FIRST REGULAR SESSION

SENATE BILL NO. 27

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EMERY.

Pre-filed December 1, 2014, and ordered printed.

ADRIANE D. CROUSE, Secretary.

00738.011

AN ACT

To repeal sections 168.104, 168.110, 168.124, 168.128, 168.221, and 168.410, RSMo, and to enact in lieu thereof eight new sections relating to elementary and secondary education.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 168.104, 168.110, 168.124, 168.128, 168.221, and 168.410, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 161.237, 168.104, 168.110, 168.125, 168.128, 168.221, 168.225, and 168.410, to read as follows:

161.237. 1. The state board of education shall develop a simplified annual school report card, separately from the information required by section 160.522, that produces an annual letter grade of A, B, C, D, or F for each school attendance center, including charter schools.

2. Each letter grade shall have the following value:

(1) "A", 90-100%;
(2) "B", 80-89%;
(3) "C", 70-79%;
(4) "D", 60-69%;
(5) "F", 59% or below.

3. Each school shall be given an overall letter grade that reflects the percentage of points the school or charter school earned of all points available on the annual performance report using the values identified in subsection 2 of this section.

4. The report card shall be made publicly available on the

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.
department of elementary and secondary education's internet website.

By August 1 annually, each school shall distribute the report card for the prior academic year to the parents or guardians of every enrolled student.

5. Each school that has students who are tested on state standardized assessments and included in the school grading system shall receive a school letter grade except that:

   (1) A school shall not receive a school letter grade if the number of its students tested and included in the school grading system is less than the minimum sample size necessary, based on accepted professional practice, for statistical reliability and prevention of the unlawful release of personally identifiable student data;

   (2) An alternative school may choose to receive a school letter grade.

6. The annual report card shall also identify each school's performance as having improved, remained the same, or declined, in terms of the school's letter grade and value as compared to the previous year.

7. The state board of education shall promulgate rules and regulations to implement the provisions of this section.

8. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2015, shall be invalid and void.

168.104. The following words and phrases when used in sections 168.102 to 168.130, except in those instances where the context indicates otherwise, mean:

   (1) "Board of education", the school board or board of directors of a school district, except a metropolitan school district, having general control of the affairs of the district;

   (2) "Demotion", any reduction in salary or transfer to a position carrying a lower salary, except on request of a teacher, other than any change in salary
applicable to all teachers or all teachers in a classification;

(3) "Indefinite contract", every contract heretofore or hereafter entered into between a school district and a permanent teacher;

(4) "Permanent teacher", any teacher who has been employed or who is hereafter employed as a teacher in the same school district for five successive years and was first hired by a district before August 28, 2015, and who has continued or who thereafter continues to be employed as a teacher by the school district or any supervisor of teachers who was employed as a teacher in the same school district for at least five successive years prior to becoming a supervisor of teachers and who continues thereafter to be employed as a certificated employee by the school district; except that, when a permanent teacher resigns or is permanently separated from employment by a school district, and is afterwards reemployed by the same school district, reemployment for the first school year does not constitute an indefinite contract but if he is employed for the succeeding year, the employment constitutes an indefinite contract; and except that any teacher employed under a part-time contract by a school district shall accrue credit toward permanent status on a prorated basis. Any permanent teacher who is promoted with his consent to a supervisory position including principal or assistant principal, or is first employed by a district in a supervisory position including principal or assistant principal, shall not have permanent status in such position but shall retain tenure in the position previously held within the district, or, after serving two years as principal or assistant principal, shall have tenure as a permanent teacher of that system;

(5) "Probationary teacher", any teacher as herein defined who has been employed in the same school district for five successive years or less. In the case of any probationary teacher who has been employed in any other school system as a teacher for two or more years, the board of education shall waive one year of his probationary period;

(6) "School district", every school district in this state, except metropolitan school district as defined in section 162.571;

(7) "Teacher", any employee of a school district, except a metropolitan school district, regularly required to be certified under laws relating to the certification of teachers, except superintendents and assistant superintendents but including certified teachers who teach at the prekindergarten level in a nonmetropolitan public school within a prekindergarten program in which no fees are charged to parents or guardians.
168.110. The board of education of a school district may modify an indefinite contract annually on or before the fifteenth day of May in the following particulars:

(1) Determination of the date of beginning and length of the next school year;

(2) Fixing the amount of annual compensation for the following school year as provided by [the salary schedule adopted by the board of education applicable to all teachers] section 168.225. The modifications shall be effective at the beginning of the next school year. All teachers affected by the modification shall be furnished written copies of the modifications within thirty days after their adoption by the board of education.

168.125. No teacher first employed by a district on or after August 28, 2015, shall be eligible to receive an indefinite contract. Any teacher first employed by a district on or after August 28, 2015, shall receive a contract on an annual basis.

168.128. The board of education of each school district shall maintain records showing periods of service, dates of appointment, and other necessary information for the enforcement of sections 168.102 to 168.130. In addition, the board of education of each school district shall cause [a] an annual comprehensive, performance-based evaluation for each teacher employed by the district. Such evaluations shall be ongoing and of sufficient specificity and frequency to provide for demonstrated standards of competency and academic ability] using the annual evaluation system developed by the department of elementary and secondary education or a district evaluation that utilizes the standards and indicators in the department's evaluation system. All evaluations shall be maintained in the teacher's personnel file at the office of the board of education. A copy of each evaluation shall be provided to the teacher and appropriate administrator. The state department of elementary and secondary education shall provide suggested procedures for such an evaluation.

168.221. 1. The first five years of employment of all teachers [entering the employment of] employed before August 28, 2015, in the metropolitan school district shall be deemed a period of probation during which period all appointments of teachers shall expire at the end of each school year. During the probationary period any probationary teacher whose work is unsatisfactory shall be furnished by the superintendent of schools with a written statement setting
forth the nature of his or her incompetency. If improvement satisfactory to the
superintendent is not made within one semester after the receipt of the
statement, the probationary teacher shall be dismissed. The semester granted
the probationary teacher in which to improve shall not in any case be a means of
prolonging the probationary period beyond five years and six months from the
date on which the teacher entered the employ of the board of education. The
superintendent of schools on or before the fifteenth day of April in each year shall
notify probationary teachers who will not be retained by the school district of the
termination of their services. Any probationary teacher who is not so notified
shall be deemed to have been appointed for the next school year. Any principal
who prior to becoming a principal had attained permanent employee status as a
teacher shall upon ceasing to be a principal have a right to resume his or her
permanent teacher position with the time served as a principal being treated as
if such time had been served as a teacher for the purpose of calculating seniority
and pay scale. The rights and duties and remuneration of a teacher who was
formerly a principal shall be the same as any other teacher with the same level
of qualifications and time of service.

2. After completion of satisfactory probationary services of any teacher
employed before August 28, 2015, appointments of teachers shall become
permanent, subject to removal for any one or more causes herein described and
to the right of the board to terminate the services of all who attain the age of
compulsory retirement fixed by the retirement system. In determining the
duration of the probationary period of employment in this section specified, the
time of service rendered as a substitute teacher shall not be included. Any
teacher first employed by the district on or after August 28, 2015, shall
not be eligible to have his or her appointment become
permanent. Instead, the appointment of any teacher first employed by
the district on or after August 28, 2015, shall expire at the end of each
school year.

3. No teacher whose appointment has become permanent may be removed
except for one or more of the following causes: immorality, incompetency, or
inefficiency in line of duty, violation of the published regulations of the school
district, violation of the laws of Missouri governing the public schools of the state,
or physical or mental condition which incapacitates him for instructing or
associating with children, and then only by a vote of not less than a majority of
all the members of the board, upon written charges presented by the
superintendent of schools, to be heard by the board after thirty days' notice, with
43 copy of the charges served upon the person against whom they are preferred, who
44 shall have the privilege of being present at the hearing, together with counsel,
45 offering evidence and making defense thereto. At the request of any person so
46 charged the hearing shall be public. During any time in which powers granted
47 to the district's board of education are vested in a special administrative board,
48 the special administrative board may appoint a hearing officer to conduct the
49 hearing. The hearing officer shall conduct the hearing as a contested case under
50 chapter 536 and shall issue a written recommendation to the board rendering the
51 charges against the teacher. The board shall render a decision on the charges
52 upon the review of the hearing officer's recommendations and the record from the
53 hearing. The action and decision of the board upon the charges shall be
54 final. Pending the hearing of the charges, the person charged may be suspended
55 if the rules of the board so prescribe, but in the event the board does not by a
56 majority vote of all the members remove the teacher upon charges presented by
57 the superintendent, the person shall not suffer any loss of salary by reason of the
58 suspension. Incompetency or inefficiency in line of duty is cause for dismissal
59 only after the teacher has been notified in writing at least thirty days prior to the
60 presentment of charges against him by the superintendent. The notification shall
61 specify the nature of the incompetency or inefficiency with such particularity as
62 to enable the teacher to be informed of the nature of his or her incompetency or
63 inefficiency.

4. No teacher whose appointment has become permanent shall be demoted
64 nor shall his or her salary be reduced unless the same procedure is followed as
65 herein stated for the removal of the teacher because of inefficiency in line of duty,
66 and any teacher whose salary is reduced or who is demoted may waive the
67 presentment of charges against him by the superintendent and a hearing thereon
68 by the board. The foregoing provision shall apply only to permanent teachers
69 prior to the compulsory retirement age under the retirement system. Nothing
70 herein contained shall in any way restrict or limit the power of the board of
71 education to make reductions in the number of teachers or principals, or both,
72 because of insufficient funds[.] or a decrease in pupil enrollment[. or abolition
73 of particular subjects or courses of instruction, except that the abolition of
74 particular subjects or courses of instruction shall not cause those teachers who
75 have been teaching the subjects or giving the courses of instruction to be placed
76 on leave of absence as herein provided who are qualified to teach other subjects
or courses of instruction, if positions are available for the teachers in the other
subjects or courses of instruction].

5. [Whenever it is necessary to decrease the number of teachers because
of insufficient funds or a substantial decrease of pupil population within the
school district, the board of education upon recommendation of the
superintendent of schools may cause the necessary number of teachers beginning
with those serving probationary periods to be placed on leave of absence without
pay, but only in the inverse order of their appointment. Nothing herein stated
shall prevent a readjustment by the board of education of existing salary
schedules. No teacher placed on a leave of absence shall be precluded from
securing other employment during the period of the leave of absence. Each
teacher placed on leave of absence shall be reinstated in inverse order of his or
her placement on leave of absence. Such reemployment shall not result in a loss
of status or credit for previous years of service. No appointment of new teachers
shall be made while there are available teachers on unrequested leave of absence
who are properly qualified to fill such vacancies. Such leave of absence shall not
impair the tenure of a teacher. The leave of absence shall continue for a period
of not more than three years unless extended by the board.

6.] If any regulation which deals with the promotion of teachers is
amended by increasing the qualifications necessary to be met before a teacher is
eligible for promotion, the amendment shall fix an effective date which shall allow
a reasonable length of time within which teachers may become qualified for
promotion under the regulations.

[7.] 6. A teacher whose appointment has become permanent may give up
the right to a permanent appointment to participate in the teacher choice
compensation package under sections 168.745 to 168.750.

[8.] 7. Should the state mandate that professional development for
teachers be provided in local school districts and any funds be utilized for such,
a metropolitan school district shall be allowed to utilize a professional
development plan for teachers which is known within the administration as the
"St. Louis Plan", should the district and the teacher decide jointly to participate
in such plan, provided any use of the "St. Louis Plan" does not conflict
with the provisions of subsection 8 of this section.

8. The board of education of the metropolitan school district
shall cause an annual comprehensive, performance-based evaluation for
each teacher employed by the district using the annual evaluation
system developed by the department of elementary and secondary education or a district evaluation that utilizes the standards and indicators in the department's evaluation system. All evaluations shall be maintained in the teacher's personnel file at the office of the board of education. A copy of each evaluation shall be provided to the teacher and appropriate administrator. The department of elementary and secondary education shall provide suggested procedures for such an evaluation.

168.225. 1. The school board of each district shall develop and adopt a performance salary schedule for all teachers and other instructional personnel by July 1, 2016.

2. The performance salary schedule shall incorporate the following elements:

(1) The salary schedule shall review and may provide annual salary adjustments based upon performance determined by the annual evaluation system for teachers developed by the department of elementary and secondary education or the annual evaluation system developed by the district that utilizes the standards and indicators in the department's evaluation system. Teachers shall be evaluated using multiple, fair, rigorous, transparent, and valid measures, consistent with definitions of these terms by the department. A district may use the model evaluation form developed by the department or a district evaluation form that utilizes the standards and indicators in the department's evaluation system. Multiple measures of student achievement shall count for a minimum of thirty percent of the overall evaluation; and

(2) The performance salary schedule shall not use advanced degrees in setting a salary schedule for instructional personnel or school administrators unless the advanced degree is in the teacher's area of certification or expertise.

3. The department of elementary and secondary education may provide technical assistance to district school boards in developing and implementing a local evaluation system under this section, including providing or helping to develop training for evaluators and a resource bank that identifies assessments, processes, tools, and policies that a district school board may use to develop its own evaluation system. The department shall develop a resource bank that shall
include resources that are appropriate to districts of different sizes, demographics, and locations and shall be updated periodically to reflect new research and experience in implementing an evaluation system.

4. The district may develop additional salary schedules differentiated on assignment to a title I school, teaching in a subject area for which there is a shortage of teachers as determined by the department of elementary and secondary education, or to reflect the supply and demand of the teacher labor market.

168.410. School administrators and school district superintendents shall be evaluated in the following manner:

(1) The board of education of each school district shall cause a comprehensive performance-based evaluation for each administrator employed by the district. Such evaluation shall be [ongoing and of sufficient specificity and frequency] done annually to provide for demonstrated standards of competency and academic ability;

(2) All evaluations shall be maintained in the respective administrator's personnel file at the office of the board of education of the school district. A copy of each evaluation shall be provided to the person being evaluated and to the appropriate administrator;

(3) The state department of elementary and secondary education shall provide suggested procedures for the evaluations performed under this section.

[168.124. 1. The board of education of a school district may place on leave of absence as many teachers as may be necessary because of a decrease in pupil enrollment, school district reorganization or the financial condition of the school district. In placing teachers on leave, the board of education shall be governed by the following provisions:

(1) No permanent teacher shall be placed on leave of absence while probationary teachers are retained in positions for which a permanent teacher is qualified;

(2) Permanent teachers shall be retained on the basis of performance-based evaluations and seniority (however, seniority shall not be controlling) within the field of specialization;

(3) Permanent teachers shall be reinstated to the positions from which they have been given leaves of absence, or if not
available, to positions requiring like training and experience, or to other positions in the school system for which they are qualified by training and experience;

(4) No appointment of new teachers shall be made while there are available teachers on unrequested leave of absence who are properly qualified to fill such vacancies;

(5) A teacher placed on leave of absence may engage in teaching or another occupation during the period of such leave;

(6) The leave of absence shall not impair the tenure of a teacher;

(7) The leave of absence shall continue for a period of not more than three years unless extended by the board.

2. Should a board of education choose to utilize the mechanism for reducing teacher forces as provided in subsection 1 of this section in an attempt to manage adverse financial conditions caused at least partially by a withholding of, or a decrease or less than expected increase in, education appropriations, then the district additionally shall follow the provisions of subsection 3 of this section.

3. If a school district has an unrestricted combined ending fund balance of more than ten percent of current expenditures in its teachers' and incidental funds, and in the subsequent fiscal year such district, because of state appropriations, places a contracted teacher on leave of absence after forty days subsequent to the governor signing the elementary and secondary education appropriation bill, the district shall pay the affected teacher the greater of his or her salary for any days worked under the contract, or a sum equal to three thousand dollars.]