey Education Association, three designated by the American Federation of Teachers, nine designated by the New Jersey School Boards Association, and five designated by the New Jersey Principals and Supervisors Association. The substitute includes a cap on the costs of the arbitration, with the arbitrator being limited to no more than \$1250 per day and no more than \$7500 per case. The costs and expenses of the arbitrator will be borne by the State. Arbitrators will be assigned by the commissioner randomly to hear cases.

The substitute provides that for a charge of inefficiency filed against a teacher, principal, assistant principal, or vice-principal based on the rating given in an annual summative evaluation, as described above, the board of education must forward the charge to the commissioner within 30 days of the filing, unless the board determines that the evaluation process has not been followed. If the charge is forwarded to the commissioner, the individual against whom the charges are filed will have 10 days to submit a written response to the charges to the commissioner, and the commissioner, unless he determines that the evaluation process has not been followed, is required to forward the case to the arbitrator within five business day following the period provided for the response to the charges. The hearing before the arbitrator must be held within 45 days of his assignment to the case, and he must render a decision within 45 days of the start of the hearing.

In rendering a decision on one of these cases, the arbitrator is only permitted to consider whether or not:

- the employee's evaluation failed to adhere substantially to the evaluation process;
- there is a mistake of fact in the evaluation;
- the charges would not have been brought but for considerations of political affiliation, nepotism, union activity, discrimination, or other conduct prohibited by State or federal law; or
- the district's actions were arbitrary and capricious.

If the employee is able to demonstrate that any of these facts are applicable, the arbitrator must then determine if that fact materially affected the outcome of the evaluation and if it did not, the arbitrator is

required to decide in favor of the board and the employee must be dismissed.

The substitute repeals section 1 of P.L.1998, c.42 (C.52:14B-10.1), which outlines the procedure tenure cases currently follow when referred to the Office of Administrative Law.

The provisions of this substitute will take effect in the 2012-2013 school year, except that the provision of the substitute that requires the State Board of Education to promulgate regulations to set standards for the approval of evaluation rubrics and sets forth the minimum requirements of the new evaluation rubric, will take effect immediately.

FISCAL IMPACT:

The Office of Legislative Services (OLS) anticipates that the Assembly Committee Substitute for Assembly Bill No. 3060 of 2012 will lead to an indeterminate change in costs incurred by local school districts, and an indeterminate increase in costs incurred by the State.

School District Costs and Savings

- The number of tenure hearings may increase, which would contribute to increased costs. A-3060 (ACS) requires that a superintendent file tenure charges with the board of education against a teacher, principal, assistant principal, or vice-principal who receives a low rating in consecutive annual summative evaluations. Relative to current law, where the filing of charges is left to the discretion of the superintendent, there may be an increase in the number of tenure hearings and the associated costs.
- A-3060 (ACS) establishes a timeframe in which an arbitrator must complete a tenure hearing and render a decision. A school district that retains outside legal representation in its tenure cases may experience a reduction in legal costs associated with tenure hearings.

State Costs

Section 20 of A-3060 (ACS) specifies that the Department of Education will provide the funding necessary to effectuate the provisions of the substitute. Based on this provision, there are four potential costs that the State may incur:

- The State would incur additional costs for compensating arbitrators who preside over tenure proceedings. The substitute sets their compensation at \$1,250 per day, not to exceed \$7,500 per case. The OLS does not anticipate any savings associated with shifting tenure cases from administrative law judges to arbitrators. To the extent that

administrative law judges hear cases unrelated to tenure, the proposed shift would likely not lead to a reduction in administrative law judges.

- A-3060 (ACS) requires that all school districts adopt an evaluation rubric for teaching staff members that is approved by the commissioner. If one uses the information included in the department's Notice of Grant Opportunity (NGO) for the teacher effectiveness and principal effectiveness pilot programs, and extrapolates the cost Statewide, the potential cost of adopting such rubrics is \$52.4 million for classroom teachers and \$11.9 million for administrators; the NGO did not include comparable information for other teaching staff members. As noted in the NGO, the actual cost is contingent on decisions made by school districts, and may be higher or lower.
- A-3060 (ACS) requires that each school establish a school improvement panel, and that a teacher serves on that panel. The inclusion of a teacher on the panel would likely lead to an expenditure increase, since this would likely require additional compensation.
- The substitute requires that each board of education establishes a mentoring program for first-year teachers. Under current State Board of Education regulations, the cost of the current required mentorship is borne by the novice teacher, if State funds are not available. The substitute would presumably shift the cost of the mentorship program to the State.

Governor Chris Christie Signs Revolutionary Bipartisan Tenure Reform Legislation Into Law

August 06, 2012 Tags: [Education](#)

Trenton, NJ – Marking the first extensive reform of New Jersey’s tenure law in over 100 years, Governor Christie today signed the Teacher Effectiveness and Accountability for the Children of New Jersey (TEACHNJ) Act, a sweeping, bipartisan overhaul of the oldest tenure law in the nation. The legislation transforms the existing tenure system to now provide powerful tools to identify effective and ineffective teachers, strengthen the supports available to help all teachers improve their craft, and, for the first time, tie the acquisition, maintenance, and loss of tenure to a teacher’s effectiveness in the classroom. The new law, S-1455, is the result of nearly two years of consistent and vocal advocacy for real education reform by Governor Christie and good faith, bipartisan cooperation with members of the legislature, education reform advocates, and stakeholder groups. Governor Christie called on the legislature to take the next step in ensuring New Jersey has the best educators in the country by reforming the antiquated practice of Last In, First Out (LIFO), supporting differentiated pay for teachers, and banning forced placement so principals and teachers agree to all teacher assignments.

“This is a historic day for New Jersey and this new tenure law is an important step towards ensuring we have a great teacher in every classroom. After more than 100 years in existence, this Administration, Legislature and key reformers have done together what many considered to be impossible. For their leadership in this effort and for their partnership, I thank Senator Ruiz, Assemblyman Diegnan, the sponsors in each chamber, and the Legislature as a whole in this long, difficult, but bipartisan, effort to bring real and meaningful change to our education system,” said Governor Christie. “We are taking a huge leap forward in providing a quality education and real opportunity to every student in New Jersey. But our work to develop laws that put students first is not done. Now is the time to build on this record of cooperation and results to put in place further reforms focused on our students by ending the flawed practice of Last In, First Out and supporting both differentiated pay and banning forced placements of teachers.”

The signing of TEACHNJ represents the completion of another item in the bold education reform agenda Governor Christie outlined in September 2010 and has pursued aggressively over the last two years. The Governor’s reforms are aimed at ensuring that all students in New Jersey, regardless of zip code, graduate from high school ready for college and career.

“With this historic signing we are revamping a century-old tenure law and creating fundamental changes that will help to ensure our students have the best leaders in the classroom,” said Senator Teresa Ruiz. “This law represents nearly two years of work. It demonstrates that no matter what side of an issue you are on, when people are truly willing to work together - and to continue to work regardless of the disagreements that may take place - extraordinary things can happen.”

“Tenure reform represents one of the most significant and landmark pieces of legislation this Legislature has acted upon,” said Senate President Steve Sweeney. “Working in a bipartisan fashion and thanks largely to the guidance, dedication, and leadership of Senator Ruiz, we are overhauling an outdated law that brings reform to our educational system and protects the educational future of our students.”

The TEACHNJ bill enacts three measures essential to improving the quality of educators in front of New Jersey classrooms.

The law for the first time in New Jersey history ties the acquisition of tenure to effectiveness rather than simply on how long an educator has been in the profession. Tenure will now be awarded only after two years of effective or highly-effective ratings, and will take four years instead of three years to attain, while providing a year of mentoring for all new teachers. Similarly, revocation of tenure will be predicated on effectiveness and tenure charges will automatically be brought against teachers and principals after two consecutive years without a rating of effective or highly-effective, except in circumstances where an educator has demonstrated modest improvement during that span and may be granted an additional year to achieve an effective rating. These provisions will help ensure that only those teachers who are consistently demonstrating success in serving our students remain in the classroom.

The law also dramatically reduces the time and cost it takes to remove educators who are repeatedly ineffective in improving student outcomes. Formerly, the process to remove a teacher could take several years and cost more than \$100,000, providing a disincentive for districts to bring tenure charges against ineffective teachers. Over the past ten years, less than 20 teachers have lost tenure after charges of “inefficiency,” which was most closely aligned with the definition of “ineffective.” Under the new system, the time would be limited to 105 days from the time the written tenure

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charges are received by the Commissioner and is capped at \$7,500 per case – which will be paid by the state.

Additionally, the law outlines requirements for providing support to help all educators improve by developing more meaningful evaluation systems and tying the results of those evaluations directly to professional development. In addition to mandating mentoring in a teacher's first year, the new evaluation systems will provide more meaningful feedback on teacher practice and will incorporate measures of what matters most – how well students are actually performing. Professional development will be tied to those evaluations, and corrective action plans will be mandatory when a teacher is rated ineffective or partially ineffective – providing the opportunity for improvement before tenure charges are brought for ineffectiveness.

"The passage of this bill, which was unheard of only a year ago, demonstrates that education reform is not a partisan issue. If we really put children first, the right thing to do is in reality quite simple," said Education Commissioner Chris Cerf. "Now, let's continue to move forward and take on the hard work to make sure that every child in our state graduates from high school truly ready for college and career."

Over the past two years, the Department of Education has worked with principals and teachers across the state to improve evaluation systems in order to help all educators continuously improve their practice. There are currently 30 districts scheduled to pilot new teacher and principal evaluation systems this coming school year in preparation for statewide rollout in 2013-14, as outlined in the TEACHNJ law.

"This is meaningful tenure reform that does what's best for our children while balancing the protection of due process for our principals and teachers," said Assemblyman Patrick J. Diegnan Jr. "This is real change that will ensure new teachers are properly trained and evaluated and that tenure charges are handled in a timely and professional manner. Our focus will be where it should be - making sure that our students have the best teachers in the classroom."


Since taking office, Governor Christie has worked to secure critical education reforms to better serve all New Jerseyans. These reforms include an expansion of charter school application approvals paired with more aggressive management and oversight for charter performance, the implementation of the Interdistrict School Choice program, making common sense changes to the school funding formula to increase fairness and attack fraud and abuse, raising state support to education to the highest level in history, and moving forward with bold reforms in the No Child Left Behind waiver to put in place a better accountability system and more effectively turn around failing schools. Earlier this year, the Governor signed the Urban Hope Act, establishing a pathway for the creation of high-quality alternatives for students in three low-performing districts.

Primary sponsors of the bill are Senators M. Teresa Ruiz (D-Essex), Kevin J. O'Toole (R-Bergen, Essex, Morris and Passaic) and Assemblymembers Patrick J. Diegnan, Jr. (D- Middlesex) Ralph R. Caputo (D-Essex) Jay Webber (R-Essex, Morris and Passaic), Albert Coutinho (D-Essex), Mila M. Jasey (D-Essex, Morris), Bonnie Watson Coleman (D-Hunterdon, Mercer), and Craig J. Coughlin (D-Middlesex).

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