

SENATE BILL NO. 232

INTRODUCED BY MAZUREK, B. BROWN, NATHE, PECK,  
JERGESON, HAMMOND, JACOBSON, LORY, YELLOWTAIL,  
KEENAN, DARKO, SANDS

IN THE SENATE

|                   |  |
|-------------------|--|
| JANUARY 27, 1987  | INTRODUCED AND REFERRED TO COMMITTEE<br>ON EDUCATION & CULTURAL RESOURCES. |
| FEBRUARY 12, 1987 | COMMITTEE RECOMMEND BILL<br>DO PASS. REPORT ADOPTED.                       |
| FEBRUARY 13, 1987 | PRINTING REPORT.   |
| FEBRUARY 16, 1987 | SECOND READING, DO PASS.   |
| FEBRUARY 17, 1987 | ENGROSSING REPORT.   |
| FEBRUARY 18, 1987 | THIRD READING, PASSED.<br>AYES, 48; NOES, 2.<br><br>TRANSMITTED TO HOUSE.  |

IN THE HOUSE

|                   |   |
|-------------------|---|
| FEBRUARY 23, 1987 | INTRODUCED AND REFERRED TO COMMITTEE<br>ON EDUCATION & CULTURAL RESOURCES.    |
| MARCH 13, 1987    | COMMITTEE RECOMMEND BILL BE<br>CONCURRED IN. REPORT ADOPTED.                  |
| MARCH 17, 1987    | SECOND READING, CONCURRED IN.   |
| MARCH 18, 1987    | THIRD READING, CONCURRED IN.<br>AYES, 94; NOES, 0.<br><br>RETURNED TO SENATE. |

IN THE SENATE

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| MARCH 19, 1987 | RECEIVED FROM HOUSE.<br><br>SENT TO ENROLLING. |
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1 *Senate* BILL NO *232*  
 2 INTRODUCED BY *Marquie Bob Brown NATHAN*  
 3 *Paul Ferguson* *Hammond* *Jacobson* *Log*  
 4 *Yellowtail* *Keenan* *Becker* *Smith*  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS  
 6 GOVERNING THE SUSPENSION AND REVOCATION OF TEACHER OR  
 7 SPECIALIST CERTIFICATES; ADDING IMMORAL CONDUCT AS A REASON  
 8 FOR SUSPENDING OR REVOKING A CERTIFICATE; REQUIRING SCHOOL  
 9 TRUSTEES TO MAKE A WRITTEN REPORT TO THE SUPERINTENDENT OF  
 10 PUBLIC INSTRUCTION WHEN EMPLOYMENT ENDS BECAUSE OF IMMORAL  
 11 CONDUCT OR COMMISSION OF A CRIMINAL OFFENSE BY A TEACHER OR  
 12 SPECIALIST; ALLOWING THE SUPERINTENDENT TO INVESTIGATE  
 13 FURTHER AND REQUEST ACTION TO SUSPEND OR REVOKE A  
 14 CERTIFICATE AFTER A REPORT BY THE TRUSTEES; GRANTING  
 15 IMMUNITY TO TRUSTEES AND THE SUPERINTENDENT FOR ACTIONS  
 16 RELATED TO THE FILING OF A REPORT; AND AMENDING SECTIONS  
 17 20-4-101 AND 20-4-110, MCA."

18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 19 Section 1. Section 20-4-110, MCA, is amended to read:  
 20 "20-4-110. Suspension, revocation, and denial --  
 21 appeals. (1) The board of public education ~~shall have the~~  
 22 ~~power and authority to~~ may suspend or revoke the teacher or  
 23 specialist certificate of any person for any of the  
 24 following reasons:  
 25 (a) making any statement of material fact in the

1 application for a certificate which the applicant knows to  
 2 be false;  
 3 (b) any reason that would have required or authorized  
 4 the denial of the teacher or specialist certificate to such  
 5 the person if it had been known at the time such the  
 6 certificate was issued;  
 7 (c) incompetency;  
 8 (d) gross neglect of duty;  
 9 (e) conviction ~~in this state or any other state or~~  
 10 country of, entry of a guilty verdict, a plea of guilty, or  
 11 a plea of no contest to a criminal offense involving moral  
 12 turpitude in this state or any other state or country;  
 13 (f) immoral conduct related to the teaching  
 14 profession;  
 15 (g) substantial and material nonperformance of the  
 16 employment contract between the teacher or specialist and  
 17 the trustees of a district without good cause or the written  
 18 consent of the trustees; or  
 19 (h) denial, revocation, suspension, or surrender of  
 20 a teacher or specialist certificate in another state for any  
 21 reason constituting grounds for such similar action in this  
 22 state.  
 23 (2) The board ~~shall~~ may initiate proceedings under  
 24 this section ~~if and only if~~ a request for the suspension  
 25 or revocation of the teacher or specialist certificate of



1 any person is made to it by:

2 (a) the trustees of a district as to a teacher or  
3 specialist employed by that district within the 12 months  
4 immediately preceding receipt of the request by the board of  
5 public education; or

6 (b) the superintendent of public instruction ~~as to a~~  
7 ~~teacher or specialist not employed by any district within~~  
8 ~~the 12 months immediately preceding receipt of the request~~  
9 ~~by the board.~~

10 (3) (a) If the employment relationship between a  
11 school district and a teacher or specialist is terminated or  
12 not renewed because the trustees have reason to believe that  
13 the teacher or specialist engaged in conduct described in  
14 subsection (1)(e) or (1)(f), the trustees shall make a  
15 written report to the superintendent of public instruction  
16 describing the circumstances of the termination or  
17 nonrenewal of the employment relationship.

18 (b) The superintendent shall review the report and may  
19 conduct further investigation. If he is satisfied that  
20 sufficient grounds exist, he may request action by the board  
21 of public education under subsection (2)(b). The request  
22 must be brought within 1 year after discovery of the events  
23 that gave rise to the report.

24 (c) The trustees and the superintendent shall ensure  
25 the confidentiality of the report.

1 (d) The trustees and the superintendent and their  
2 agents and employees are immune from suit for actions taken  
3 in good faith under this section with respect to the report.

4 ~~(3)~~(4) The board shall give a 30-day written  
5 notification to any person when the board intends to  
6 consider the suspension or revocation of his certificate.  
7 The board shall conduct an investigation of the reasons for  
8 the suspension or revocation charge and then, if the  
9 investigation warrants further action, conduct a hearing in  
10 the manner provided by board policies. At the hearing the  
11 board shall afford the person an opportunity to defend  
12 himself and his qualifications against the charge.

13 ~~(4)~~(5) After a ~~full investigation and proper~~ hearing,  
14 the board may suspend or revoke the person's teacher or  
15 specialist certificate, except that in the case of a first  
16 violation under subsection ~~(1)(f) above~~ (1)(g), the maximum  
17 penalty ~~shall not be more than~~ is a 2-year suspension of the  
18 person's certificate.

19 ~~(5)~~(6) Whenever the superintendent of public  
20 instruction denies the issuance or the renewal of a teacher  
21 or specialist certificate ~~to a person, he the applicant~~ may  
22 appeal the denial to the board of public education. The  
23 board shall hear the appeal shall be heard in the same  
24 manner provided for in this section for suspension or  
25 revocation and in accordance with the policies of the board.

1 The decision of the board shall be final."

2 Section 2. Section 20-4-101, MCA, is amended to read:

3 "20-4-101. System and definitions of teacher and  
4 specialist certification -- student teacher exception. (1)

5 In order to establish a uniform system of quality education  
6 and to ensure the maintenance of professional standards, a  
7 system of teacher and specialist certification shall be  
8 established and maintained under the provisions of this  
9 title and no person shall be permitted to teach in the  
10 public schools of the state until he has obtained a teacher  
11 certificate or specialist certificate or the district has  
12 obtained an emergency authorization of employment from the  
13 state.

14 (2) As used in this part, "teacher or specialist  
15 certificate" means a certificate issued or applied for under  
16 20-4-106. The term "teacher or specialist" refers to a  
17 person certified under 20-4-106.

18 ~~(2)~~(3) The above certification requirement shall not  
19 apply to a student teacher who is hereby defined as a  
20 student enrolled in an institution of higher learning  
21 approved by the board of regents of higher education for  
22 teacher training and who is jointly assigned by such  
23 institution of higher learning and the governing board of a  
24 district or a public institution to perform practice  
25 teaching in a nonsalaried status under the direction of a

1 regularly employed and certificated teacher.

2 ~~(3)~~(4) A student teacher, while serving such  
3 nonsalaried internship under the supervision of a  
4 certificated teacher, shall be accorded the same protection  
5 of the laws as that accorded a certificated teacher and  
6 shall, while acting as such student teacher, comply with all  
7 rules of the governing board of the district or public  
8 institution and the applicable provisions of 20-4-301  
9 relating to the duties of teachers."

10 NEW SECTION. Section 3. Extension of authority. Any  
11 existing authority of the board of public education to make  
12 rules on the subject of the provisions of this act is  
13 extended to the provisions of this act.

14 NEW SECTION. Section 4. Two-thirds vote required --  
15 severability. Because proposed subsection (3)(d) of 20-4-110  
16 grants immunity to the superintendent of public instruction  
17 and school district trustees, a vote of two-thirds of the  
18 members of each house is required for the enactment of  
19 proposed subsection (3)(d). If the bill passes but fails to  
20 receive a vote of two-thirds of the members of each house,  
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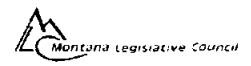
-End-

APPROVED BY COMM. ON EDUCATION AND CULTURAL RESOURCES

1 *Senate* BILL NO *232*  
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 3 *Back Ferguson Hammon Jacobson Long*  
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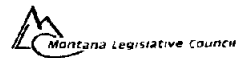
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-End-

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-End-

SENATE BILL NO. 232

INTRODUCED BY MAZUREK, B. BROWN, NATHE, PECK,  
JERGESON, HAMMOND, JACOBSON, LORY, YELLOWTAIL,  
KEENAN, DARKO, SANDS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS GOVERNING THE SUSPENSION AND REVOCATION OF TEACHER OR SPECIALIST CERTIFICATES; ADDING IMMORAL CONDUCT AS A REASON FOR SUSPENDING OR REVOKING A CERTIFICATE; REQUIRING SCHOOL TRUSTEES TO MAKE A WRITTEN REPORT TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION WHEN EMPLOYMENT ENDS BECAUSE OF IMMORAL CONDUCT OR COMMISSION OF A CRIMINAL OFFENSE BY A TEACHER OR SPECIALIST; ALLOWING THE SUPERINTENDENT TO INVESTIGATE FURTHER AND REQUEST ACTION TO SUSPEND OR REVOKE A CERTIFICATE AFTER A REPORT BY THE TRUSTEES; GRANTING IMMUNITY TO TRUSTEES AND THE SUPERINTENDENT FOR ACTIONS RELATED TO THE FILING OF A REPORT; AND AMENDING SECTIONS 20-4-101 AND 20-4-110, MCA."

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- (2) The board ~~shall~~ may initiate proceedings under



1 this section ~~if and only if~~, a request for the suspension  
2 or revocation of the teacher or specialist certificate of  
3 any person is made to it by:

4 (a) the trustees of a district as to a teacher or  
5 specialist employed by that district within the 12 months  
6 immediately preceding receipt of the request by the board of  
7 public education; or

8 (b) the superintendent of public instruction ~~as to a~~  
9 ~~teacher or specialist not employed by any district within~~  
10 ~~the 12 months immediately preceding receipt of the request~~  
11 ~~by the board.~~

12 (3) (a) If the employment relationship between a  
13 school district and a teacher or specialist is terminated or  
14 not renewed because the trustees have reason to believe that  
15 the teacher or specialist engaged in conduct described in  
16 subsection (1)(e) or (1)(f), the trustees shall make a  
17 written report to the superintendent of public instruction  
18 describing the circumstances of the termination or  
19 nonrenewal of the employment relationship.

20 (b) The superintendent shall review the report and may  
21 conduct further investigation. If he is satisfied that  
22 sufficient grounds exist, he may request action by the board  
23 of public education under subsection (2)(b). The request  
24 must be brought within 1 year after discovery of the events  
25 that gave rise to the report.

1 (c) The trustees and the superintendent shall ensure  
2 the confidentiality of the report.

3 (d) The trustees and the superintendent and their  
4 agents and employees are immune from suit for actions taken  
5 in good faith under this section with respect to the report.

6 ~~(3)~~(4) The board shall give a 30-day written  
7 notification to any person when the board intends to  
8 consider the suspension or revocation of his certificate.  
9 The board shall conduct an investigation of the reasons for  
10 the suspension or revocation charge and then, if the  
11 investigation warrants further action, conduct a hearing in  
12 the manner provided by board policies. At the hearing the  
13 board shall afford the person an opportunity to defend  
14 himself and his qualifications against the charge.

15 ~~(4)~~(5) After a ~~full investigation and proper~~ hearing,  
16 the board may suspend or revoke the person's teacher or  
17 specialist certificate, except that in the case of a first  
18 violation under subsection ~~(1)(f) above~~ (1)(g), the maximum  
19 penalty ~~shall not be more than~~ is a 2-year suspension of the  
20 person's certificate.

21 ~~(5)~~(6) Whenever the superintendent of public  
22 instruction denies the issuance or the renewal of a teacher  
23 or specialist certificate ~~to a person, he~~ the applicant may  
24 appeal the denial to the board of public education. The  
25 board shall hear the appeal shall be heard in the same

1 manner provided for in this section for suspension or  
 2 revocation and in accordance with the policies of the board.  
 3 The decision of the board shall be final."

4 Section 2. Section 20-4-101, MCA, is amended to read:

5 "20-4-101. System and definitions of teacher and  
 6 specialist certification -- student teacher exception. (1)  
 7 In order to establish a uniform system of quality education  
 8 and to ensure the maintenance of professional standards, a  
 9 system of teacher and specialist certification shall be  
 10 established and maintained under the provisions of this  
 11 title and no person shall be permitted to teach in the  
 12 public schools of the state until he has obtained a teacher  
 13 certificate or specialist certificate or the district has  
 14 obtained an emergency authorization of employment from the  
 15 state.

16 (2) As used in this part, "teacher or specialist  
 17 certificate" means a certificate issued or applied for under  
 18 20-4-106. The term "teacher or specialist" refers to a  
 19 person certified under 20-4-106.

20 ~~(2)~~(3) The above certification requirement shall not  
 21 apply to a student teacher who is hereby defined as a  
 22 student enrolled in an institution of higher learning  
 23 approved by the board of regents of higher education for  
 24 teacher training and who is jointly assigned by such  
 25 institution of higher learning and the governing board of a

1 district or a public institution to perform practice  
 2 teaching in a nonsalaried status under the direction of a  
 3 regularly employed and certificated teacher.

4 ~~(3)~~(4) A student teacher, while serving such  
 5 nonsalaried internship under the supervision of a  
 6 certificated teacher, shall be accorded the same protection  
 7 of the laws as that accorded a certificated teacher and  
 8 shall, while acting as such student teacher, comply with all  
 9 rules of the governing board of the district or public  
 10 institution and the applicable provisions of 20-4-301  
 11 relating to the duties of teachers."

12 NEW SECTION. Section 3. Extension of authority. Any  
 13 existing authority of the board of public education to make  
 14 rules on the subject of the provisions of this act is  
 15 extended to the provisions of this act.

16 NEW SECTION. Section 4. Two-thirds vote required --  
 17 severability. Because proposed subsection (3)(d) of 20-4-110  
 18 grants immunity to the superintendent of public instruction  
 19 and school district trustees, a vote of two-thirds of the  
 20 members of each house is required for the enactment of  
 21 proposed subsection (3)(d). If the bill passes but fails to  
 22 receive a vote of two-thirds of the members of each house,  
 23 then proposed subsection (3)(d) of 20-4-110 is deleted and  
 24 the remaining parts of this act are valid.

-End-