

SENATE FILE NO. SF0146

Teacher accountability act.

Sponsored by: Senator(s) Nicholas, P., Anderson, Coe,  
Meier and Rothfuss and Representative(s)  
Buchanan, Harshman and Teeters

A BILL

for

1 AN ACT relating to teacher contracts; establishing the  
2 teacher accountability act; requiring school district  
3 teacher performance evaluations to be based in part upon  
4 student achievement; directing the state board of education  
5 to establish performance criteria based upon educational  
6 accountability measures to be established by law;  
7 establishing performance as a basis for contract  
8 determinations; modifying grounds for teacher suspension,  
9 dismissal and termination; requiring office of  
10 administrative hearings to preside over teacher dismissal,  
11 suspension and termination hearings; specifying  
12 application; providing intent; requiring studies; and  
13 providing for effective dates.

14

15 *Be It Enacted by the Legislature of the State of Wyoming:*

16

1           **Section 1.** W.S. 21-2-304(b) (xv), 21-3-110(a) (xvii)  
2 through (xix), 21-7-102(a) (intro), (ii) (A) and (B),  
3 21-7-104(a), 21-7-106(a), 21-7-110(a), (c) and (d),  
4 21-7-112 and 21-7-113 are amended to read:

5

6           **21-2-304. Duties of the state board of education.**

7

8           (b) In addition to subsection (a) of this section and  
9 any other duties assigned to it by law, the state board  
10 shall:

11

12           (xv) Promulgate rules and regulations for the  
13 development, assessment and approval of annual school  
14 district teacher performance evaluation systems based in  
15 part upon defined student academic growth measures as  
16 prescribed by law and upon longitudinal data systems  
17 linking student achievement with teachers of record,  
18 clearly prescribing standards for satisfactory and  
19 unsatisfactory performance. Rules and regulations adopted  
20 under this paragraph shall ~~allow each~~ to the extent student  
21 achievement measures are not compromised, provide district  
22 ~~flexibility in developing~~ ability to include a portion of  
23 an evaluation system ~~which meets~~ designed to address the  
24 individual needs of the district. The performance

1 evaluation system shall also include reasonable opportunity  
2 for district provision of mentoring and other professional  
3 development activities made available to teachers  
4 performing unsatisfactorily, which are designed to improve  
5 instruction and student achievement;

6  
7 **21-3-110. Duties of boards of trustees.**

8  
9 (a) The board of trustees in each school district  
10 shall:

11  
12 (xvii) Require the performance of each initial  
13 contract teacher to be evaluated in writing at least twice  
14 annually based in part upon student achievement measures as  
15 prescribed by rule and regulation of the state board under  
16 W.S. 21-2-304(b)(xv). The teacher shall receive a copy of  
17 each evaluation of his performance;

18  
19 (xviii) Establish a teacher performance  
20 evaluation system and require the performance of each  
21 continuing contract teacher to be evaluated in writing at  
22 least once each year based in part upon student achievement  
23 measures as prescribed by rule and regulation of the state

1 board under W.S. 21-2-304(b)(xv). The teacher shall  
2 receive a copy of each evaluation of his performance;

3

4 (xix) Based upon student achievement measures  
5 established by the state board of education under W.S.  
6 21-2-304(b)(xv), performance evaluations ~~required~~ shall  
7 serve as a basis for improvement of instruction,  
8 enhancement of curriculum program implementation,  
9 measurement of both individual teacher performance and  
10 professional growth and development and the performance  
11 level of all teachers within the school district, and as  
12 documentation for unsatisfactory performance for dismissal,  
13 suspension and termination proceedings under W.S. 21-7-110;

14

15 **21-7-102. Definitions.**

16

17 (a) As used in ~~the~~this article the following  
18 definitions shall apply:

19

20 (ii) "Continuing Contract Teacher":

21

22 (A) Any initial contract teacher who has  
23 been employed by the same school district in the state of  
24 Wyoming for a period of three (3) consecutive school years,

1 has performed satisfactorily on performance evaluations  
2 implemented by the district under W.S. 21-3-110(a)(xvii)  
3 during this period of time and has had his contract renewed  
4 for a fourth consecutive school year; or

5  
6 (B) A teacher who has achieved continuing  
7 contract status in one (1) district, and who without lapse  
8 of time has taught two (2) consecutive school years and has  
9 had his contract renewed for a third consecutive school  
10 year by the employing school district, and has performed  
11 satisfactorily on performance evaluations conducted by both  
12 districts under W.S. 21-3-110(a)(xvii) during this period  
13 of time.

14  
15 **21-7-104. Employment of continuing contract teachers**  
16 **on continuing basis; salary increases.**

17  
18 (a) Subject to satisfactory performance evaluation  
19 under W.S. 21-3-110(a)(xviii), a continuing contract  
20 teacher shall be employed by each school district on a  
21 continuing basis from year to year without annual contract  
22 renewal at a salary determined by the board of trustees of  
23 each district, said salary subject to increases from time

1 to time as provided for in the salary provisions adopted by  
2 the board.

3

4 **21-7-106. Notice of recommendation of termination to**  
5 **teacher; when termination effective.**

6

7 (a) A continuing contract teacher shall be notified  
8 of a recommendation of termination by the superintendent or  
9 any member of the board designated by the superintendent or  
10 designated by the board pursuant to a majority vote of the  
11 board by giving the teacher written notice together with  
12 written reasons for termination on or before April 15 of  
13 any year. Upon receipt of notice, the teacher may request  
14 a hearing on the recommendation before an independent  
15 hearing officer through the office of administrative  
16 hearings as provided under W.S. 21-7-110.

17

18 **21-7-110. Suspension or dismissal of teachers;**  
19 **notice; hearing; independent hearing officer; board review**  
20 **and decision; appeal.**

21

22 (a) The board may suspend or dismiss any teacher, or  
23 terminate any continuing contract teacher, for any of the  
24 following reasons:

1

2 (i) Incompetency;~~7~~

3

4 (ii) Neglect of duty;~~7~~

5

6 (iii) Immorality including, without limitation,  
7 engaging in conduct with a student which would be a  
8 violation of W.S. 6-2-314 through 6-2-318, 12-6-101(a) or  
9 35-7-1036;

10

11 (iv) Insubordination;~~7~~ ~~unsatisfactory~~  
12 ~~performance or any other good or just cause.~~

13

14 (v) Physical incapacity to perform job duties  
15 even with reasonable accommodation;

16

17 (vi) Failure to perform duties in a satisfactory  
18 manner;

19

20 (vii) Inadequate performance as determined  
21 through annual performance evaluation tied to student  
22 academic growth completed in accordance with W.S.  
23 21-3-110(a)(xvii) through (xix); and

24

1           (viii) Any other good or just cause relating to  
2 the educational process.

3  
4           (c) Any continuing contract teacher receiving notice  
5 of a recommendation of termination under W.S. 21-7-106(a),  
6 or any teacher against whom dismissal or suspension  
7 proceedings are instituted, is entitled to a hearing before  
8 an independent hearing officer provided through the office  
9 of administrative hearings on the recommendation for  
10 termination or the reasons for dismissal or suspension,  
11 upon submission of a written request to the superintendent.  
12 The request for hearing shall be given within seven (7)  
13 days after receipt of notice of termination under W.S.  
14 21-7-106(a) or after receiving notice of dismissal or  
15 suspension under subsection (b) of this section. ~~The~~  
16 ~~independent hearing officer shall insofar as possible, be~~  
17 ~~impartial, experienced in education, labor and employment~~  
18 ~~matters and in the conduct of hearings. Within five (5)~~  
19 ~~days following receipt of the hearing request, the~~  
20 ~~superintendent and the teacher shall jointly select a~~  
21 ~~hearing officer. If they fail to agree upon selection, the~~  
22 ~~district judge of the judicial district in which the school~~  
23 ~~district is located shall upon request select a hearing~~  
24 ~~officer.~~ Expenses of the hearing officer shall be paid

1 ~~equally by the school district and the teacher~~ by the  
2 school district in accordance with W.S. 9-2-2202(b)(ii).

3  
4 (d) Within five (5) days after selection, the hearing  
5 officer shall set the date for hearing and notify the  
6 teacher and superintendent of the hearing date, time and  
7 location. In no event shall the hearing commence on a date  
8 later than forty-five (45) days after notice under W.S.  
9 21-7-106(a) or subsection (b) of this section, as  
10 applicable. The hearing shall be conducted in accordance  
11 with ~~the Wyoming Administrative Procedure Act and the~~  
12 ~~hearing officer may accordingly receive or reject evidence~~  
13 ~~and testimony, administer oaths and if necessary, subpoena~~  
14 ~~witnesses~~ contested case procedures specified under W.S.  
15 9-2-2202(b). All school district records pertaining to the  
16 teacher shall be made available to the hearing officer.

17  
18 **21-7-112. Effect on existing contracts.**

19  
20 The contracts of all teachers in the state of Wyoming from  
21 and after ~~the effective date of this act~~ July 1, 2012,  
22 shall be subject to the policies, rules, and regulations of  
23 the school district not in conflict with this law or the  
24 other laws of the state of Wyoming.

1

2           **21-7-113. Application to teachers presently employed.**

3

4 The provisions of this article shall apply to all teachers  
5 who are teaching in Wyoming on ~~the effective date hereof,~~  
6 ~~provided, however, the status of teachers covered under~~  
7 ~~this act will be determined by their original date of~~  
8 ~~employment as a teacher in the state of~~ and after July 1,  
9 2012, and shall apply regardless of whether the teacher was  
10 employed prior to July 1, 2012 as a teacher in Wyoming.

11

12           **Section 2.** W.S. 21-7-110(e) and (f) and 21-7-111(b)  
13 are repealed.

14

15           **Section 3.**

16

17           (a) If 2011 Senate File 70 is enacted by the  
18 legislature, the select committee on statewide educational  
19 accountability established under 2011 Senate File 70 shall  
20 study the use of the statewide accountability system for  
21 use in annual teacher evaluations. The select committee  
22 shall be assisted by the advisory committee created under  
23 2011 Senate File 70 to provide information to the select  
24 committee as it deems necessary to carry out this section.

1

2 (b) The select committee created under 2011 Senate  
3 File 70 shall, if 2011 Senate File 70 is enacted, recommend  
4 changes to the teacher accountability act established under  
5 Section 1 of this act which will provide a consistent,  
6 reliable and clearly defined evaluation process to measure  
7 teacher performance based upon growth in student  
8 performance.

9

10 **Section 4.**

11

12 (a) This act shall be cited as the teacher  
13 accountability act.

14

15 (b) The Wyoming legislature finds:

16

17 (i) That under current law, teachers achieve  
18 continuing contract status after three (3) continuous years  
19 of employment with a Wyoming school district, giving  
20 teachers tenure. A fundamental premise of tenure is to  
21 protect competent teachers from arbitrary termination for  
22 reasons unrelated to teaching performance;

23

1           (ii) In the absence of clear, coherent criteria  
2 to measure job performance to terminate teachers determined  
3 to be inadequately performing their duties, tenure has  
4 become a guarantee of employment;

5

6           (iii) Wyoming school districts have expressed  
7 frustration with the difficulty in removing nonperforming  
8 teachers from the classroom, describing the process as  
9 complex, time consuming and legally challenging;

10

11           (iv) The Wyoming teacher contract law should  
12 provide protection to performing teachers and ensure that a  
13 struggling teacher has a fair opportunity to improve  
14 performance;

15

16           (v) Current law goes beyond the intended purpose  
17 of tenure and provides an obstacle to removing  
18 nonperforming teachers and thereby serves to protect jobs  
19 for nonperforming teachers at the expense of student  
20 performance. This, in turn, creates higher demands on  
21 performing teachers to remediate lagging student  
22 performance.

23

1           (b) Based upon these findings, the Wyoming teacher  
2           accountability act places emphasis on a teacher performance  
3           evaluation system based upon student achievement for use by  
4           school district boards of trustees in determining teacher  
5           contract performance and status. The basis for the  
6           performance evaluation system shall be built upon the  
7           educational accountability system and the assessments and  
8           measures within the accountability system identified by law  
9           to measure student achievement and the effectiveness of  
10          classroom teachers in improving student achievement.

11

12          **Section 5.** Prior to November 1, 2011, the joint  
13          appropriations interim committee shall review the fiscal  
14          impact of this act upon the office of administrative  
15          hearings and develop necessary recommendations to the  
16          legislature for funding the requirements of this act in  
17          establishing the 2013-2014 biennial budget for this office.  
18          Not later than September 1, 2011, the office of  
19          administrative hearings shall report to the committee on  
20          its analysis of the placement of teacher dismissal,  
21          suspension and termination hearings under this office, and  
22          evaluate the placement of this function as a responsibility  
23          for this office.

24

1           **Section 6.**

2

3           (a) Except as provided by subsection (b) of this  
4 section this act is effective July 1, 2012.

5

6           (b) Notwithstanding subsection (a) of this section,  
7 sections 3, 4 and 5 of this act are effective immediately  
8 upon completion of all acts necessary for a bill to become  
9 law as provided by Article 4, Section 8 of the Wyoming  
10 Constitution.

11

12

(END)