

# ASSEMBLY, No. 4168

## STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED JUNE 23, 2011

**Sponsored by:**

**Assemblyman JAY WEBBER**

**District 26 (Morris and Passaic)**

**Assemblywoman AMY H. HANDLIN**

**District 13 (Middlesex and Monmouth)**

**SYNOPSIS**

“School Children First Act”; modifies evaluation of teachers and principals; revises tenure acquisition process and certain tenure charge procedures; establishes factors for determining compensation; requires mutual consent for teacher placement; and eliminates certain seniority rights.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 11/14/2011)

1 AN ACT concerning certain teaching staff members, supplementing  
2 chapters 27, 28, and 29 of Title 18A of the New Jersey Statutes,  
3 and revising various parts of the statutory law.  
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 “School Children First Act.”  
10

11 2. (New section) The services of all teaching staff members  
12 employed in the positions of teacher, principal, other than  
13 administrative principal, assistant principal, and vice-principal,  
14 serving in any school district or under any board of education,  
15 excepting those who are not the holders of proper certificates in full  
16 force and effect, shall be under tenure during good behavior and  
17 efficiency and they shall not be dismissed or reduced in  
18 compensation except for inefficiency, incapacity, or conduct  
19 unbecoming such teaching staff member or other just cause and  
20 then only in the manner prescribed by subarticle B of article 2 of  
21 chapter 6 of Title 18A of the New Jersey Statutes, after the  
22 employee receives annual ratings of “effective” or “highly  
23 effective” as defined by regulations promulgated in accordance with  
24 the provisions of section 5 of P.L. , c. (C. ) (pending before the  
25 Legislature as this bill) in the most recent annual evaluation and in  
26 the two years preceding the most recent annual evaluation.

27 For the purposes of P.L. , c. (C. ) (pending before the  
28 Legislature as this bill), tenure in any of the administrative or  
29 supervisory positions enumerated herein shall accrue only by  
30 employment in the administrative or supervisory position. Tenure  
31 so accrued shall not extend to any other administrative or  
32 supervisory position.  
33

34 3. (New section) A teacher under tenure who receives an annual  
35 rating of “ineffective” for one year, or an annual rating of “partially  
36 effective” for two consecutive years, shall revert to non-tenure  
37 status and may be subject to dismissal by either the board of  
38 education or the school principal. A principal, assistant principal,  
39 or vice-principal under tenure who receives an annual rating of  
40 “ineffective” for one year, or an annual rating of “partially  
41 effective” for two consecutive years, shall revert to non-tenure  
42 status and may be subject to dismissal by the board of education or  
43 the superintendent. A teaching staff member employed as a teacher,  
44 principal, assistant principal, or vice-principal who reverts to non-  
45 tenure status after receiving an annual rating of “ineffective” or two

**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 consecutive annual ratings of “partially effective” shall revert to  
2 tenure status following three consecutive annual ratings of  
3 “effective” or “highly effective.”

4

5 4. (New section) Any teacher, principal, assistant principal, or  
6 vice-principal under tenure on the effective date of this act shall  
7 continue under tenure subject to the annual rating requirements set  
8 forth in section 3 of P.L. , c. (C. ) (pending before the  
9 Legislature as this bill).

10

11 5. (New section) a. Every board of education in this State shall,  
12 beginning with the 2012-2013 school year and thereafter, cause  
13 each teaching staff member employed by it in the positions of  
14 teacher, principal, assistant principal, and vice-principal to be  
15 observed in the performance of his duties at least twice during each  
16 school year. The number of required observations may be reduced  
17 proportionately when an individual teaching staff member’s term of  
18 service is less than one academic year. Each observation may be  
19 followed by a conference between that teaching staff member and  
20 his superior or superiors. The purpose of this procedure is to  
21 recommend as to reemployment, identify any deficiencies and  
22 extend assistance for their correction, and improve professional  
23 competence.

24 b. Regulations shall be promulgated pursuant to section 27 of  
25 P.L. , c. (C. ) (pending before the Legislature as this bill)  
26 pertaining to the evaluation of teaching staff members employed in  
27 the positions of teacher, principal, assistant principal, and vice-  
28 principal that shall be binding upon and supersede any district-  
29 adopted evaluation criteria or process that may be inconsistent with  
30 the regulations. The regulations shall provide for an educator  
31 evaluation system for teaching staff members employed in the  
32 positions of teacher, principal, assistant principal, and vice-  
33 principal using multiple performance measures and shall at a  
34 minimum include:

35 (1) four defined annual rating categories for teachers, principals,  
36 assistant principals, and vice-principals: ineffective, partially  
37 effective, effective, and highly effective;

38 (2) a provision requiring that at least 50% of the effectiveness  
39 ratings be based on objective measures of student learning such as  
40 standardized test scores or other quantifiable indicators;

41 (3) objective measures of student learning that use growth from  
42 one year’s quantifiable measure to the next year’s quantifiable  
43 measure;

44 (4) a provision that multiple measures of teaching staff practice  
45 and student learning be used in rating teaching staff effectiveness  
46 with specific measures and implementation processes;

1 (5) a requirement that teaching staff receive at least one final  
2 annual summative evaluation for the school year, and a conference  
3 with their superior or superiors following this evaluation;

4 (6) an opportunity for teaching staff to improve their  
5 effectiveness from routine evaluation feedback;

6 (7) guidelines for school districts regarding training on the  
7 evaluation system to support its implementation; and

8 (8) a performance framework, associated evaluation tools, and  
9 observation protocols with a process for a school district to obtain  
10 the approval of the commissioner to utilize other evaluation tools.

11 c. Each school district shall fully implement the educator  
12 evaluation system by the 2012-2013 school year, provided however  
13 that any evaluation system or process that is set out in any existing  
14 collective bargaining agreement need not conform to the educator  
15 evaluation system set forth in regulations until such time as the  
16 agreement expires. No collective bargaining agreement or other  
17 contract entered into by a school district after July 1, 2012 shall  
18 conflict with the educator evaluation system set forth in regulations.

19 d. Beginning in the 2012-2013 school year and thereafter,  
20 annual ratings of teaching staff members employed in the position  
21 of principal, assistant principal, and vice-principal shall not be  
22 subject to grievance or appeal. Annual ratings of teaching staff  
23 members employed in the position of teacher shall not be subject to  
24 grievance or appeal unless the grievance or appeal relates to a  
25 charge that the school district failed to adhere substantially to the  
26 approved educator evaluation system. Any such appeal initiated by  
27 a teacher shall be directed to the superintendent of schools within  
28 30 days of receipt of the annual rating, and the superintendent shall  
29 consider the appeal pursuant to regulations promulgated pursuant to  
30 section 27 of P.L. , c. (C. ) (pending before the Legislature as  
31 this bill).

32 e. Beginning in the 2012-2013 school year and thereafter, each  
33 school district shall report on its website for each school the number  
34 of teachers rated in each evaluation category for the most recent  
35 school year. The Department of Education shall report on its  
36 website the number of teachers, principals, assistant principals, and  
37 vice-principals in each district rated in each evaluation category.  
38

39 6. (New section) a. A board of education shall adopt a salary  
40 schedule or compensation policy for teaching staff members  
41 employed in the position of teacher, principal, assistant principal, or  
42 vice-principal in which the individual's salary is determined  
43 primarily by:

44 (1) the teaching staff member's demonstrated effectiveness in  
45 advancing student learning, as determined by the staff member's  
46 annual effectiveness rating;

47 (2) the teaching staff member's assignment to a failing school,  
48 as identified by the Commissioner of Education; and

1 (3) the teaching staff member teaching a subject area that the  
2 commissioner has designated as a difficult to staff subject area.

3 b. A board of education shall not adopt a salary schedule or  
4 compensation policy for teaching staff members employed in the  
5 position of teacher, principal, assistant principal, or vice-principal  
6 in which the individual's years of employment is a primary  
7 determinant of the individual's salary.

8 c. The salary schedule or compensation policy for teaching  
9 staff members employed in the position of teacher, principal,  
10 assistant principal, or vice-principal adopted by a board of  
11 education shall not provide additional compensation for academic  
12 credits earned or degrees attained unless:

13 (1) the commissioner has determined that attainment of the  
14 academic credit or degree will have a demonstrably positive effect  
15 on student achievement; and

16 (2) the teaching staff member is teaching or practicing in the  
17 subject area in which the academic credit or degree was attained.

18 d. Regulations shall be promulgated pursuant to section 27 of  
19 P.L. , c. (C. ) (pending before the Legislature as this bill)  
20 pertaining to the compensation of teaching staff members employed  
21 in the positions of teacher, principal, assistant principal, and vice-  
22 principal, and they shall be binding upon and supersede any district-  
23 adopted salary schedule or compensation policy that may be  
24 inconsistent with the regulations.

25 e. A school district shall adopt the salary schedule or  
26 compensation policy required pursuant to this section by the 2012-  
27 2013 school year, provided however that any salary schedule or  
28 compensation policy that is set out in any existing collective  
29 bargaining agreement need not conform to the requirements set  
30 forth in regulations until such time as the agreement expires. No  
31 collective bargaining agreement or other contract entered into by a  
32 school district after July 1, 2012 shall conflict with the salary  
33 schedule or compensation policy set forth in regulations.

34

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

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

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

11

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

13 18A:6-16. Upon receipt of such a charge and certification, or of  
14 a charge lawfully made to the commissioner, the commissioner or  
15 the person appointed to act in the commissioner's behalf in the  
16 proceedings shall examine the charges and certification. The  
17 individual against whom the charges are certified shall have 15  
18 days to submit a written response to the charges to the  
19 commissioner. Upon a showing of good cause, the commissioner  
20 may grant an extension of time. The commissioner shall render a  
21 determination on the sufficiency of charges as set forth below  
22 within 15 days immediately following the period provided for a  
23 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 for further proceedings, except that  
32 when a motion for summary decision has been made prior to that  
33 time, the commissioner may retain the matter for purposes of  
34 deciding the motion. The administrative law judge shall issue an  
35 initial decision to the commissioner within 30 calendar days after  
36 the case has been received by the Office of Administrative Law.

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

38

39 9. N.J.S.18A:6-31.1 is amended to read as follows:

40 18A:6-31.1. Whenever any district is divided into two or more  
41 districts those persons having tenure, in office, position or  
42 employment in such district in positions other than teacher,  
43 principal, assistant principal, or vice-principal, shall continue to  
44 have tenure in the district which comprises the territory in which  
45 they were serving at the time of the division; the persons having  
46 tenure in office, position or employment in such district in positions  
47 other than teacher, principal, assistant principal, or vice-principal,  
48 whose services were not exclusively confined to the territory

1 comprising any one of the districts as so divided, at the time of the  
2 division, shall be employed, if their services are so required, in the  
3 district having the highest number of pupils in average daily  
4 attendance during the second academic year preceding the academic  
5 year in which the new district is created as certified by the  
6 department and those persons having tenure in office, position or  
7 employment in the original district in positions other than teacher,  
8 principal, assistant principal, or vice-principal, who are not  
9 employed by the board of education of either district shall retain the  
10 seniority and tenure rights acquired in the original district and shall  
11 be employed in accordance therewith as vacancies occur in either  
12 the original district or the new district before any other persons are  
13 so employed in similar offices, positions or employments.

14 (cf: N.J.S.18A:6-31.1)

15

16 10. N.J.S.18A:6-31.2 is amended to read as follows:

17 18A:6-31.2. The tenure, seniority and pension rights of all  
18 persons, who had office, position or employment in the original  
19 district at the time of said division in positions other than teacher,  
20 principal, assistant principal, or vice-principal, and who are  
21 employed in either district after such division shall continue with  
22 the same force and effect as though such division had not occurred  
23 and any future continuation of service in either district shall be  
24 deemed to be a continuation of the service rendered prior to said  
25 division and any period of service rendered in the original district  
26 shall be credited toward the acquisition of tenure, seniority and  
27 pension rights in the original or new district, as the case may be.

28 (cf: N.J.S.18A:6-31.2)

29

30 11. Section 2 of P.L.1995, c.294 (C.18A:6-31.4) is amended to  
31 read as follows:

32 2. Whenever a new school district is created **],** the terms and  
33 conditions of employment, whether established through a collective  
34 bargaining agreement or past practice, of the largest constituent  
35 school district which is affected, replaced or displaced by, or forms  
36 part of the new school district, shall apply until a successor  
37 agreement is negotiated with the majority representative of the new  
38 school district. As used in this section, the term largest constituent  
39 school district means that school district which employs the largest  
40 number of teaching staff members.

41 In the event that there is an employee bargaining unit in a  
42 constituent school district with the next largest number of  
43 employees and with a majority representative of the unit, which is  
44 not so represented in the largest school district, the terms and  
45 conditions of employment for all employees holding positions in  
46 that unit in the new school district shall apply provided that the  
47 terms and conditions of employment shall only apply to the new  
48 school district's employees in that bargaining unit **]** a new collective

1 bargaining agreement shall be negotiated with the majority  
2 representative of the new school district.

3 (cf: P.L.1995, c.294, s.2)

4

5 12. Section 3 of P.L.1995, c.294 (C.18A:6-31.5) is amended to  
6 read as follows:

7 3. Whenever a new school district is created, the tenure and  
8 seniority rights of all employees from the affected, constituent,  
9 replaced or displaced districts which form or are a part of, or are  
10 affected, replaced or displaced by the new school district, except for  
11 employees who are superintendents or in the positions of teacher,  
12 principal, assistant principal, or vice-principal, shall be recognized  
13 and preserved by the new school district and all periods of  
14 employment in any of the school districts shall count toward  
15 acquisition of tenure and seniority in the new school district. All  
16 statutory and contractual rights to tenure, seniority, accumulated  
17 sick leave, leave of absence, and pension of an employee, other than  
18 an employee who is a superintendent or in the positions of teacher,  
19 principal, assistant principal, or vice-principal, which have been  
20 acquired through employment in any of the districts shall be  
21 recognized by the new school district.

22 (cf: P.L.1995, c.294, s.3)

23

24 13. Section 4 of P.L.1995, c.294 (C.18A:6-31.6) is amended to  
25 read as follows:

26 4. Following consideration of the tenure and seniority rights of  
27 employees provided pursuant to section 3 of this act or pursuant to  
28 any other section of law, a new school district shall fill all vacancies  
29 and available positions other than teacher, principal, assistant  
30 principal, and vice-principal from a pool of qualified employees  
31 prior to interviewing applicants or hiring new employees. The pool  
32 of qualified employees shall consist of all employees of the  
33 constituent, affected, displaced or replaced school districts in  
34 positions other than teacher, principal, assistant principal, and vice-  
35 principal, who would otherwise be entitled to continued  
36 employment in that district in the following school year but are not  
37 entitled to continued employment in the new school district because  
38 of tenure or seniority status. **【During】** For positions other than  
39 teacher, principal, assistant principal, and vice-principal, during the  
40 school year in which the new district is established, a new school  
41 district shall not hire an employee for a particular position until all  
42 employees in the labor pool qualified to fill the position have been  
43 offered employment by the new school district.

44 (cf: P.L.1995, c.294, s.4)

45

46 14. N.J.S.18A:13-49 is amended to read as follows:

47 18A:13-49. All **【principals, teachers and】** employees in the  
48 employment of any dissolving local district in positions other than



1 teacher, principal, assistant principal, and vice-principal shall be  
2 transferred to and continue in their respective employments in the  
3 employ of the regional school district and their rights to tenure,  
4 pension and accumulated leave of absence accorded under the laws  
5 of the state shall not be affected by their transfer to the employ of  
6 the regional school district.

7 (cf: N.J.S.18A:13-49)

8  
9 15. Section 14 of P.L.1975, c.360 (C.18A:13-64) is amended to  
10 read as follows:

11 14. All employees of the regional district in positions other than  
12 teacher, principal, assistant principal, and vice-principal, shall  
13 continue in their respective positions in the withdrawing district, or  
14 in each of the constituent districts in the event of a dissolution, and  
15 all of their rights of tenure, seniority, pension, leave of absence and  
16 other similar benefits shall be recognized and preserved and any  
17 periods of prior employment in the regional district shall count  
18 toward the acquisition of tenure to the same extent as if all such  
19 employment had been under the withdrawing district or in any of  
20 the constituent districts in the event of a dissolution. In the event of  
21 a withdrawal, any tenured employee in a school located in the  
22 withdrawing district in positions other than teacher, principal,  
23 assistant principal, and vice-principal, who desires to remain in the  
24 employ of the regional district, and whose seniority under existing  
25 tenure laws so permits, may apply for and shall be granted a  
26 transfer to a position other than teacher, principal, assistant  
27 principal, and vice-principal with the regional district for which he  
28 is certified which is vacant, held by a tenured employee with less  
29 seniority or by an employee without tenure; applications for such  
30 transfers shall be made within 45 days of the date of the special  
31 school election at which the withdrawal was approved.

32 (cf: P.L.1993, c.255, s.13)

33  
34 16. Section 15 of P.L.1989, c.90 (C.18A:13-80) is amended to  
35 read as follows:

36 15. All employees of the all purpose regional district in  
37 positions other than teacher, principal, assistant principal, and vice-  
38 principal shall continue in their respective positions in the new  
39 district and all of their rights of tenure, seniority, pension, leave of  
40 absence and other similar benefits shall be recognized and  
41 preserved and any periods of prior employment in the all purpose  
42 regional district shall count toward the acquisition of tenure to the  
43 same extent as if the employment had been under the new district.  
44 Any tenured employee in a school located in the new district in a  
45 position other than teacher, principal, assistant principal, and vice-  
46 principal who desires to remain in the employ of the all purpose  
47 regional district, and whose seniority under existing tenure laws so  
48 permits, may apply for and shall be granted a transfer to a position

1 other than teacher, principal, assistant principal, or vice-principal  
2 with the all purpose regional district for which he is certified which  
3 is vacant, held by a tenured employee with less seniority or by an  
4 employee without tenure. Applications for these transfers shall be  
5 made within 45 days of the date of the special school election at  
6 which the withdrawal was approved.  
7 (cf: P.L.1989, c.90, s.15)

8  
9 17. Section 1 of P.L.1975, c.132 (C.18A:27-3.1) is amended to  
10 read as follows:

11 1. Every board of education in this State shall cause each  
12 nontenure teaching staff member employed by it in a position other  
13 than teacher, principal, assistant principal, or vice-principal to be  
14 observed and evaluated in the performance of her or his duties at  
15 least three times during each school year but not less than once  
16 during each semester. Said evaluations are to take place before  
17 April 30 each year. The evaluations may cover that period between  
18 April 30 of one year and April 30 of the succeeding year excepting  
19 in the case of the first year of employment where the three  
20 evaluations must have been completed prior to April 30. The  
21 number of required observations and evaluations may be reduced  
22 proportionately when an individual teaching staff member's term of  
23 service is less than one academic year. Each evaluation shall be  
24 followed by a conference between that teaching staff member and  
25 his or her superior or superiors. The purpose of this procedure is to  
26 recommend as to reemployment, identify any deficiencies, extend  
27 assistance for their correction and improve professional  
28 competence.  
29 (cf: P.L.1993, c.100, s.1)

30  
31 18. Section 1 of P.L. 1995, c.125 (C.18A:27-4.1) is amended to  
32 read as follows:

33 1. Notwithstanding the provisions of any law, rule or regulation  
34 to the contrary,

35 a. (1) A board of education shall appoint, transfer or remove a  
36 certificated or non-certificated officer or employee **[only]** upon the  
37 recommendation of the chief school administrator and by a recorded  
38 roll call majority vote of the full membership of the board. The  
39 board shall not withhold its approval for arbitrary and capricious  
40 reasons.

41 (2) A teacher shall not be assigned to the instructional staff of a  
42 school without the mutual consent of the teacher and the school  
43 principal for the assignment.

44 (3) In the event that a principal does not consent to the placement  
45 of a teacher under tenure, the teacher may continue to receive salary  
46 and benefits while the teacher and the school district search for an  
47 alternative assignment in the district. If a mutually agreeable  
48 placement is not achieved within 12 months of the date on which

1 the initial assignment is approved by the board of education, the  
2 board may place the teacher on permanent unpaid leave. A teacher  
3 on permanent unpaid leave shall not receive salary, benefits, or  
4 credit towards salary or benefits.

5 b. A board of education shall renew the employment contract of  
6 a certificated or non-certificated officer or employee only upon the  
7 recommendation of the chief school administrator and by a recorded  
8 roll call majority vote of the full membership of the board. The  
9 board shall not withhold its approval for arbitrary and capricious  
10 reasons. A nontenured officer or employee who is not  
11 recommended for renewal by the chief school administrator shall be  
12 deemed nonrenewed. Prior to notifying the officer or employee of  
13 the nonrenewal, the chief school administrator shall notify the board  
14 of the recommendation not to renew the officer's or employee's  
15 contract and the reasons for the recommendation. An officer or  
16 employee whose employment contract is not renewed shall have the  
17 right to a written statement of reasons for nonrenewal pursuant to  
18 section 2 of P.L.1975, c.132 (C.18A:27-3.2) and to an informal  
19 appearance before the board. The purpose of the appearance shall  
20 be to permit the staff member to convince the members of the board  
21 to offer reemployment. The chief school administrator shall notify  
22 the officer or employee of the nonrenewal pursuant, where  
23 applicable, to the provisions of section 1 of P.L.1971, c.436  
24 (C.18A:27-10).

25 c. The provisions of this section shall not apply to the  
26 appointment, transfer, removal, renewal or nonrenewal of a person  
27 who is a treasurer of school moneys, election officer, board auditor,  
28 board attorney or board secretary, except a board secretary who  
29 performs business administration functions.  
30 (cf: P.L.1995, c.125, s.1)

31

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

33 18A:28-5. The services of all teaching staff members employed  
34 in the positions of [teacher, principal, other than administrative  
35 principal, assistant principal, vice-principal,] assistant  
36 superintendent, and all school nurses including school nurse  
37 supervisors, head school nurses, chief school nurses, school nurse  
38 coordinators, and any other nurse performing school nursing  
39 services, school athletic trainer and such other employees as are in  
40 positions which require them to hold appropriate certificates issued  
41 by the board of examiners, serving in any school district or under  
42 any board of education, excepting those who are not the holders of  
43 proper certificates in full force and effect and school business  
44 administrators shared by two or more school districts, shall be  
45 under tenure during good behavior and efficiency and they shall not  
46 be dismissed or reduced in compensation except for inefficiency,  
47 incapacity, or conduct unbecoming such a teaching staff member or  
48 other just cause and then only in the manner prescribed by

1 subarticle B of article 2 of chapter 6 of this Title, after employment  
2 in such district or by such board for:

3 (a) Three consecutive calendar years, or any shorter period which  
4 may be fixed by the employing board for such purpose; or

5 (b) Three consecutive academic years, together with employment  
6 at the beginning of the next succeeding academic year; or

7 (c) The equivalent of more than three academic years within a  
8 period of any four consecutive academic years.

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

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

17

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

19 18A:28-6. Any **[such]** teaching staff member, other than a  
20 teacher, principal, assistant principal, or vice-principal, under tenure  
21 or eligible to obtain tenure under this chapter, who is transferred or  
22 promoted with his consent to another position covered by this  
23 chapter on or after July 1, 1962, shall not obtain tenure in the new  
24 position until after:

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

28 (b) employment for two academic years in the new position  
29 together with employment in the new position at the beginning of  
30 the next succeeding academic year; or

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

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

44 Any teaching staff member in the position of teacher, principal,  
45 assistant principal, or vice-principal under tenure or eligible to  
46 obtain tenure under this chapter, who is transferred or promoted  
47 with his consent to another position covered by this chapter on or  
48 after July 1, 2012, shall not obtain tenure in the new position until

1 the teaching staff member receives an annual rating of “effective”  
2 or “highly effective,” as defined by regulations promulgated in  
3 accordance with the provisions of section 5 of P.L. , c. (C. )  
4 (pending before the Legislature as this bill), in the most recent  
5 annual evaluation and in the two years preceding the most recent  
6 annual evaluation while in the new position.  
7 (cf: N.J.S.18A:28-6)

8

9 21. N.J.S.18A:28-6.1 is amended to read as follows:

10 18A:28-6.1. Whenever, heretofore or hereafter, any board of  
11 education in any school district in this state shall discontinue any  
12 high school, junior high school, elementary school or any one or  
13 more of the grades from kindergarten through grade 12 in the  
14 district and shall, by agreement with another board of education,  
15 send the pupils in such schools or grades to such other district, all  
16 teaching staff members in positions other than teacher, principal,  
17 assistant principal, and vice-principal, who are assigned for a  
18 majority of their time in such school, grade or grades and who have  
19 tenure of office at the time such schools or grades are discontinued  
20 shall be employed by the board of education of such other district in  
21 the same or nearest equivalent position; provided that any such  
22 teaching staff member may elect to remain in the employ of the  
23 former district in any position other than teacher, principal, assistant  
24 principal, and vice-principal, to which he may be entitled by virtue  
25 of his tenure and seniority rights by giving notice of said election to  
26 the boards of education in each of the school districts at least three  
27 months prior to the date on which such school, grade, or grades are  
28 to be discontinued. Teaching staff members other than teachers,  
29 principals, assistant principals, and vice-principals, so employed in  
30 such other district shall have their rights to tenure, seniority,  
31 pension and accumulated leave of absence, accorded under the laws  
32 of this state, recognized and preserved by the board of education of  
33 that district. Any periods of prior employment in such sending  
34 district shall count toward the acquisition of tenure in the other  
35 district to the same extent as if all such prior employment had been  
36 in such other district.  
37 (cf: N.J.S.18A:28-6.1)

38

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

40 18A:28-9. Nothing in this title or any other law relating to  
41 tenure of service shall be held to limit the right of any board of  
42 education to reduce the number of teaching staff members,  
43 employed in the district whenever, in the judgment of the board, it  
44 is advisable to abolish any such positions for reasons of economy  
45 or because of reduction in the number of pupils or of change in the  
46 administrative or supervisory organization of the district or for  
47 efficiencies found through the consolidation or sharing of services  
48 between school districts or because a school has been identified as

1 failing by the commissioner or for other good cause upon  
2 compliance with the provisions of this article.

3 (cf: N.J.S.18A:28-9)

4

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

6 18A:28-10. **[Dismissals]** In the case of teaching staff members  
7 in positions other than teacher, principal, assistant principal, or  
8 vice-principal, dismissals resulting from any such reduction shall  
9 not be made by reason of residence, age, sex, marriage, race,  
10 religion or political affiliation but shall be made on the basis of  
11 seniority according to standards to be established by the  
12 commissioner with the approval of the state board.

13 In the case of teaching staff members in the position of teacher,  
14 principal, assistant principal, and vice-principal, dismissals  
15 resulting from any such reduction shall not be made by reason of  
16 residence, age, sex, marriage, race, religion, or political affiliation,  
17 but shall be made on the basis of effectiveness as determined by the  
18 evaluation system established through regulations promulgated in  
19 accordance with the provisions of section 5 of P.L. , c. (C. )  
20 (pending before the Legislature as this bill).

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

22

23 24. N.J.S.18A:28-11 is amended to read as follows:

24 18A:28-11. In the case of **[any such reduction]** teaching staff  
25 members in positions other than teacher, principal, assistant  
26 principal, and vice-principal, the board of education shall determine  
27 in any such reduction the seniority of the persons affected  
28 according to such standards and shall notify each such person as to  
29 his seniority status, and the board may request the commissioner for  
30 an advisory opinion with respect to the applicability of the  
31 standards to particular situations, which request shall be referred to  
32 a panel consisting of the executive county superintendent of the  
33 county, the secretary of the state board of examiners and an  
34 assistant commissioner of education designated by the  
35 commissioner and an advisory opinion shall be furnished by said  
36 panel. No determination of such panel shall be binding upon the  
37 board of education or any other party in interest or upon the  
38 commissioner or the state board if any controversy or dispute arises  
39 as a result of such determination and an appeal is taken therefrom  
40 pursuant to the provisions of this title.

41 (cf: N.J.S.18A:28-11)

42

43 25. Section 1 of P.L.1985, c.217 (C.18A:28-11.1) is amended to  
44 read as follows:

45 1. In computing length of service for seniority purposes, every  
46 teaching staff member in a position other than teacher, principal,  
47 assistant principal, and vice-principal who, after July 1, 1940, has  
48 served or hereafter shall serve, in the active military or naval

1 service of the United States or of this State, including active service  
2 in the women's army corps, the women's reserve of the naval  
3 reserve, or any similar organization authorized by the United States  
4 to serve with the army or navy, in time of war or an emergency, or  
5 for or during any period of training, or pursuant to or in connection  
6 with the operation of any system of selective service, or who was a  
7 member of the American Merchant Marine during World War II  
8 and is declared by the United States Department of Defense to be  
9 eligible for federal veterans' benefits, shall be entitled to receive  
10 equivalent years of employment or seniority credit for that service  
11 as if the member had been employed for the same period of time in  
12 some publicly owned and operated college, school or institution of  
13 learning in this or any other state or territory of the United States,  
14 except that the period of that service shall not be credited toward  
15 more than four years of employment or seniority credit. Any  
16 military or naval service shall be credited towards this employment  
17 or seniority credit including service that occurred prior to the  
18 member's employment as a teaching staff member.

19 (cf: P.L.1991, c.389, s.2)

20

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

22 18A:28-12. If any teaching staff member in a position other than  
23 teacher, principal, assistant principal, and vice-principal shall be  
24 dismissed as a result of such reduction, such person shall be and  
25 remain upon a preferred eligible list in the order of seniority for  
26 reemployment whenever a vacancy occurs in a position for which  
27 such person shall be qualified and he shall be reemployed by the  
28 body causing dismissal, if and when such vacancy occurs and in  
29 determining seniority, and in computing length of service for  
30 reemployment, full recognition shall be given to previous years of  
31 service, and the time of service by any such person in or with the  
32 military or naval forces of the United States or of this State,  
33 subsequent to September 1, 1940, and the time of service of any  
34 member of the American Merchant Marine during World War II  
35 who is declared by the United States Department of Defense to be  
36 eligible for federal veterans' benefits, shall be credited to him as  
37 though he had been regularly employed in such a position within  
38 the district during the time of such military or naval service, except  
39 that the period of that service shall not be credited toward more than  
40 four years of employment or seniority credit.

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

42

43 27. Notwithstanding any provision of P.L.1968, c.410  
44 (C.52:14B-1 et seq.) to the contrary, the Commissioner of  
45 Education shall adopt, immediately upon filing with the Office of  
46 Administrative Law, such rules and regulations as the commissioner  
47 deems necessary to effectuate the provisions of P.L. , c. (C. )  
48 (pending before the Legislature as this bill) which shall be effective

1 for a period not to exceed 12 months. The regulations shall  
2 thereafter be amended, adopted, or readopted by the State Board of  
3 Education in accordance with the provisions of P.L.1968, c.410  
4 (C.52:14B-1 et seq.).

5 28. The following sections are repealed:

6 Section 5 of P.L.1995, c.294 (C.18A:6-31.7);

7 N.J.S.18A:8-34;

8 N.J.S.18A:13-42;

9 Section 1 of P.L.1972, c.64 (C.18A:29-4.2).

10  
11 29. This act shall take effect in the 2012-2013 school year,  
12 except that sections 5 and 6 shall take effect immediately.

13  
14  
15 STATEMENT

16  
17 This bill requires that regulations be promulgated to provide for  
18 an educator evaluation system for teachers, principals, assistant  
19 principals, and vice-principals in public schools. The evaluation  
20 system would be used in making personnel decisions including  
21 compensation and the awarding and rescission of tenure. The  
22 evaluation system will use multiple performance measures and will  
23 at a minimum include:

24 --four defined annual rating categories: ineffective, partially  
25 effective, effective, and highly effective;

26 --a requirement that at least 50% of the effectiveness ratings be  
27 based on objective measures of student learning such as  
28 standardized test scores or other quantifiable indicators;

29 --objective measures of student learning that use growth from  
30 one year's quantifiable measure to the next year's quantifiable  
31 measure;

32 --a requirement that multiple measures of teaching staff practice  
33 and student learning be used in rating teaching staff effectiveness  
34 with specific measures and implementation processes;

35 --a requirement that teaching staff receive at least one final  
36 annual summative evaluation for the school year, and a conference  
37 with their superior or superiors following this evaluation;

38 --an opportunity for teaching staff to improve their effectiveness  
39 from routine evaluation feedback;

40 --guidelines for districts regarding training on the evaluation  
41 system to support its implementation; and

42 --a performance framework, associated evaluation tools, and  
43 observation protocols with a process for a school district to obtain  
44 the approval of the commissioner to utilize other evaluation tools.

45 The bill authorizes the Commissioner of Education to  
46 promulgate regulations that will be effective for a period not to  
47 exceed 12 months. The State Board of Education will then



1 promulgate regulations in accordance with the “Administrative  
2 Procedure Act.”

3 The bill requires each school district to fully implement the  
4 teacher evaluation system by the 2012-2013 school year. Beginning  
5 in that school year, all teaching staff members in positions of  
6 teacher, principal, assistant principal, and vice-principal will gain  
7 tenure only if the person receives an annual rating of “effective” or  
8 “highly effective,” as defined in the new teacher evaluation system,  
9 in the employee’s most recent annual evaluation and in the annual  
10 evaluations in the preceding two years. The process for initially  
11 acquiring tenure remains the same as under current law for other  
12 teaching staff members. The annual rating of a teacher under the  
13 educator evaluation system will not be subject to grievance or  
14 appeal unless it relates to a charge that the district failed to adhere  
15 substantially to the approved evaluation process. An appeal in this  
16 case will be directed to the superintendent of schools. Principals,  
17 assistant principals, and vice-principals are not permitted to grieve  
18 or appeal their annual ratings.

19 Under current law, a teaching staff member who has obtained  
20 tenure or is eligible to obtain tenure who is transferred or promoted  
21 with his consent to another position, acquires tenure in that new  
22 position after two academic years in that position together with  
23 employment in the new position at the beginning of the next  
24 succeeding academic year. This bill provides that for a teacher,  
25 principal, assistant principal, and vice-principal, the employee will  
26 acquire tenure in this new position in the same way as initial tenure  
27 is acquired: an annual rating of “effective” or “highly effective” in  
28 the most recent annual evaluation and in the annual evaluations in  
29 the preceding two years.

30 The bill also provides that a tenured teacher, principal, assistant  
31 principal, or vice-principal will revert to non-tenure status if the  
32 person receives an annual rating of “ineffective” for one year or an  
33 annual rating of “partially effective” for two consecutive years. In  
34 addition, a teacher with these ratings may be dismissed by either the  
35 board of education or the school principal; a principal, assistant  
36 principal, or a vice-principal with these ratings may be dismissed by  
37 the board of education or the superintendent of schools. In order to  
38 regain tenure status, a person will be required to receive three  
39 consecutive annual ratings of “effective” or “highly effective.”

40 The bill provides that all teachers, principals, assistant principals,  
41 and vice-principals who have tenure on July 1, 2012, the date for  
42 the implementation of the educator evaluation system, will continue  
43 to be under tenure. All tenured employees, however, will be subject  
44 to revocation of tenure for “ineffective” or “partially effective”  
45 evaluation ratings.

46 The bill requires school districts to adopt a salary schedule or  
47 compensation policy for all teachers, principals, assistant principals,  
48 and vice-principals that is consistent with regulations promulgated

1 in accordance with the provisions of the bill. The regulations will  
2 establish the individual's annual evaluation, assignment to a failing  
3 school, and teaching in a difficult to staff subject area as the  
4 primary factors that determine an individual's compensation, and  
5 years of experience cannot be a primary determinant of an  
6 individual's compensation. A district would only be allowed to  
7 provide additional compensation for education attainment if the  
8 commissioner has determined that the additional education will  
9 have a positive effect on student achievement and the teaching staff  
10 member is teaching or practicing in the subject area in the  
11 additional academic credit or degree was attained.

12 The bill stipulates that a teacher will not be assigned to the  
13 instructional staff of a school without the mutual consent of the  
14 teacher and principal of the school. If a principal does not consent  
15 to the placement of a teacher who is under tenure, the teacher may  
16 continue to receive compensation as the teacher and district  
17 continue to search for a mutually agreeable placement. If such as  
18 placement is not found after 12 months, the teacher may be placed  
19 on permanent unpaid leave.

20 The bill also:

- 21 • stipulates that, in the case of a teacher, principal, assistant  
22 principal, or vice-principal, any dismissals resulting from a  
23 reduction in force must be made on the basis of  
24 effectiveness as determined by the evaluation system  
25 established under the bill, rather than based on seniority;
- 26 • requires an initial Office of Administrative Law  
27 determination within 30 days of referral of tenure cases; and
- 28 • eliminates the reinstatement of salary after 120 days if  
29 Commissioner of Education's determination on tenure  
30 charges has not been made.