

HOUSE BILL NO. 397

1/23 Introduced
1/23 Referred to Education & Cultural Resources
2/06 Hearing
Died in Committee

HOUSE BILL NO. 397

INTRODUCED BY

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A BILL FOR AN ACT ENTITLED: "AN ACT TO REPEAL TEACHER TENURE AND TERMINATION PROVISIONS; TO REQUIRE THE TRUSTEES OF A DISTRICT TO ESTABLISH A SYSTEM FOR EVALUATION OF TEACHERS AND REMEDIATION OF DEFICIENCIES IN TEACHING PERFORMANCE; TO PROVIDE A TEACHER WHO IS RECOMMENDED FOR TERMINATION WITH A HEARING BEFORE A HEARING OFFICER; AMENDING SECTIONS 20-3-106, 20-3-210, AND 20-7-456, MCA; AND REPEALING SECTIONS 20-4-203 THROUGH 20-4-206, MCA."

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

NEW SECTION. Section 1. Annual evaluation of teachers. (1) The trustees of each district shall:

(a) establish a system for the annual evaluation of the teaching performance of all certified teachers in the district, including a system for remediation of identified deficiencies in teaching performance; and

(b) designate the administrative personnel of a district who are responsible for performing the evaluation of teachers and for designing and monitoring any plan for remediation by a teacher of identified deficiencies in teaching performance. In a district without a district superintendent or a principal, the county superintendent may

be designated to perform the duties provided for in this subsection.

(2) The annual evaluation of each teacher must be completed and made available to the teacher no later than March 1 of the school year.

NEW SECTION. Section 2. Remediation plan -- recommendation for termination of services. (1) Whenever the evaluation of a teacher indicates the need for remediation of identified deficiencies in teaching performance, the person designated in [section 1(1)(b)] shall:

(a) inform the teacher of the specific deficiencies in teaching performance;

(b) establish, in consultation with the teacher, a remediation plan and a remediation period; and

(c) monitor the teacher's performance of the remediation plan during the established remediation period.

(2) If the teacher fails to meet the requirements of the remediation plan, the person designated in [section 1(1)(b)] to monitor the plan may make a recommendation in writing to the trustees of the district for termination of the services of the teacher.

NEW SECTION. Section 3. Notification of recommendation for termination -- hearing before hearing officer. (1) Whenever the trustees of a district receive a recommendation for termination of services of a teacher as

1 provided for in [section 2], the trustees shall, before May
 2 1 of the current school fiscal year, notify the teacher of
 3 the recommendation for termination and of the teacher's
 4 right to request a hearing on the recommendation. The
 5 notification must be delivered by certified letter or by
 6 personal notification for which a signed receipt is
 7 returned. The notification must include:

8 (a) the statement of the reason or reasons that led to
 9 the recommendation for termination; and

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

12 (2) Any teacher who receives a notice of
 13 recommendation for termination may request, in writing
 14 within 10 days of notification, that the superintendent of
 15 public instruction provide a hearing officer to conduct a
 16 hearing on the recommendation.

17 (3) When a hearing officer is requested, the
 18 superintendent of public instruction shall, within 5 days of
 19 receipt of the request, name a hearing officer from the
 20 superintendent's list of potential hearing officers as
 21 provided for in 20-3-106.

22 (4) Within 15 days of the naming of a hearing officer,
 23 the hearing officer shall:

24 (a) conduct a hearing in accordance with the
 25 regulations for the conduct of hearings prescribed by the

1 superintendent of public instruction under 20-3-107;

2 (b) receive and consider all evidence pertinent to the
 3 recommendation for termination; and

4 (c) render a decision that is final and binding on all
 5 parties, subject only to judicial review in the manner
 6 provided for in Title 2, chapter 4, part 7.

7 NEW SECTION. Section 4. Notification of renewal or
 8 termination of teacher contract. (1) The trustees of a
 9 district, by May 1 of the school year, shall provide each
 10 teacher employed by the district with written notice of the
 11 intent to renew or to terminate the teacher's contract for
 12 the ensuing school year. Any teacher who does not receive
 13 notice of renewal or intent to terminate services is
 14 automatically renewed for the ensuing school year.

15 (2) A teacher who receives notice of and wishes to
 16 accept renewal for the ensuing school year shall provide the
 17 trustees with written acceptance of the conditions of the
 18 renewal within 20 days after the receipt of the notice.
 19 Failure to notify the trustees within 20 days constitutes
 20 conclusive evidence of nonacceptance of the tendered
 21 position.

22 Section 5. Section 20-3-106, MCA, is amended to read:

23 "20-3-106. Supervision of schools -- powers and
 24 duties. The superintendent of public instruction has the
 25 general supervision of the public schools and districts of

1 the state, and he shall perform the following duties or acts
2 in implementing and enforcing the provisions of this title:

3 (1) resolve any controversy resulting from the
4 proration of costs by a joint board of trustees under the
5 provisions of 20-3-362;

6 (2) issue, renew, or deny teacher certification and
7 emergency authorizations of employment;

8 (3) negotiate reciprocal tuition agreements with other
9 states in accordance with the provisions of 20-5-314;

10 (4) serve on the teachers' retirement board in
11 accordance with the provisions of 2-15-1010;

12 (5) approve or disapprove the orders of a high school
13 boundary commission in accordance with the provisions of
14 20-6-311;

15 (6) approve or disapprove the opening or reopening of
16 a school in accordance with the provisions of 20-6-502,
17 20-6-503, 20-6-504, or 20-6-505;

18 (7) approve or disapprove school isolation within the
19 limitations prescribed by 20-9-302;

20 (8) generally supervise the school budgeting
21 procedures prescribed by law in accordance with the
22 provisions of 20-9-102 and prescribe the school budget
23 format in accordance with the provisions of 20-9-103 and
24 20-9-506;

25 (9) establish a system of communication for

1 calculating joint district revenues in accordance with the
2 provisions of 20-9-151;

3 (10) approve or disapprove the adoption of a district's
4 emergency budget resolution under the conditions prescribed
5 in 20-9-163 and publish rules for an application for
6 additional state aid for an emergency budget in accordance
7 with the approval and disbursement provisions of 20-9-166;

8 (11) generally supervise the school financial
9 administration provisions as prescribed by 20-9-201(2);

10 (12) prescribe and furnish the annual report forms to
11 enable the districts to report to the county superintendent
12 in accordance with the provisions of 20-9-213(5) and the
13 annual report forms to enable the county superintendents to
14 report to the superintendent of public instruction in
15 accordance with the provisions of 20-3-209;

16 (13) approve, disapprove, or adjust an increase of the
17 average number belonging (ANB) in accordance with the
18 provisions of 20-9-313 and 20-9-314;

19 (14) distribute state equalization aid in support of
20 the foundation program in accordance with the provisions of
21 20-9-342, 20-9-346, and 20-9-347;

22 (15) estimate the statewide equalization level for the
23 foundation program in accordance with the provisions of
24 20-9-348;

25 (16) distribute state impact aid in accordance with the

1 provisions of 20-9-304;

2 (17) provide for the uniform and equal provision of

3 transportation by performing the duties prescribed by the

4 provisions of 20-10-112;

5 (18) approve or disapprove an adult education program

6 for which a district proposes to levy a tax in accordance

7 with the provisions of 20-7-705;

8 (19) request, accept, deposit, and expend federal

9 moneys in accordance with the provisions of 20-9-603;

10 (20) authorize the use of federal moneys for the

11 support of an interlocal cooperative agreement in accordance

12 with the provisions of 20-9-703 and 20-9-704;

13 (21) prescribe the form and contents of and approve or

14 disapprove interstate contracts in accordance with the

15 provisions of 20-9-705;

16 (22) approve or disapprove the conduct of school on a

17 Saturday or on pupil-instruction-related days in accordance

18 with the provisions of 20-1-303 and 20-1-304;

19 (23) recommend standards of accreditation for all

20 schools to the board of public education and evaluate

21 compliance with such standards and recommend accreditation

22 status of every school to the board of public education in

23 accordance with the provisions of 20-7-101 and 20-7-102;

24 (24) collect and maintain a file of curriculum guides

25 and assist schools with instructional programs in accordance

1 with the provisions of 20-7-113 and 20-7-114;

2 (25) establish and maintain a library of visual, aural,

3 and other educational media in accordance with the

4 provisions of 20-7-201;

5 (26) license textbook dealers and initiate prosecution

6 of textbook dealers violating the law in accordance with the

7 provisions of the textbooks part of this title;

8 (27) as the governing agent and executive officer of

9 the state of Montana for vocational education, adopt the

10 policies prescribed by and in accordance with the provisions

11 of 20-7-301;

12 (28) consider applications for the designation of a

13 postsecondary vocational-technical center in accordance with

14 the provisions of 20-7-311;

15 (29) establish a fund for the handling of postsecondary

16 vocational-technical center fees in accordance with the

17 provisions of 20-7-333;

18 (30) supervise and coordinate the conduct of special

19 education in the state in accordance with the provisions of

20 20-7-403;

21 (31) administer the traffic education program in

22 accordance with the provisions of 20-7-502;

23 (32) administer the school food services program in

24 accordance with the provisions of 20-10-201, 20-10-202, and

25 20-10-203;

1 (33) review school building plans and specifications in
2 accordance with the provisions of 20-6-622;

3 (34) prescribe the method of identification and signals
4 to be used by school safety patrols in accordance with the
5 provisions of 20-1-408; and

6 (35) establish and provide, in accordance with [section
7 3], a list of potential hearing officers for conducting any
8 hearing on a recommendation for termination of a teacher's
9 services; and

10 ~~(35)~~(36) perform any other duty prescribed from time to
11 time by this title, any other act of the legislature, or the
12 policies of the board of public education."

13 Section 6. Section 20-3-210, MCA, is amended to read:

14 "20-3-210. Controversy appeals and hearings. (1)
15 Except as provided under 20-3-211 and [section 3], the
16 county superintendent shall hear and decide all matters of
17 controversy arising in his county as a result of decisions
18 of the trustees of a district in the county. When appeals
19 are made ~~under---20-4-204---relating---to---the---termination---of~~
20 ~~services---of---a---tenure---teacher---or~~ under 20-4-207 relating to
21 the dismissal of a teacher under contract, the county
22 superintendent may appoint a qualified attorney at law to
23 act as a legal adviser who shall assist the superintendent
24 in preparing findings of fact and conclusions of law.
25 Subsequently, either the teacher or trustees may appeal to

1 the superintendent of public instruction under the
2 provisions for appeal of controversies in this title.
3 Furthermore, he shall hear and decide all controversies
4 arising under:

5 (a) section 20-5-304 or 20-5-311 relating to the
6 approval of tuition applications; or

7 (b) any other provision of this title for which a
8 procedure for resolving controversies is not expressly
9 prescribed.

10 (2) The county superintendent shall hear the appeal
11 and take testimony in order to determine the facts related
12 to the controversy and may administer oaths to the witnesses
13 that testify at the hearing. He shall prepare a written
14 transcript of the hearing proceedings. The decision on the
15 matter of controversy which is made by the county
16 superintendent shall be based upon the facts established at
17 such hearing.

18 (3) The decision of the county superintendent may be
19 appealed to the superintendent of public instruction, and if
20 it is appealed, the county superintendent shall supply a
21 transcript of the hearing and any other documents entered as
22 testimony at the hearing to the superintendent of public
23 instruction.

24 (4) Cost incurred by the office of the county
25 superintendent shall be paid from the general fund budget of

1 the county in which the controversy is initiated."

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

3 "20-7-456. Tenure Reelection of teachers employed by
4 cooperatives. ~~{1}--Teachers--who--have--tenure--rights--with--a
5 district--and--are--employed--by--a--cooperative--of--which--their
6 district--is--a--member--do--not--lose--their--tenure--with--the
7 district.~~

8 {2}--Nontenured--teachers Teachers employed by a
9 cooperative acquire--tenure must have their employment with
10 a cooperative renewed or terminated in the same manner as
11 prescribed in 20-4-203 [section 4], and the provisions of
12 20-4-204--through 20-4-207 are applicable to teachers
13 employed by a cooperative.

14 {3}--Tenure--for--a--teacher--employed--by--a--cooperative--is
15 acquired--only--with--the--cooperative--and--not--with--a--member
16 school--district--of--a--cooperative.

17 {4}--For--the--purposes--of--tenure--of--a--teacher--employed
18 by--a--cooperative,--special--education--cooperative--contract
19 renewals--may--not--be--used--to--limit--the--teacher's--progress
20 toward--tenure--status."

21 NEW SECTION. Section 8. Repealer. Sections 20-4-203
22 through 20-4-206, MCA, are repealed.

23 NEW SECTION. Section 9. Codification instruction.
24 Sections 1 through 4 are intended to be codified as an
25 integral part of Title 20.

-End-