

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.

MARCH 15, 1991

IN THE HOUSE

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

HOUSE BILL NO. 105

INTRODUCED BY L. NELSON

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR TRANSFER OF A TENURE TEACHER BETWEEN ADMINISTRATIVE AND TEACHING POSITIONS; AND AMENDING SECTION 20-4-203, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-4-203, MCA, is amended to read:

"20-4-203. Teacher tenure. (1) Whenever Except as provided in [section 2], whenever a teacher has been elected by the offer and acceptance of a contract for the fourth consecutive year of employment by a district in a position requiring teacher certification except as a district superintendent or specialist, the teacher is considered to be reelected from year to year thereafter as a tenure teacher at the same salary and in the same or a comparable position of employment as that provided by the last executed 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 20-4-204.

(2) The tenure of a teacher with a district may not be impaired upon termination of services of the teacher if the following conditions exist:

(a) the tenure teacher is terminated because 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 rather than in the administrative position.

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

(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.

(3) When a tenure teacher serving in an administrative position is to be transferred under this section, the teacher must be notified prior to May 1 by certified letter



1 or by personal notification for which a signed receipt must
2 be obtained. The notification must include:

3 (a) a statement of the reason or reasons for the
4 reduction of administrative staff; and

5 (b) a printed copy of this section for the teacher's
6 information.

7 (4) A tenure teacher who receives notice under
8 subsection (3) may request in writing, within 10 days of the
9 notice, a hearing before the board of trustees. The board of
10 trustees shall set the hearing not less than 10 days or more
11 than 20 days from receipt of the request unless both parties
12 agree to an extension. If a hearing is requested, the
13 trustees shall:

14 (a) conduct the hearing to determine whether the reason
15 or reasons for the transfer are arbitrary or capricious; and

16 (b) resolve at the end of the hearing to uphold the
17 transfer or to reject the transfer and return the teacher to
18 the administrative position.

19 (5) A tenure teacher may appeal a decision under this
20 section to the county superintendent as provided in
21 20-3-210. The county superintendent shall conduct a hearing
22 to determine whether the reason or reasons for the transfer
23 were arbitrary or capricious.

24 (6) The teacher or the trustees may appeal the
25 determination of the county superintendent to the

1 superintendent of public instruction as provided in
2 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
6 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];

-Enr-

APPROVED BY COMM. ON EDUCATION
AND CULTURAL RESOURCES

HOUSE BILL NO. 105

INTRODUCED BY L. NELSON

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR TRANSFER
OF A TENURE TEACHER BETWEEN ADMINISTRATIVE AND TEACHING
POSITIONS; AND AMENDING SECTION 20-4-203, MCA; AND PROVIDING
AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-4-203, MCA, is amended to read:

"20-4-203. Teacher tenure. (1) Whenever Except as provided in [section 2], whenever a teacher has been elected by the offer and acceptance of a contract for the fourth consecutive year of employment by a district in a position requiring teacher certification except as a district superintendent or specialist, the teacher is considered to be reelected from year to year thereafter as a tenure teacher at the same salary and in the same or a comparable position of employment as that provided by the last executed 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 20-4-204.

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

following conditions exist:

(a) the tenure teacher is terminated because 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 rather than in the administrative position.

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

(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.

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

SECOND READING



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

4 (a) a statement of the reason or reasons for the
5 reduction of administrative staff; and

6 (b) a printed copy of this section for the teacher's
7 information.

8 (4) A tenure teacher who receives notice under
9 subsection (3) may request in writing, within 10 days of the
10 notice, a hearing before the board of trustees. The board of
11 trustees shall set the hearing not less than 10 days or more
12 than 20 days from receipt of the request unless both parties
13 agree to an extension. If a hearing is requested, the
14 trustees shall:

15 (a) conduct the hearing to determine whether the reason
16 or reasons for the transfer ~~are arbitrary or capricious~~ WERE
17 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.

21 (5) A tenure teacher may appeal a decision under this
22 section to the county superintendent as provided in
23 20-3-210. The county superintendent shall conduct a hearing
24 to determine whether the reason or reasons for the transfer
25 were ~~arbitrary or capricious~~ 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].

13 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-

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

HOUSE BILL NO. 105

INTRODUCED BY L. NELSON

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR TRANSFER
OF A TENURE TEACHER BETWEEN ADMINISTRATIVE AND TEACHING
POSITIONS; AND AMENDING SECTION 20-4-203, MCA; AND PROVIDING
AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-4-203, MCA, is amended to read:

"20-4-203. **Teacher tenure.** (1) Whenever Except as provided in [section 2], whenever a teacher has been elected by the offer and acceptance of a contract for the fourth consecutive year of employment by a district in a position requiring teacher certification except as a district superintendent or specialist, the teacher is considered to be reelected from year to year thereafter as a tenure teacher at the same salary and in the same or a comparable position of employment as that provided by the last executed 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 20-4-204.

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

following conditions exist:

- (a) the tenure teacher is terminated because 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 rather than in the administrative position.

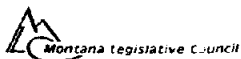
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 7 information.

8 (4) A tenure teacher who receives notice under
 9 subsection (3) may request in writing, within 10 days of the
 10 notice, a hearing before the board of trustees. The board of
 11 trustees shall set the hearing not less than 10 days or more
 12 than 20 days from receipt of the request unless both parties
 13 agree to an extension. If a hearing is requested, the
 14 trustees shall:

15 (a) conduct the hearing to determine whether the reason
 16 or reasons for the transfer ~~are arbitrary or capricious~~ WERE
 17 BASED--ON--GOOD--CAUSE WERE IN COMPLIANCE WITH THE PROVISIONS
 18 OF SUBSECTION (1); and

19 (b) resolve at the end of the hearing to uphold the
 20 transfer or to reject the transfer and return the teacher to
 21 the administrative position.

22 (5) A tenure teacher may appeal a decision under this
 23 section to the county superintendent as provided in
 24 20-3-210. The county superintendent shall conduct a hearing
 25 to determine whether the reason or reasons for the transfer

1 were ~~arbitrary or capricious~~ BASED--ON--GOOD--CAUSE IN
 2 COMPLIANCE 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.

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 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.

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 12 [Section 2] is intended to be codified as an integral part
 13 of Title 20, and the provisions of Title 20 apply to
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 16 NOT APPLY TO A PERSON WHO WAS EMPLOYED IN AN ADMINISTRATIVE
 17 POSITION BEFORE OCTOBER 1, 1991.

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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
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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

1 following conditions exist:

2 (a) the tenure teacher is terminated because the
3 financial condition of the district requires a reduction in
4 the number of teachers employed; and

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6 collectively bargained contract of the district."

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8 position. (1) A tenure teacher serving in an administrative
9 position may be assigned to a teaching position with a
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11 district require a reduction of administrative staff. The
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13 the salary that the teacher would have received if the
14 teacher had been continuously employed in the new position
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18 trustees of a district designate as administrative or
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23 financial exigency.

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

THIRD READING

HB 105

AS AMENDED

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REFERENCE BILL

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