

House Bill 401

In The House

January 21, 1981

Introduced and referred
to Committee on Education.

April 23, 1981

Died in Committee.

1 HOUSE BILL NO. 401
2 INTRODUCED BY Keady

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE
5 TERMINATION PROVISIONS FOR TEACHERS; DECREASING THE
6 PROMOTIONARY PERIOD REQUIRED BEFORE A TEACHER MAY BE OFFERED
7 TENURE WITH A SCHOOL DISTRICT; ELIMINATING MANDATORY
8 RETIREMENT PROVISIONS FOR TEACHERS; CLARIFYING THE REASONS
9 FOR WHICH TRUSTEES MAY TERMINATE THE SERVICES OF A TENURE
10 TEACHER; AND CLARIFYING THE GROUNDS ON WHICH A TEACHER MAY
11 APPEAL A TERMINATION DECISION TO THE COUNTY SUPERINTENDENT
12 OF SCHOOLS OR THE STATE SUPERINTENDENT OF PUBLIC
13 INSTRUCTION; AMENDING SECTIONS 20-4-203 THROUGH 20-4-207,
14 MCA."

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
17 Section 1. Section 20-4-203, MCA, is amended to read:
18 "20-4-203. Teacher tenure. Whenever a teacher has been
19 elected by the offer and acceptance of a contract for the
20 fourth second consecutive year of employment by a district
21 in a position requiring teacher certification except as a
22 district superintendent or specialist, the teacher shall be
23 deemed to be reelected from year to year thereafter as a
24 tenure teacher at the same or greater salary and in the same
25 or a comparable position of employment as that provided by

1 the last executed contract with such teacher, unless
2 (1) the trustees resolve by majority vote of their
3 membership to terminate the services of the teacher in
4 accordance with the 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 tenure teacher under the provisions of 20-4-203 for one or
16 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) when the financial condition of the school
22 district requires a reduction in the number of teachers
23 employed and the reason for termination is to reduce the
24 number of teachers employed and there are no teaching
25 responsibilities performed by a nontenure teacher that could

1 ~~be performed by the tenure teacher if so qualified.~~

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

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

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

1 as legal adviser who shall assist the superintendent in
2 preparing findings of fact and conclusions of law.

3 ~~(4)(5)~~ Subsequently, either the teacher or the
4 trustees may appeal to the superintendent of public
5 instruction under the provision for the appeal of
6 controversies in this title.

7 ~~(6) A tenure teacher may appeal the trustees' decision~~
8 ~~to the county superintendent as provided in subsection (4)~~
9 ~~or subsequently appeal to the superintendent of public~~
10 ~~instruction as provided in subsection (5) on the following~~
11 ~~grounds only:~~

12 ~~(a) that the trustees' decision was procured by~~
13 ~~corruption or fraud;~~

14 ~~(b) that the trustees' decision to terminate the~~
15 ~~services of the teacher was not supported by the evidence;~~
16 ~~or~~

17 ~~(c) that the trustees were guilty of misconduct or~~
18 ~~committed gross error in refusing, on cause shown, to~~
19 ~~postpone the hearing or in refusing to hear pertinent~~
20 ~~evidence or otherwise acted improperly in a manner by which~~
21 ~~the teacher's rights were prejudiced."~~

22 Section 3. Section 20-4-205, MCA, is amended to read:
23 *20-4-205. Notification of tenure teacher reelection
24 -- acceptance. (1) The trustees shall provide written notice
25 by ~~April--1~~ May 1 to all tenure teachers who have been

1 reelected. Any tenure teacher who does not receive notice of
2 reelection or termination shall be automatically reelected
3 for the ensuing school fiscal year.

4 (2) Any tenure teacher who receives notification of
5 his reelection for the ensuing school fiscal year shall
6 provide the trustees with his written acceptance of the
7 conditions of such reelection within 20 days after the
8 receipt of the notice of reelection, and failure to so
9 notify the trustees within 20 days shall constitute
10 conclusive evidence of his nonacceptance of the tendered
11 position."

12 Section 4. Section 20-4-206, MCA, is amended to read:
13 "20-4-206. Notification of nontenure teacher
14 reelection -- acceptance ~~---termination-and-statement-of~~
15 ~~reason.~~ (1) The trustees shall provide written notice by
16 ~~April--15~~ May 1 to all nontenure teachers who have been
17 reelected. Any nontenure teacher who does not receive notice
18 of reelection or termination shall be automatically
19 reelected for the ensuing school fiscal year.

20 (2) Any nontenure teacher who receives notification of
21 his reelection for the ensuing school fiscal year shall
22 provide the trustees with his written acceptance of the
23 conditions of such reelection within 20 days after the
24 receipt of the notice of reelection. Failure to so notify
25 the trustees within 20 days may be considered nonacceptance

1 of the tendered position.

2 ~~{3}--When-the-trustees-notify-a-nontenure-teacher--of~~
3 ~~termination-the-teacher-may-within-10-days-after-receipt-of~~
4 ~~such-notice-make-written-request-of-the-trustees-for-a~~
5 ~~statement-in-writing-of-the-reasons-for-termination-of~~
6 ~~employment---Within-10-days-after-receipt-of-the-request,~~
7 ~~the-trustees-shall-furnish-such-statement-to-the-teacher.~~

8 ~~{4}{3}~~ The provisions of this section shall not apply
9 to cases in which a nontenure teacher is terminated when the
10 financial condition of the school district requires a
11 reduction in the number of teachers employed and the reason
12 for the termination is to reduce the number of teachers
13 employed."

14 Section 5. Section 20-4-207, MCA, is amended to read:
15 "20-4-207. Dismissal of teacher under contract. (1)
16 The trustees of any district may dismiss a teacher before
17 the expiration of his employment contract for ~~immorality,~~
18 ~~unfitness,~~ incompetence, or violation of the adopted
19 policies of such trustees.

20 (2) Any teacher who has been dismissed may in writing
21 within 10 days appeal such dismissal to the county
22 superintendent. Following such appeal a hearing shall be
23 held within 10 days. If the county superintendent, after a
24 hearing, determines that the dismissal by the trustees was
25 made without good cause, he shall order the trustees to

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1 reinstated such teacher and to compensate such teacher at his
2 contract amount for the time lost during the pendency of the
3 appeal."

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