

House Bill 400

In The House

January 21, 1981

Introduced and referred
to Committee on Education.

April 23, 1981

Died in Committee

1 HOUSE BILL NO. 400

2 INTRODUCED BY Keady

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE THE
5 DISTINCTION BETWEEN TENURE AND NONTENURE TEACHERS; TO
6 PROVIDE THAT ANY TEACHER HIRED UNDER CONTRACT BY A DISTRICT
7 SHALL BE REELECTED FROM YEAR TO YEAR UNLESS THE TRUSTEES
8 VOTE TO TERMINATE THE SERVICES OF THE TEACHER FOR SPECIFIC
9 REASONS; TO ALLOW A TEACHER TO APPEAL A TERMINATION DECISION
10 TO FINAL AND BINDING ARBITRATION; AMENDING SECTIONS 20-4-203
11 THROUGH 20-4-205, 20-4-207, AND 20-7-456, MCA; AND REPEALING
12 SECTION 20-4-206, MCA."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

16 "20-4-203. Teacher ~~tenure~~ reelection. Whenever a
17 teacher has been elected by the offer and acceptance of a
18 contract for ~~the-fourth-consecutive~~ a year of employment by
19 a district in a position requiring teacher certification
20 except as a district superintendent ~~or--specialist~~, the
21 teacher shall be deemed to be reelected from year to year
22 thereafter ~~as-a-tenure-teacher~~ at the same ~~or greater~~ salary
23 and in the same or a comparable position of employment as
24 that provided by the last executed contract with such
25 teacher, unless*

1 ~~{1}~~ the trustees resolve by majority vote of their
2 membership to terminate the services of the teacher at the
3 end of the term of the contract in accordance with the
4 provisions of 20-4-204; ~~or~~

5 ~~{2}--the-teacher-will-attain-the-age-of-65-years-before~~
6 ~~the--ensuing--September-1-and-the-trustees-have-notified-the~~
7 ~~teacher-in-writing-by-April-1-that-his-services-will-not-be~~
8 ~~needed--in--the--ensuing-school-fiscal-year,-except-that-the~~
9 ~~trustees-may-continue-to-employ-such-a-teacher-from-year-to~~
10 ~~year--until--the--school--fiscal--year--following--his--70th~~
11 ~~birthday."~~

12 Section 2. Section 20-4-204, MCA, is amended to read:

13 "20-4-204. Termination of tenure teacher services. {1}
14 The trustees of a district may terminate the services of a
15 teacher under the provisions of 20-4-203 at the end of the
16 contract term for one or more of the following reasons only:

- 17 (a) unfitness;
- 18 (b) incompetence;
- 19 (c) violation of the adopted policies of such
20 trustees; or
- 21 (d) whenever the financial condition of the school
22 district requires a reduction in the number of teachers
23 employed and the reason for the termination is to reduce the
24 number of teachers employed.

25 ~~{1}~~{2} Whenever the trustees of any district resolve

1 to terminate the services of a tenure teacher under the
 2 provisions of ~~20-4-203(1)~~ subsection (1), they shall, before
 3 ~~April--1~~ May 1, notify such ~~the~~ teacher of such ~~the~~
 4 termination in writing by certified or registered letter or
 5 by personal notification for which a signed receipt is
 6 returned. Such notification shall include a printed copy of
 7 this section for the teacher's information.

8 ~~(2)(3)~~ Any tenure teacher who receives a notice of
 9 termination may request, in writing 10 days after the
 10 receipt of such notice, a written statement declaring
 11 clearly and explicitly the specific reason or reasons for
 12 the termination of his services, and the trustees shall
 13 supply such statement within 10 days after the request.

14 ~~(3)(4)~~ Within 10 days after the tenure teacher
 15 receives the statement of reasons for termination, he may
 16 request in writing a hearing before the trustees to
 17 reconsider their termination action. When a hearing is
 18 requested, the trustees shall conduct such a hearing and
 19 reconsider their termination action within 10 days after the
 20 receipt of the request for a hearing. If the trustees affirm
 21 their decision to terminate the teacher's employment, the
 22 tenure teacher may appeal their decision to ~~the county~~
 23 ~~superintendent who may appoint a qualified attorney--at--law~~
 24 ~~as--legal--adviser--who--shall--assist--the--superintendent--in~~
 25 ~~preparing findings of fact and conclusions of law~~ final and

1 binding arbitration on the following grounds only:

2 (a) that the trustees' decision was procured by
 3 corruption or fraud;

4 (b) that the trustees' decision to terminate the
 5 services of the teacher was not supported by the evidence;
 6 OR

7 (c) that the trustees were guilty of misconduct or
 8 committed gross error in refusing, on cause shown, to
 9 postpone the hearing or in refusing to hear pertinent
 10 evidence or otherwise acted improperly in a manner by which
 11 the teacher's rights were prejudiced.

12 ~~(4)--Subsequently,--either--the--teacher--or--the--trustees~~
 13 ~~may appeal to the superintendent of public instruction under~~
 14 ~~the provision for the appeal of controversies in this title~~

15 (5) Any teacher who elects to appeal the trustees'
 16 decision to final and binding arbitration shall submit to
 17 the board of personnel appeals, provided for in 2-15-1705, a
 18 request for a list of five arbitrators. Such a request must
 19 be made within 10 days after the teacher receives
 20 notification of the trustees' affirmation of the decision to
 21 terminate the teacher's employment as provided for in
 22 subsection (4). The request must contain the name and
 23 address of the presiding officer of the board of trustees
 24 and the name and address of the teacher. The board of
 25 personnel appeals shall send the list of arbitrators to both

1 ~~the named presiding officer and the teacher. Within 5 days~~
 2 ~~after receiving the list, the presiding officer and the~~
 3 ~~teacher shall each strike a name from the list, in alternate~~
 4 ~~order, until only one name remains. The name remaining will~~
 5 ~~be that of the arbitrator selected to hear the appeal.~~

6 ~~(6) The parties shall notify the selected arbitrator~~
 7 ~~of the dispute and the need for arbitration. He shall~~
 8 ~~conduct a hearing, receive and consider all evidence~~
 9 ~~pertinent to the issues presented, and render a decision~~
 10 ~~based thereon. Subject to the provisions of Title 27,~~
 11 ~~chapter 5, part 1, the decision of the arbitrator is final~~
 12 ~~and binding.~~

13 ~~(7) The parties shall share the costs and fees of~~
 14 ~~arbitration equally, except that if one party requests a~~
 15 ~~transcript and the other does not, the requesting party~~
 16 ~~shall bear the expense of the transcript exclusively."~~

17 Section 3. Section 20-4-205, MCA, is amended to read:

18 "20-4-205. Notification of tenure teacher reelection
 19 -- acceptance. (1) The trustees shall provide written notice
 20 by April 1 ~~May 1~~ to all tenure teachers who have been
 21 reelected. Any tenure teacher who does not receive notice of
 22 reelection or termination shall be automatically reelected
 23 for the ensuing school fiscal year.

24 (2) Any tenure teacher who receives notification of
 25 his reelection for the ensuing school fiscal year shall

1 provide the trustees with his written acceptance of the
 2 conditions of such reelection within 20 days after the
 3 receipt of the notice of reelection, and failure to so
 4 notify the trustees within 20 days shall constitute
 5 conclusive evidence of his nonacceptance of the tendered
 6 position."

7 Section 4. Section 20-4-207, MCA, is amended to read:

8 "20-4-207. Dismissal of teacher under contract. (1)
 9 The trustees of any district may dismiss a teacher before
 10 the expiration of his employment contract for ~~immorality,~~
 11 ~~unfitness,~~ incompetence, or violation of the adopted
 12 policies of such trustees.

13 (2) Any teacher who has been dismissed may in writing
 14 within 10 days appeal such dismissal to the county
 15 superintendent. Following such appeal a hearing shall be
 16 held within 10 days. If the county superintendent, after a
 17 hearing, determines that the dismissal by the trustees was
 18 made without good cause, he shall order the trustees to
 19 reinstate such teacher and to compensate such teacher at his
 20 contract amount for the time lost during the pending of the
 21 appeal."

22 Section 5. Section 20-7-456, MCA, is amended to read:

23 "20-7-456. Tenure ~~Reelection~~ of teachers employed by
 24 cooperatives. ~~(1) Teachers who have tenure rights with a~~
 25 ~~district and are employed by a cooperative of which their~~

1 ~~district--is--a--member--do--not--lose--their--tenure--with--the~~
2 ~~districts~~

3 ~~{2}--Nontenured--teachers~~ Teachers employed by a
4 cooperative ~~acquire--tenure--shall--be--reelected--to--employment~~
5 with a cooperative in the same manner as prescribed in
6 20-4-203, and the provisions of 20-4-204, ~~20-4-205, and~~
7 through 20-4-207 are applicable to teachers employed by a
8 cooperative.

9 ~~{3}--Tenure--for--a--teacher--employed--by--a--cooperative--is~~
10 ~~acquired--only--with--the--cooperative--and,--not--with--a--member~~
11 ~~school--district--of--a--cooperative~~

12 ~~{4}--For--the--purposes--of--tenure--of--a--teacher--employed~~
13 ~~by--a--cooperative,--special--education--cooperative--contract~~
14 ~~renewals--may--not--be--used--to--limit--the--teacher's--progress~~
15 ~~toward--tenure--status."~~

16 Section 6. Repealer. Section 20-4-206, MCA, is
17 repealed.

-End-