

CHAPTER NO. 511

HOUSE BILL NO. 864

INTRODUCED BY DAILY, MANUEL

IN THE HOUSE

February 17, 1979	Introduced and referred to Committee on Education and Cultural Resources.
February 19, 1979	Committee recommend bill do pass. Report adopted.
February 22, 1979	Second reading, do pass.
February 23, 1979	Considered correctly engrossed. Third reading, passed. Transmitted to second house.

IN THE SENATE

February 23, 1979	Introduced and referred to Committee on Education.
March 17, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 20, 1979	In accordance with Joint Rule 11-5-2 Statement of Intent was adopted. Second reading, concurred in.
March 23, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 24, 1979	Returned from second house. Concurred in as amended with Intent Statement.
March 26, 1979	On motion consideration passed until the 71st Legislative Day.

March 30, 1979

Second reading, amendments  
adopted.

March 31, 1979

Third reading, amendments  
adopted. Sent to enrolling.

Reported correctly enrolled.

1  
 2 INTRODUCED BY House BILL NO. 864  
Wally Manuel  
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE  
 5 SUPERINTENDENT OF PUBLIC INSTRUCTION AND THE BOARD OF PUBLIC  
 6 EDUCATION TO ADOPT A SPECIALIST CERTIFICATE; AMENDING  
 7 SECTIONS 20-2-121, 20-3-205, 20-3-362, 20-4-101 THROUGH  
 8 20-4-106, 20-4-108 THROUGH 20-4-111, AND 20-4-201 THROUGH  
 9 20-4-203, MCA."

10  
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 20-2-121, MCA, is amended to read:  
 13 "20-2-121. Board of public education -- powers and  
 14 duties. The board of public education shall:

15 (1) effect an orderly and uniform system for teacher  
 16 certification, specialist certification, and for the  
 17 issuance of an emergency authorization of employment by  
 18 adopting the policies prescribed by 20-4-102 and 20-4-111;

19 (2) consider the suspension or revocation of teacher  
 20 or specialist certificates and appeals from the denial of  
 21 teacher or specialist certification in accordance with the  
 22 provisions of 20-4-110;

23 (3) administer and order the distribution of state  
 24 equalization aid in accordance with the provisions of  
 25 20-9-344;

1 (4) adopt and enforce policies to provide uniform  
 2 standards and regulations for the design, construction, and  
 3 operation of school buses in accordance with the provisions  
 4 of 20-10-111;

5 (5) approve or disapprove a reduction of the number of  
 6 hours in a district's school day in accordance with the  
 7 provisions of 20-1-302;

8 (6) adopt policies prescribing the conditions when  
 9 school may be conducted on Saturday and the types of  
 10 pupil-instruction-related days and approval procedure for  
 11 such days in accordance with the provisions of 20-1-303 and  
 12 20-1-304;

13 (7) adopt standards of accreditation and establish the  
 14 accreditation status of every school in accordance with the  
 15 provisions of 20-7-101 and 20-7-102;

16 (8) approve or disapprove educational media selected  
 17 by the superintendent of public instruction for the  
 18 educational media library in accordance with the provisions  
 19 of 20-7-201;

20 (9) as the governing board of the state of Montana for  
 21 vocational education, adopt the policies prescribed by and  
 22 in accordance with the provisions of 20-7-301;

23 (10) consider applications for postsecondary  
 24 vocational-technical center designation in accordance with  
 25 the provisions of 20-7-311;

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 INTRODUCED BILL

1 (11) for the purposes of postsecondary  
 2 vocational-technical centers, approve or disapprove programs  
 3 and budgets, direct the distribution of moneys in support of  
 4 such budgets, determine tuition rates and fees, and enter  
 5 into lease agreements or real property purchases in  
 6 accordance with the postsecondary vocational-technical  
 7 center provisions of the vocational education part of this  
 8 title;

9 (12) adopt policies for the conduct of special  
 10 education in accordance with the provisions of 20-7-402;

11 (13) perform any other duty prescribed from time to  
 12 time by this title or any other act of the legislature."

13 Section 2. Section 20-3-205, MCA, is amended to read:

14 "20-3-205. Powers and duties. The county  
 15 superintendent has general supervision of the schools of the  
 16 county within the limitations prescribed by this title and  
 17 shall perform the following duties or acts:

18 (1) determine, establish, and reestablish trustee  
 19 nominating districts and fill additional trustee position  
 20 vacancies in accordance with the provisions of 20-3-352,  
 21 20-3-353, and 20-3-354;

22 (2) administer and file the oaths of members of the  
 23 boards of trustees of the districts in his county in  
 24 accordance with the provisions of 20-3-307;

25 (3) fill by appointment any trustee position vacancies

1 when required under the provisions of 20-3-309;

2 (4) register the teacher or specialist certificate  
 3 certificates or emergency authorization of employment of any  
 4 person employed in the county as a teacher, specialist,  
 5 principal, or district superintendent in accordance with the  
 6 provisions of 20-4-202;

7 (5) act on each tuition application submitted to him  
 8 in accordance with the provisions of 20-5-301, 20-5-302,  
 9 20-5-304, and 20-5-311 and transmit the tuition information  
 10 required by 20-5-312;

11 (6) file a copy of the audit report for a district in  
 12 accordance with the provisions of 20-9-203;

13 (7) classify districts in accordance with the  
 14 provisions of 20-6-201 and 20-6-301;

15 (8) keep a transcript and reconcile the district  
 16 boundaries of the county in accordance with the provisions  
 17 of 20-6-103;

18 (9) fulfill all responsibilities assigned to him under  
 19 the provisions of this title regulating the organization,  
 20 alteration, or abandonment of districts;

21 (10) act on any unification proposition and, if  
 22 approved, establish additional trustee nominating districts  
 23 in accordance with 20-6-312 and 20-6-313;

24 (11) estimate the average number belonging (ANB) of an  
 25 opening school in accordance with the provisions of

1 20-6-502, 20-6-503, 20-6-504, or 20-6-506;  
 2 (12) process and, when required, act on school  
 3 isolation applications in accordance with the provisions of  
 4 20-9-302;  
 5 (13) complete the budgets, compute the budgeted  
 6 revenues and tax levies, give notices of the budget  
 7 meetings, file final and emergency budgets, and fulfill such  
 8 other responsibilities assigned to him under the provisions  
 9 of this title regulating school budgeting systems;  
 10 (14) submit an annual financial report to the  
 11 superintendent of public instruction in accordance with the  
 12 provisions of 20-9-211;  
 13 (15) quarterly, unless otherwise provided by law, order  
 14 the county treasurer to apportion state moneys, county  
 15 school moneys, and any other school moneys subject to  
 16 apportionment in accordance with the provisions of 20-9-212,  
 17 20-9-334, 20-9-347, 20-9-351, 20-10-145, or 20-10-146;  
 18 (16) act on any request to transfer average number  
 19 belonging (ANE) in accordance with the provisions of  
 20 20-7-313(3);  
 21 (17) calculate the estimated budgeted general fund  
 22 sources of revenue in accordance with the provisions of  
 23 20-9-348 and the other general fund revenue provisions of  
 24 the general fund part of this title;  
 25 (18) compute the revenues and the district and county

1 levy requirements for each fund included on each district's  
 2 final budget and report such computations to the board of  
 3 county commissioners in accordance with the provisions of  
 4 the general fund, transportation, bonds, and other school  
 5 funds parts of this title;  
 6 (19) file and forward bus driver certifications,  
 7 transportation contracts, and state transportation  
 8 reimbursement claims in accordance with the provisions of  
 9 20-10-103, 20-10-143, or 20-10-145;  
 10 (20) for districts which do not employ a district  
 11 superintendent or principal, recommend library book and  
 12 textbook selections in accordance with the provisions of  
 13 20-7-204 or 20-7-602;  
 14 (21) notify the superintendent of public instruction of  
 15 a textbook dealer's activities when required under the  
 16 provisions of 20-7-605 and otherwise comply with the  
 17 textbook dealer provisions of this title;  
 18 (22) act on district requests to allocate federal  
 19 moneys for indigent children for school food services in  
 20 accordance with the provisions of 20-10-205;  
 21 (23) perform any other duty prescribed from time to  
 22 time by this title, any other act of the legislature, the  
 23 policies of the board of public education, or the rules of  
 24 the superintendent of public instruction;  
 25 (24) administer the oath of office to trustees without

1 the receipt of pay for administering the oath;

2 (25) keep a record of his official acts, preserve all  
3 reports submitted to him under the provisions of this title,  
4 preserve all books and instructional equipment or supplies,  
5 keep all documents applicable to the administration of the  
6 office, and surrender such records, books, supplies, and  
7 equipment to his successor;

8 (26) within 90 days after the close of the school  
9 fiscal year, publish an annual report in the county  
10 newspaper stating the following financial information for  
11 the school fiscal year just ended for each district of the  
12 county:

13 (a) the total of the cash balances of all funds  
14 maintained by the district at the beginning of the year;

15 (b) the total receipts that were realized in each fund  
16 maintained by the district;

17 (c) the total expenditures that were made from each  
18 fund maintained by the district; and

19 (d) the total of the cash balances of all funds  
20 maintained by the district at the end of the school fiscal  
21 year; and

22 (27) hold meetings for the members of the trustees from  
23 time to time at which matters for the good of the districts  
24 shall be discussed."

25 Section 3. Section 20-3-362, MCA, is amended to read:

1 "20-3-362. Powers of joint board of trustees. (1) When  
2 a joint board of trustees is formed as provided by 20-3-361,  
3 it shall have the power to:

4 (a) jointly employ a district superintendent under the  
5 provisions of 20-4-401;

6 (b) jointly employ teachers and specialists under the  
7 provisions of 20-4-201;

8 (c) open a junior high school under the provisions of  
9 20-6-505;

10 (d) prescribe and administer joint administrative  
11 policy; and

12 (e) prorate all items of joint expense between the  
13 elementary and high school districts, provided that a  
14 controversy over any decision by the joint board to prorate  
15 joint costs may, within 30 days, be appealed by the trustees  
16 of either district to the superintendent of public  
17 instruction for a final decision as to what constitutes a  
18 fair and just proration of the cost.

19 (2) The joint board of trustees shall not have the  
20 power to transact business that is not specifically related  
21 to the joint administration of the two districts."

22 Section 4. Section 20-4-101, MCA, is amended to read:

23 "20-4-101. System of teacher and specialist  
24 certification -- student teacher exception. (1) In order to  
25 establish a uniform system of quality education and to

1 ensure the maintenance of professional standards, a system  
 2 of teacher ~~and specialist~~ certification shall be established  
 3 and maintained under the provisions of this title and no  
 4 person shall be permitted to teach in the public schools of  
 5 the state until he has obtained a teacher certificate ~~or~~  
 6 ~~specialist certificate~~ or the district has obtained an  
 7 emergency authorization of employment from the state.

8 (2) The above certification requirement shall not  
 9 apply to a student teacher who is hereby defined as a  
 10 student enrolled in an institution of higher learning  
 11 approved by the board of regents of higher education for  
 12 teacher training and who is jointly assigned by such  
 13 institution of higher learning and the governing board of a  
 14 district or a public institution to perform practice  
 15 teaching in a nonsalaried status under the direction of a  
 16 regularly employed and certificated teacher.

17 (3) A student teacher, while serving such nonsalaried  
 18 internship under the supervision of a certificated teacher,  
 19 shall be accorded the same protection of the laws as that  
 20 accorded a certificated teacher and shall, while acting as  
 21 such student teacher, comply with all rules of the governing  
 22 board of the district or public institution and the  
 23 applicable provisions of 20-4-301 relating to the duties of  
 24 teachers."

25 Section 5. Section 20-4-102, MCA, is amended to read:

1 "20-4-102. Board of public education policies. To  
 2 effect an orderly and uniform system of teacher ~~and~~  
 3 ~~specialist~~ certification, the board of public education  
 4 shall, upon the recommendation of the superintendent of  
 5 public instruction and in accordance with the provisions of  
 6 this title, prescribe and adopt policies for the issuance of  
 7 teacher ~~or specialist~~ certificates. Such policies shall  
 8 provide for:

9 (1) reasonable training and experience requirements  
 10 for teacher, ~~specialist~~, supervisor, and administrative  
 11 certificates and endorsements thereon as provided by the  
 12 certification classification in 20-4-106;

13 (2) the renewal of teacher ~~or specialist~~ certificates  
 14 based on the same conditions prescribed for the initial  
 15 issuance of certificates;

16 (3) the conduct of hearings on teacher ~~or specialist~~  
 17 certification revocation, suspension, or denial;

18 (4) the issuance of emergency authorization to a  
 19 district to employ a person who is not the holder of a valid  
 20 teacher certificate as an instructor of pupils; and

21 (5) any other policy, not inconsistent with the law,  
 22 which is necessary for the proper operation of a system of  
 23 teacher ~~and specialist~~ certification."

24 Section 6. Section 20-4-103, MCA, is amended to read:

25 "20-4-103. Issuance of teacher ~~or specialist~~

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1 certificates. The superintendent of public instruction shall  
 2 issue all teacher and specialist certificates in the state  
 3 of Montana. In issuing teacher or specialist certificates,  
 4 the superintendent of public instruction shall comply with  
 5 the provisions of this title and the teacher and specialist  
 6 certification policies adopted by the board of public  
 7 education. The superintendent of public instruction shall  
 8 not issue a teacher or specialist certificate to any person  
 9 who does not satisfy the qualifications or other  
 10 requirements of this title and of the board of public  
 11 education policies for teacher or specialist certification."

12 Section 7. Section 20-4-104, MCA, is amended to read:

13 "20-4-104. Qualifications. (1) Any person may be  
 14 certified as a teacher when he satisfies the following  
 15 qualifications:

16 (1)(a) He is 18 years of age or older but is not more  
 17 than 70 years of age.

18 (2)(b) He has a certificate of a licensed physician  
 19 attesting to his satisfactory health.

20 (3)(c) He is a citizen of the United States except as  
 21 provided in 20-4-105.

22 (4)(d) He is of good moral and professional character.

23 (5)(e) He has completed the teacher education program  
 24 of a unit of the Montana university system or an essentially  
 25 equivalent program at an accredited institution in the

1 United States of equal rank and standing as that of any unit  
 2 of the Montana university system, and such training shall be  
 3 evidenced by at least a bachelor's degree and a  
 4 certification of the completion of the teacher education  
 5 program, except as provided for in 20-4-106(1)(d).

6 (6)(f) He has subscribed to the following oath or  
 7 affirmation before an officer authorized by law to  
 8 administer oaths:

9 "I solemnly swear (or affirm) that I will support The  
 10 Constitution of the United States of America, The  
 11 Constitution of the State of Montana, and the laws of the  
 12 United States and the state of Montana and will, by precept  
 13 and example, promote respect for the flag and the  
 14 institutions of the United States and the state of Montana,  
 15 reverence for law and order, and undivided allegiance to the  
 16 government of the United States of America."

17 (2) Any person may be certified as a specialist when  
 18 he satisfies the requirements of subsections (1)(a) through  
 19 (1)(e) and the requirement for a specialist certificate  
 20 provided in [subsection (2) of section 9]."

21 Section 8. Section 20-4-105, MCA, is amended to read:

22 "20-4-105. Noncitizen teacher or specialist  
 23 certification. (1) The superintendent of public instruction  
 24 may issue a class 5 provisional certificate to a person who  
 25 is not a citizen of the United States when:



1 (a) the trustees of a district request certification  
2 of such person; and

3 (b) he otherwise qualifies for at least a class 5  
4 provisional certificate.

5 (2) The superintendent of public instruction also may  
6 issue an annual teacher or specialist certificate to a  
7 person who is not a citizen of the United States and who is  
8 an exchange teacher or specialist from a foreign country  
9 intending to return to that country."

10 Section 9. Section 20-4-106, MCA, is amended to read:

11 "20-4-106. Classifications of teacher and specialist  
12 certificates. (1) The superintendent of public instruction  
13 shall issue teacher certificates and the board of public  
14 education shall adopt teacher certification policies on the  
15 basis of the following classifications of teacher  
16 certificates:

17 (a) The class 1 professional certificate may be issued  
18 to an otherwise qualified applicant who has completed a  
19 teacher education program which includes a bachelor's degree  
20 and a minimum of 1 year of study beyond such degree in a  
21 unit of the Montana university system or an equivalent  
22 institution. The professional certificate may be endorsed  
23 for elementary instruction, secondary instruction, or both  
24 and for specified subject fields on the basis of the  
25 applicant's academic and professional training and according

1 to the board of public education policy for teacher  
2 certification endorsement.

3 (b) The class 2 standard certificate may be issued to  
4 an otherwise qualified applicant who has completed a 4-year  
5 teacher education program and who has been awarded a  
6 bachelor's degree by a unit of the Montana university system  
7 or an equivalent institution. The standard certificate may  
8 be endorsed for elementary instruction, secondary  
9 instruction, or both and for specified subject fields on the  
10 basis of the applicant's academic and professional training  
11 and according to the board of public education policy for  
12 teacher certification endorsement.

13 (c) The class 3 administrative and supervisory  
14 certificate may be issued to an otherwise qualified  
15 applicant who is the holder of a teacher certificate  
16 endorsed for teaching in the school or schools in which he  
17 would be an administrator or he would supervise. The  
18 applicant also shall possess the training and experience  
19 required by the policies of the board of public education  
20 for an endorsement as superintendent, principal, or  
21 supervisor.

22 (d) The class 4 vocational, recreational, or adult  
23 education certificate may be issued to an otherwise  
24 qualified applicant who has the qualifications of training  
25 and experience required by the United States office of

1 education or the qualifications required by the special  
 2 needs of the several vocational, recreational, or adult  
 3 education fields and who can qualify under the policy of the  
 4 board of public education for the issuance of this  
 5 classification of teacher certification.

6 (e) The class 5 provisional certificate may be issued  
 7 to an otherwise qualified applicant who can provide  
 8 satisfactory evidence of his intent to qualify in the future  
 9 for a class 1 or a class 2 certificate and who has completed  
 10 a 4-year college program or its equivalent and holds a  
 11 bachelor's degree from a unit of the Montana university  
 12 system or its equivalent. The provisional certificate may be  
 13 endorsed for elementary instruction, secondary instruction,  
 14 or both and for special subject fields on the basis of the  
 15 applicant's academic and professional training and according  
 16 to the board of public education policy for teacher or  
 17 specialist certification endorsement.

18 (2) The superintendent of public instruction shall  
 19 issue specialist certificates and the board of public  
 20 education shall adopt specialist certification policies. The  
 21 specialist certificate may be issued to an otherwise  
 22 qualified applicant who has the training, experience, and  
 23 license required under the standards of the board of public  
 24 education for the certification of a profession other than  
 25 the teaching profession.

1 ~~(2)(1)~~ for purposes of evaluating the qualifications  
 2 of applicants for either teacher or specialist certificates,  
 3 a year means the instructional period consisting of three  
 4 quarters or two semesters or other terms which are  
 5 recognized as an academic year by any unit of the Montana  
 6 university system or equivalent institution."

7 Section 10. Section 20-4-108, MCA, is amended to read:

8 "20-4-108. Term of teacher and specialist certificates  
 9 -- renewal. (1) Any teacher or specialist certificate issued  
 10 by the superintendent of public instruction shall bear the  
 11 dates of issue and validity and shall be valid for a term of  
 12 5 school fiscal years, except that class 5 provisional  
 13 certificates shall be valid for the number of years, up to a  
 14 maximum of 5 years, provided by the policies of the board of  
 15 public education. The period of validity for any certificate  
 16 shall begin on July 1 immediately preceding the date of  
 17 issue.

18 (2) Teacher and specialist certificates shall  
 19 renewed for similar periods of time on the basis of the  
 20 board of public education policies for teacher and  
 21 specialist certification renewal."

22 Section 11. Section 20-4-109, MCA, is amended to read:

23 "20-4-109. Fees for teacher and specialist  
 24 certificates. Each person applying for the issuance or  
 25 renewal of a teacher or specialist certificate shall pay a

1 fee of \$2 for each school fiscal year that the certificate  
 2 will be valid. In addition to this fee, each person who has  
 3 never held any class of Montana teacher or specialist  
 4 certificate or for whom an emergency authorization of  
 5 employment has never been issued shall pay a filing fee of  
 6 \$2. Such fees shall be paid to the superintendent of public  
 7 instruction, who shall deposit the fees with the state  
 8 treasurer to the credit of the general fund."

9 Section 12. Section 20-4-110, MCA, is amended to read:

10 "20-4-110. Suspension, revocation, and denial --  
 11 appeals. (1) The board of public education shall have the  
 12 power and authority to suspend or revoke the teacher or  
 13 specialist certificate of any person for any of the  
 14 following reasons:

15 (a) any reason that would have required or authorized  
 16 the denial of the teacher or specialist certificate to such  
 17 person if it had been known at the time such certificate was  
 18 issued;

19 (b) by reason of incompetency, immorality,  
 20 intemperance, physical inability, or conviction of a felony  
 21 under state law; or

22 (c) by reason of the failure of the certificate holder  
 23 to comply with the terms of any contract between such holder  
 24 and the trustees of a district without the consent of the  
 25 trustees in writing or without good cause. Such breach of

1 contract shall constitute unprofessional conduct.

2 (2) Whenever a substantial reason for the suspension  
 3 or revocation of the teacher or specialist certificate of  
 4 any person is brought to the attention of the board of  
 5 public education, it shall afford the person an opportunity  
 6 to defend himself and his qualifications against the charge  
 7 before the board. The superintendent of public instruction  
 8 shall give a 30-day written notification to any person when  
 9 the board of public education intends to consider the  
 10 suspension or revocation of his certificate. The board of  
 11 public education shall implement an investigation of the  
 12 reasons for the suspension or revocation charge and then, if  
 13 the investigation warrants further action, conduct a hearing  
 14 in the manner provided by board of public education  
 15 policies.

16 (3) After a full investigation and proper hearing, the  
 17 board of public education may suspend or revoke the person's  
 18 teacher or specialist certificate, except that in cases of a  
 19 first violation under subsection (1)(c) above, the maximum  
 20 penalty shall not be more than a suspension of the person's  
 21 certificate for the current school fiscal year and the  
 22 ensuing school fiscal year.

23 (4) Whenever the superintendent of public instruction  
 24 denies the issuance or the renewal of a teacher or  
 25 specialist certificate to a person, he may appeal the denial

1 to the board of public education. The appeal shall be heard  
 2 in the same manner provided for in this section for  
 3 suspension or revocation and in accordance with the policies  
 4 of the board of public education. The decision of the board  
 5 of public education shall be final."

6 Section 13. Section 20-4-111, MCA, is amended to read:

7 "20-4-111. Emergency authorization of employment. (1)

8 Any district may request from the superintendent of public  
 9 instruction an emergency authorization of employment for a  
 10 person who is not the holder of a valid teacher ~~or~~  
 11 ~~specialist~~ certificate as an instructor of pupils when such  
 12 district cannot secure the services of a person holding a  
 13 valid certificate. The person shall have previously held a  
 14 valid teacher ~~or specialist~~ certificate or shall meet the  
 15 standards of preparation prescribed by the policies of the  
 16 board of public education for and during such emergency.

17 Such emergency authorization of employment shall indicate:

18 (a) the district to which such authorization is  
 19 issued;

20 (b) the person whom the district is authorized to  
 21 employ;

22 (c) the endorsement for elementary or secondary  
 23 instruction and the specific subject fields for which  
 24 authorization to employ such person is given; and

25 (d) the school fiscal year for which such emergency

1 authorization of employment is given.

2 (2) Emergency authorization of employment of a person  
 3 shall be valid for the school fiscal year identified on such  
 4 authorization and may be renewed in accordance with the  
 5 board of public education policies. A fee of \$2 and, if no  
 6 teacher ~~or specialist~~ certificate or emergency authorization  
 7 of employment has ever been issued for such person, a filing  
 8 fee of \$2 shall be paid for the issuance of an emergency  
 9 authorization of employment. The superintendent of public  
 10 instruction shall deposit the fees with the state treasurer  
 11 to the credit of the general fund.

12 (3) Emergency authorization of employment of a person  
 13 may be revoked for good cause in accordance with the  
 14 provisions of 20-4-110."

15 Section 14. Section 20-4-201, MCA, is amended to read:

16 "20-4-201. Employment of teachers ~~and specialists~~ by  
 17 contract. (1) The trustees of any district shall have the  
 18 authority to employ any person as a teacher ~~or specialis~~  
 19 but only a person who holds a valid Montana teacher ~~or~~  
 20 ~~specialist~~ certificate or for whom an emergency  
 21 authorization of employment has been issued that qualifies  
 22 such person to perform the duties prescribed by the trustees  
 23 for the position of employment. Each teacher ~~or specialist~~  
 24 shall be employed under written contract, and each contract  
 25 of employment shall be authorized by a proper resolution of

1 the trustees and shall be executed in duplicate by the  
2 chairman of the trustees and the clerk of the district in  
3 the name of the district and by the teacher or specialist.

4 (2) No contract of employment with a teacher or  
5 specialist shall require such teacher or specialist to teach  
6 more than 5 days a week or on any holiday recognized by  
7 20-1-305. No deduction shall be made from a teacher's or  
8 specialist's salary by reason of the fact that a holiday  
9 falls on a school day. Any teacher's or specialist's  
10 contract made in conflict with the 5-days-per-week provision  
11 of this section shall not be enforceable against the teacher  
12 or specialist.

13 (3) Whenever the trustees of a county high school and  
14 the trustees of the elementary district where the county  
15 high school is located form a joint board of trustees under  
16 the provisions of 20-3-361, such joint board of trustees may  
17 execute a contract of employment with a teacher or  
18 specialist who shall serve both districts. When such a  
19 contract is executed, the two districts shall prorate the  
20 compensation provided by such contract on the basis of the  
21 total number of instructional hours expended by such teacher  
22 or specialist within each district.

23 (4) Any contract executed under the provisions of this  
24 section may contain the oath or affirmation prescribed in  
25 20-4-104, and the teacher or specialist shall subscribe to

1 such oath or affirmation before an officer authorized by law  
2 to administer oaths."

3 Section 15. Section 20-4-202, MCA, is amended to read:  
4 "20-4-202. Teacher and specialist certification  
5 registration. (1) Any person employed as a teacher,  
6 specialist, principal, or district superintendent shall  
7 register his certificate or the district shall register its  
8 emergency authorization of employment for a teacher with the  
9 county superintendent of the county wherein he is employed  
10 in order to validate his employment status and permit  
11 payment under his employment contract. If a teacher or  
12 specialist does not register his certificate with the county  
13 superintendent within 60 calendar days after ~~the teacher he~~  
14 begins to perform his services, he shall not be eligible to  
15 receive any further compensation under his contract of  
16 employment until he has registered his certificate. After  
17 the schools of a district have been open for 60 calendar  
18 days in the current school fiscal year, the county  
19 superintendent shall notify each district of the county of  
20 each teacher or specialist who has registered his current  
21 valid certificate, and the district shall not pay any  
22 teacher who has not registered his certificate until the  
23 county superintendent does notify the district of such  
24 registration.

25 (2) A teacher or specialist employed by a joint

1 district shall register his certificate with the county  
2 superintendent of the county in which he is teaching  
3 working."

4 Section 16. Section 20-4-203, MCA, is amended to read:

5 "20-4-203. Teacher tenure. Whenever a teacher has been  
6 elected by the offer and acceptance of a contract for the  
7 fourth consecutive year of employment by a district in a  
8 position requiring teacher certification except as a  
9 district superintendent or specialist, the teacher shall be  
10 deemed to be reelected from year to year thereafter as a  
11 tenure teacher at the same salary and in the same or a  
12 comparable position of employment as that provided by the  
13 last executed contract with such teacher, unless:

14 (1) the trustees resolve by majority vote of their  
15 membership to terminate the services of the teacher in  
16 accordance with the provisions of 20-4-204; or

17 (2) the teacher will attain the age of 65 years before  
18 the ensuing September 1 and the trustees have notified the  
19 teacher in writing by April 1 that his services will not be  
20 needed in the ensuing school fiscal year, except that the  
21 trustees may continue to employ such a teacher from year to  
22 year until the school fiscal year following his 70th  
23 birthday."

-End-

1 *House* BILL NO. *864*  
 2 INTRODUCED BY *Dealy Manuel*  
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE  
 5 SUPERINTENDENT OF PUBLIC INSTRUCTION AND THE BOARD OF PUBLIC  
 6 EDUCATION TO ADOPT A SPECIALIST CERTIFICATE; AMENDING  
 7 SECTIONS 20-2-121, 20-3-205, 20-3-362, 20-4-101 THROUGH  
 8 20-4-106, 20-4-108 THROUGH 20-4-111, AND 20-4-201 THROUGH  
 9 20-4-203, MCA."

10  
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 20-2-121, MCA, is amended to read:  
 13 "20-2-121. Board of public education -- powers and  
 14 duties. The board of public education shall:

15 (1) effect an orderly and uniform system for teacher  
 16 certification, ~~specialist certification~~, and for the  
 17 issuance of an emergency authorization of employment by  
 18 adopting the policies prescribed by 20-4-102 and 20-4-111;

19 (2) consider the suspension or revocation of teacher  
 20 ~~or specialist~~ certificates and appeals from the denial of  
 21 teacher ~~or specialist~~ certification in accordance with the  
 22 provisions of 20-4-110;

23 (3) administer and order the distribution of state  
 24 equalization aid in accordance with the provisions of  
 25 20-9-344;

1 (4) adopt and enforce policies to provide uniform  
 2 standards and regulations for the design, construction, and  
 3 operation of school buses in accordance with the provisions  
 4 of 20-10-111;

5 (5) approve or disapprove a reduction of the number of  
 6 hours in a district's school day in accordance with the  
 7 provisions of 20-1-302;

8 (6) adopt policies prescribing the conditions when  
 9 school may be conducted on Saturday and the types of  
 10 pupil-instruction-related days and approval procedure for  
 11 such days in accordance with the provisions of 20-1-303 and  
 12 20-1-304;

13 (7) adopt standards of accreditation and establish the  
 14 accreditation status of every school in accordance with the  
 15 provisions of 20-7-101 and 20-7-102;

16 (8) approve or disapprove educational media selected  
 17 by the superintendent of public instruction for the  
 18 educational media library in accordance with the provisions  
 19 of 20-7-201;

20 (9) as the governing board of the state of Montana for  
 21 vocational education, adopt the policies prescribed by and  
 22 in accordance with the provisions of 20-7-301;

23 (10) consider applications for postsecondary  
 24 vocational-technical center designation in accordance with  
 25 the provisions of 20-7-311;

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 THIRD READING

1 (11) for the purposes of postsecondary  
 2 vocational-technical centers, approve or disapprove programs  
 3 and budgets, direct the distribution of moneys in support of  
 4 such budgets, determine tuition rates and fees, and enter  
 5 into lease agreements or real property purchases in  
 6 accordance with the postsecondary vocational-technical  
 7 center provisions of the vocational education part of this  
 8 title;

9 (12) adopt policies for the conduct of special  
 10 education in accordance with the provisions of 20-7-402;

11 (13) perform any other duty prescribed from time to  
 12 time by this title or any other act of the legislature."

13 Section 2. Section 20-3-205, MCA, is amended to read:

14 "20-3-205. Powers and duties. The county  
 15 superintendent has general supervision of the schools of the  
 16 county within the limitations prescribed by this title and  
 17 shall perform the following duties or acts:

18 (1) determine, establish, and reestablish trustee  
 19 nominating districts and fill additional trustee position  
 20 vacancies in accordance with the provisions of 20-3-352,  
 21 20-3-353, and 20-3-354;

22 (2) administer and file the oaths of members of the  
 23 boards of trustees of the districts in his county in  
 24 accordance with the provisions of 20-3-307;

25 (3) fill by appointment any trustee position vacancies

1 when required under the provisions of 20-3-309;

2 (4) register the teacher or specialist certificate  
 3 ~~certificates~~ or emergency authorization of employment of any  
 4 person employed in the county as a teacher, ~~specialist,~~  
 5 principal, or district superintendent in accordance with the  
 6 provisions of 20-4-202;

7 (5) act on each tuition application submitted to him  
 8 in accordance with the provisions of 20-5-301, 20-5-302,  
 9 20-5-304, and 20-5-311 and transmit the tuition information  
 10 required by 20-5-312;

11 (6) file a copy of the audit report for a district in  
 12 accordance with the provisions of 20-9-203;

13 (7) classify districts in accordance with the  
 14 provisions of 20-6-201 and 20-6-301;

15 (8) keep a transcript and reconcile the district  
 16 boundaries of the county in accordance with the provisions  
 17 of 20-6-103;

18 (9) fulfill all responsibilities assigned to him under  
 19 the provisions of this title regulating the organization,  
 20 alteration, or abandonment of districts;

21 (10) act on any unification proposition and, if  
 22 approved, establish additional trustee nominating districts  
 23 in accordance with 20-6-312 and 20-6-313;

24 (11) estimate the average number belonging (ANB) of an  
 25 opening school in accordance with the provisions of



1 20-6-502, 20-6-503, 20-6-504, or 20-6-506;

2 (12) process and, when required, act on school

3 isolation applications in accordance with the provisions of

4 20-9-302;

5 (13) complete the budgets, compute the budgeted

6 revenues and tax levies, give notices of the budget

7 meetings, file final and emergency budgets, and fulfill such

8 other responsibilities assigned to him under the provisions

9 of this title regulating school budgeting systems;

10 (14) submit an annual financial report to the

11 superintendent of public instruction in accordance with the

12 provisions of 20-9-211;

13 (15) quarterly, unless otherwise provided by law, order

14 the county treasurer to apportion state moneys, county

15 school moneys, and any other school moneys subject to

16 apportionment in accordance with the provisions of 20-9-212,

17 20-9-334, 20-9-347, 20-9-351, 20-10-145, or 20-10-146;

18 (16) act on any request to transfer average number

19 belonging (ANB) in accordance with the provisions of

20 20-9-313(3);

21 (17) calculate the estimated budgeted general fund

22 sources of revenue in accordance with the provisions of

23 20-9-348 and the other general fund revenue provisions of

24 the general fund part of this title;

25 (18) compute the revenues and the district and county

1 levy requirements for each fund included on each district's

2 final budget and report such computations to the board of

3 county commissioners in accordance with the provisions of

4 the general fund, transportation, bonds, and other school

5 funds parts of this title;

6 (19) file and forward bus driver certifications,

7 transportation contracts, and state transportation

8 reimbursement claims in accordance with the provisions of

9 20-10-103, 20-10-143, or 20-10-145;

10 (20) for districts which do not employ a district

11 superintendent or principal, recommend library book and

12 textbook selections in accordance with the provisions of

13 20-7-204 or 20-7-602;

14 (21) notify the superintendent of public instruction of

15 a textbook dealer's activities when required under the

16 provisions of 20-7-605 and otherwise comply with the

17 textbook dealer provisions of this title;

18 (22) act on district requests to allocate federal

19 moneys for indigent children for school food services in

20 accordance with the provisions of 20-10-205;

21 (23) perform any other duty prescribed from time to

22 time by this title, any other act of the legislature, the

23 policies of the board of public education, or the rules of

24 the superintendent of public instruction;

25 (24) administer the oath of office to trustees without

1 the receipt of pay for administering the oath;

2 (25) keep a record of his official acts, preserve all  
3 reports submitted to him under the provisions of this title,  
4 preserve all books and instructional equipment or supplies,  
5 keep all documents applicable to the administration of the  
6 office, and surrender such records, books, supplies, and  
7 equipment to his successor;

8 (26) within 90 days after the close of the school  
9 fiscal year, publish an annual report in the county  
10 newspaper stating the following financial information for  
11 the school fiscal year just ended for each district of the  
12 county:

13 (a) the total of the cash balances of all funds  
14 maintained by the district at the beginning of the year;

15 (b) the total receipts that were realized in each fund  
16 maintained by the district;

17 (c) the total expenditures that were made from each  
18 fund maintained by the district; and

19 (d) the total of the cash balances of all funds  
20 maintained by the district at the end of the school fiscal  
21 year; and

22 (27) hold meetings for the members of the trustees from  
23 time to time at which matters for the good of the districts  
24 shall be discussed."

25 Section 3. Section 20-3-362, MCA, is amended to read:

1 "20-3-362. Powers of joint board of trustees. (1) When  
2 a joint board of trustees is formed as provided by 20-3-361,  
3 it shall have the power to:

4 (a) jointly employ a district superintendent under the  
5 provisions of 20-4-401;

6 (b) jointly employ teachers and specialists under the  
7 provisions of 20-4-201;

8 (c) open a junior high school under the provisions of  
9 20-6-505;

10 (d) prescribe and administer joint administrative  
11 policy; and

12 (e) prorate all items of joint expense between the  
13 elementary and high school districts, provided that a  
14 controversy over any decision by the joint board to prorate  
15 joint costs may, within 30 days, be appealed by the trustees  
16 of either district to the superintendent of public  
17 instruction for a final decision as to what constitutes a  
18 fair and just proration of the cost.

19 (2) The joint board of trustees shall not have the  
20 power to transact business that is not specifically related  
21 to the joint administration of the two districts."

22 Section 4. Section 20-4-101, MCA, is amended to read:

23 "20-4-101. System of teacher and specialist  
24 certification -- student teacher exception. (1) In order to  
25 establish a uniform system of quality education and to

1 ensure the maintenance of professional standards, a system  
2 of teacher and specialist certification shall be established  
3 and maintained under the provisions of this title and no  
4 person shall be permitted to teach in the public schools of  
5 the state until he has obtained a teacher certificate or  
6 specialist certificate or the district has obtained an  
7 emergency authorization of employment from the state.

8 (2) The above certification requirement shall not  
9 apply to a student teacher who is hereby defined as a  
10 student enrolled in an institution of higher learning  
11 approved by the board of regents of higher education for  
12 teacher training and who is jointly assigned by such  
13 institution of higher learning and the governing board of a  
14 district or a public institution to perform practice  
15 teaching in a nonsalaried status under the direction of a  
16 regularly employed and certificated teacher.

17 (3) A student teacher, while serving such nonsalaried  
18 internship under the supervision of a certificated teacher,  
19 shall be accorded the same protection of the laws as that  
20 accorded a certificated teacher and shall, while acting as  
21 such student teacher, comply with all rules of the governing  
22 board of the district or public institution and the  
23 applicable provisions of 20-4-301 relating to the duties of  
24 teachers."

25 Section 5. Section 20-4-102, MCA, is amended to read:

1 "20-4-102. Board of public education policies. To  
2 effect an orderly and uniform system of teacher and  
3 specialist certification, the board of public education  
4 shall, upon the recommendation of the superintendent of  
5 public instruction and in accordance with the provisions of  
6 this title, prescribe and adopt policies for the issuance of  
7 teacher or specialist certificates. Such policies shall  
8 provide for:

9 (1) reasonable training and experience requirements  
10 for teacher, specialist, supervisor, and administrative  
11 certificates and endorsements thereon as provided by the  
12 certification classification in 20-4-106;

13 (2) the renewal of teacher or specialist certificates  
14 based on the same conditions prescribed for the initial  
15 issuance of certificates;

16 (3) the conduct of hearings on teacher or specialist  
17 certification revocation, suspension, or denial;

18 (4) the issuance of emergency authorization to a  
19 district to employ a person who is not the holder of a valid  
20 teacher certificate as an instructor of pupils; and

21 (5) any other policy, not inconsistent with the law,  
22 which is necessary for the proper operation of a system of  
23 teacher and specialist certification."

24 Section 6. Section 20-4-103, MCA, is amended to read:

25 "20-4-103. Issuance of teacher or specialist

1 certificates. The superintendent of public instruction shall  
 2 issue all teacher ~~and specialist~~ certificates in the state  
 3 of Montana. In issuing teacher ~~or specialist~~ certificates,  
 4 the superintendent of public instruction shall comply with  
 5 the provisions of this title and the teacher ~~and specialist~~  
 6 certification policies adopted by the board of public  
 7 education. The superintendent of public instruction shall  
 8 not issue a teacher ~~or specialist~~ certificate to any person  
 9 who does not satisfy the qualifications or other  
 10 requirements of this title and of the board of public  
 11 education policies for teacher ~~or specialist~~ certification."

12 Section 7. Section 20-4-104, MCA, is amended to read:

13 "20-4-104. Qualifications. ~~(1)~~ Any person may be  
 14 certified as a teacher when he satisfies the following  
 15 qualifications:

16 ~~(1)(a)~~ He is 18 years of age or older but is not more  
 17 than 70 years of age.

18 ~~(2)(b)~~ He has a certificate of a licensed physician  
 19 attesting to his satisfactory health.

20 ~~(3)(c)~~ He is a citizen of the United States except as  
 21 provided in 20-4-105.

22 ~~(4)(d)~~ He is of good moral and professional character.

23 ~~(5)(e)~~ He has completed the teacher education program  
 24 of a unit of the Montana university system or an essentially  
 25 equivalent program at an accredited institution in the

1 United States of equal rank and standing as that of any unit  
 2 of the Montana university system, and such training shall be  
 3 evidenced by at least a bachelor's degree and a  
 4 certification of the completion of the teacher education  
 5 program, except as provided for in 20-4-106(1)(d).

6 ~~(6)(f)~~ He has subscribed to the following oath or  
 7 affirmation before an officer authorized by law to  
 8 administer oaths:

9 "I solemnly swear (or affirm) that I will support The  
 10 Constitution of the United States of America, The  
 11 Constitution of the State of Montana, and the laws of the  
 12 United States and the state of Montana and will, by precept  
 13 and example, promote respect for the flag and the  
 14 institutions of the United States and the state of Montana,  
 15 reverence for law and order, and undivided allegiance to the  
 16 government of the United States of America."

17 ~~(2) Any person may be certified as a specialist when~~  
 18 ~~he satisfies the requirements of subsections (1)(a) through~~  
 19 ~~(1)(e) and the requirement for a specialist certificate~~  
 20 ~~provided in [subsection (2) of section 9]."~~

21 Section 8. Section 20-4-105, MCA, is amended to read:

22 "20-4-105. Noncitizen teacher ~~or specialist~~  
 23 certification. (1) The superintendent of public instruction  
 24 may issue a class 5 provisional certificate to a person who  
 25 is not a citizen of the United States when:

1 (a) the trustees of a district request certification  
2 of such person; and

3 (b) he otherwise qualifies for at least a class 5  
4 provisional certificate.

5 (2) The superintendent of public instruction also may  
6 issue an annual teacher or specialist certificate to a  
7 person who is not a citizen of the United States and who is  
8 an exchange teacher or specialist from a foreign country  
9 intending to return to that country."

10 Section 9. Section 20-4-106, MCA, is amended to read:

11 "20-4-106. Classifications of teacher and specialist  
12 certificates. (1) The superintendent of public instruction  
13 shall issue teacher certificates and the board of public  
14 education shall adopt teacher certification policies on the  
15 basis of the following classifications of teacher  
16 certificates:

17 (a) The class 1 professional certificate may be issued  
18 to an otherwise qualified applicant who has completed a  
19 teacher education program which includes a bachelor's degree  
20 and a minimum of 1 year of study beyond such degree in a  
21 unit of the Montana university system or an equivalent  
22 institution. The professional certificate may be endorsed  
23 for elementary instruction, secondary instruction, or both  
24 and for specified subject fields on the basis of the  
25 applicant's academic and professional training and according

1 to the board of public education policy for teacher  
2 certification endorsement.

3 (b) The class 2 standard certificate may be issued to  
4 an otherwise qualified applicant who has completed a 4-year  
5 teacher education program and who has been awarded a  
6 bachelor's degree by a unit of the Montana university system  
7 or an equivalent institution. The standard certificate may  
8 be endorsed for elementary instruction, secondary  
9 instruction, or both and for specified subject fields on the  
10 basis of the applicant's academic and professional training  
11 and according to the board of public education policy for  
12 teacher certification endorsement.

13 (c) The class 3 administrative and supervisory  
14 certificate may be issued to an otherwise qualified  
15 applicant who is the holder of a teacher certificate  
16 endorsed for teaching in the school or schools in which he  
17 would be an administrator or he would supervise. The  
18 applicant also shall possess the training and experience  
19 required by the policies of the board of public education  
20 for an endorsement as superintendent, principal, or  
21 supervisor.

22 (d) The class 4 vocational, recreational, or adult  
23 education certificate may be issued to an otherwise  
24 qualified applicant who has the qualifications of training  
25 and experience required by the United States office of

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1 education or the qualifications required by the special  
2 needs of the several vocational, recreational, or adult  
3 education fields and who can qualify under the policy of the  
4 board of public education for the issuance of this  
5 classification of teacher certification.

6 (e) The class 5 provisional certificate may be issued  
7 to an otherwise qualified applicant who can provide  
8 satisfactory evidence of his intent to qualify in the future  
9 for a class 1 or a class 2 certificate and who has completed  
10 a 4-year college program or its equivalent and holds a  
11 bachelor's degree from a unit of the Montana university  
12 system or its equivalent. The provisional certificate may be  
13 endorsed for elementary instruction, secondary instruction,  
14 or both and for special subject fields on the basis of the  
15 applicant's academic and professional training and according  
16 to the board of public education policy for teacher or  
17 specialist certification endorsement.

18 (2) The superintendent of public instruction shall  
19 issue specialist certificates and the board of public  
20 education shall adopt specialist certification policies. The  
21 specialist certificate may be issued to an otherwise  
22 qualified applicant who has the training, experience, and  
23 license required under the standards of the board of public  
24 education for the certification of a profession other than  
25 the teaching profession.

1 ~~(2)~~(3) For purposes of evaluating the qualifications  
2 of applicants for either teacher or specialist certificates,  
3 a year means the instructional period consisting of three  
4 quarters or two semesters or other terms which are  
5 recognized as an academic year by any unit of the Montana  
6 university system or equivalent institution."

7 Section 10. Section 20-4-108, MCA, is amended to read:  
8 "20-4-108. Term of teacher and specialist certificates  
9 — renewal. (1) Any teacher or specialist certificate issued  
10 by the superintendent of public instruction shall bear the  
11 dates of issue and validity and shall be valid for a term of  
12 5 school fiscal years, except that class 5 provisional  
13 certificates shall be valid for the number of years, up to a  
14 maximum of 5 years, provided by the policies of the board of  
15 public education. The period of validity for any certificate  
16 shall begin on July 1 immediately preceding the date of  
17 issue.

18 (2) Teacher and specialist certificates shall be  
19 renewed for similar periods of time on the basis of the  
20 board of public education policies for teacher and  
21 specialist certification renewal."

22 Section 11. Section 20-4-109, MCA, is amended to read:  
23 "20-4-109. Fees for teacher and specialist  
24 certificates. Each person applying for the issuance or  
25 renewal of a teacher or specialist certificate shall pay a

1 fee of \$2 for each school fiscal year that the certificate  
 2 will be valid. In addition to this fee, each person who has  
 3 never held any class of Montana teacher or specialist  
 4 certificate or for whom an emergency authorization of  
 5 employment has never been issued shall pay a filing fee of  
 6 \$2. Such fees shall be paid to the superintendent of public  
 7 instruction, who shall deposit the fees with the state  
 8 treasurer to the credit of the general fund."

9 Section 12. Section 20-4-110, MCA, is amended to read:

10 "20-4-110. Suspension, revocation, and denial --  
 11 appeals. (1) The board of public education shall have the  
 12 power and authority to suspend or revoke the teacher or  
 13 specialist certificate of any person for any of the  
 14 following reasons:

15 (a) any reason that would have required or authorized  
 16 the denial of the teacher or specialist certificate to such  
 17 person if it had been known at the time such certificate was  
 18 issued;

19 (b) by reason of incompetency, immorality,  
 20 intemperance, physical inability, or conviction of a felony  
 21 under state law; or

22 (c) by reason of the failure of the certificate holder  
 23 to comply with the terms of any contract between such holder  
 24 and the trustees of a district without the consent of the  
 25 trustees in writing or without good cause. Such breach of

1 contract shall constitute unprofessional conduct.

2 (2) Whenever a substantial reason for the suspension  
 3 or revocation of the teacher or specialist certificate of  
 4 any person is brought to the attention of the board of  
 5 public education, it shall afford the person an opportunity  
 6 to defend himself and his qualifications against the charge  
 7 before the board. The superintendent of public instruction  
 8 shall give a 30-day written notification to any person when  
 9 the board of public education intends to consider the  
 10 suspension or revocation of his certificate. The board of  
 11 public education shall implement an investigation of the  
 12 reasons for the suspension or revocation charge and then, if  
 13 the investigation warrants further action, conduct a hearing  
 14 in the manner provided by board of public education  
 15 policies.

16 (3) After a full investigation and proper hearing, the  
 17 board of public education may suspend or revoke the person's  
 18 teacher or specialist certificate, except that in cases of a  
 19 first violation under subsection (1)(c) above, the maximum  
 20 penalty shall not be more than a suspension of the person's  
 21 certificate for the current school fiscal year and the  
 22 ensuing school fiscal year.

23 (4) Whenever the superintendent of public instruction  
 24 denies the issuance or the renewal of a teacher or  
 25 specialist certificate to a person, he may appeal the denial

1 to the board of public education. The appeal shall be heard  
 2 in the same manner provided for in this section for  
 3 suspension or revocation and in accordance with the policies  
 4 of the board of public education. The decision of the board  
 5 of public education shall be final."

6 Section 13. Section 20-4-111, MCA, is amended to read:

7 "20-4-111. Emergency authorization of employment. (1)  
 8 Any district may request from the superintendent of public  
 9 instruction an emergency authorization of employment for a  
 10 person who is not the holder of a valid teacher ~~or~~  
 11 ~~specialist~~ certificate as an instructor of pupils when such  
 12 district cannot secure the services of a person holding a  
 13 valid certificate. The person shall have previously held a  
 14 valid teacher ~~or specialist~~ certificate or shall meet the  
 15 standards of preparation prescribed by the policies of the  
 16 board of public education for and during such emergency.

17 Such emergency authorization of employment shall indicate:

18 (a) the district to which such authorization is  
 19 issued;

20 (b) the person whom the district is authorized to  
 21 employ;

22 (c) the endorsement for elementary or secondary  
 23 instruction and the specific subject fields for which  
 24 authorization to employ such person is given; and

25 (d) the school fiscal year for which such emergency

1 authorization of employment is given.

2 (2) Emergency authorization of employment of a person  
 3 shall be valid for the school fiscal year identified on such  
 4 authorization and may be renewed in accordance with the  
 5 board of public education policies. A fee of \$2 and, if no  
 6 teacher ~~or specialist~~ certificate or emergency authorization  
 7 of employment has ever been issued for such person, a filing  
 8 fee of \$2 shall be paid for the issuance of an emergency  
 9 authorization of employment. The superintendent of public  
 10 instruction shall deposit the fees with the state treasurer  
 11 to the credit of the general fund.

12 (3) Emergency authorization of employment of a person  
 13 may be revoked for good cause in accordance with the  
 14 provisions of 20-4-110."

15 Section 14. Section 20-4-201, MCA, is amended to read:

16 "20-4-201. Employment of teachers ~~and specialists~~ by  
 17 contract. (1) The trustees of any district shall have the  
 18 authority to employ any person as a teacher ~~or specialist~~  
 19 but only a person who holds a valid Montana teacher ~~or~~  
 20 ~~specialist~~ certificate or for whom an emergency  
 21 authorization of employment has been issued that qualifies  
 22 such person to perform the duties prescribed by the trustees  
 23 for the position of employment. Each teacher ~~or specialist~~  
 24 shall be employed under written contract, and each contract  
 25 of employment shall be authorized by a proper resolution of



1 the trustees and shall be executed in duplicate by the  
2 chairman of the trustees and the clerk of the district in  
3 the name of the district and by the teacher or specialist.

4 (2) No contract of employment with a teacher or  
5 specialist shall require such teacher or specialist to teach  
6 more than 5 days a week or on any holiday recognized by  
7 20-1-305. No deduction shall be made from a teacher's or  
8 specialist's salary by reason of the fact that a holiday  
9 falls on a school day. Any teacher's or specialist's  
10 contract made in conflict with the 5-days-per-week provision  
11 of this section shall not be enforceable against the teacher  
12 or specialist.

13 (3) Whenever the trustees of a county high school and  
14 the trustees of the elementary district where the county  
15 high school is located form a joint board of trustees under  
16 the provisions of 20-3-361, such joint board of trustees may  
17 execute a contract of employment with a teacher or  
18 specialist who shall serve both districts. When such a  
19 contract is executed, the two districts shall prorate the  
20 compensation provided by such contract on the basis of the  
21 total number of instructional hours expended by such teacher  
22 or specialist within each district.

23 (4) Any contract executed under the provisions of this  
24 section may contain the oath or affirmation prescribed in  
25 20-4-104, and the teacher or specialist shall subscribe to

1 such oath or affirmation before an officer authorized by law  
2 to administer oaths."

3 Section 15. Section 20-4-202, MCA, is amended to read:  
4 "20-4-202. Teacher and specialist certification  
5 registration. (1) Any person employed as a teacher,  
6 specialist, principal, or district superintendent shall  
7 register his certificate or the district shall register its  
8 emergency authorization of employment for a teacher with the  
9 county superintendent of the county wherein he is employed  
10 in order to validate his employment status and permit  
11 payment under his employment contract. If a teacher or  
12 specialist does not register his certificate with the county  
13 superintendent within 60 calendar days after the teacher he  
14 begins to perform his services, he shall not be eligible to  
15 receive any further compensation under his contract of  
16 employment until he has registered his certificate. After  
17 the schools of a district have been open for 60 calendar  
18 days in the current school fiscal year, the county  
19 superintendent shall notify each district of the county of  
20 each teacher or specialist who has registered his current  
21 valid certificate, and the district shall not pay any  
22 teacher who has not registered his certificate until the  
23 county superintendent does notify the district of such  
24 registration.

25 (2) A teacher or specialist employed by a joint

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1 district shall register his certificate with the county  
2 superintendent of the county in which he is teaching  
3 ~~working.~~"

4 Section 16. Section 20-4-203, MCA, is amended to read:

5 "20-4-203. Teacher tenure. Whenever a teacher has been  
6 elected by the offer and acceptance of a contract for the  
7 fourth consecutive year of employment by a district in a  
8 position requiring teacher certification except as a  
9 district superintendent ~~or specialist~~, the teacher shall be  
10 deemed to be reelected from year to year thereafter as a  
11 tenure teacher at the same salary and in the same or a  
12 comparable position of employment as that provided by the  
13 last executed contract with such teacher, unless:

14 (1) the trustees resolve by majority vote of their  
15 membership to terminate the services of the teacher in  
16 accordance with the provisions of 20-4-204; or

17 (2) the teacher will attain the age of 65 years before  
18 the ensuing September 1 and the trustees have notified the  
19 teacher in writing by April 1 that his services will not be  
20 needed in the ensuing school fiscal year, except that the  
21 trustees may continue to employ such a teacher from year to  
22 year until the school fiscal year following his 70th  
23 birthday."

-End-

1 STATEMENT OF INTENT RE: HB 864

1 Education requirement for specialist certification.

2  
3  
4 A statement of intent is required for House Bill No.  
5 864 in that it delegates rulemaking and licensing authority  
6 to the Board of Public Education in Section 9.

7 The intent of this bill is to establish a certification  
8 category for non-teaching school personnel. It is not  
9 intended to restrict or authorize the practice of any  
10 profession outside of the public school system.

11 Specialist certificates may be developed in areas such  
12 as school psychology or school nursing.

13 Experience requirements for certification should range  
14 from 0 to 3 years depending upon the profession involved and  
15 the needs of the public schools. Education and training  
16 equivalencies may be considered for purposes of compliance  
17 with experience requirements.

18 Education and training standards should require no less  
19 than a bachelor's degree with some additional specialized  
20 training. Specialized training may include an appropriate  
21 internship or college-based training program.

22 The standards should require some degree of training or  
23 experience that is directly related to the practice of the  
24 profession in a school setting.

25 A state licensing board license may be made a board of

## 1 HOUSE BILL NO. 864

2 INTRODUCED BY DAILY, MANUEL

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE  
5 SUPERINTENDENT OF PUBLIC INSTRUCTION AND THE BOARD OF PUBLIC  
6 EDUCATION TO ADOPT A SPECIALIST CERTIFICATE; AMENDING  
7 SECTIONS 20-2-121, 20-3-205, 20-3-362, 20-4-101 THROUGH  
8 20-4-106, 20-4-108 THROUGH 20-4-111, AND 20-4-201 THROUGH  
9 20-4-203, MCA."

10  
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 20-2-121, MCA, is amended to read:

13 "20-2-121. Board of public education -- powers and  
14 duties. The board of public education shall:15 (1) effect an orderly and uniform system for teacher  
16 certification, ~~specialist certification~~, and for the  
17 issuance of an emergency authorization of employment by  
18 adopting the policies prescribed by 20-4-102 and 20-4-111;19 (2) consider the suspension or revocation of teacher  
20 ~~or specialist~~ certificates and appeals from the denial of  
21 teacher ~~or specialist~~ certification in accordance with the  
22 provisions of 20-4-110;23 (3) administer and order the distribution of state  
24 equalization aid in accordance with the provisions of  
25 20-9-344;1 (4) adopt and enforce policies to provide uniform  
2 standards and regulations for the design, construction, and  
3 operation of school buses in accordance with the provisions  
4 of 20-10-111;5 (5) approve or disapprove a reduction of the number of  
6 hours in a district's school day in accordance with the  
7 provisions of 20-1-302;8 (6) adopt policies prescribing the conditions when  
9 school may be conducted on Saturday and the types of  
10 pupil-instruction-related days and approval procedure for  
11 such days in accordance with the provisions of 20-1-303 and  
12 20-1-304;13 (7) adopt standards of accreditation and establish the  
14 accreditation status of every school in accordance with the  
15 provisions of 20-7-101 and 20-7-102;16 (8) approve or disapprove educational media selected  
17 by the superintendent of public instruction for the  
18 educational media library in accordance with the provisions  
19 of 20-7-201;20 (9) as the governing board of the state of Montana for  
21 vocational education, adopt the policies prescribed by and  
22 in accordance with the provisions of 20-7-301;23 (10) consider applications for postsecondary  
24 vocational-technical center designation in accordance with  
25 the provisions of 20-7-311;

1 (11) for the purposes of postsecondary  
 2 vocational-technical centers, approve or disapprove programs  
 3 and budgets, direct the distribution of moneys in support of  
 4 such budgets, determine tuition rates and fees, and enter  
 5 into lease agreements or real property purchases in  
 6 accordance with the postsecondary vocational-technical  
 7 center provisions of the vocational education part of this  
 8 title;

9 (12) adopt policies for the conduct of special  
 10 education in accordance with the provisions of 20-7-402;

11 (13) perform any other duty prescribed from time to  
 12 time by this title or any other act of the legislature."

13 Section 2. Section 20-3-205, MCA, is amended to read:

14 "20-3-205. Powers and duties. The county  
 15 superintendent has general supervision of the schools of the  
 16 county within the limitations prescribed by this title and  
 17 shall perform the following duties or acts:

18 (1) determine, establish, and reestablish trustee  
 19 nominating districts and fill additional trustee position  
 20 vacancies in accordance with the provisions of 20-3-352,  
 21 20-3-353, and 20-3-354;

22 (2) administer and file the oaths of members of the  
 23 boards of trustees of the districts in his county in  
 24 accordance with the provisions of 20-3-307;

25 (3) fill by appointment any trustee position vacancies

1 when required under the provisions of 20-3-309;

2 (4) register the teacher ~~or specialist~~ certificate  
 3 ~~certificates~~ or emergency authorization of employment of any  
 4 person employed in the county as a teacher, ~~specialist~~  
 5 principal, or district superintendent in accordance with the  
 6 provisions of 20-4-202;

7 (5) act on each tuition application submitted to him  
 8 in accordance with the provisions of 20-5-301, 20-5-302,  
 9 20-5-304, and 20-5-311 and transmit the tuition information  
 10 required by 20-5-312;

11 (6) file a copy of the audit report for a district in  
 12 accordance with the provisions of 20-9-203;

13 (7) classify districts in accordance with the  
 14 provisions of 20-6-201 and 20-6-301;

15 (8) keep a transcript and reconcile the district  
 16 boundaries of the county in accordance with the provisions  
 17 of 20-6-103;

18 (9) fulfill all responsibilities assigned to him under  
 19 the provisions of this title regulating the organization,  
 20 alteration, or abandonment of districts;

21 (10) act on any unification proposition and, if  
 22 approved, establish additional trustee nominating districts  
 23 in accordance with 20-6-312 and 20-6-313;

24 (11) estimate the average number belonging (ANB) of an  
 25 opening school in accordance with the provisions of

1 20-6-502, 20-6-503, 20-6-504, or 20-6-506;  
 2 (12) process and, when required, act on school  
 3 isolation applications in accordance with the provisions of  
 4 20-9-302;  
 5 (13) complete the budgets, compute the budgeted  
 6 revenues and tax levies, give notices of the budget  
 7 meetings, file final and emergency budgets, and fulfill such  
 8 other responsibilities assigned to him under the provisions  
 9 of this title regulating school budgeting systems;  
 10 (14) submit an annual financial report to the  
 11 superintendent of public instruction in accordance with the  
 12 provisions of 20-9-211;  
 13 (15) quarterly, unless otherwise provided by law, order  
 14 the county treasurer to apportion state moneys, county  
 15 school moneys, and any other school moneys subject to  
 16 apportionment in accordance with the provisions of 20-9-212,  
 17 20-9-334, 20-9-347, 20-9-351, 20-10-145, or 20-10-146;  
 18 (16) act on any request to transfer average number  
 19 belonging (ANB) in accordance with the provisions of  
 20 20-9-313(3);  
 21 (17) calculate the estimated budgeted general fund  
 22 sources of revenue in accordance with the provisions of  
 23 20-9-348 and the other general fund revenue provisions of  
 24 the general fund part of this title;  
 25 (18) compute the revenues and the district and county

1 levy requirements for each fund included on each district's  
 2 final budget and report such computations to the board of  
 3 county commissioners in accordance with the provisions of  
 4 the general fund, transportation, bonds, and other school  
 5 funds parts of this title;  
 6 (19) file and forward bus driver certifications,  
 7 transportation contracts, and state transportation  
 8 reimbursement claims in accordance with the provisions of  
 9 20-10-103, 20-10-143, or 20-10-145;  
 10 (20) for districts which do not employ a district  
 11 superintendent or principal, recommend library book and  
 12 textbook selections in accordance with the provisions of  
 13 20-7-204 or 20-7-602;  
 14 (21) notify the superintendent of public instruction of  
 15 a textbook dealer's activities when required under the  
 16 provisions of 20-7-605 and otherwise comply with the  
 17 textbook dealer provisions of this title;  
 18 (22) act on district requests to allocate federal  
 19 moneys for indigent children for school food services in  
 20 accordance with the provisions of 20-10-205;  
 21 (23) perform any other duty prescribed from time to  
 22 time by this title, any other act of the legislature, the  
 23 policies of the board of public education, or the rules of  
 24 the superintendent of public instruction;  
 25 (24) administer the oath of office to trustees without

1 the receipt of pay for administering the oath;

2 (25) keep a record of his official acts, preserve all

3 reports submitted to him under the provisions of this title,

4 preserve all books and instructional equipment or supplies,

5 keep all documents applicable to the administration of the

6 office, and surrender such records, books, supplies, and

7 equipment to his successor;

8 (26) within 90 days after the close of the school

9 fiscal year, publish an annual report in the county

10 newspaper stating the following financial information for

11 the school fiscal year just ended for each district of the

12 county:

13 (a) the total of the cash balances of all funds

14 maintained by the district at the beginning of the year;

15 (b) the total receipts that were realized in each fund

16 maintained by the district;

17 (c) the total expenditures that were made from each

18 fund maintained by the district; and

19 (d) the total of the cash balances of all funds

20 maintained by the district at the end of the school fiscal

21 year; and

22 (27) hold meetings for the members of the trustees from

23 time to time at which matters for the good of the districts

24 shall be discussed."

25 Section 3. Section 20-3-362, MCA, is amended to read:

1 "20-3-362. Powers of joint board of trustees. (1) When

2 a joint board of trustees is formed as provided by 20-3-361,

3 it shall have the power to:

4 (a) jointly employ a district superintendent under the

5 provisions of 20-4-401;

6 (b) jointly employ teachers and specialists under the

7 provisions of 20-4-201;

8 (c) open a junior high school under the provisions of

9 20-6-505;

10 (d) prescribe and administer joint administrative

11 policy; and

12 (e) prorate all items of joint expense between the

13 elementary and high school districts, provided that a

14 controversy over any decision by the joint board to prorate

15 joint costs may, within 30 days, be appealed by the trustees

16 of either district to the superintendent of public

17 instruction for a final decision as to what constitutes a

18 fair and just proration of the cost.

19 (2) The joint board of trustees shall not have the

20 power to transact business that is not specifically related

21 to the joint administration of the two districts."

22 Section 4. Section 20-4-101, MCA, is amended to read:

23 "20-4-101. System of teacher and specialist

24 certification -- student teacher exception. (1) In order to

25 establish a uniform system of quality education and to

1 ensure the maintenance of professional standards, a system  
 2 of teacher ~~and specialist~~ certification shall be established  
 3 and maintained under the provisions of this title and no  
 4 person shall be permitted to teach in the public schools of  
 5 the state until he has obtained a teacher certificate ~~or~~  
 6 ~~specialist certificate~~ or the district has obtained an  
 7 emergency authorization of employment from the state.

8 (2) The above certification requirement shall not  
 9 apply to a student teacher who is hereby defined as a  
 10 student enrolled in an institution of higher learning  
 11 approved by the board of regents of higher education for  
 12 teacher training and who is jointly assigned by such  
 13 institution of higher learning and the governing board of a  
 14 district or a public institution to perform practice  
 15 teaching in a nonsalaried status under the direction of a  
 16 regularly employed and certificated teacher.

17 (3) A student teacher, while serving such nonsalaried  
 18 internship under the supervision of a certificated teacher,  
 19 shall be accorded the same protection of the laws as that  
 20 accorded a certificated teacher and shall, while acting as  
 21 such student teacher, comply with all rules of the governing  
 22 board of the district or public institution and the  
 23 applicable provisions of 20-4-301 relating to the duties of  
 24 teachers."

25 Section 5. Section 20-4-102, MCA, is amended to read:

1 "20-4-102. Board of public education policies. To  
 2 effect an orderly and uniform system of teacher ~~and~~  
 3 ~~specialist~~ certification, the board of public education  
 4 shall, upon the recommendation of the superintendent of  
 5 public instruction and in accordance with the provisions of  
 6 this title, prescribe and adopt policies for the issuance of  
 7 teacher ~~or specialist~~ certificates. Such policies shall  
 8 provide for:

9 (1) reasonable training and experience requirements  
 10 for teacher, ~~specialist~~, supervisor, and administrative  
 11 certificates and endorsements thereon as provided by the  
 12 certification classification in 20-4-106;

13 (2) the renewal of teacher ~~or specialist~~ certificates  
 14 based on the same conditions prescribed for the initial  
 15 issuance of certificates;

16 (3) the conduct of hearings on teacher ~~or specialist~~  
 17 certification revocation, suspension, or denial;

18 (4) the issuance of emergency authorization to a  
 19 district to employ a person who is not the holder of a valid  
 20 teacher certificate as an instructor of pupils; and

21 (5) any other policy, not inconsistent with the law,  
 22 which is necessary for the proper operation of a system of  
 23 teacher ~~and specialist~~ certification."

24 Section 6. Section 20-4-103, MCA, is amended to read:

25 "20-4-103. Issuance of teacher ~~or specialist~~



1 certificates. The superintendent of public instruction shall  
 2 issue all teacher ~~and specialist~~ certificates in the state  
 3 of Montana. In issuing teacher ~~or specialist~~ certificates,  
 4 the superintendent of public instruction shall comply with  
 5 the provisions of this title and the teacher ~~and specialist~~  
 6 certification policies adopted by the board of public  
 7 education. The superintendent of public instruction shall  
 8 not issue a teacher ~~or specialist~~ certificate to any person  
 9 who does not satisfy the qualifications or other  
 10 requirements of this title and of the board of public  
 11 education policies for teacher ~~or specialist~~ certification."

12 Section 7. Section 20-4-104, MCA, is amended to read:

13 "20-4-104. Qualifications. ~~(1)~~ Any person may be  
 14 certified as a teacher when he satisfies the following  
 15 qualifications:

16 ~~(1)(a)~~ He is 18 years of age or older but is not more  
 17 than 70 years of age.

18 ~~(2)(b)~~ He has a certificate of a licensed physician  
 19 attesting to his satisfactory health.

20 ~~(3)(c)~~ He is a citizen of the United States except as  
 21 provided in 20-4-105.

22 ~~(4)(d)~~ He is of good moral and professional character.

23 ~~(5)(e)~~ He has completed the teacher education program  
 24 of a unit of the Montana university system or an essentially  
 25 equivalent program at an accredited institution in the

1 United States of equal rank and standing as that of any unit  
 2 of the Montana university system, and such training shall be  
 3 evidenced by at least a bachelor's degree and a  
 4 certification of the completion of the teacher education  
 5 program, except as provided for in 20-4-106(1)(d).

6 ~~(6)(f)~~ He has subscribed to the following oath or  
 7 affirmation before an officer authorized by law to  
 8 administer oaths:

9 "I solemnly swear (or affirm) that I will support The  
 10 Constitution of the United States of America, The  
 11 Constitution of the State of Montana, and the laws of the  
 12 United States and the state of Montana and will, by precept  
 13 and example, promote respect for the flag and the  
 14 institutions of the United States and the state of Montana,  
 15 reverence for law and order, and undivided allegiance to the  
 16 government of the United States of America."

17 ~~(2) Any person may be certified as a specialist when~~  
 18 ~~he satisfies the requirements of subsections (1)(a) through~~  
 19 ~~(1)(e)(D) and the requirement for a specialist certificate~~  
 20 ~~provided in [subsection (2) of section 9]."~~

21 Section 8. Section 20-4-105, MCA, is amended to read:

22 "20-4-105. Noncitizen teacher ~~or specialist~~  
 23 certification. (1) The superintendent of public instruction  
 24 may issue a class 5 provisional certificate to a person who  
 25 is not a citizen of the United States when:

1 (a) the trustees of a district request certification  
2 of such person; and

3 (b) he otherwise qualifies for at least a class 5  
4 provisional certificate.

5 (2) The superintendent of public instruction also may  
6 issue an annual teacher ~~or specialist~~ certificate to a  
7 person who is not a citizen of the United States and who is  
8 an exchange teacher ~~or specialist~~ from a foreign country  
9 intending to return to that country."

10 Section 9. Section 20-4-106, MCA, is amended to read:

11 "20-4-106. Classifications of teacher ~~and specialist~~  
12 certificates. (1) The superintendent of public instruction  
13 shall issue teacher certificates and the board of public  
14 education shall adopt teacher certification policies on the  
15 basis of the following classifications of teacher  
16 certificates:

17 (a) The class 1 professional certificate may be issued  
18 to an otherwise qualified applicant who has completed a  
19 teacher education program which includes a bachelor's degree  
20 and a minimum of 1 year of study beyond such degree in a  
21 unit of the Montana university system or an equivalent  
22 institution. The professional certificate may be endorsed  
23 for elementary instruction, secondary instruction, or both  
24 and for specified subject fields on the basis of the  
25 applicant's academic and professional training and according

1 to the board of public education policy for teacher  
2 certification endorsement.

3 (b) The class 2 standard certificate may be issued to  
4 an otherwise qualified applicant who has completed a 4-year  
5 teacher education program and who has been awarded a  
6 bachelor's degree by a unit of the Montana university system  
7 or an equivalent institution. The standard certificate may  
8 be endorsed for elementary instruction, secondary  
9 instruction, or both and for specified subject fields on the  
10 basis of the applicant's academic and professional training  
11 and according to the board of public education policy for  
12 teacher certification endorsement.

13 (c) The class 3 administrative and supervisory  
14 certificate may be issued to an otherwise qualified  
15 applicant who is the holder of a teacher certificate  
16 endorsed for teaching in the school or schools in which he  
17 would be an administrator or he would supervise. The  
18 applicant also shall possess the training and experience  
19 required by the policies of the board of public education  
20 for an endorsement as superintendent, principal, or  
21 supervisor.

22 (d) The class 4 vocational, recreational, or adult  
23 education certificate may be issued to an otherwise  
24 qualified applicant who has the qualifications of training  
25 and experience required by the United States office of

1 education or the qualifications required by the special  
2 needs of the several vocational, recreational, or adult  
3 education fields and who can qualify under the policy of the  
4 board of public education for the issuance of this  
5 classification of teacher certification.

6 (e) The class 5 provisional certificate may be issued  
7 to an otherwise qualified applicant who can provide  
8 satisfactory evidence of his intent to qualify in the future  
9 for a class 1 or a class 2 certificate and who has completed  
10 a 4-year college program or its equivalent and holds a  
11 bachelor's degree from a unit of the Montana university  
12 system or its equivalent. The provisional certificate may be  
13 endorsed for elementary instruction, secondary instruction,  
14 or both and for special subject fields on the basis of the  
15 applicant's academic and professional training and according  
16 to the board of public education policy for teacher or  
17 specialist certification endorsement.

18 ~~(2) The superintendent of public instruction shall~~  
19 ~~issue specialist certificates and the board of public~~  
20 ~~education shall adopt specialist certification policies. The~~  
21 ~~specialist certificate may be issued to an otherwise~~  
22 ~~qualified applicant who has the training, experience, and~~  
23 ~~license required under the standards of the board of public~~  
24 ~~education for the certification of a profession other than~~  
25 ~~the teaching profession.~~

1 ~~(2)(3)~~ For purposes of evaluating the qualifications  
2 of applicants for either teacher or specialist certificates,  
3 a year means the instructional period consisting of three  
4 quarters or two semesters or other terms which are  
5 recognized as an academic year by any unit of the Montana  
6 university system or equivalent institution."

7 Section 10. Section 20-4-108, MCA, is amended to read:

8 "20-4-108. Term of teacher and specialist certificates  
9 -- renewal. (1) Any teacher or specialist certificate issued  
10 by the superintendent of public instruction shall bear the  
11 dates of issue and validity and shall be valid for a term of  
12 5 school fiscal years, except that class 5 provisional  
13 certificates shall be valid for the number of years, up to a  
14 maximum of 5 years, provided by the policies of the board of  
15 public education. The period of validity for any certificate  
16 shall begin on July 1 immediately preceding the date of  
17 issue.

18 (2) Teacher and specialist certificates shall be  
19 renewed for similar periods of time on the basis of the  
20 board of public education policies for teacher and  
21 specialist certification renewal."

22 Section 11. Section 20-4-109, MCA, is amended to read:

23 "20-4-109. Fees for teacher and specialist  
24 certificates. Each person applying for the issuance or  
25 renewal of a teacher or specialist certificate shall pay a

1 fee of \$2 for each school fiscal year that the certificate  
 2 will be valid. In addition to this fee, each person who has  
 3 never held any class of Montana teacher ~~or specialist~~  
 4 certificate or for whom an emergency authorization of  
 5 employment has never been issued shall pay a filing fee of  
 6 \$2. Such fees shall be paid to the superintendent of public  
 7 instruction, who shall deposit the fees with the state  
 8 treasurer to the credit of the general fund."

9 Section 12. Section 20-4-110, MCA, is amended to read:

10 "20-4-110. Suspension, revocation, and denial --  
 11 appeals. (1) The board of public education shall have the  
 12 power and authority to suspend or revoke the teacher ~~or~~  
 13 ~~specialist~~ certificate of any person for any of the  
 14 following reasons:

15 (a) any reason that would have required or authorized  
 16 the denial of the teacher ~~or specialist~~ certificate to such  
 17 person if it had been known at the time such certificate was  
 18 issued;

19 (b) by reason of incompetency, immorality,  
 20 intemperance, physical inability, or conviction of a felony  
 21 under state law; or

22 (c) by reason of the failure of the certificate holder  
 23 to comply with the terms of any contract between such holder  
 24 and the trustees of a district without the consent of the  
 25 trustees in writing or without good cause. Such breach of

1 contract shall constitute unprofessional conduct.

2 (2) Whenever a substantial reason for the suspension  
 3 or revocation of the teacher ~~or specialist~~ certificate of  
 4 any person is brought to the attention of the board of  
 5 public education, it shall afford the person an opportunity  
 6 to defend himself and his qualifications against the charge  
 7 before the board. The superintendent of public instruction  
 8 shall give a 30-day written notification to any person when  
 9 the board of public education intends to consider the  
 10 suspension or revocation of his certificate. The board of  
 11 public education shall implement an investigation of the  
 12 reasons for the suspension or revocation charge and then, if  
 13 the investigation warrants further action, conduct a hearing  
 14 in the manner provided by board of public education  
 15 policies.

16 (3) After a full investigation and proper hearing, the  
 17 board of public education may suspend or revoke the person's  
 18 teacher ~~or specialist~~ certificate, except that in cases of a  
 19 first violation under subsection (1)(c) above, the maximum  
 20 penalty shall not be more than a suspension of the person's  
 21 certificate for the current school fiscal year and the  
 22 ensuing school fiscal year.

23 (4) Whenever the superintendent of public instruction  
 24 denies the issuance or the renewal of a teacher ~~or~~  
 25 ~~specialist~~ certificate to a person, he may appeal the denial

1 to the board of public education. The appeal shall be heard  
 2 in the same manner provided for in this section for  
 3 suspension or revocation and in accordance with the policies  
 4 of the board of public education. The decision of the board  
 5 of public education shall be final."

6 Section 13. Section 20-4-111, MCA, is amended to read:

7 "20-4-111. Emergency authorization of employment. (1)  
 8 Any district may request from the superintendent of public  
 9 instruction an emergency authorization of employment for a  
 10 person who is not the holder of a valid teacher or  
 11 specialist certificate as an instructor of pupils when such  
 12 district cannot secure the services of a person holding a  
 13 valid certificate. The person shall have previously held a  
 14 valid teacher or specialist certificate or shall meet the  
 15 standards of preparation prescribed by the policies of the  
 16 board of public education for and during such emergency.

17 Such emergency authorization of employment shall indicate:

18 (a) the district to which such authorization is  
 19 issued;

20 (b) the person whom the district is authorized to  
 21 employ;

22 (c) the endorsement for elementary or secondary  
 23 instruction and the specific subject fields for which  
 24 authorization to employ such person is given; and

25 (d) the school fiscal year for which such emergency

1 authorization of employment is given.

2 (2) Emergency authorization of employment of a person  
 3 shall be valid for the school fiscal year identified on such  
 4 authorization and may be renewed in accordance with the  
 5 board of public education policies. A fee of \$2 and, if no  
 6 teacher or specialist certificate or emergency authorization  
 7 of employment has ever been issued for such person, a filing  
 8 fee of \$2 shall be paid for the issuance of an emergency  
 9 authorization of employment. The superintendent of public  
 10 instruction shall deposit the fees with the state treasurer  
 11 to the credit of the general fund.

12 (3) Emergency authorization of employment of a person  
 13 may be revoked for good cause in accordance with the  
 14 provisions of 20-4-110."

15 Section 14. Section 20-4-201, MCA, is amended to read:

16 "20-4-201. Employment of teachers and specialists by  
 17 contract. (1) The trustees of any district shall have the  
 18 authority to employ any person as a teacher or specialist,  
 19 but only a person who holds a valid Montana teacher or  
 20 specialist certificate or for whom an emergency  
 21 authorization of employment has been issued that qualifies  
 22 such person to perform the duties prescribed by the trustees  
 23 for the position of employment. Each teacher or specialist  
 24 shall be employed under written contract, and each contract  
 25 of employment shall be authorized by a proper resolution of

1 the trustees and shall be executed in duplicate by the  
2 chairman of the trustees and the clerk of the district in  
3 the name of the district and by the teacher or specialist.

4 (2) No contract of employment with a teacher or  
5 specialist shall require such teacher or specialist to teach  
6 more than 5 days a week or on any holiday recognized by  
7 20-1-305. No deduction shall be made from a teacher's or  
8 specialist's salary by reason of the fact that a holiday  
9 falls on a school day. Any teacher's or specialist's  
10 contract made in conflict with the 5-days-per-week provision  
11 of this section shall not be enforceable against the teacher  
12 or specialist.

13 (3) Whenever the trustees of a county high school and  
14 the trustees of the elementary district where the county  
15 high school is located form a joint board of trustees under  
16 the provisions of 20-3-361, such joint board of trustees may  
17 execute a contract of employment with a teacher or  
18 specialist who shall serve both districts. When such a  
19 contract is executed, the two districts shall prorate the  
20 compensation provided by such contract on the basis of the  
21 total number of instructional hours expended by such teacher  
22 or specialist within each district.

23 (4) Any contract executed under the provisions of this  
24 section may contain the oath or affirmation prescribed in  
25 20-4-104, and the teacher or specialist shall subscribe to

1 such oath or affirmation before an officer authorized by law  
2 to administer oaths."

3 Section 15. Section 20-4-202, MCA, is amended to read:

4 "20-4-202. Teacher and specialist certification  
5 registration. (1) Any person employed as a teacher,  
6 specialist, principal, or district superintendent shall  
7 register his certificate or the district shall register its  
8 emergency authorization of employment for a teacher with the  
9 county superintendent of the county wherein he is employed  
10 in order to validate his employment status and permit  
11 payment under his employment contract. If a teacher or  
12 specialist does not register his certificate with the county  
13 superintendent within 60 calendar days after the teacher he  
14 begins to perform his services, he shall not be eligible to  
15 receive any further compensation under his contract of  
16 employment until he has registered his certificate. After  
17 the schools of a district have been open for 60 calendar  
18 days in the current school fiscal year, the county  
19 superintendent shall notify each district of the county of  
20 each teacher or specialist who has registered his current  
21 valid certificate, and the district shall not pay any  
22 teacher who has not registered his certificate until the  
23 county superintendent does notify the district of such  
24 registration.

25 (2) A teacher or specialist employed by a joint

1 district shall register his certificate with the county  
2 superintendent of the county in which he is teaching  
3 ~~working.~~"

4 Section 16. Section 20-4-203, MCA, is amended to read:

5 "20-4-203. Teacher tenure. Whenever a teacher has been  
6 elected by the offer and acceptance of a contract for the  
7 fourth consecutive year of employment by a district in a  
8 position requiring teacher certification except as a  
9 district superintendent ~~or specialist~~, the teacher shall be  
10 deemed to be reelected from year to year thereafter as a  
11 tenure teacher at the same salary and in the same or a  
12 comparable position of employment as that provided by the  
13 last executed contract with such teacher, unless:

14 (1) the trustees resolve by majority vote of their  
15 membership to terminate the services of the teacher in  
16 accordance with the provisions of 20-4-204; or

17 (2) the teacher will attain the age of 65 years before  
18 the ensuing September 1 and the trustees have notified the  
19 teacher in writing by April 1 that his services will not be  
20 needed in the ensuing school fiscal year, except that the  
21 trustees may continue to employ such a teacher from year to  
22 year until the school fiscal year following his 70th  
23 birthday."

-End-

March 17, 1979

SENATE STANDING COMMITTEE REPORT  
(Education)

That House Bill No. 864, third reading bill, be amended as follows:

1. Page 12, line 19.  
Following: "(1)"  
Strike: "(e)"  
Insert: "(d)"