

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

875P0708

## HOUSE EDUCATION ENGROSSED NO. **HB 1262** - 2/12/2008

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Representatives Buckingham, Heineman, McLaughlin, and Van Etten and  
Senator Olson (Ed)

1 FOR AN ACT ENTITLED, An Act to establish a classification system, an evaluation system,  
2 and minimum annual salaries for certified teachers and school service specialists, and to  
3 repeal certain provisions relating to teacher tenure.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. There is hereby established a three-level classification system for certified  
6 teachers and school service specialists that provides for a minimum annual salary for each  
7 certified teacher or school service specialist within each level and requires a teacher or school  
8 service specialist to demonstrate increased competency and professional growth in order to  
9 progress from one level to the next within the system. For the purposes of this Act, a school  
10 service specialist is a school counselor, school library media education specialist, school  
11 psychologist, speech/language pathologist, school social worker, special education director, or  
12 curriculum director.

13 Section 2. For the purposes of this Act, on July 1, 2009, any certified teacher with less than  
14 three years of teaching experience or any school service specialist with less than three years of



1 experience providing direct services to students is classified at Level I. On July 1, 2009, any  
2 certified teacher with three or more years of teaching experience or any school service specialist  
3 with three or more years of experience providing direct services to students is classified at Level  
4 II, and shall receive a salary increase of one thousand dollars above the salary the teacher or  
5 school service specialist would have otherwise received for the current school fiscal year.

6 On July 1, 2010, any certified teacher with six or more years of teaching experience who  
7 meets the qualifications in subdivisions (1) and (3) of section 6 of this Act is classified at Level  
8 III, and shall receive a salary increase of four thousand dollars above the salary the teacher  
9 would have otherwise received for the current school fiscal year. On July 1, 2010, any school  
10 service specialist with six or more years of experience providing direct services to students who  
11 meets the qualifications in subdivisions (1) and (3) of section 8 of this Act is classified at Level  
12 III, and shall receive a salary increase of four thousand dollars above the salary the school  
13 service specialist would have otherwise received for the current school fiscal year.

14 Section 3. The minimum annual salary for any teacher or school service specialist at Level  
15 I is as follows:

16 (1) For school fiscal year 2010, the minimum annual salary is twenty-eight thousand  
17 dollars;

18 (2) For school fiscal year 2011, the minimum annual salary is thirty thousand dollars;

19 (3) For school fiscal year 2012, the minimum annual salary is thirty-two thousand  
20 dollars;

21 (4) For school fiscal year 2013, the minimum annual salary is thirty-four thousand five  
22 hundred dollars; and

23 (5) For school fiscal year 2014, the minimum annual salary is thirty-six thousand five  
24 hundred dollars; and

(6) For school fiscal year 2015 and thereafter, the minimum annual salary is thirty-nine thousand dollars.

Any teacher or school service specialist who progresses from Level I to Level II shall receive a salary increase of one thousand dollars above the salary the teacher or school service specialist would have otherwise received for the current school fiscal year. Any teacher or school service specialist who progresses from Level II to Level III shall receive a salary increase of four thousand dollars above the salary the teacher or school service specialist would have otherwise received for the current school fiscal year.

Section 4. In order to advance from Level I to Level II, a teacher shall:

- (1) Complete a mentoring or induction program approved by the Department of Education;
- (2) Demonstrate competency, as determined by an administrator trained pursuant to section 13 of this Act, in professional growth and classroom achievement through the annual evaluation process required in section 10 of this Act. Classroom achievement may be measured using standardized achievement tests, classroom exams, student observations, and other assessments;
- (3) Complete three years of teaching at Level I; and
- (4) Demonstrate the increased competency required for Level II by passing an assessment approved by the Department of Education that measures the skills of beginning teachers in a classroom setting.

In order to maintain teacher certification pursuant to § 13-42-3, a Level I teacher shall progress to Level II no later than the fifth year of teaching.

Section 5. At Level II, a teacher shall:

- (1) Submit a professional development plan and complete the hours of coursework

1 necessary to maintain teacher certification pursuant to § 13-42-3; and

2 (2) Demonstrate competency, as determined by an administrator trained pursuant to  
3 section 13 of this Act, in professional growth and classroom achievement through the  
4 annual evaluation process required in section 10 of this Act. Classroom achievement  
5 may be measured using standardized achievement tests, classroom exams, student  
6 observations, and other assessments.

7 Section 6. Once a teacher progresses to Level II, the teacher may remain at that level or  
8 progress to Level III. In order to progress to Level III, a teacher shall:

9 (1) Earn an advanced degree including a master's, specialist's, or doctorate or obtain a  
10 national certification as approved by the Board of Education based on the criteria  
11 established pursuant to section 15 of this Act;

12 (2) Complete at least three years of teaching at Level II; and

13 (3) Demonstrate competency, as determined by an administrator trained pursuant to  
14 section 13 of this Act, in professional growth and classroom achievement through the  
15 annual evaluation process required in section 10 of this Act. Classroom achievement  
16 may be measured using standardized achievement tests, classroom exams, student  
17 observations, and other assessments.

18 Section 7. In order to advance from Level I to Level II, a school service specialist shall:

19 (1) Complete a mentoring or induction program approved by the Department of  
20 Education; and

21 (2) Demonstrate competency, as determined by an administrator trained pursuant to  
22 section 13 of this Act, through the annual evaluation process required in section 12  
23 of this Act.

24 Section 8. Once a school service specialist progresses to Level II, the school service

specialist may remain at that level or progress to Level III. In order to progress to Level III, a school service specialist shall:

- (1) Earn an advanced degree including a master's, specialist's, or doctorate or obtain a national certification as approved by the Board of Education based on the criteria established pursuant to section 15 of this Act;
- (2) Complete at least three years of providing direct services to students at Level II; and
- (3) Demonstrate competency, as determined by an administrator trained pursuant to section 13 of this Act, through the annual evaluation process required in section 12 of this Act.

Section 9. In addition to the minimum salaries established in this Act, any school district that hires a teacher or school service specialist in an area of need shall pay that teacher or school service specialist a signing bonus of five thousand dollars. The secretary of education shall determine the areas of need for each school year based upon teacher or school service specialist shortages, geography, and other factors and report those areas of need to each school district.

Section 10. The school board of each local school district shall implement an evaluation system for the school district's certified teachers that includes observation of each certified teacher in the teacher's workplace.

Section 11. The certified teacher evaluation system shall:

- (1) Include professional performance standards established pursuant to section 11 of this Act;
- (2) Require at least two observations during each school year for the evaluation of each Level I teacher as defined in this Act;
- (3) Require at least one observation during each school year for the evaluation of each Level II or Level III teacher as defined in this Act who met the school district

performance standards during the previous school year; and

- (4) Include an improvement plan for any certified teacher whose performance does not meet the school district's performance standards, unless the teacher's performance is just cause for termination pursuant to § 13-43-6.1.

Section 12. The school board of each local school district shall also implement an evaluation system for the school district's school service specialists that includes annual evaluations of all school service specialists within the district based upon the criteria established by the Board of Education pursuant to section 15 of this Act.

Section 13. Each school district shall, at least once a year, provide training to the certified teachers and school service specialists who are subject to the evaluation systems. The training shall address the procedures of the evaluation systems, the standards that the school district uses to evaluate the performance of its certified teachers and school service specialists, and any other appropriate topics as determined by the school district. Each school district shall also provide annual training to administrators on how to conduct the evaluations required in section 10 and 12 of this Act.

Section 14. The Department of Education shall promulgate rules pursuant to chapter 1-26 establishing the criteria the department will use to approve school district mentoring and induction programs, establishing the assessment required of teachers progressing to Level II, and providing for the performance standards that school districts will use to evaluate certified teachers.

Section 15. The Board of Education shall promulgate rules pursuant to chapter 1-26 establishing the criteria the school districts will use to evaluate school service specialists and to establish the criteria and the annual review process that the board will use to determine the national certifications that will be recognized to allow a teacher or school service specialist to

1 progress to Level III.

2 Section 16. That § 13-43-6.1 be amended to read as follows:

3 13-43-6.1. A teacher may be terminated, by the school board, at any time for just cause,  
4 including breach of contract, poor performance, incompetency, gross immorality, unprofessional  
5 conduct, insubordination, neglect of duty, or the violation of any policy or regulation of the  
6 school district. ~~A school district may nonrenew a teacher who is in or beyond the fourth~~  
7 ~~consecutive term of employment as a teacher with the school district pursuant to § 13-43-6.3~~  
8 ~~for just cause, including breach of contract, poor performance, incompetency, gross immorality,~~  
9 ~~unprofessional conduct, insubordination, neglect of duty, or the violation of any policy or~~  
10 ~~regulation of the school district.~~

11 Section 17. That § 13-43-6.2 be repealed.

12 ~~— 13-43-6.2. If nonrenewal of a teacher is contemplated under § 13-43-6.1, the superintendent~~  
13 ~~or chief executive officer shall give written notice of an intention to recommend nonrenewal~~  
14 ~~to the teacher and the school board; a written statement of the reasons for the recommendation;~~  
15 ~~access to the employment records of the teacher; the opportunity to the teacher for a hearing~~  
16 ~~before the school board to present reasons in person or in writing why the nonrenewal should~~  
17 ~~not occur; and the opportunity to be represented. The teacher shall request the hearing as~~  
18 ~~provided in § 13-43-6.9. The school board shall conduct the hearing not sooner than fourteen~~  
19 ~~days, nor later than forty-five days, after receipt of the teacher's request for hearing. The parties~~  
20 ~~may waive the time limitations provided for in this section.~~

21 Section 18. That § 13-43-6.3 be amended to read as follows:

22 13-43-6.3. ~~Until a teacher is in or beyond the fourth consecutive term of employment as a~~  
23 ~~teacher with the school district, a school board may or may not renew the teacher's contract. The~~  
24 ~~superintendent or chief executive officer shall give written notice of nonrenewal by April~~

~~fifteenth but is not required to give further process or a reason for nonrenewal.~~

~~— After a teacher is in or beyond the fourth consecutive term of employment as a teacher with the school district, §§ 13-43-6.1 and 13-43-6.2 apply to any nonrenewal of the teacher's contract.~~

On or before April fifteenth, the superintendent or chief executive officer shall notify the teacher and the school board in writing of the recommendation to not renew the teacher's contract.

Acceptance by the teacher of an offer from the district to enter into a new contract with the teacher shall be in the manner specified in the offer. Failure of the teacher to accept the offer in the manner specified constitutes the termination of the existing contract between the teacher and the district at the end of its term.

Section 19. That § 13-43-6.4 be repealed.

~~13-43-6.4. Notwithstanding §§ 13-43-6.1 to 13-43-6.3, inclusive, if a teacher's contract is not renewed due to a reduction in staff, only written notice is required, which shall be provided by the school board to the teacher by April fifteenth.~~

Section 20. That § 13-43-6.6 be amended to read as follows:

13-43-6.6. Although a collective bargaining agreement between a district and its teachers may set forth specific additional grounds for termination or set forth provisions as to the procedure or notice, no agreement may limit the district's right to terminate a teacher for the grounds set forth in §§ 13-43-6.1 to 13-43-6.3, inclusive. No agreement may limit the protection afforded to a teacher under § 13-43-6.5.

Section 21. That § 13-43-6.8 be amended to read as follows:

13-43-6.8. Delivery of any notification to the teacher pursuant to § ~~13-43-6.2~~ or 13-43-6.7 shall be established by certified mail with return receipt signed by the teacher, personal delivery evidenced by a receipt signed by the teacher, or affidavit of personal service made by a person authorized to effect personal service.



1       Section 22. That § 13-43-6.9 be amended to read as follows:

2       13-43-6.9. Delivery of a written request for a hearing provided by § ~~13-43-6.2~~ or 13-43-6.7  
3 shall be established by certified mail with return receipt signed by the superintendent, chief  
4 executive officer, or board member, or a person authorized to accept certified mail for the  
5 district, or personal delivery evidenced by a receipt signed by the superintendent, chief executive  
6 officer, or board member, or an affidavit of personal service upon the district made by a person  
7 authorized to effect personal service no later than fifteen days after receipt of the notice by the  
8 teacher.

9       Section 23. This Act is effective on July 1, 2009.