HOUSE BILL NO. 105

INTRODUCED BY L. NELSON

IN THE HOUSE

JANUARY 5, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON EDUCATION & CULTURAL RESOURCES.
JANUARY 7, 1991	FIRST READING.
JANUARY 28, 1991	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 29, 1991	PRINTING REPORT.
JANUARY 30, 1991	ON MOTION, TAKEN FROM SECOND READING AND REREFERRED TO COMMITTEE ON EDUCATION & CULTURAL RESOURCES.
JANUARY 31, 1991	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 1, 1991	PRINTING REPORT.
FEBRUARY 2, 1991	SECOND READING, DO PASS AS AMENDED.
FEBRUARY 4, 1991	ENGROSSING REPORT.
FEBRUARY 5, 1991	THIRD READING, PASSED. AYES, 87; NOES, 11.
	TRANSMITTED TO SENATE.
IN	THE SENATE
FEBRUARY 6, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON EDUCATION & CULTURAL RESOURCES.
	FIRST READING.
MARCH 12, 1991	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 13, 1991	SECOND READING, CONCURRED IN.
MARCH 14, 1991	THIRD READING, CONCURRED IN. AYES, 43; NOES, 5.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 15, 1991

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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following conditions exist:

1	HOUSE BILL NO. 105
2	INTRODUCED BY L. NELSON
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR TRANSFER
5	OF A TENURE TEACHER BETWEEN ADMINISTRATIVE AND TEACHING
6	POSITIONS; AND AMENDING SECTION 20-4-203, MCA."
7	
8	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
9	Section 1. Section 20-4-203, MCA, is amended to read:
10	"20-4-203. Teacher tenure. (1) Whenever Except as
11	provided in [section 2], whenever a teacher has been elected
12	by the offer and acceptance of a contract for the fourth
13	consecutive year of employment by a district in a position
14	requiring teacher certification except as a district
15	superintendent or specialist, the teacher is considered to
16	be reelected from year to year thereafter as a tenure
17	teacher at the same salary and in the same or a comparable
18	position of employment as that provided by the last executed
19	contract with the teacher unless the trustees resolve by
20	majority vote of their membership to terminate the services
21	of the teacher in accordance with the provisions of
22	20-4-204.
23	(2) The tenure of a teacher with a district may not be
24	impaired upon termination of services of the teacher if the

financial condition of the district requires a reduction in
the number of teachers employed; and
(b) continued employment rights are provided for in a
collectively bargained contract of the district."
NEW SECTION. Section 2. Transfer from administrative
position. (1) A tenure teacher serving in an administrative
position may be assigned to a teaching position with a
reduction in salary when the economic conditions of the
district require a reduction of administrative staff. The
salary for the new position must be the same as or more than
the salary that the teacher would have received if the
teacher had been continuously employed in the new position

tenure teacher is terminated because the

(2) As used in this section, the term:

rather than in the administrative position.

- (a) "administrative position" means a position that the trustees of a district designate as administrative or supervisory in nature, not including the position of district superintendent; and
- (b) "reduction of administrative staff" is limited to reductions necessary because of declining enrollment or financial exigency.
- 23 (3) When a tenure teacher serving in an administrative 24 position is to be transferred under this section, the 25 teacher must be notified prior to May 1 by certified letter

- or by personal notification for which a signed receipt must be obtained. The notification must include:
- (a) a statement of the reason or reasons for the reduction of administrative staff; and
- (b) a printed copy of this section for the teacher's information.

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- (4) A tenure teacher who receives notice under subsection (3) may request in writing, within 10 days of the notice, a hearing before the board of trustees. The board of trustees shall set the hearing not less than 10 days or more than 20 days from receipt of the request unless both parties agree to an extension. If a hearing is requested, the trustees shall:
- (a) conduct the hearing to determine whether the reason or reasons for the transfer are arbitrary or capricious; and
- (b) resolve at the end of the hearing to uphold the transfer or to reject the transfer and return the teacher to the administrative position.
- (5) A tenure teacher may appear a decision under this section to the county superintendent as provided in 20-3-210. The county superintendent shall conduct a hearing to determine whether the reason or reasons for the transfer were arbitrary or capricious.
- 24 (6) The teacher or the troutees may appeal the 25 determination of the county superintendent to the

1 superintendent of public instruction as provided in 20-3-107.

- 3 (7) A tenure teacher who is transferred to a teaching 4 position under this section must be offered the next 5 comparable administrative position for which he is endorsed 5 that becomes available in the district.
- 7 NEW SECTION: Section 3. Codification instruction.
 8 [Section 2] is intended to be codified as an integral part
 9 of Title 20, and the provisions of Title 20 apply to
 10 (section 2)

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APPROVED BY COMM. ON EDUCATION AND CULTURAL RESOURCES

1	HOUSE BILL NO. 105
2	INTRODUCED BY L. NELSON
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR TRANSFER
5	OF A TENURE TEACHER BETWEEN ADMINISTRATIVE AND TEACHING
6	POSITIONS; AND AMENDING SECTION 20-4-203, MCA; AND PROVIDING
7	AN APPLICABILITY DATE."
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9	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
10	Section 1. Section 20-4-203, MCA, is amended to read:
11	"20-4-203. Teacher tenure. (1) Whenever Except as
12	provided in [section 2], whenever a teacher has been elected
13	by the offer and acceptance of a contract for the fourth
14	consecutive year of employment by a district in a position
15	requiring teacher certification except as a district
16	superintendent or specialist, the teacher is considered to
17	be reelected from year to year thereafter as a tenure
18	teacher at the same salary and in the same or a comparable
19	position of employment as that provided by the last executed
20	contract with the teacher unless the trustees resolve by
21	majority vote of their membership to terminate the services
22	of the teacher in accordance with the provisions of
23	20-4-204.
24	(2) The tenure of a teacher with a district may not be
25	impaired upon termination of services of the teacher if the

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following	conditions	exist:

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- (a) the tenure teacher is terminated because the 2 financial condition of the district requires a reduction in 3 the number of teachers employed; and
- (b) continued employment rights are provided for in a 5
- collectively bargained contract of the district."
- NEW SECTION. Section 2. Transfer from administrative 7
- position. (1) A tenure teacher serving in an administrative
- position may be assigned to a teaching position with a 9
- reduction in salary when the economic conditions of the 10
- district require a reduction of administrative staff. The 11
- salary for the new position must be the same as or more than 12
- the salary that the teacher would have received if the 13
- teacher had been continuously employed in the new position 14
- rather than in the administrative position. 15
 - (2) As used in this section, the term:
- (a) "administrative position" means a position that the 17
- trustees of a district designate as administrative or 18
- supervisory in nature, not including the position of 19
- district superintendent; and 20
- (b) "reduction of administrative staff" is limited to 21
- reductions necessary because of declining enrollment or 22
- 23 financial exigency.
- (3) When a tenure teacher serving in an administrative 24
- position is to be transferred under this section, the 25

SECOND READING

- teacher must be notified prior to May 1 by certified letter or by personal notification for which a signed receipt must be obtained. The notification must include:
- 4 (a) a statement of the reason or reasons for the 5 reduction of administrative staff; and
 - (b) a printed copy of this section for the teacher's information.

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- (a) conduct the hearing to determine whether the reason or reasons for the transfer are-arbitrary-or-capricious WERE BASED ON GOOD CAUSE; and
- 18 (b) resolve at the end of the hearing to uphold the 19 transfer or to reject the transfer and return the teacher to 20 the administrative position.
 - (5) A tenure teacher may appeal a decision under this section to the county superintendent as provided in 20-3-210. The county superintendent shall conduct a hearing to determine whether the reason or reasons for the transfer were arbitrary-or-capticious BASED ON GOOD CAUSE.

- 1 (6) The teacher or the trustees may appeal the 2 determination of the county superintendent to the 3 superintendent of public instruction as provided in 4 20-3-107.
- 5 (7) A tenure teacher who is transferred to a teaching 6 position under this section must be offered the next 7 comparable administrative position for which he is endorsed 8 that becomes available in the district.
- 9 NEW SECTION. Section 3. Codification instruction.
- 10 [Section 2] is intended to be codified as an integral part 11 of Title 20, and the provisions of Title 20 apply to
- 12 [section 2].

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- NEW SECTION. SECTION 4. APPLICABILITY. [THIS ACT] DOES
- 14 NOT APPLY TO A PERSON WHO WAS EMPLOYED IN AN ADMINISTRATIVE
- 15 POSITION BEFORE OCTOBER 1, 1991.

-End-

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20-4-204.

RE-REFFERED AND APPROVED BY COMM. ON EDUCATION AND CULTURAL RESOURCES AS AMENDED

1	HOUSE BILL NO. 105
2	INTRODUCED BY L. NELSON
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR TRANSFER
5	OF A TENURE TEACHER BETWEEN ADMINISTRATIVE AND TEACHING
6	POSITIONS; AND AMENDING SECTION 20-4-203, MCA; AND PROVIDING
7	AN APPLICABILITY DATE."
8	
9	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
10	Section 1. Section 20-4-203, MCA, is amended to read:
11	*20-4-203. Teacher tenure. (1) Whenever Except as
12	provided in [section 2], whenever a teacher has been elected
13	by the offer and acceptance of a contract for the fourth
14	consecutive year of employment by a district in a position
15	requiring teacher certification except as a district
16	superintendent or specialist, the teacher is considered to
17	be reelected from year to year thereafter as a tenure
18	teacher at the same salary and in the same or a comparable
19	position of employment as that provided by the last executed

(2) The tenure of a teacher with a district may not be impaired upo: termination of services of the teacher if the

contract with the teacher unless the trustees resolve by

majority vote of their membership to terminate the services

of the teacher in accordance with the provisions of

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1 following conditions exist:

the number of teachers employed; and

- 2 (a) the tenure teacher is terminated because the 3 financial condition of the district requires a reduction in
- (b) continued employment rights are provided for in acollectively bargained contract of the district."
- NEW SECTION. Section 2. Transfer from administrative 7 8 position. (1) A tenure teacher serving in an administrative 9 position may be assigned to a teaching position with a 10 reduction in salary when the economic conditions of the district require a reduction of administrative staff. The 11 salary for the new position must be the same as or more than the salary that the teacher would have received if the 13 teacher had been continuously employed in the new position 14 15 rather than in the administrative position.
 - (2) As used in this section, the term:
- 17 (a) "administrative position" means a position that the 18 trustees of a district designate as administrative or 19 supervisory in nature, not including the position of
- 20 district superintendent; and
 21 (b) "reduction of administrative staff" is limited to
- 22 reductions necessary because of declining enrollment or
- 23 financial exigency.

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(3) When a tenure teacher serving in an administrative position is to be transferred under this section, the

SECOND READING

HB 105

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[section 2].

teacher must be notified prior to May 1 by certified letter or by personal notification for which a signed receipt must be obtained. The notification must include:

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- 4 (a) a statement of the reason or reasons for the reduction of administrative staff; and
 - (b) a printed copy of this section for the teacher's information.
 - (4) A tenure teacher who receives notice under subsection (3) may request in writing, within 10 days of the notice, a hearing before the board of trustees. The board of trustees shall set the hearing not less than 10 days or more than 20 days from receipt of the request unless both parties agree to an extension. If a hearing is requested, the trustees shall:
 - (a) conduct the hearing to determine whether the reason or reasons for the transfer are-arbitrary-or-capricious WERE

 BASED--ON--GOOD-CAUSE WERE IN COMPLIANCE WITH THE PROVISIONS

 OF SUBSECTION (1); and
 - (b) resolve at the end of the hearing to uphold the transfer or to reject the transfer and return the teacher to the administrative position.
 - (5) A tenure teacher may appeal a decision under this section to the county superintendent as provided in 20-3-210. The county superintendent shall conduct a hearing to determine whether the reason or reasons for the transfer

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2	COMPLIA	ANCE WITH	THE	PROVISIONS	OF	SUBSECTION	(1).	

- 3 (6) The teacher or the trustees may appeal the 4 determination of the county superintendent to the 5 superintendent of public instruction as provided in 6 20-3-107.
 - (7) A tenure teacher who is transferred to a teaching position under this section must be offered the next comparable administrative position for which he is endorsed that becomes available in the district.
- NEW SECTION. Section 3. Codification instruction.

 [Section 2] is intended to be codified as an integral part of Title 20, and the provisions of Title 20 apply to
- NEW SECTION. SECTION 4. APPLICABILITY. [THIS ACT] DOES
- 16 NOT APPLY TO A PERSON WHO WAS EMPLOYED IN AN ADMINISTRATIVE
 - -End-

POSITION BEFORE OCTOBER 1, 1991.

52nd Legislature HB 0105/04

HOUSE BILL NO. 105

(2) The tenure of a teacher with a district may not be

impaired upon termination of services of the teacher if the

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2	INTRODUCED BY L. NELSON	2	(a) the tenure teacher i
3		3	financial condition of the distri
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR TRANSFER	4	the number of teachers employed;
5	OF A TENURE TEACHER BETWEEN ADMINISTRATIVE AND TEACHING	5	(b) continued employment r
6	POSITIONS; AND AMENDING SECTION 20-4-203, MCA; AND PROVIDING	6	collectively bargained contract of
7	AN APPLICABILITY DATE."	7	NEW SECTION. Section 2. Tra
8		8	position. (1) A tenure teacher se
9	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	9	position may be assigned to
10	Section 1. Section 20-4-203, MCA, is amended to read:	10	reduction in salary when the ed
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12	provided in [section 2], whenever a teacher has been elected	12	salary for the new position must
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14	consecutive year of employment by a district in a position	14	teacher had been continuously a
15	requiring teacher certification except as a district	15	rather than in the administrative
16	superintendent or specialist, the teacher is considered to	16	(2) As used in this section
17	be reelected from year to year thereafter as a tenure	17	(a) "administrative position
18	teacher at the same salary and in the same or a comparable	18	trustees of a district design
19	position of employment as that provided by the last executed	19	supervisory in nature, not in
20	contract with the teacher unless the trustees resolve by	20	district superintendent; and
21	majority vote of their membership to terminate the services	21	(b) "reduction of adminis
22	of the teacher in accordance with the provisions of	22	reductions necessary because o
23	20-4-204.	23	financial exigency.

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- strative staff" is limited to of declining enrollment or
- 24 (3) When a tenure teacher serving in an administrative 25 position is to be transferred under this section, the

THIRD READING

HB 0105/04

HB 0105/04

HB 0105/04

- teacher must be notified prior to May 1 by certified letter or by personal notification for which a signed receipt must be obtained. The notification must include:
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- 6 20-3-107.
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- 10 that becomes available in the district.
- 11 NEW SECTION. Section 3. Codification instruction.
- 12 [Section 2] is intended to be codified as an integral part
 - of Title 20, and the provisions of Title 20 apply to
- 14 [section 2].

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- 15 NEW SECTION. SECTION 4. APPLICABILITY. [THIS ACT] DOES
- 16 NOT APPLY TO A PERSON WHO WAS EMPLOYED IN AN ADMINISTRATIVE
- 17 POSITION BEFORE OCTOBER 1, 1991.

-End-

-4-

-3- HB 105

HB 105

52nd Legislature

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HB 0105/04

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1	HOUSE BILL NO. 105
2	INTRODUCED BY L. NELSON
3	
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NEW SECTION. Section 2. Transfer from administrative position. (1) A tenure teacher serving in an administrative position may be assigned to a teaching position with a reduction in salary when the economic conditions of the district require a reduction of administrative staff. The salary for the new position must be the same as or-more-than the salary that the teacher would have received if the teacher had been continuously employed in the new position rather than in the administrative position.

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HB 0105/04

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- 7 (7) A tenure teacher who is transferred to a teaching 8 position under this section must be offered the next 9 comparable administrative position for which he is endorsed 10 that becomes available in the district.
- NEW SECTION. Section 3. Codification instruction.

 [Section 2] is intended to be codified as an integral part

 of Title 20, and the provisions of Title 20 apply to

 [section 2].
- NOT APPLY TO A PERSON WHO WAS EMPLOYED IN AN ADMINISTRATIVE
- 17 POSITION BEFORE OCTOBER 1, 1991.

-End-