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IN SENATE

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Introduced by Sens. MAYER, JORDAN, MARTUCCI, TEDISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the education law, in relation to the granting of tenure

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (b) of subdivision 2 of section 3012 of the
2 education law, as added by section 4 of subpart D of part EE of chapter
3 56 of the laws of 2015, is amended to read as follows:
4 (b) At the expiration of the probationary term of a person appointed
5 for such term on or after July first, two thousand fifteen, subject to
6 the conditions of this section, the superintendent of schools shall make
7 a written report to the board of education or the trustees of a common
8 school district recommending for appointment on tenure those persons who
9 have been found competent, efficient and satisfactory and, in the case
10 of a classroom teacher or building principal, who have received compos-
11 ite annual professional performance review ratings pursuant to section
12 three thousand twelve-c or section three thousand twelve-d of this arti-
13 cle, of either effective or highly effective in at least three of the
14 four preceding years, exclusive of any breaks in service; provided that,
15 notwithstanding any other provision of this section to the contrary,
16 when a teacher or principal receives an effective or highly effective
17 rating in each year of his or her probationary service except he or she
18 receives an ineffective rating in the final year of his or her proba-
19 tionary period, such teacher shall not be eligible for tenure but the
20 board of education, in its discretion, may extend the teacher's proba-
21 tionary period for an additional year; provided, however, that if such

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 teacher or principal successfully appealed such ineffective rating, such
2 teacher or principal shall immediately be eligible for tenure if the
3 rating resulting from the appeal established that such individual has
4 been effective or highly effective in at least three of the preceding
5 four years and was not ineffective in the final year. At the expiration
6 of the probationary period, the classroom teacher or building principal
7 shall remain in probationary status until the end of the school year in
8 which such teacher or principal has received such ratings of effective
9 or highly effective for at least three of the four preceding school
10 years, exclusive of any breaks in service, and subject to the terms
11 hereof, during which time the trustees or board of education shall
12 consider whether to grant tenure for those classroom teachers or build-
13 ing principals who otherwise have been found competent, efficient and
14 satisfactory. Provided, however, that the trustees or board of education
15 may grant tenure contingent upon a classroom teacher's or building prin-
16 cipal's receipt of a minimum rating in the final year of the probation-
17 ary period, pursuant to the requirements of this section, and if such
18 contingency is not met after all appeals have been exhausted, the grant
19 of tenure shall be void and unenforceable and the teacher's or princi-
20 pal's probationary period may be extended in accordance with this subdi-
21 vision. Such persons who have been recommended for tenure and all others
22 employed in the teaching service of the schools of such school district
23 who have served the full probationary period as extended pursuant to
24 this subdivision shall hold their respective positions during good
25 behavior and efficient and competent service, and shall not be removable
26 except for cause after a hearing as provided by section three thousand
27 twenty-a or section three thousand twenty-b of this article. Failure to
28 maintain certification as required by this chapter and the regulations
29 of the commissioner shall constitute cause for removal. Provided that,
30 at the expiration of the probationary term of a classroom teacher or
31 building principal described herein who was appointed during the two
32 thousand seventeen--two thousand eighteen, two thousand eighteen--two
33 thousand nineteen and two thousand nineteen--two thousand twenty school
34 years, such individual shall be eligible for tenure if he or she
35 received composite annual professional performance review ratings pursu-
36 ant to section three thousand twelve-c or section three thousand
37 twelve-d of this article, of either effective or highly effective in at
38 least one of the four preceding years and did not receive an ineffective
39 rating in the final year of his or her probationary period, or during
40 the most recent school year where a rating was received. Any probation-
41 ary classroom teacher hired during the two thousand twenty--two thousand
42 twenty-one school year who was appointed on tenure in another school
43 district within the state, the school district where currently employed,
44 board of cooperative educational services or state school for the blind
45 or deaf and who was not dismissed from such district, board or state
46 school for the blind or deaf as a result of charges brought pursuant to
47 subdivision one of section three thousand twenty-a or section three
48 thousand twenty-b of this article, shall be appointed for a probationary
49 period of three years; provided that, in the case of a classroom teacher
50 such individual demonstrates that he or she received an annual profes-
51 sional performance review rating pursuant to section three thousand
52 twelve-c or section three thousand twelve-d of this article in the two
53 thousand seventeen--two thousand eighteen or two thousand eighteen--two
54 thousand nineteen school year. Any probationary classroom teachers or
55 building principals described herein who were appointed during the two
56 thousand twenty--two thousand twenty-one school year shall be eligible

for tenure at the expiration of his or her probationary period if he or she received composite annual professional performance review ratings pursuant to section three thousand twelve-c or section three thousand twelve-d of this article of either effective or highly effective in at least two of the four preceding years and did not receive an ineffective rating in the final year of his or her probationary period, or during the most recent school year where a rating was received.

§ 2. Section 3012-d of the education law is amended by adding a new subdivision 17 to read as follows:

17. Notwithstanding any other provision of this section, for the two thousand twenty-two thousand twenty-one school year, no school district or board of cooperative educational services shall complete an annual professional performance review required by this section for any classroom teacher or building principal and state funding shall not be withheld from any school district for not completing the annual professional performance review.

§ 3. Paragraph (b) of subdivision 2 of section 3014 of the education law, as added by section 5 of subpart D of part EE of chapter 56 of the laws of 2015, is amended to read as follows:

(b) On or before the expiration of the probationary term of a person appointed for such term on or after July first, two thousand fifteen, the district superintendent of schools shall make a written report to the board of cooperative educational services recommending for appointment on tenure persons who have been found competent, efficient and satisfactory and, in the case of a classroom teacher or building principal, who have received composite annual professional performance review ratings pursuant to section three thousand twelve-c or section three thousand twelve-d of this article, of either effective or highly effective in at least three of the four preceding years, exclusive of any breaks in service; provided that, notwithstanding any other provision of this section to the contrary, when a teacher or principal receives an effective or highly effective rating in each year of his or her probationary service except he or she receives an ineffective rating in the final year of his or her probationary period, such teacher shall not be eligible for tenure but the board of education in its discretion, may extend the teacher's probationary period for an additional year; provided, however that if such teacher or principal successfully appealed such ineffective rating, such teacher or principal shall immediately be eligible for tenure if the rating resulting from the appeal established that such individual has been effective or highly effective in at least three of the preceding four years and was not ineffective in the final year. At the expiration of the probationary period, the classroom teacher or building principal shall remain in probationary status until the end of the school year in which such teacher or principal has received such ratings of effective or highly effective for at least three of the four preceding school years, exclusive of any breaks in service, during which time a board of cooperative educational services shall consider whether to grant tenure for those classroom teachers or building principals who otherwise have been found competent, efficient and satisfactory. Provided, however, that the board of cooperative educational services may grant tenure contingent upon a classroom teacher's or building principal's receipt of a minimum rating in the final year of the probationary period, pursuant to the requirements of this section, and if such contingency is not met after all appeals have been exhausted, the grant of tenure shall be void and unenforceable and the teacher's or principal's probationary period may be extended in accord-

ance with this subdivision. Such persons shall hold their respective positions during good behavior and competent and efficient service and shall not be removed except for any of the following causes, after a hearing, as provided by section three thousand twenty-a or section three thousand twenty-b of this article: (i) Insubordination, immoral character or conduct unbecoming a teacher; (ii) Inefficiency, incompetency, or neglect of duty; (iii) Failure to maintain certification as required by this chapter and by the regulations of the commissioner. Each person who is not to be so recommended for appointment on tenure shall be so notified in writing by the district superintendent not later than sixty days immediately preceding the expiration of his or her probationary period.

Provided that, at the expiration of the probationary term of a classroom teacher or building principal described herein who was appointed during the two thousand seventeen--two thousand eighteen, two thousand eighteen--two thousand nineteen and two thousand nineteen--two thousand twenty school years, such individual shall be eligible for tenure if he or she received composite annual professional performance review ratings pursuant to section three thousand twelve-c or section three thousand twelve-d of this article of either effective or highly effective in at least one of the four preceding years and did not receive an ineffective rating in the final year of his or her probationary period or during the most recent school year where a rating was received. Any probationary classroom teacher, hired during the two thousand twenty--two thousand twenty-one school year who was appointed on tenure in another school district within the state, the school district where currently employed, board of cooperative educational services or state school for the blind or deaf and who was not dismissed from such district, board or state school for the blind or deaf as a result of charges brought pursuant to subdivision one of section three thousand twenty-a or section three thousand twenty-b of this article, such teacher, shall be appointed for a probationary period of three years; provided that, in the case of a classroom teacher such individual demonstrates that he or she received an annual professional performance review rating pursuant to section three thousand twelve-c or section three thousand twelve-d of this article in the two thousand seventeen--two thousand eighteen or two thousand eighteen--two thousand nineteen school year. Any probationary classroom teachers or building principals described herein who were appointed during the two thousand twenty--two thousand twenty-one school year shall be eligible for tenure at the expiration of his or her probationary period if he or she received composite annual professional performance review ratings pursuant to section three thousand twelve-c or section three thousand twelve-d of this article of either effective or highly effective in at least two of the four preceding years and did not receive an ineffective rating in the final year of his or her probationary period, or during the most recent school year where a rating was received.

§ 4. Paragraph b of subdivision 2 of section 2509 of the education law, as added by section 2 of subpart D of part EE of chapter 56 of the laws of 2015, is amended to read as follows:

b. For persons appointed on or after July first, two thousand fifteen, at the expiration of the probationary term of any persons appointed for such term, or within six months prior thereto, the superintendent of schools shall make a written report to the board of education recommending for appointment on tenure those persons who have been found competent, efficient and satisfactory and in the case of a classroom teacher or building principal, who have received annual professional performance

1 review ratings pursuant to section three thousand twelve-c or section
2 three thousand twelve-d of this chapter, of either effective or highly
3 effective in at least three of the four preceding years, exclusive of
4 any breaks in service; provided that, notwithstanding any other
5 provision of this section to the contrary, when a teacher or principal
6 receives an effective or highly effective rating in each year of his or
7 her probationary service except he or she receives an ineffective rating
8 in the final year of his or her probationary period, such teacher or
9 principal shall not be eligible for tenure but the board of education in
10 its discretion, may extend the teacher's probationary period for an
11 additional year; provided, however, that if such teacher or principal
12 successfully appealed such ineffective rating, such teacher or principal
13 shall immediately be eligible for tenure if the rating resulting from
14 the appeal established that such individual has been effective or highly
15 effective in at least three of the preceding four years and was not
16 ineffective in the final year. By a majority vote, the board of educa-
17 tion may then appoint on tenure any or all of the persons recommended by
18 the superintendent of schools. At the expiration of the probationary
19 period, the classroom teacher or building principal shall remain in
20 probationary status until the end of the school year in which such
21 teacher or principal has received such ratings of effective or highly
22 effective for at least three of the four preceding school years exclu-
23 sive of any breaks in service and subject to the terms hereof, during
24 which time a board of education shall consider whether to grant tenure
25 for those classroom teachers or building principals who otherwise have
26 been found competent, efficient and satisfactory. Provided, however,
27 that the board of education may grant tenure contingent upon a classroom
28 teacher's or building principal's receipt of a minimum rating in the
29 final year of the probationary period, pursuant to the requirements of
30 this section, and if such contingency is not met after all appeals have
31 been exhausted, the grant of tenure shall be void and unenforceable and
32 the teacher's or principal's probationary period may be extended in
33 accordance with this subdivision. Such persons who have been recommended
34 for tenure and all others employed in the teaching service of the
35 schools of such school district who have served the full probationary
36 period as extended pursuant to this subdivision shall hold their respec-
37 tive positions during good behavior and efficient and competent service,
38 and shall not be removable except for cause after a hearing as provided
39 by section three thousand twenty-a or section three thousand twenty-b of
40 this chapter. Failure to maintain certification as required by this
41 chapter and the regulations of the commissioner shall constitute cause
42 for removal. Provided that, at the expiration of the probationary term
43 of a classroom teacher or building principal described herein who was
44 appointed during the two thousand seventeen--two thousand eighteen, two
45 thousand eighteen--two thousand nineteen and two thousand nineteen--two
46 thousand twenty school years, such individual shall be eligible for
47 tenure if he or she received composite annual professional performance
48 review ratings pursuant to section three thousand twelve-c or section
49 three thousand twelve-d of this chapter of either effective or highly
50 effective in at least one of the four preceding years and did not
51 receive an ineffective rating in the final year of his or her probation-
52 ary period or during the most recent school year where a rating was
53 received. Any probationary classroom teacher hired during the two thou-
54 sand twenty--two thousand twenty-one school year who was appointed on
55 tenure in another school district within the state, the school district
56 where currently employed, board of cooperative educational services or

state school for the blind or deaf and who was not dismissed from such district, board or state school for the blind or deaf as a result of charges brought pursuant to subdivision one of section three thousand twenty-a or section three thousand twenty-b of this chapter, such teacher, shall be appointed for a probationary period of three years; provided that, in the case of a classroom teacher such individual demonstrates that he or she received an annual professional performance review rating pursuant to section three thousand twelve-c or section three thousand twelve-d of this chapter in the two thousand seventeen--two thousand eighteen or two thousand eighteen--two thousand nineteen school year. Any probationary classroom teachers or building principals described herein who were appointed during the two thousand twenty--two thousand twenty-one school year shall be eligible for tenure at the expiration of his or her probationary period if they have received composite annual professional performance review ratings pursuant to section three thousand twelve-c or section three thousand twelve-d of this chapter of either effective or highly effective in at least two of the four preceding years and did not receive an ineffective rating in the final year of his or her probationary period, or during the most recent school year where a rating was received.

§ 5. Subparagraph ii of paragraph (a) of subdivision 1 of section 2573 of the education law, as amended by section 3 of subpart D of part EE of chapter 56 of the laws of 2015, is amended to read as follows:

ii. Teachers and all other members of the teaching staff appointed on or after July first, two thousand fifteen and authorized by section twenty-five hundred fifty-four of this article, shall be appointed by the board of education, upon the recommendation of the superintendent of schools, for a probationary period of four years, except that in the case of a teacher who has rendered satisfactory service as a regular substitute for a period of two years and, if a classroom teacher, has received annual professional performance review ratings in each of those years, or has rendered satisfactory service as a seasonally licensed session teacher of swimming in day schools who has served in that capacity for a period of two years and has been appointed to teach the same subject in day schools on an annual salary, the teacher shall be appointed for a probationary period of two years; provided, however, that in the case of a teacher who has been appointed on tenure in another school district within the state, the school district where currently employed, or a board of cooperative educational services, and who was not dismissed from such district or board as a result of charges brought pursuant to subdivision one of section three thousand twenty-a or section three thousand twenty-b of this chapter, the teacher shall be appointed for a probationary period of three years; provided that, in the case of a classroom teacher, the teacher demonstrates that he or she received an annual professional performance review rating pursuant to section three thousand twelve-c or section three thousand twelve-d of this chapter in his or her final year of service in such other school district or board of cooperative educational services; provided, however, that in cities with a population of one million or more, a teacher appointed under a newly created license, for teachers of reading and of the emotionally handicapped, to a position which the teacher has held for at least two years prior to such appointment while serving on tenure in another license area who was not dismissed as a result of charges brought pursuant to subdivision one of section three thousand twenty-a or section three thousand twenty-b of this chapter, the teacher shall be appointed for a probationary period of two years. The service of a

1 person appointed to any of such positions may be discontinued at any
2 time during such probationary period, on the recommendation of the
3 superintendent of schools, by a majority vote of the board of education.
4 Each person who is not to be recommended for appointment on tenure shall
5 be so notified by the superintendent of schools in writing not later
6 than sixty days immediately preceding the expiration of his or her
7 probationary period. In all city school districts subject to the
8 provisions of this article, failure to maintain certification as
9 required by this article and by the regulations of the commissioner
10 shall be cause for removal within the meaning of subdivision five of
11 this section. Provided that, at the expiration of the probationary term
12 of a classroom teacher described herein who was appointed during the two
13 thousand seventeen--two thousand eighteen, two thousand eighteen--two
14 thousand nineteen and two thousand nineteen--two thousand twenty school
15 years, such individual shall be eligible for tenure if he or she
16 received composite annual professional performance review ratings pursu-
17 ant to section three thousand twelve-c or section three thousand
18 twelve-d of this chapter of either effective or highly effective in at
19 least one of the four preceding years and did not receive an ineffective
20 rating in the final year of his or her probationary period or during the
21 most recent school year where a rating was received. Any probationary
22 classroom teacher hired during the two thousand twenty--two thousand
23 twenty-one school year who was appointed on tenure in another school
24 district within the state, the school district where currently employed,
25 board of cooperative educational services or state school for the blind
26 or deaf and who was not dismissed from such district, board or state
27 school for the blind or deaf as a result of charges brought pursuant to
28 subdivision one of section three thousand twenty-a or section three
29 thousand twenty-b of this chapter, such teacher shall be appointed for a
30 probationary period of three years; provided that, in the case of a
31 classroom teacher such individual demonstrates that he or she received
32 an annual professional performance review rating pursuant to section
33 three thousand twelve-c or section three thousand twelve-d of this chap-
34 ter in the two thousand seventeen--two thousand eighteen or two thousand
35 eighteen--two thousand nineteen school year. Any probationary classroom
36 teachers described herein who were appointed during the two thousand
37 twenty--two thousand twenty-one school year shall be eligible for tenure
38 at the expiration of his or her probationary period if they have
39 received composite annual professional performance review ratings pursu-
40 ant to section three thousand twelve-c or section three thousand
41 twelve-d of this chapter of either effective or highly effective in at
42 least two of the four preceding years and did not receive an ineffective
43 rating in the final year of his or her probationary period, or during
44 the most recent school year where a rating was received.

45 § 6. Subparagraph ii of paragraph (b) of subdivision 1 of section
46 2573 of the education law, as amended by chapter 345 of the laws of
47 2019, is amended to read as follows:

48 ii. Administrators, directors, supervisors, principals and all other
49 members of the supervising staff, except executive directors, associate,
50 assistant, district and community superintendents and examiners,
51 appointed on or after July first, two thousand fifteen and authorized by
52 section twenty-five hundred fifty-four of this article, shall be
53 appointed by the board of education, upon the recommendation of the
54 superintendent or chancellor of schools, for a probationary period of
55 four years provided that such probationary period may be extended in
56 accordance with paragraph (b) of subdivision five of this section;

1 provided, however, that in the case of a principal, administrator,
2 supervisor, or other member of the supervising staff who has been
3 appointed on tenure pursuant to this chapter as an administrator within
4 an authorized administrative tenure area in another school district
5 within the state, the school district where currently employed, or a
6 board of cooperative educational services, and who was not dismissed
7 from such district or board as a result of charges brought pursuant to
8 subdivision one of section three thousand twenty-a or section three
9 thousand twenty-b of this chapter, the principal, administrator, super-
10 visor or other member of the supervising staff shall be appointed for a
11 probationary period of three years. The service of a person appointed to
12 any of such positions may be discontinued at any time during the proba-
13 tionary period on the recommendation of the superintendent of schools,
14 by a majority vote of the board of education. Provided that, at the
15 expiration of the probationary term of a building principal described
16 herein who was appointed during the two thousand seventeen--two thousand
17 eighteen, two thousand eighteen--two thousand nineteen and two thousand
18 nineteen--two thousand twenty school years, such individual shall be
19 eligible for tenure if he or she received composite annual professional
20 performance review ratings pursuant to section three thousand twelve-c
21 or section three thousand twelve-d of this chapter of either effective
22 or highly effective in at least one of the four preceding years and did
23 not receive an ineffective rating in the final year of his or her proba-
24 tionary period or during the most recent school year where a rating was
25 received. Any probationary building principals described herein who were
26 appointed during the two thousand twenty--two thousand twenty-one school
27 year shall be eligible for tenure at the expiration of his or her proba-
28 tionary period if they have received composite annual professional
29 performance review ratings pursuant to section three thousand twelve-c
30 or section three thousand twelve-d of this chapter of either effective
31 or highly effective in at least two of the four preceding years and did
32 not receive an ineffective rating in the final year of his or her proba-
33 tionary period, or during the most recent school year where a rating was
34 received.

35 § 7. This act shall take effect immediately.