

HOUSE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

May 6, 2010  
Date

Committee on Education.

After consideration on the merits, the Committee recommends the following:

SB10-191 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend reengrossed bill, page 4, line 14, strike "(4)." and substitute  
2 "(10).".
- 3 Page 4, line 21, strike "(4)." and substitute "(10).".
- 4 Page 6, line 9, strike "(3)" and substitute "(10)"
- 5 Page 6, line 13, strike "(3)," and substitute "(10).".
- 6 Page 6, line 14, strike "(3)" and substitute "(10)".
- 7 Page 6, line 18, strike "THE" and substitute "ON OR BEFORE FEBRUARY 15,  
8 2012, THE".
- 9 Page 6, line 25, after "BOARD." add "IF ONE OR MORE RULES IS NOT  
10 APPROVED BY THE GENERAL ASSEMBLY PURSUANT TO THIS  
11 SUBPARAGRAPH (II), THE STATE BOARD SHALL PROMULGATE EMERGENCY  
12 RULES PURSUANT TO SECTION 24-4-103 (6), C.R.S., ON SUCH ISSUE OR  
13 ISSUES AND RESUBMIT TO THE GENERAL ASSEMBLY ON OR BEFORE MAY 1,  
14 2012. THE GENERAL ASSEMBLY SHALL REVIEW THE EMERGENCY RULES  
15 PROMULGATED ACCORDING TO THE PROCESS OUTLINED IN THIS  
16 SUBPARAGRAPH (II).".
- 17 Page 14, line 16, strike "A GROUP OF" and substitute "THE DEPARTMENT  
18 AND".

1 Page 17, line 18, strike "THE" and substitute "ON OR BEFORE FEBRUARY  
2 15, 2012, THE".

3 Page 17, line 19, strike "(4)" and substitute "(10)".

4 Page 17, line 25, after "BOARD." add "IF ONE OR MORE RULES IS NOT  
5 APPROVED BY THE GENERAL ASSEMBLY PURSUANT TO THIS PARAGRAPH  
6 (b), THE STATE BOARD SHALL PROMULGATE EMERGENCY RULES PURSUANT  
7 TO SECTION 24-4-103 (6), C.R.S., ON SUCH ISSUE OR ISSUES AND RESUBMIT  
8 TO THE GENERAL ASSEMBLY ON OR BEFORE MAY 1, 2012. THE GENERAL  
9 ASSEMBLY SHALL REVIEW THE EMERGENCY RULES PROMULGATED  
10 ACCORDING TO THE PROCESS OUTLINED IN THIS PARAGRAPH (b).".

11 Page 18, line 26, strike "PUBLIC OR PRIVATE GIFTS, GRANTS, OR  
12 DONATIONS" and substitute "FEDERAL GRANTS".

13 Page 19, line 1, after "DONATION" insert "EXCEPT FROM FEDERAL  
14 MONEYS".

15 Page 19, line 3, strike "PRIVATE AND" and substitute "FEDERAL MONEYS  
16 RECEIVED TO".

17 Page 19, strike line 4.

18 Page 19, after line 17 insert:

19 "(3) FOR FISCAL YEARS 2010-2011 AND 2011-2012, IF TWO  
20 HUNDRED FIFTY THOUSAND DOLLARS IS NOT CREDITED TO THE FUND  
21 THROUGH FEDERAL GRANTS ON OR BEFORE SEPTEMBER 30, 2010, THE  
22 COMMISSIONER SHALL NOTIFY THE STATE TREASURER OF THE DIFFERENCE.  
23 UPON RECEIPT OF SUCH NOTICE, THE STATE TREASURER SHALL TRANSFER  
24 TO THE FUND THE AMOUNT OF THE DIFFERENCE OUT OF THE CONTINGENCY  
25 RESERVE FUND, CREATED PURSUANT TO SECTION 22-54-117 FOR THE  
26 IMPLEMENTATION OF SECTION 22-9-105.5. IF THERE IS AN INSUFFICIENT  
27 AMOUNT IN THE CONTINGENCY RESERVE FUND, THE STATE TREASURER  
28 SHALL TRANSFER TO THE FUND ANY REMAINING AMOUNT OF THE  
29 DIFFERENCE FROM THE STATE EDUCATION FUND, CREATED IN SECTION 17  
30 (4) OF ARTICLE IX OF THE STATE CONSTITUTION FOR THE IMPLEMENTATION  
31 OF SECTION 22-9-105.5.".

32 Renumber succeeding subsection accordingly.

- 1 Page 26, line 4, after "(b)" insert "(I)".
- 2 Page 26, line 8, strike "THE LICENSED PERSONNEL'S" and substitute "HIS  
3 OR HER".
- 4 Page 26, strike line 9 and substitute "PERFORMANCE, AND IDENTIFICATION  
5 OF DEFICIENCIES."
- 6 Page 26, after line 9, insert:
- 7 "(II) EACH SCHOOL".
- 8 Page 26, line 19, after "APPROPRIATE." insert "IF THERE IS NO COLLECTIVE  
9 BARGAINING AGREEMENT IN PLACE, FOLLOWING THE RULING OF THE  
10 SUPERINTENDENT OR HIS OR HER DESIGNEE, THE APPEALING TEACHER MAY  
11 REQUEST A REVIEW BY A MUTUALLY AGREED-UPON THIRD PARTY. THE  
12 DECISION OF THE THIRD PARTY SHALL REVIEW WHETHER THE DECISION  
13 WAS ARBITRARY OR CAPRICIOUS AND SHALL BE BINDING ON BOTH PARTIES.  
14 THE COST OF ANY SUCH REVIEW SHALL BE BORNE EQUALLY BY BOTH  
15 PARTIES. WHERE A COLLECTIVE BARGAINING AGREEMENT IS IN PLACE,  
16 EITHER PARTY MAY CHOOSE TO OPT INTO THIS PROCESS."
- 17 Page 26, line 20, strike "A" and substitute "FOR A NONPROBATIONARY  
18 TEACHER, A".
- 19 Page 26, line 24, before "TEACHER" insert "NONPROBATIONARY", and  
20 strike "OR PRINCIPAL".
- 21 Page 26, line 25, before "TEACHER" insert "NONPROBATIONARY".
- 22 Page 26, line 26, strike "OR PRINCIPAL".
- 23 Page 27, strike line 2 and substitute "EFFECTIVENESS."
- 24 Page 27, after line 2, insert:
- 25 "(III) THIS PARAGRAPH (b) SHALL TAKE EFFECT AT SUCH TIME".
- 26 Strike pages 32 and 33.
- 27 Page 34, strike lines 1 through 13 and substitute:

1 "FINDS THAT, FOR THE FAIR EVALUATION OF A PRINCIPAL BASED ON THE  
2 DEMONSTRATED EFFECTIVENESS OF HIS OR HER TEACHERS, THE PRINCIPAL  
3 NEEDS THE ABILITY TO SELECT TEACHERS WHO HAVE DEMONSTRATED  
4 EFFECTIVENESS, HAVE UNIQUE QUALIFICATIONS AND TEACHING  
5 EXPERIENCES THAT SUPPORT THE INSTRUCTIONAL MODEL OF HIS OR HER  
6 SCHOOL, AND ARE ALIGNED TO THE SCHOOL'S CULTURE AND MISSION.  
7 THEREFORE, EACH EMPLOYMENT CONTRACT EXECUTED PURSUANT TO THIS  
8 SECTION SHALL CONTAIN A PROVISION STATING THAT A TEACHER MAY BE  
9 ASSIGNED TO A PARTICULAR SCHOOL ONLY WITH THE CONSENT OF THE  
10 HIRING PRINCIPAL AND WITH INPUT FROM AT LEAST TWO PRACTICING  
11 TEACHERS, AND AFTER A REVIEW OF THE TEACHER'S DEMONSTRATED  
12 EFFECTIVENESS, UNIQUE QUALIFICATIONS AND POTENTIAL CONTRIBUTIONS  
13 TO THE SCHOOL'S EDUCATIONAL PROGRAMS, SUCCESSFUL YEARS OF  
14 TEACHING EXPERIENCE, AND FIT WITH THE SCHOOL'S CULTURE AND  
15 MISSION.

16 (II) (A) ANY ACTIVE NONPROBATIONARY TEACHER WHO, DURING  
17 THE PRIOR SCHOOL YEAR, WAS DEEMED SATISFACTORY, OR WAS DEEMED  
18 EFFECTIVE IN A DISTRICT THAT HAS IMPLEMENTED A MULTI-TIERED  
19 EVALUATION SYSTEM AND HAS IDENTIFIED RATINGS EQUIVALENT TO  
20 EFFECTIVE, AND HAS NOT SECURED A MUTUAL CONSENT PLACEMENT  
21 SHALL BE A MEMBER OF A PRIORITY HIRING POOL, WHICH PRIORITY HIRING  
22 POOL SHALL ENSURE THE NONPROBATIONARY TEACHER A FIRST  
23 OPPORTUNITY TO INTERVIEW FOR AVAILABLE POSITIONS FOR WHICH HE OR  
24 SHE IS QUALIFIED IN A SCHOOL DISTRICT.

25 (B) WHEN A DETERMINATION IS MADE THAT A NONPROBATIONARY  
26 TEACHER'S SERVICES ARE NO LONGER REQUIRED FOR THE REASONS SET  
27 FORTH IN SUBPARAGRAPH (VII) OF THIS PARAGRAPH (c.5), THE  
28 NONPROBATIONARY TEACHER SHALL BE NOTIFIED OF HIS OR HER REMOVAL  
29 FROM THE SCHOOL. IN MAKING DECISIONS PURSUANT TO THIS PARAGRAPH  
30 (c.5), A SCHOOL DISTRICT SHALL CONSIDER PROBATIONARY AND  
31 NONPROBATIONARY STATUS AND THE NUMBER OF YEARS A TEACHER HAS  
32 BEEN TEACHING IN THE SCHOOL DISTRICT; EXCEPT THAT THESE CRITERIA  
33 MAY BE CONSIDERED ONLY AFTER THE CONSIDERATION OF THE CRITERIA  
34 OF EFFECTIVENESS DESCRIBED IN SECTION 22-9-106. UPON NOTICE TO THE  
35 NONPROBATIONARY TEACHER, THE DEPARTMENT OF HUMAN RESOURCES  
36 FOR THE SCHOOL DISTRICT SHALL IMMEDIATELY PROVIDE THE  
37 NONPROBATIONARY TEACHER WITH A LIST OF ALL VACANT POSITIONS FOR  
38 WHICH HE OR SHE IS QUALIFIED, AS WELL AS A LIST OF VACANCIES IN ANY  
39 AREA IDENTIFIED BY THE SCHOOL DISTRICT TO BE AN AREA OF CRITICAL  
40 NEED. AN APPLICATION FOR A VACANCY SHALL BE MADE TO THE

1 PRINCIPAL OF A LISTED SCHOOL, WITH A COPY OF THE APPLICATION  
2 PROVIDED BY THE NONPROBATIONARY TEACHER TO THE SCHOOL DISTRICT.  
3 THE NONPROBATIONARY TEACHER SHALL BE INTERVIEWED BY THE  
4 PRINCIPAL UNLESS THE POSITION IS FILLED BEFORE AN INTERVIEW OCCURS.  
5 WHEN A PRINCIPAL RECOMMENDS APPOINTMENT OF A NONPROBATIONARY  
6 TEACHER APPLICANT TO A VACANT POSITION, THE NONPROBATIONARY  
7 TEACHER SHALL BE TRANSFERRED TO THAT POSITION.

8 (C) THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE AT SUCH  
9 TIME AS THE PERFORMANCE EVALUATION SYSTEM BASED ON QUALITY  
10 STANDARDS ESTABLISHED PURSUANT TO THIS SECTION AND THE RULES  
11 PROMULGATED BY THE STATE BOARD PURSUANT TO SECTION 22-9-105.5  
12 HAS COMPLETED THE INITIAL PHASE OF IMPLEMENTATION AND HAS BEEN  
13 IMPLEMENTED STATEWIDE. THE COMMISSIONER SHALL PROVIDE NOTICE  
14 OF SUCH IMPLEMENTATION TO THE REVISOR OF STATUTES ON OR BEFORE  
15 JULY 1, 2014, AND EACH JULY 1 THEREAFTER UNTIL STATEWIDE  
16 IMPLEMENTATION OCCURS.

17 (III) (A) ANY ACTIVE NONPROBATIONARY TEACHER WHO WAS  
18 DEEMED EFFECTIVE DURING THE PRIOR SCHOOL YEAR AND HAS NOT  
19 SECURED A MUTUAL CONSENT PLACEMENT SHALL BE A MEMBER OF A  
20 PRIORITY HIRING POOL, WHICH PRIORITY HIRING POOL SHALL ENSURE THE  
21 NONPROBATIONARY TEACHER A FIRST OPPORTUNITY TO INTERVIEW FOR  
22 AVAILABLE POSITIONS FOR WHICH HE OR SHE IS QUALIFIED IN THE SCHOOL  
23 DISTRICT.

24 (B) WHEN A DETERMINATION IS MADE THAT A NONPROBATIONARY  
25 TEACHER'S SERVICES ARE NO LONGER REQUIRED FOR THE REASONS SET  
26 FORTH IN SUBPARAGRAPH (VII) OF THIS PARAGRAPH (c.5), THE  
27 NONPROBATIONARY TEACHER SHALL BE NOTIFIED OF HIS OR HER  
28 REMOVAL. IN MAKING DECISIONS PURSUANT TO THIS PARAGRAPH (c.5), A  
29 SCHOOL DISTRICT SHALL CONSIDER PROBATIONARY AND  
30 NONPROBATIONARY STATUS AND THE NUMBER OF YEARS A TEACHER HAS  
31 BEEN TEACHING IN THE SCHOOL DISTRICT; EXCEPT THAT THESE CRITERIA  
32 MAY BE CONSIDERED ONLY AFTER THE CONSIDERATION OF THE CRITERIA  
33 OF EFFECTIVENESS DESCRIBED IN SECTION 22-9-106. UPON NOTICE TO  
34 THE NONPROBATIONARY TEACHER, THE SCHOOL DISTRICT SHALL  
35 IMMEDIATELY PROVIDE THE NONPROBATIONARY TEACHER WITH A LIST OF  
36 ALL VACANT POSITIONS FOR WHICH HE OR SHE IS QUALIFIED, AS WELL AS  
37 A LIST OF VACANCIES IN ANY AREA IDENTIFIED BY THE SCHOOL DISTRICT  
38 TO BE AN AREA OF CRITICAL NEED. AN APPLICATION FOR A VACANCY  
39 SHALL BE MADE TO THE PRINCIPAL OF A LISTED SCHOOL, WITH A COPY OF

1 THE APPLICATION PROVIDED BY THE NONPROBATIONARY TEACHER TO THE  
2 SCHOOL DISTRICT. THE NONPROBATIONARY TEACHER SHALL BE  
3 INTERVIEWED BY THE PRINCIPAL UNLESS THE POSITION IS FILLED BEFORE  
4 AN INTERVIEW OCCURS. WHEN A PRINCIPAL RECOMMENDS APPOINTMENT  
5 OF A NONPROBATIONARY TEACHER APPLICANT TO A VACANT POSITION,  
6 THE NONPROBATIONARY TEACHER SHALL BE TRANSFERRED TO THAT  
7 POSITION.

8 (C) THIS SUBPARAGRAPH (III) SHALL TAKE EFFECT AT SUCH TIME  
9 AS THE PERFORMANCE EVALUATION SYSTEM BASED ON QUALITY  
10 STANDARDS ESTABLISHED PURSUANT TO THIS SECTION AND THE RULES  
11 PROMULGATED BY THE STATE BOARD PURSUANT TO SECTION 22-9-105.5  
12 HAS COMPLETED THE INITIAL PHASE OF IMPLEMENTATION AND HAS BEEN  
13 IMPLEMENTED STATEWIDE. THE COMMISSIONER SHALL PROVIDE NOTICE  
14 OF SUCH IMPLEMENTATION TO THE REVISOR OF STATUTES ON OR BEFORE  
15 JULY 1, 2014, AND EACH JULY 1 THEREAFTER UNTIL STATEWIDE  
16 IMPLEMENTATION OCCURS.

17 (IV) IF A NONPROBATIONARY TEACHER IS UNABLE TO SECURE A  
18 MUTUAL CONSENT ASSIGNMENT AT A SCHOOL OF THE SCHOOL DISTRICT  
19 AFTER TWO HIRING CYCLES, THE SCHOOL DISTRICT SHALL PLACE THE  
20 TEACHER ON UNPAID LEAVE UNTIL SUCH TIME AS THE TEACHER IS ABLE TO  
21 SECURE AN ASSIGNMENT. IF THE TEACHER SECURES AN ASSIGNMENT AT  
22 A SCHOOL OF THE SCHOOL DISTRICT WHILE PLACED ON UNPAID LEAVE, THE  
23 SCHOOL DISTRICT SHALL REINSTATE THE TEACHER'S SALARY AND BENEFITS  
24 AT THE LEVEL THEY WOULD HAVE BEEN IF THE TEACHER HAD NOT BEEN  
25 PLACED ON UNPAID LEAVE.

26 (V) NOTHING IN THIS SECTION SHALL LIMIT THE ABILITY OF A  
27 SCHOOL DISTRICT TO PLACE A TEACHER IN A TWELVE-MONTH OR OTHER  
28 LIMITED-TERM ASSIGNMENTS, INCLUDING, BUT NOT LIMITED TO, A  
29 TEACHING ASSIGNMENT, SUBSTITUTE ASSIGNMENT, OR INSTRUCTIONAL  
30 SUPPORT ROLE DURING THE PERIOD IN WHICH THE TEACHER IS ATTEMPTING  
31 TO SECURE A MUTUAL CONSENT ASSIGNMENT. SUCH AN ASSIGNMENT  
32 SHALL NOT CONSTITUTE A MUTUAL CONSENT ASSIGNMENT AND SHALL NOT  
33 BE DEEMED TO INTERRUPT THE PERIOD IN WHICH THE TEACHER IS  
34 REQUIRED TO SECURE A MUTUAL CONSENT ASSIGNMENT BEFORE THE  
35 DISTRICT SHALL PLACE THE TEACHER ON UNPAID LEAVE.

36 (VI) THE PROVISIONS OF THIS PARAGRAPH (c.5) MAY BE WAIVED  
37 IN WHOLE OR IN PART FOR A RENEWABLE FOUR-YEAR PERIOD BY THE  
38 STATE BOARD OF EDUCATION PURSUANT TO SECTION 22-2-117, PROVIDED

1 THAT THE LOCAL SCHOOL BOARD APPLYING FOR THE WAIVER, IN  
2 CONJUNCTION WITH THE SUPERINTENDENT AND TEACHERS ASSOCIATION,  
3 IF APPLICABLE, DEMONSTRATES THAT THE WAIVER IS IN THE BEST  
4 INTEREST OF STUDENTS ENROLLED IN THE SCHOOL DISTRICT, SUPPORTS  
5 THE EQUITABLE DISTRIBUTION OF EFFECTIVE TEACHERS, AND WILL NOT  
6 RESULT IN PLACEMENT OTHER THAN BY MUTUAL CONSENT OF THE  
7 TEACHER IN A SCHOOL DISTRICT OR PUBLIC SCHOOL THAT IS REQUIRED TO  
8 IMPLEMENT A PRIORITY IMPROVEMENT PLAN OR TURNAROUND PLAN  
9 PURSUANT TO ARTICLE 11 OF THIS TITLE. NOTWITHSTANDING THE  
10 PROVISIONS OF THIS PARAGRAPH (c.5), A WAIVER SHALL NOT BE GRANTED  
11 FOR A REQUEST THAT EXTENDS THE TIME FOR SECURING A MUTUAL  
12 CONSENT ASSIGNMENT FOR MORE THAN TWO YEARS.

13 (VII) THIS PARAGRAPH (c.5) SHALL APPLY AS A RESULT OF SCHOOL  
14 CLOSURE, CONSOLIDATION, RECONSTITUTION, DROP IN ENROLLMENT,  
15 REDUCTION IN BUILDING, PHASE OUT, OR REDUCTION IN PROGRAM."

16 Page 35, line 13, after "POSITIONS." add "EFFECTIVE FEBRUARY 15, 2012,  
17 THE CONTRACT OR POLICY SHALL INCLUDE CONSIDERATION OF  
18 PROBATIONARY AND NONPROBATIONARY STATUS AND THE NUMBER OF  
19 YEARS A TEACHER HAS BEEN TEACHING IN THE SCHOOL DISTRICT; EXCEPT  
20 THAT THESE CRITERIA MAY BE CONSIDERED ONLY AFTER THE  
21 CONSIDERATION OF THE CRITERIA DESCRIBED IN SECTION 22-9-106 AND  
22 ONLY IF THE CONTRACT OR POLICY IS IN THE BEST INTEREST OF THE  
23 STUDENTS ENROLLED IN THE SCHOOL DISTRICT."

24 Page 36, line 26, after "(a.5)" insert "(I)".

25 Page 37, after line 6 insert:

26 "(II) A PROBATIONARY TEACHER WHO IS DEEMED TO BE  
27 PERFORMING SATISFACTORILY IN ANY OF SCHOOL YEARS 2010-2011,  
28 2011-2012, AND 2012-2013 SHALL, FOR PURPOSES OF ARTICLE 9 OF THIS  
29 TITLE, BE DEEMED TO HAVE PERFORMED EFFECTIVELY DURING THE SAME  
30 SCHOOL YEAR OR YEARS. BEGINNING WITH THE 2013-2014 SCHOOL YEAR,  
31 ALL TEACHERS SHALL BE EVALUATED IN ACCORDANCE WITH THE NEW  
32 PERFORMANCE EVALUATION SYSTEM THAT IS BASED ON MEASURES OF  
33 EFFECTIVENESS; HOWEVER, A SCHOOL DISTRICT MAY EXTEND THE  
34 PROBATIONARY STATUS OF A TEACHER WHO HAS THREE CONSECUTIVE  
35 SATISFACTORY RATINGS AS OF JULY 1, 2013 BY NO MORE THAN ONE YEAR.

36 **SECTION 15.** Part 2 of article 63 of title 22, Colorado Revised

1 Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION  
2 to read:

3           **22-63-203.5. Nonprobationary portability.** BEGINNING WITH  
4 THE 2014-2015 SCHOOL YEAR, A NONPROBATIONARY TEACHER, EXCEPT  
5 FOR A NONPROBATIONARY TEACHER WHO HAS HAD TWO CONSECUTIVE  
6 PERFORMANCE EVALUATIONS WITH AN INEFFECTIVE RATING, WHO IS  
7 EMPLOYED BY A SCHOOL DISTRICT AND IS SUBSEQUENTLY HIRED BY A  
8 DIFFERENT SCHOOL DISTRICT MAY PROVIDE TO THE HIRING SCHOOL  
9 DISTRICT EVIDENCE OF HIS OR HER STUDENT ACADEMIC GROWTH DATA  
10 AND PERFORMANCE EVALUATIONS FOR THE PRIOR TWO YEARS FOR THE  
11 PURPOSES OF RETAINING NONPROBATIONARY STATUS. IF, UPON PROVIDING  
12 SUCH DATA, THE NONPROBATIONARY TEACHER CAN SHOW TWO  
13 CONSECUTIVE PERFORMANCE EVALUATIONS WITH EFFECTIVENESS RATINGS  
14 IN GOOD STANDING, HE OR SHE SHALL BE GRANTED NONPROBATIONARY  
15 STATUS IN THE HIRING SCHOOL DISTRICT."

16 Renumber succeeding sections accordingly.

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