

Bill as Introduced

SB 114 - AS INTRODUCED

2011 SESSION

11-1016

04/09

SENATE BILL ***114***

AN ACT prohibiting assessing teacher performance based solely on assessment scores.

SPONSORS: Sen. Larsen, Dist 15

COMMITTEE: Education

ANALYSIS

This bill prohibits a teacher's performance from being considered unsatisfactory based solely on state or national assessment scores received by pupils in such teacher's classes.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

AN ACT prohibiting assessing teacher performance based solely on assessment scores.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Failure to be Renominated or Reelected. Amend RSA 189:14-a, III to read as follows:

2 III. In cases of nonrenomination because of unsatisfactory performance, the superintendent
3 of the local school district shall demonstrate, at the school board hearing, by a preponderance of the
4 evidence, that the teacher had received written notice that the teacher's unsatisfactory performance
5 may lead to nonrenomination, that the teacher had a reasonable opportunity to correct such
6 unsatisfactory performance, and that the teacher had failed to correct such unsatisfactory
7 performance. ***A teacher's performance shall not be considered unsatisfactory based solely on***
8 ***state or national assessment scores received by pupils in such teacher's classes.*** Nothing in
9 this paragraph shall be construed to require the superintendent or the school board to provide a
10 teacher with remedial assistance to correct any deficiencies that form the basis for such teacher's
11 nonrenomination.

12 2 Effective Date. This act shall take effect 60 days after its passage.

Amendments

Amendment to SB 114

1 Amend the bill by replacing section 1 with the following:

2

3 1 Failure to be Renominated or Reelected. Amend RSA 189:14-a to read as follows:

4 189:14-a Failure to be Renominated or Reelected.

5 I.(a) Any teacher who has a professional standards certificate from the state board of
6 education and who has taught for one or more years in the same school district shall be notified in
7 writing on or before April 15 or within 15 days of the adoption of the district budget by the legislative
8 body, whichever is later, if that teacher is not to be renominated or reelected, provided that no
9 notification shall occur later than the Friday following the second Tuesday in May.

10 (b) Any such teacher who has taught for [3] 5 consecutive years or more in the same
11 school district and who has been so notified may request in writing within 10 days of receipt of said
12 notice a hearing before the school board and may in said request ask for reasons for failure to be
13 renominated or reelected. For purposes of this section only, a leave of absence shall not interrupt the
14 consecutive nature of a teacher's service, but neither shall such a leave be included in the
15 computation of a teacher's service. Computation of a teacher's service for any other purposes shall
16 not be affected by this section. The notice shall advise the teacher of all of the teacher's rights under
17 this section. The school board, upon receipt of said request, shall provide for a hearing on the
18 request to be held within 15 days. The school board shall issue its decision in writing within 15 days
19 of the close of the hearing.

20 II. Any teacher who has a professional standards certificate from the state board of
21 education and who has taught for [3] 5 consecutive years or more in any school district in the state
22 shall, after having taught for [2] 3 consecutive years in any other school district in the state, be
23 entitled to all of the rights for notification and hearing *set forth* in [paragraphs I(b), III, and IV of]
24 this section.

25 III. In cases of nonrenomination because of unsatisfactory performance, [~~the superintendent~~
26 ~~of the local school district shall demonstrate, at the school board hearing, by a preponderance of the~~
27 ~~evidence, that the teacher had received written notice that the teacher's unsatisfactory performance~~
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30 ~~performance. Nothing in this paragraph shall be construed to require the superintendent or the~~
31 ~~school board to provide a teacher with remedial assistance to correct any deficiencies that form the~~
32 ~~basis for such teacher's nonrenomination]~~ *a teacher's performance shall not be based solely on*



1 *state or national assessment scores received by pupils in such teacher's class.*

2 ~~[IV. In all proceedings before the school board under this section, the burden of proof for~~
3 ~~nonrenewal of a teacher shall be on the superintendent of the local school district by a~~
4 ~~preponderance of the evidence.]~~

Draft Amendment to SB 114

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Draft Amendment to SB 114

- Page 2 -

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4 ~~preponderance of the evidence.]~~

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6 Amend the bill by inserting after section 1 the following and renumbering the original section 2 to
7 read as 3:

8

9 2 Applicability. Section 1 of this act shall not apply to any teacher who has taught for 3 or 4
10 consecutive years in any school district in the state as of the effective date of this act.

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Committee Minutes

**SENATE CALENDAR NOTICE
EDUCATION**

①

Senator Nancy Stiles Chairman
 Senator James Forsythe V Chairman
 Senator Sharon Carson
 Senator Molly Kelly
 Senator Russell Prescott

For Use by Senate Clerk's Office ONLY	
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Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/> Bill Status

Date: February 3, 2011

HEARINGS

Tuesday

2/15/2011

EDUCATION

LOB 103

1:00 PM

(Name of Committee)

(Place)

(Time)

EXECUTIVE SESSION MAY FOLLOW

1:00 PM SB117
 1:20 PM SB113
 1:40 PM SB114

relative to private postsecondary career schools and the student tuition guaranty fund.
 relative to nonpublic schools receiving public funds.
 prohibiting assessing teacher performance based solely on assessment scores.

Sponsors:

SB117
 Sen. Bob Odell
 Sen. Lou D'Allesandro
 Rep. Timothy Copeland

Sen. Nancy Stiles
 Rep. Russell Day

Sen. Sharon Carson
 Rep. Kenneth Hawkins

Sen. Amanda Merrill
 Rep. Jean Jeudy

SB113
 Sen. Sylvia Larsen

Sen. Molly Kelly

SB114
 Sen. Sylvia Larsen

Education Committee

Hearing Report

TO: Members of the Senate

FROM: Tom Prasol, Legislative Aide

RE: Hearing report on SB 114 – **prohibiting assessing teacher performance based solely on assessment scores.**

HEARING DATE: 2/15/2011

MEMBERS OF THE COMMITTEE PRESENT: Senator Stiles
Senator Forsythe
Senator Carson
Senator Prescott
Senator Kelly

MEMBERS OF THE COMMITTEE ABSENT: No one

Sponsor(s): Sen. Larsen, Dist 15

What the bill does: This bill prohibits a teacher's performance from being considered unsatisfactory based solely on state or national assessment scores received by pupils in such teacher's classes.

Who supports the bill: Rick Trombly, NEA-NH

Who opposes the bill: Dean Michener, NH School Boards Association

Summary of testimony received:

At 1:44pm Senator Stiles opened the hearing on SB114 and recognized Senator Larsen as the prime sponsor.

Senator Larsen

Senator Larsen introduced this bill to prohibit a teacher's performance from being considered unsatisfactory based on assessment scores. She believes that there are more measurements of efficacy than the ability of assessment scores received by pupils. There is a New Hampshire Task Force on Effective Teaching that is reviewing what makes an effective teacher. Senator Larsen stated that professionals warn against using test scores as there are many other influences on learning besides the current teacher. Among many of the

factors being discussed by this task force are teachers from previous years, quality of curriculum materials, tutoring programs, class size, student attendance, participation in learning experiences outside of school, parental involvement, family resources and student health. All of these resources affect how a teacher performs year to year. If teacher performance is based solely on assessment scores, the dynamic of schooling changes dramatically. Senator Larsen is afraid that teachers may become discouraged and choose not to teach slow learners when we should be encouraging good teachers to take difficult classes and students. Senator Larsen asked that if teacher performance was going to be based on assessment scores the task force will report out by June and she would prefer to wait until then.

Senator Prescott inquired why this bill was being filed. He wasn't sure if there was a story or a problem that would provide a reason for this bill. Senator Larsen commented that the concern is from pressure to adopt a measure of teacher performance but she does not have a specific story or example to share.

Senator Forsythe said there seems to be a heavy burden of proof on the superintendent and asked if this would apply to all teachers. Senator Larsen replied that the only new language would be what is included on lines 7 and 8 in bold italics. ***"A teacher's performance shall not be considered unsatisfactory based solely on state or national assessment scores received by pupils in such teacher's classes"***.

Senator Stiles asked if the report from the task force was coming out in June of 2012. Senator Larsen replied that it was actually coming out in June of 2011. Senator Stiles then asked if it was necessary to pass this bill prior to the publication of the report. Senator Larsen believes that the report will state that there are other ways to measure a teacher's performance. She also believes that it would be safe to pass this bill.

Dean Michener, NH School Boards Association

Mr. Michener is opposed to this bill. He sees no reason for the legislature to insert itself into a local process. The issue has been reviewed in the past and any nonrenomination requires written notice, an opportunity to correct unsatisfactory performance, and substantial evidence of unsatisfactory performance. He believes this is a management issue and is part of the collective bargaining agreement. The criteria itself is a management prerogative and up to the school districts. He is also happy that Senator Larsen brought up the task force because he believes this bill is premature of the findings. Instead of mandating, he believes guidance should be offered of acceptable practice to teachers.

Senator Forsythe commented on his statement that it should be local and asked if this bill ties the hands of the localities. Mr. Michener said the criteria mentioned above for nonremoniation applies to teachers who have been in the system for 3 years. Senator Forsythe then asked if nonremoniation happens often. Mr. Michener responded that the issue has been debated and was revised in 2003. Then in 2007 or 2008 it was reversed. He believes staff deserves a clear and transparent process for how it will be evaluated. However, he believes the criteria by which they evaluate is a management process. He believes the process as it currently stands works and is not aware of an extensive issue that suggests the need for this legislation.

Senator Stiles asked if there was school board representation on the task force to which he responded, yes.

Rick Trombly, NEA-NH

Mr. Trombly stated that the committee is most likely not surprised that the NEA supports this bill. They do believe the process as it currently stands works. The position of the NEA is that if a teacher is performing unsatisfactorily they consult them to change careers. He believes everyone is invested in the success of student and the cumulative affect of a teacher not working out is so detrimental that they must take a hard look at the individual. The NEA is very involved in the task force aforementioned and the committee may want to hear the results before acting. In response to Senator Prescott's question about why this bill is being filed, he countered that other states have adopted the practice of basing teacher performance on assessment scores and the intent of this legislation is to alleviate those concerns. Passage of this legislation would lessen fears amongst his members.

Senator Stiles inquired if he believed they should wait for the task force to report before acting on this legislation and he responded that it was not a bad way to proceed.

Dr. Judith Fillion, NH Department of Education

Dr. Fillion is on the task force mentioned above as well as the planning committee for the task force and mentioned that the Commissioner of the DOE is concerned.

Senator Stiles asked Dr. Fillion if this would be a good first step to which Dr. Fillion responded that while she has not taken a position she believes the task force is headed in this direction. Essentially she told the committee it was up to them to decide.

Senator Larsen

Senator Larsen got back up to speak and asked the committee to retain the bill as it would save drafting new legislation and could be retained until the next session.

Action: Senator Stiles closed the hearing at 2:06pmpm.

TRP

[file: SB114 report]

Date: 2/16/2011

AMENDED
SENATE CALENDAR NOTICE
EDUCATION

Printed: 03/17/2011 at 12:20 pm

(2)

Senator Nancy Stiles Chairman
Senator James Forsythe V Chairman
Senator Sharon Carson
Senator Molly Kelly
Senator Russell Prescott

For Use by Senate Clerk's Office ONLY	
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<input type="checkbox"/>	Calendar
Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/>
	Bill Status

Date: March 17, 2011

HEARINGS

Tuesday

3/22/2011

EDUCATION

LOB 103

1:00 PM

(Name of Committee)

(Place)

(Time)

EXECUTIVE SESSION MAY FOLLOW

Comments: Please note that the Hearing on HB216 has been replaced with a Hearing on proposed amendment (#0987s) to SB 114 which was previously heard on February 15th.

1:00 PM	HB112	relative to the required number of instructional days and instructional hours in a school district's calendar.
1:10 PM	HB67	expanding the duties of the school administrative unit oversight committee.
1:20 PM	HB172	relative to transporting school children to school and school-supported activities.
1:40 PM	SB114	prohibiting assessing teacher performance based solely on assessment scores.

Sponsors:

HB112

Rep. J. David Knox
Rep. Jeffrey St. Cyr

Rep. Betsy Patten
Sen. Jeb Bradley

Rep. Christopher Ahlgren

Rep. Stephen Schmidt

HB67

Rep. Richard Drisko

Rep. Rick Ladd

Sen. Peter Bragdon

Sen. Molly Kelly

HB172

Rep. Lynne Ober
Rep. Andrew Renzullo

Sen. Sharon Carson

Rep. Russell Ober

Rep. Robert Haefner

SB114

Sen. Sylvia Larsen

Tom Prasol 271-3093

Sen. Nancy Stiles

Chairman

2

Education Committee

Hearing Report

TO: Members of the Senate
FROM: Tom Prasol, Legislative Aide
RE: Hearing report on proposed amendment 0987s to SB114
HEARING DATE: 3.22.2011

MEMBERS OF THE COMMITTEE PRESENT: Senator Stiles
Senator Forsythe
Senator Carson
Senator Prescott
Senator Kelly

MEMBERS OF THE COMMITTEE ABSENT: No one

Sponsor(s): Sen. Larsen, Dist 15

What the bill does: This bill prohibits a teacher's performance from being considered unsatisfactory based solely on state or national assessment scores received by pupils in such teacher's classes.

Who supports the bill: Senator Jim Forsythe, District 4
Dean Michener, NHSBA
Mark Joyce, NHSAA
Representative Tim Horrigan, Straff-7

Who opposes the bill: Jim Allmendinger, NEA-NH
Laura Hainey, AFT-NH

Summary of testimony received:

Senator Stiles opened the hearing on proposed amendment 0987s to SB114 at 1:50pm and recognized Senator Forsythe.

Senator Forsythe

Senator Forsythe introduced himself for the record as the Senator for District 4. He then offered Senate amendment 0987s and a copy was presented to committee members.

Senator Forsythe stated that Senate amendment 0987s retains Senator Larsen's original legislative language ensuring teachers are not judged solely on student test scores, but also takes steps to reform the state's outdated tenure and teacher nonrenewal statutes.

He reviewed that the majority of our existing tenure and nonrenewal statutes were written in 1957 when reports of teachers being fired based on gender, age, or even political party were common. At that time protections were necessary to ensure a teacher's employment status was based on job performance, not arbitrary management decisions. He then stated that today numerous state and federal labor laws have been enacted to prevent this type of workplace discrimination.

Senator Forsythe commented that the underlying need for most tenure statutes has been addressed and the language and protections remain on the books, but have since morphed into an unintended and cumbersome process that makes removing the most ineffective teachers a costly and bureaucratic nightmare. He also noted that attempts to reform this process are being considered by Colorado's Democratic Governor Bill Ritter and New Jersey's Republican Governor Chris Christie.

He then moved onto the bill's language that extends, from 3 to 5 years, the amount of time a teacher must teach in a school district before automatically being granted tenure protections. Senator Forsythe also noted that the amendment will provide additional discretion to local school boards when judging the merits of a superintendent's decision to non-renew a teacher. He commented that most of our teachers are talented and love their work, but when high standards are not met superintendents and schools boards must be granted the ability to take action in a way they are presently not afforded.

Senator Forsythe went on further to reiterate that amendment 0987 retains a number of significant existing protections offered to teachers who have reached tenure status. In *Cleveland Board of Education v. Loudermill*, the Supreme Court found that a tenured teacher must be given oral or written notice of a pending dismissal and the charges against him or her, and explanation of evidence obtained by the employer, and an opportunity for a fair and meaningful hearing. He wanted to be sure the committee was informed that these due process rights remain in place along with the ability of a teacher to appeal to the State Board of Education. He also noted that these protections move far beyond those of any "at will" employee.

Senator Forsythe then offered a revised amendment 1071s which only changes the effective date in 0987s to ensure that those teachers who have acquired tenure of 3 years before this legislation becomes effective retain their tenure.

Senator Kelly noted that this amendment was being brought to SB114, and asked if Senator Forsythe has spoken to Senator Larsen regarding it. Senator Forsythe responded that he has spoken to her and she does not approve of the amendment. He then noted that he noticed the tenure statutes when reviewing that statutes in which SB114 falls because they are in the same section. He had originally looked for a germane bill in the house to attach this amendment but couldn't find one and wanted to press forward.

Senator Kelly then expressed her concern that this bill may pass with Senator Larsen's name on it and the amendment is not just attached to her bill but changes it completely. Senator Forsythe responded that he understands the issue is unfortunate, but noted that it has happened in the past. He has spoken to Senator Bragdon about suspending the rules to take her name off of the legislation and replace it with his own.

Senator Stiles then asked what the rationale was for the change from 3 – 5 years. He recognized that it takes more than 3 years to become a serious teacher.

Dean Michener, NHSBA

Mr. Michener wanted to offer his support for the change from 3 – 5 years and it provides a more thorough review of staff and gives more local discretion to the school boards.

Senator Forsythe asked if local bargaining units would be free to add further rules regarding tenure. Mr. Michener replied that the issue was subject to local negotiation.

Mark Joyce, NHSAA

Mr. Joyce wanted to offer strong support to the amendment for three reasons. First, it enhances local control. Second, it increases accountability to taxpayers. Third, it improves school performance. He believes the days of increasing accountability are under greater inspection and control and this should be embraced. He also noted that in a tenure system that awards tenure early, it becomes difficult for employers to judge satisfaction.

Mr. Joyce also believes this amendment is important for teachers. Under the current standard at the end of 3 years individuals who could show improvement can be eliminated. He thinks that all employees should be treated with fairness.

No questions were asked.

Jim Allmendinger, NEA-NH

Mr. Allmendinger is an attorney at NEA-NH who provides legal advice and represents teachers who have been non-renewed and/or dismissed. He reviewed that when the first case arrived before the Supreme Court the teacher had taught for 3 years and then been non-renewed. All of the evaluations had been good or better. She had a bachelor's degree and master's degree in education. There was no explanation for non-renewal. He believes there is no sense to extend the period of 2 years in which a teacher may not be evaluated because there is no mandate for evaluations. Mr. Allmendinger believes there is a lack of evaluations in the current system. He noted that when a probationary teacher asks why they are designated as such, the superintendent need not provide a reason. He also stated that what isn't done in 3 years is unlikely to be done in 5.

Mr. Allmendinger stated that there are critical shortages in the area of teachers and this amendment would be unlikely to bring more people into the profession. He also noted that New Hampshire is second from the bottom for pay in New England.

He also commented on Senator Forsythe's proposition that this is an event that is sweeping the nation. Maine is suggesting moving tenure from 2 to three years, Vermont has 2 years, and Massachusetts has 3 years.

Mr. Allmendinger also wanted to note that New Hampshire does not have tenure but instead non-renewal. He does not believe it is difficult to non-renew teachers, and in most cases they would typically resign and seek an alternate profession. He also stated that recently SB192, establishing a commission to identify strategies needed for delivering a 21st century education, was passed and a change this dramatic may be better addressed by that commission than in this amendment.

Senator Stiles asked why it would be a bad idea to provide teachers with more time to become excellent teachers. He stated that this provides a higher hurdle and a longer path to excellence.

Senator Prescott inquired if the time period of 3 years when they are not told why they are non-renewed was similar to a layoff and if said teachers would be able to collect unemployment. Mr. Allmendinger responded that typically they can collect unemployment, but if laid-off it is widely reported. He believes that if performance is any part of the equation, teachers are not given any reason.

Senator Prescott responded with a follow-up inquiry if said teachers were seeking special treatment. Mr. Allmendinger responded that employers would be well advised not only to tell them why they are being non-renewed, but also to evaluate them over the course of their employment.

No further questions were asked.

Laura Hainey, AFT-NH

Ms. Hainey stated that this amendment changes the intent of SB114. She found out about the hearing on 3.22.2011 and was surprised by its nature. She believes that when changing from 3 to 5 years, the legislature is providing an additional 2 years to not provide a reason. She agrees that no one wants a bad teacher in the classroom, and does not believe it is a long process to remove a teacher. She stated that the Department of Education has set up a committee to look at guidelines.

No questions were asked.

Senator Stiles closed the hearing at 2:19pm.

Action: Senator Forsythe moved OUGHT TO PASS on Amendment 1071s which was seconded by Senator Carson. The motion passed by a vote of 3-2. Senator Forsythe then moved OUGHT TO PASS WITH AMENDMENT on SB114 which was also seconded by Senator Carson. The motion passed by a vote of 3-2. Senator Forsythe will take it to the Senate floor.

TRP

[file: Amendment 0987s to SB111 report]
Date: 3.23.2011

Speakers

Testimony

Caveats for Using Student Achievement Test Scores When Evaluating Teachers

- "Value-Added" models that statistically determine the effect of a teacher on student academic performance have been shown to be unstable and vary from year to year. One study found that across five urban districts, "of the teachers who were ranked in the top 20% of effectiveness in the first year, fewer than a third were in that top group the next year, and another third moved all the way down to the bottom 40%." A teacher who appears to be extremely effective one year might appear as ineffective the next.
- The results from the value added models do not always represent value added by a teacher. One study applied the value added model backwards to determine the effect of fifth grade teachers on fourth grade performance. The study found that FIFTH grade teachers were good predictors of FOURTH grade test scores. Since it is not possible for a FIFTH grade teacher to influence fourth graders' test scores, the results must be based on something other than the value a teacher adds to students' achievement.
- ✓ Statisticians advise caution when using test scores. The Board on Testing and Assessment of the National Research Council of the National Academy of Sciences stated that value added estimates "of teacher effectiveness should not be used to make operational decisions because such estimates are far too unstable to be considered fair or reliable."
- ✓ There are many influences on a child's learning besides their current teacher. These factors include: teachers from previous years and the other educators with whom the child interacts; the quality of the curriculum materials; tutoring programs; class size, student attendance, participation in learning experiences outside of school, parental involvement in the child's education, family resources, and student health.
- ✓ Tying teacher evaluations to a single test score changes the dynamics of schooling. If a student's test score becomes the metric by which a teacher is evaluated, teachers may be discouraged from working with students who learn more slowly. Additionally, if test scores were used to terminate teachers who are judged "ineffective" based on a single test score, there is no research that indicates that these teachers are indeed "ineffective."
- ✓ Students are not randomly assigned to teachers. Some students are assigned to teachers because of the teachers' abilities to work with challenging students. Assessing teacher performance on a standardized instruments assumes that all teachers are working with equally talented students

NH Task Force on Effective Teaching - DOE Commissioner

Caveats for Using Student Achievement Test Scores When Evaluating Teachers

- "Value-Added" models that statistically determine the effect of a teacher on student academic performance have been shown to be unstable and vary from year to year. One study found that across five urban districts, "of the teachers who were ranked in the top 20% of effectiveness in the first year, fewer than a third were in that top group the next year, and another third moved all the way down to the bottom 40%." A teacher who appears to be extremely effective one year might appear as ineffective the next.
- The results from the value added models do not always represent value added by a teacher. One study applied the value added model backwards to determine the effect of fifth grade teachers on fourth grade performance. The study found that FIFTH grade teachers were good predictors of FOURTH grade test scores. Since it is not possible for a FIFTH grade teacher to influence fourth graders' test scores, the results must be based on something other than the value a teacher adds to students' achievement.
- ✓ Statisticians advise caution when using test scores. The Board on Testing and Assessment of the National Research Council of the National Academy of Sciences stated that value added estimates "of teacher effectiveness should not be used to make operational decisions because such estimates are far too unstable to be considered fair or reliable."
- ✓ There are many influences on a child's learning besides their current teacher. These factors include: teachers from previous years and the other educators with whom the child interacts; the quality of the curriculum materials; tutoring programs; class size, student attendance, participation in learning experiences outside of school, parental involvement in the child's education, family resources, and student health.
- ✓ Tying teacher evaluations to a single test score changes the dynamics of schooling. If a student's test score becomes the metric by which a teacher is evaluated, teachers may be discouraged from working with students who learn more slowly. Additionally, if test scores were used to terminate teachers who are judged "ineffective" based on a single test score, there is no research that indicates that these teachers are indeed "ineffective."
- ✓ Students are not randomly assigned to teachers. Some students are assigned to teachers because of the teachers' abilities to work with challenging students. Assessing teacher performance on a standardized instruments assumes that all teachers are working with equally talented students

NH Task Force on Effective Teaching - DOE Commissioner

Good afternoon members of the Education Committee. For the record, my name is Jim Forsythe and I am proud to represent Senate District 4 which includes Alton, Barnstead, Belmont, Gilmanton, Gilford, New Durham, Laconia, Strafford and Tilton.

I come before you today to offer Senate Amendment ¹⁰⁷¹~~0922~~s to SB 114. This amendment retains Senator Larsen's original legislative language ensuring teachers are not judged solely on student test score but also takes steps to reform the state's outdated tenure and teacher nonrenewal statutes.

The majority of our existing tenure and nonrenewal statues were written in 1957 at a time when reports of teachers being fired based on gender, age or even political party were all too common. At that time, protections were necessary to ensure a teachers' employment status was based on job performance, not arbitrary management decisions. Since then, however, numerous state and federal labor laws have been enacted to prevent this sort of workplace discrimination.

Although the underlying need for most tenure statues has been addressed, the language and protections have remained on the books and have morphed into an unintended and cumbersome process that makes removing even the most ineffective teachers a costly and bureaucratic nightmare. In response, attempts to reform this outdated process are occurring across the country and the political spectrum – from Colorado's Democratic Governor Bill Ritter to New Jersey's Republican Governor Chris Christie.

This amendment would extend, from 3 to 5 years, the amount of time a teacher must teach in a school district before automatically being granted tenure protections. The amendment will also provide additional discretion to local school boards when judging the merits of a superintendent's decision to non-renew a teacher.

Most of our teachers are talented instructors who love their work as well as the children they work with. But when a teacher isn't meeting high standards, we need to give superintendents and school boards the ability to take action in a way they currently cannot because of onerous state mandates.

Amendment ¹⁰⁷¹0972s retains a number of significant existing protections offered to tenured teachers. In *Cleveland Board of Education v. Loudermill*, a leading case concerning teacher tenure, the Supreme Court found that a tenured teacher must be given oral or written notice of a pending dismissal and the charges against him or her, an explanation of the evidence obtained by the employer, and an opportunity for a fair and meaningful hearing.

This amendment continues those due process rights and also continues the ability for a teacher aggrieved by a school board's decision to appeal to the State Board of Education - protections far beyond those of any "at will" employee.

Our existing system offers too few rewards for excellent teachers and too few consequences for those few who routinely underperform. Scaling back the outdated protections offered by existing tenure statutes is an important step towards rectifying that problem and so I ask for your support for amendment ¹⁰⁷¹0972s.

Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE

Date: March 24, 2011

THE COMMITTEE ON Education

to which was referred Senate Bill 114

AN ACT prohibiting assessing teacher performance based solely on
assessment scores.

Having considered the same, the committee recommends that the Bill:

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 3-2

AMENDMENT # 1215s

Senator Jim Forsythe
For the Committee

Tom Prasol 271-3093

New Hampshire General Court - Bill Status System

Docket of SB114

Docket Abbreviations

Bill Title: prohibiting assessing teacher performance based solely on assessment scores.*Official Docket of SB114:*

Date	Body	Description
1/19/2011	S	Introduced and Referred to Education, SJ 3 , Pg.36
2/3/2011	S	Hearing: 2/15/11, Room 103, LOB, 1:40 p.m.; SC10
3/17/2011	S	On 3/22/11 at 1:40 p.m., a hearing on proposed amendment 0987s to SB 114 which was previously heard on February 15th.
3/24/2011	S	Committee Report: Ought to Pass with Amendment #2011-1215s , 3/30/11; SC17
3/30/2011	S	Committee Amendment 1215s, Not Voted On
3/30/2011	S	Sen. Forsythe Moved Laid on Table, MA, VV; SJ 11 , Pg.209

NH House

NH Senate

Other Referrals

COMMITTEE REPORT FILE INVENTORY

5/27/11 X ORIGINAL REFERRAL _____ RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE AIDE AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

- X DOCKET (Submit only the latest docket found in Bill Status)
- X COMMITTEE REPORT
- X(2) CALENDAR NOTICE
- X(2) HEARING REPORT
- X(1) HANDOUTS FROM THE PUBLIC HEARING
- X(1) PREPARED TESTIMONY AND OTHER SUBMISSIONS
- X(2) SIGN-UP SHEET(S)

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

X - AMENDMENT # 0987s X - AMENDMENT # 1071s
X - AMENDMENT # 1215s _____ - AMENDMENT # _____

ALL AVAILABLE VERSIONS OF THE BILL:

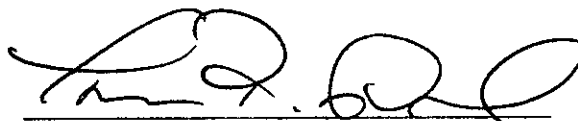
X AS INTRODUCED _____ AS AMENDED BY THE HOUSE
_____ FINAL VERSION _____ AS AMENDED BY THE SENATE

0 OTHER (Anything else deemed important but not listed above, such as amended fiscal notes): _____

IF YOU HAVE A RE-REFERRED BILL, YOU ARE GOING TO MAKE UP A DUPLICATE FILE FOLDER

DATE DELIVERED TO SENATE CLERK

7/22/2011



BY COMMITTEE AIDE