

HB 250 INTRODUCED BY JONES, ET AL.
TO REPLACE TEACHER TENURE WITH DUE PROCESS PROCEDURE
FOR TERMINATION

1/16 INTRODUCED
1/16 REFERRED TO EDUCATION & CULTURAL RESOURCES
2/18 HEARING
2/20 TABLED IN COMMITTEE

1 *House* BILL NO. *250* *Rebber*
 2 INTRODUCED BY *James C. Smith Swift*
 3 *SAVES Martin Scutcher Support* *Z. Hammond*
 4 *Travis*
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REPLACE THE STATUS
 6 OF TENURE FOR TEACHERS WITH A DUE PROCESS PROCEDURE THAT
 7 PROVIDES ANY TEACHER RECOMMENDED FOR NONRENEWAL OF CONTRACT
 8 FOR THE ENSUING SCHOOL YEAR WITH THE RIGHT TO KNOW THE
 9 REASONS FOR THE RECOMMENDATION AND THE RIGHT TO A HEARING
 10 PRIOR TO A DETERMINATION OF NONRENEWAL; AMENDING SECTIONS
 11 20-3-210 AND 20-7-456, MCA; AND REPEALING SECTIONS 20-4-203
 12 THROUGH 20-4-206, MCA."

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 14 NEW SECTION. Section 1. Notification of renewal or
 15 nonrenewal of teacher contract. (1) The trustees of a
 16 district, by April 15 of the school year, shall provide each
 17 teacher employed by the district with written notice of the
 18 intent to renew or not to renew the teacher's contract for
 19 the ensuing school year. Any teacher who does not receive
 20 notice of renewal or nonrenewal by April 15 is automatically
 21 renewed for the ensuing school year.
 22 (2) A teacher who receives notice of and wishes to
 23 accept renewal for the ensuing school year shall provide the
 24 trustees with written acceptance of the conditions of the
 25 renewal within 20 days after the receipt of the notice.

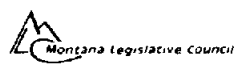
1 Failure to notify the trustees within 20 days constitutes
 2 conclusive evidence of nonacceptance of the tendered
 3 position.

4 NEW SECTION. Section 2. Legislative purpose --
 5 hearing on recommendation for nonrenewal of teacher
 6 contract. (1) The legislature recognizes the value of good
 7 employer-employee relationships between the school boards of
 8 this state and the teachers employed in the school systems
 9 and recognizes the need to recruit and retain qualified
 10 teachers. The legislature therefore urges that each school
 11 board of trustees of this state ensure, through formally
 12 adopted policies, that channels of communication exist
 13 between the board, the supervisory personnel, and teachers
 14 employed within its school system and urges that all actions
 15 of the board of trustees concerning nonrenewal of a
 16 teacher's contract be taken with consideration and dignity,
 17 giving maximum consideration to basic fairness and decency.

18 (2) Whenever the trustees of a district resolve to
 19 recommend the nonrenewal of a teacher's contract, the
 20 trustees shall notify the teacher in writing by April 1 of:

21 (a) the time, which shall be at least 7 days following
 22 notification, and the place of a hearing before the trustees
 23 for the purpose of discussing and acting upon the
 24 recommendation for nonrenewal; and

25 (b) the reasons for the proposed nonrenewal, which



1 must be related to:

2 (i) the professional ability, competence, or
3 qualifications of the teacher;

4 (ii) a violation of the adopted policies of the board
5 of trustees; or

6 (iii) the necessities of the district, such as lack of
7 funds calling for a reduction of teaching staff.

8 (3) At the hearing, the teacher may:

9 (a) produce evidence, including witnesses, necessary
10 to evaluate the reasons for nonrenewal; and

11 (b) be represented by one or two representatives of
12 his own choosing.

13 (4) The trustees shall give an explanation and shall
14 discuss at the meeting their reasons for the recommendation
15 for nonrenewal.

16 (5) Final notice of the determination to renew or not
17 to renew a contract must be given to the teacher in writing
18 by April 15, as provided in [section 1].

19 (6) The determination not to renew a contract, if made
20 in good faith, is final and binding on all parties, subject
21 to appeal to district court.

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

23 "20-3-210. Controversy appeals and hearings. (1)

24 Except as provided under 20-3-211, the county superintendent
25 shall hear and decide all matters of controversy arising in

1 his county as a result of decisions of the trustees of a
2 district in the county. When appeals are made under ~~20-4-204~~
3 ~~relating-to-the-termination-of-services-of-a-tenure--teacher~~
4 or under 20-4-207 relating to the dismissal of a teacher
5 under contract, the county superintendent may appoint a
6 qualified attorney at law to act as a legal adviser who
7 shall assist the superintendent in preparing findings of
8 fact and conclusions of law. Subsequently, either the
9 teacher or trustees may appeal to the superintendent of
10 public instruction under the provisions for appeal of
11 controversies in this title. Furthermore, he shall hear and
12 decide all controversies arising under:

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

15 (b) any other provision of this title for which a
16 procedure for resolving controversies is not expressly
17 prescribed.

18 (2) The county superintendent shall hear the appeal
19 and take testimony in order to determine the facts related
20 to the controversy and may administer oaths to the witnesses
21 that testify at the hearing. He shall prepare a written
22 transcript of the hearing proceedings. The decision on the
23 matter of controversy which is made by the county
24 superintendent shall be based upon the facts established at
25 such hearing.

1 (3) The decision of the county superintendent may be
 2 appealed to the superintendent of public instruction, and if
 3 it is appealed, the county superintendent shall supply a
 4 transcript of the hearing and any other documents entered as
 5 testimony at the hearing to the superintendent of public
 6 instruction.

7 (4) Cost incurred by the office of the county
 8 superintendent shall be paid from the general fund budget of
 9 the county in which the controversy is initiated."

10 Section 4. Section 20-7-456, MCA, is amended to read:

11 "20-7-456. Tenure Renewal of teachers employed by
 12 cooperatives. ~~{1}-Teachers-who-have--tenure--rights--with--a~~
 13 ~~district--and--are--employed-by-a-cooperative-of-which-their~~
 14 ~~district-is-a-member-do-not-lose-their-tenure-with-the~~
 15 ~~district:~~

16 ~~{2}-Nontenured---teachers~~ Teachers employed by a
 17 cooperative ~~acquire--tenure~~ are subject to renewal or
 18 nonrenewal of employment with a cooperative in the same
 19 manner as prescribed in ~~20-4-203~~ [sections 1 and 2], and the
 20 provisions of ~~20-4-204~~ through 20-4-207 are applicable to
 21 teachers employed by a cooperative.

22 ~~{3}-Tenure--for-a-teacher-employed-by-a-cooperative-is~~
 23 ~~acquired-only-with-the-cooperative-and-not-with-a-member~~
 24 ~~school-district-of-a-cooperative-~~

25 ~~{4}-For--the--purposes-of-tenure-of-a-teacher-employed~~

1 ~~by-a-cooperative,--special--education--cooperative--contract~~
 2 ~~renewals--may--not--be--used-to-limit-the-teacher's-progress~~
 3 ~~toward-tenure-status."~~

4 NEW SECTION. Section 5. Repealer. Sections 20-4-203
 5 through 20-4-206, MCA, are repealed.

6 NEW SECTION. Section 6. Codification instruction.
 7 Sections 1 and 2 are intended to be codified as an integral
 8 part of Title 20.

-End-