

FIRST REGULAR SESSION

HOUSE BILL NO. 628

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES DIECKHAUS (Sponsor), SCHARNHORST,
LEARA AND TILLEY (Co-sponsors).

0858L.03I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 160.045, 163.172, 168.102, 168.221, and 168.410, RSMo, and to enact in lieu thereof nineteen new sections relating to teacher continuing contracts.

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

Section A. Sections 160.045, 163.172, 168.102, 168.221, and 168.410, RSMo, are
2 repealed and nineteen new sections enacted in lieu thereof, to be known as sections 160.045,
3 163.172, 168.102, 168.221, 168.410, 168.1000, 168.1002, 168.1003, 168.1004, 168.1006,
4 168.1008, 168.1009, 168.1010, 168.1012, 168.1020, 168.1022, 168.1026, 168.1028, and
5 168.1030, to read as follows:

160.045. 1. Each public school shall develop standards for teaching no later than June
2 30, 2010. The standards shall be applicable to all public schools, including public charter
3 schools operated by the board of a school district.

4 2. Teaching standards **for purposes of teacher evaluation under section 168.1026** shall
5 include, but not be limited to, the following:

6 (1) Students actively participate and are successful in the learning process;

7 (2) Various forms of assessment are used to monitor and manage student learning;

8 (3) The teacher is prepared and knowledgeable of the content and effectively maintains
9 students' on-task behavior;

10 (4) The teacher uses professional communication and interaction with the school
11 community;

12 (5) The teacher keeps current on instructional knowledge and seeks and explores changes
13 in teaching behaviors that will improve student performance; and

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 (6) The teacher acts as a responsible professional in the overall mission of the school.
15 3. The department may provide assistance to public schools in developing these
16 standards upon request.

17 **4. The Missouri teaching standards professional continuum adopted by the state**
18 **board of education shall form the basis of fifty percent of the score on a teacher's**
19 **evaluation under section 168.1026.**

163.172. 1. In school year 1994-95 and thereafter until school year 2006-07, the
2 minimum teacher's salary shall be eighteen thousand dollars. Beginning in school year 2006-07,
3 the minimum teacher's salary shall be twenty-two thousand dollars; in school year 2007-08, the
4 minimum teacher's salary shall be twenty-three thousand dollars; in school year 2008-09, the
5 minimum teacher's salary shall be twenty-four thousand dollars; in school year 2009-10 and
6 thereafter, the minimum teacher's salary shall be twenty-five thousand dollars. [Beginning in the
7 school year 1996-97 until school year 2006-07, for any full-time teacher with a master's degree
8 and at least ten years' teaching experience in a public school or combination of public schools,
9 the minimum salary shall be twenty-four thousand dollars. Beginning in the school year
10 2006-07, for any full-time teacher with a master's degree in an academic teaching field and at
11 least ten years' teaching experience in a public school or combination of public schools, the
12 minimum salary shall be thirty thousand dollars; in the 2007-08 school year such minimum
13 salary shall be thirty-one thousand dollars; in the 2008-09 school year such minimum salary shall
14 be thirty-two thousand dollars; and in the 2009-10 school year such minimum salary shall be
15 thirty-three thousand dollars.]

16 2. Beginning with the budget requests for fiscal year 1991, the commissioner of
17 education shall present to the appropriate committees of the general assembly information on the
18 average Missouri teacher's salary, regional average salary data, and national average salary data.

19 3. All school salary information shall be public information.

20 4. As used in this section, the term "salary" shall be defined as the salary figure which
21 appears on the teacher's contract and as determined by the local school district's basic salary
22 schedule and does not include supplements for extra duties.

23 5. The minimum salary for any fully certificated teacher employed on a less than
24 full-time basis by a school district, state school for the severely handicapped, the Missouri
25 School for the Deaf, or the Missouri School for the Blind shall be prorated to reflect the amounts
26 provided in subsection 1 of this section.

168.102. Sections 168.102 to 168.130 shall be known and may be cited as the "Teacher
2 Tenure Act" and shall become effective July 1, 1970, **and remain in effect until June 30, 2012.**

168.221. 1. The first five years of employment of all teachers entering the employment
2 of the metropolitan school district **for teachers hired prior to July 1, 2012,** shall be deemed a

3 period of probation during which period all appointments of teachers shall expire at the end of
4 each school year. **Beginning July 1, 2012, the provisions of sections 168.1000 to 168.1030**
5 **shall be in effect in the metropolitan school district.** During the probationary period any
6 probationary teacher whose work is unsatisfactory shall be furnished by the superintendent of
7 schools with a written statement setting forth the nature of his incompetency. If improvement
8 satisfactory to the superintendent is not made within one semester after the receipt of the
9 statement, the probationary teacher shall be dismissed. The semester granted the probationary
10 teacher in which to improve shall not in any case be a means of prolonging the probationary
11 period beyond five years and six months from the date on which the teacher entered the employ
12 of the board of education. The superintendent of schools on or before the fifteenth day of April
13 in each year shall notify probationary teachers who will not be retained by the school district of
14 the termination of their services. Any probationary teacher who is not so notified shall be
15 deemed to have been appointed for the next school year. Any principal who prior to becoming
16 a principal had attained permanent employee status as a teacher shall upon ceasing to be a
17 principal have a right to resume his or her permanent teacher position with the time served as a
18 principal being treated as if such time had been served as a teacher for the purpose of calculating
19 seniority and pay scale. The rights and duties and remuneration of a teacher who was formerly
20 a principal shall be the same as any other teacher with the same level of qualifications and time
21 of service.

22 2. After completion of satisfactory probationary services, appointments of teachers shall
23 become permanent, subject to removal for any one or more causes herein described and to the
24 right of the board to terminate the services of all who attain the age of compulsory retirement
25 fixed by the retirement system. In determining the duration of the probationary period of
26 employment in this section specified, the time of service rendered as a substitute teacher shall
27 not be included.

28 3. No teacher whose appointment has become permanent may be removed except for one
29 or more of the following causes: immorality, inefficiency in line of duty, violation of the
30 published regulations of the school district, violation of the laws of Missouri governing the
31 public schools of the state, or physical or mental condition which incapacitates him for
32 instructing or associating with children, and then only by a vote of not less than a majority of all
33 the members of the board, upon written charges presented by the superintendent of schools, to
34 be heard by the board after thirty days' notice, with copy of the charges served upon the person
35 against whom they are preferred, who shall have the privilege of being present at the hearing,
36 together with counsel, offering evidence and making defense thereto. Notifications received by
37 an employee during a vacation period shall be considered as received on the first day of the
38 school term following. At the request of any person so charged the hearing shall be public.

39 During any time in which powers granted to the district's board of education are vested in a
40 special administrative board, the special administrative board may appoint a hearing officer to
41 conduct the hearing. The hearing officer shall conduct the hearing as a contested case under
42 chapter 536 and shall issue a written recommendation to the board rendering the charges against
43 the teacher. The board shall render a decision on the charges upon the review of the hearing
44 officer's recommendations and the record from the hearing. The action and decision of the board
45 upon the charges shall be final. Pending the hearing of the charges, the person charged may be
46 suspended if the rules of the board so prescribe, but in the event the board does not by a majority
47 vote of all the members remove the teacher upon charges presented by the superintendent, the
48 person shall not suffer any loss of salary by reason of the suspension. Inefficiency in line of duty
49 is cause for dismissal only after the teacher has been notified in writing at least one semester
50 prior to the presentment of charges against him by the superintendent. The notification shall
51 specify the nature of the inefficiency with such particularity as to enable the teacher to be
52 informed of the nature of his inefficiency.

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

66 5. Whenever it is necessary to decrease the number of teachers because of insufficient
67 funds or a substantial decrease of pupil population within the school district, the board of
68 education upon recommendation of the superintendent of schools may cause the necessary
69 number of teachers beginning with those serving probationary periods to be placed on leave of
70 absence without pay, but only in the inverse order of their appointment. Nothing herein stated
71 shall prevent a readjustment by the board of education of existing salary schedules. No teacher
72 placed on a leave of absence shall be precluded from securing other employment during the
73 period of the leave of absence. Each teacher placed on leave of absence shall be reinstated in
74 inverse order of his placement on leave of absence. Such reemployment shall not result in a loss

75 of status or credit for previous years of service. No new appointments shall be made while there
76 are available teachers on leave of absence who are seventy years of age or less and who are
77 adequately qualified to fill the vacancy unless the teachers fail to advise the superintendent of
78 schools within thirty days from the date of notification by the superintendent of schools that
79 positions are available to them that they will return to employment and will assume the duties
80 of the position to which appointed not later than the beginning of the school year next following
81 the date of the notice by the superintendent of schools.

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

86 7. A teacher whose appointment has become permanent may give up the right to a
87 permanent appointment to participate in the teacher choice compensation package under sections
88 168.745 to 168.750.

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

3 (1) The board of education of each school district shall cause a comprehensive
4 performance-based evaluation for each administrator employed by the district. Such evaluation
5 shall be **at least annual**, ongoing, and of sufficient specificity and frequency to provide for
6 demonstrated standards of competency and academic ability;

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

10 (3) The state department of elementary and secondary education shall provide suggested
11 procedures for the evaluations performed under this section. **The Missouri administration**
12 **standards professional continuum shall form the basis for fifty percent of the score on an**
13 **administrator's evaluation.**

14 **2. Beginning July 1, 2012, evaluations of administrators and superintendents shall**
15 **contain a component that assesses the performance of the instructional personnel for whom**
16 **the administrator or superintendent has supervisory capacity as a measure of the**
17 **administrator's or superintendent's instructional leadership. This component shall**
18 **constitute fifty percent of the evaluation. The board of education of each school district**
19 **shall develop standards and criteria for such assessment similar to those suggested in**
20 **sections 168.405 and 168.1026.**

168.1000. Sections 168.1000 to 168.1030 shall be known and may be cited as the
2 **"Teacher Continuing Contract Act" and shall become effective July 1, 2012.**

168.1002. The following words and phrases when used in sections 168.1000 to 168.1030, 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 having general control of the affairs of the district;

(2) "Continuing contract", every contract entered into between a school district and a teacher for two or more consecutive years;

(3) "Continuing contract teacher", any teacher as herein defined who is employed on a contract whose length is two or more years;

(4) "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;

(5) "Probationary contract", a one-year contract;

(6) "Probationary teacher", any teacher as herein defined who is in the first year of employment or who is subsequently employed in the same school district on a one-year contract and may be further defined as follows in this subdivision. A novice probationary teacher is one who is in his or her first year of teaching after achieving certification under chapter 168. A transfer probationary teacher is in his or her first year of teaching with the district. A teacher who has received a one-year contract beginning on July 1, 2013, as a result of performance-based evaluation shall be deemed a probationary teacher;

(7) "School district", every school district in this state;

(8) "Teacher", any employee of a 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 seven-director or urban public school within a prekindergarten program in which no fees are charged to parents or guardians;

168.1003. 1. All teachers who have tenure in a school district under sections 168.102 to 168.130 or section 168.221 on July 1, 2012, shall be placed by the district in which they are employed on that date on probationary contracts. Teachers employed to begin work in the district for the first time, whether as a novice teacher or a transfer teacher, shall be placed on probationary contracts on July 1, 2012. During the 2012-2013 school year, each district shall administer performance-based evaluations as required under section 168.1026 to all teachers.

2. Beginning July 1, 2013, a novice probationary teacher entering his or her first contract after attainment of certification shall be granted a novice probationary contract to consist of two one-year contracts, with the second year being conditional based on first-year performance. Complete student performance data may not be available in time for

12 a full performance-based evaluation at the end of the novice probationary teacher's first
13 year; however, upon a successful evaluation at the end of the first year based upon
14 available data and the novice probationary teacher's achievement on the professional
15 continuum under 160.045, the novice probationary teacher may be granted the second
16 one-year contract.

17 3. Beginning July 1, 2013, a transfer probationary teacher may be granted a
18 two-year contract upon first being hired by the district if, in the judgment of the hiring
19 authority, the student performance data from the teacher's previous district is sufficient
20 to warrant a two-year contract.

21 4. Beginning July 1, 2013, teachers who score in tier 1 under section 168.1009 in the
22 final year of their continuing contract shall receive a subsequent continuing contract for
23 a four-year period; those who score in tier 2 shall receive a three-year continuing contract;
24 those who score in tier 3 shall receive a two-year continuing contract; those who score in
25 tier 4 shall receive a one-year contract, becoming probationary teachers.

168.1004. The contract between a school district and a continuing contract teacher
2 shall be known as a continuing contract and shall continue in effect for a period of two,
3 three, or four years, subject to:

- 4 (1) Compulsory or optional retirement when the teacher reaches the age of
5 retirement provided by law, or regulation established by the local board of education;
- 6 (2) The death of the teacher;
- 7 (3) Resignation of the teacher with the written consent of the school board;
- 8 (4) Termination by the board of education;
- 9 (5) The revocation of the teacher's certificate; or
- 10 (6) Modifications under subsection 1 of section 168.1008.

168.1006. 1. Every contract whether probationary or continuing shall contain the
2 following provisions in substantially the following form:

3 "It is hereby agreed by and between, the teacher, and the Board of Education
4 of School District, the employer, that the teacher, beginning on the day of,
5 20..., shall serve in the employ of the Board of Education and its successors for a term of
6 months for an annual compensation of \$, to be paid to the teacher in equal
7 installments according to local school board regulations less the contributions required by
8 law."

9 2. Every contract shall be:

- 10 (1) Made by the order of the board of education;
- 11 (2) In writing;

12 (3) Signed by the teacher and the president of the board of education, or a facsimile
13 signature of the president may be affixed at his or her direction; and

14 (4) Attested by the secretary of the board of education by signature or facsimile.

15 3. Nothing in the terms of a continuing contract shall restrict the power of the
16 board of education to terminate the continuing contract for cause at any time.

17 4. The board of education shall not employ one of its members as a teacher, nor
18 shall any person be employed as a teacher who is related within the fourth degree to any
19 board member, either by consanguinity or affinity, where the vote of the board member
20 is necessary to the selection of the person.

 168.1008. 1. The board of education of a school district may modify a continuing
2 contract on or before the fifteenth day of May in the following particulars:

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

4 (2) Fixing the amount of annual compensation for the following school year as
5 provided by the salary schedule adopted by the board of education applicable to all
6 teachers, which schedule may contain elements in addition to highest degree held and years
7 of service as long as such elements are equitably compensated among teachers covered by
8 those elements, which may include but are not limited to additional areas of certification,
9 certification in high-need subjects, additional duty pay, and demonstrated ability to
10 improve student learning performance, including progress on a growth model;

11 (3) Utilizing information from teacher evaluations under section 168.1026, which
12 may include longer contract lengths for teachers with higher scores;

13 (4) Inclusion of performance pay increments, based on teacher evaluation
14 information.

15 2. The modifications shall be effective at the beginning of the next school year. All
16 teachers affected by the modification shall be furnished written copies of the modifications
17 within thirty days after their adoption by the board of education.

 168.1009. 1. This section shall become effective July 1, 2013.

2 2. Each school district shall use ninety percent of the total annual base
3 compensation for all teachers in the 2012-2013 school year as the base year for the initial
4 calculation of performance pay increments. This amount shall be known as the modified
5 teacher budget. Districts may use the remaining ten percent and any additional funds over
6 the 2012-2013 base to address anomalies in the schedule. Each subsequent year shall be
7 based on ninety percent of the previous year's total.

8 3. Each district shall rank-order its teachers by the totals of their
9 performance-based evaluation scores and their student performance scores. In any
10 instance in which two or more teachers score the same on their total score, the teacher with

11 the higher student performance score shall rank above the teacher with the lower student
12 performance score. In any instance in which two teachers are ranked the same, have the
13 same student performance score, and the scores fall at a tier break point, both teachers
14 shall be ranked in the higher tier.

15 **4. Each teacher ranked in the bottom thirty-three percent of teachers shall be paid**
16 **no less than the minimum salary required by section 163.172. The teachers ranked at zero**
17 **to thirty-three percent shall constitute tier 4. The tier 4 teacher salary shall be an amount**
18 **calculated by dividing the modified teacher budget by 1.29584 times the total teacher**
19 **full-time equivalent number. Each teacher ranked in tier 3, from above thirty-three**
20 **percent to sixty-six percent, shall receive an increment of performance pay that is no less**
21 **than a ten percent increase over the tier 4 performance pay. Each teacher ranked in tier**
22 **2, from above sixty-six percent to eighty-three percent, shall receive an increment of**
23 **performance pay that is no less than a twenty-five percent increase over the tier 3 pay.**
24 **Each teacher ranked in tier 1, from above eighty-three percent to one hundred percent,**
25 **shall receive an increase that is no less than a sixty percent increase over the tier 2 pay.**

168.1010. A continuing contract between a continuing contract teacher and a board
2 **of education may be terminated or modified at any time by the mutual consent of the**
3 **parties thereto. Any teacher who desires to terminate his or her continuing contract at the**
4 **end of a school term shall give written notice of his or her intention to do so and the**
5 **reasons therefor not later than June first of the year in which the term ends.**

168.1012. 1. A contract may be terminated by the board of education of a school
2 **district for one or more of the following causes:**

3 **(1) Unsatisfactory performance based on the teacher evaluation under section**
4 **168.1026;**

5 **(2) Physical or mental condition unfitting him or her to instruct or associate with**
6 **children;**

7 **(3) Immoral conduct;**

8 **(4) Willful or persistent violation of, or failure to obey, the school laws of the state**
9 **or the published regulations of the board of education of the school district employing him**
10 **or her or insubordination in the line of duty;**

11 **(5) Excessive or unreasonable absence from performance of duties; or**

12 **(6) Conviction of a felony or a crime involving moral turpitude.**

13 **2. In determining the professional competency or efficiency of a continuing contract**
14 **teacher, consideration shall be given to regular and special evaluation reports prepared in**
15 **accordance with the policy of the employing school district and to any written standards**

16 of performance which have been adopted by the school board under sections 160.045 and
17 168.1026.

18 **168.1020.** A board of education may establish policies for granting a leave of
19 absence including but not limited to sabbatical leave, maternity leave, sick leave, and
20 military leave. The board of education of a school district may, upon the written request
21 of a teacher, and for good cause shown, grant a leave of absence or place him or her on a
22 part-time teaching schedule for a period of one year, subject to renewal from year to year.
23 Leaves and military service shall not impair the continuing contract previously acquired
24 by a teacher under sections 168.1000 to 168.1030. Any teacher under sections 168.1000 to
168.1030 who is called into active military service with the armed forces of the United
States is eligible for reinstatement upon his or her discharge from service without loss of
the teacher's continuing contract.

168.1022. 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.

2. Teachers may be reinstated to the positions from which they have been given
leaves of absence, or if the positions are 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.

3. A teacher placed on leave of absence may engage in teaching or another
occupation during the period of such leave.

4. The leave of absence shall not impair the continuing contract of a teacher.

5. The leave of absence shall continue for a period of not more than two years
unless extended by the board.

6. If a board of education chooses to reduce its 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 7 of this section.

7. 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 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.

168.1026. 1. 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 168.1000 to 168.1030.

2. In addition, the board of education of each school district shall cause a comprehensive, performance-based evaluation for each teacher employed by the district at least annually. Fifty percent of a teacher's evaluation shall be based on the performance of students for whom the teacher has responsibility and fifty percent on teaching standards developed by the district under section 160.045. No more than forty percent of a building's teachers shall receive a standards-based score in the top thirty-three percent.

3. All teachers shall be evaluated regularly and shall be evaluated at least twice annually in the final year of their continuing contract by a qualified administrator, who may be an employee of another accredited district. Nothing in this subsection shall be construed to prohibit more frequent evaluation if a district's policy permits it. Advance notice of evaluations shall not be given.

4. 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.

5. The state department of elementary and secondary education shall develop suggested procedures and models for student performance evaluations, including suggestions for evaluation of student performance that may be equitably applied to certificated teachers who are not assigned to a classroom, whose classroom assignment may involve students who chronically score significantly above or below proficient performance, or who otherwise lack evaluation instruments specific to their assignments.

168.1028. No member of a board of education or duly designated administrative officer of a board of education shall be liable in a civil action based on a statement of charges against a school teacher.

168.1030. No teacher shall take part in the management of a campaign for the election or defeat of members of a board of education by which he or she is employed. Any teacher who violates the provisions of this section shall be subject to termination of his or her employment by the district with the right of a hearing as heretofore provided.