

SENATE BILL 11

Introduced by Brown, R.

6/20	Introduced
6/20	Referred to Education & Cultural Resources
	Died in Committee

1 Senate BILL NO. 11  
2 INTRODUCED BY Bob Brown  
3 BY REQUEST OF THE GOVERNOR  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A  
6 SPECIALIZED INSTRUCTOR CERTIFICATION PROGRAM; AUTHORIZING  
7 PERSONS WITH EXPERTISE IN A FIELD TO BE CERTIFIED TO TEACH  
8 IN ELEMENTARY AND SECONDARY SCHOOLS; AMENDING SECTIONS  
9 20-2-121, 20-3-205, 20-3-210, 20-3-362, 20-4-101 THROUGH  
10 20-4-104, 20-4-108 THROUGH 20-4-110, 20-4-201 THROUGH  
11 20-4-203, 20-4-207, 20-4-301, AND 20-7-456, MCA; AND  
12 PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."  
13

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

15 **Section 1.** Section 20-2-121, MCA, is amended to read:

16 "20-2-121. Board of public education -- powers and  
17 duties. The board of public education shall:

18 (1) effect an orderly and uniform system for teacher  
19 certification, and specialist certification, and specialized  
20 instructor certification and for the issuance of an  
21 emergency authorization of employment by adopting the  
22 policies prescribed by 20-4-102 and 20-4-111;

23 (2) consider the suspension or revocation of teacher,  
24 or specialist, or specialized instructor certificates and  
25 appeals from the denial of teacher, or specialist, or

1 specialized instructor certification in accordance with the  
2 provisions of 20-4-110;

3 (3) administer and order the distribution of state  
4 equalization aid in accordance with the provisions of  
5 20-9-344;

6 (4) adopt and enforce policies to provide uniform  
7 standards and regulations for the design, construction, and  
8 operation of school buses in accordance with the provisions  
9 of 20-10-111;

10 (5) approve or disapprove a reduction of the number of  
11 hours in a district's school day in accordance with the  
12 provisions of 20-1-302;

13 (6) adopt policies prescribing the conditions when  
14 school may be conducted on Saturday and the types of  
15 pupil-instruction-related days and approval procedure for  
16 such days in accordance with the provisions of 20-1-303 and  
17 20-1-304;

18 (7) adopt standards of accreditation and establish the  
19 accreditation status of every school in accordance with the  
20 provisions of 20-7-101 and 20-7-102;

21 (8) approve or disapprove educational media selected  
22 by the superintendent of public instruction for the  
23 educational media library in accordance with the provisions  
24 of 20-7-201;

25 (9) adopt policies for the conduct of special



1 education in accordance with the provisions of 20-7-402;  
 2 (10) adopt rules for issuance of documents certifying  
 3 equivalency of completion of secondary education in  
 4 accordance with 20-7-131;  
 5 (11) adopt policies for the conduct of programs for  
 6 gifted and talented children in accordance with the  
 7 provisions of 20-7-903 and 20-7-904;  
 8 (12) adopt rules for student assessment in the public  
 9 schools; and  
 10 (13) perform any other duty prescribed from time to  
 11 time by this title or any other act of the legislature."

12 **Section 2.** Section 20-3-205, MCA, is amended to read:

13 "20-3-205. Powers and duties. The county  
 14 superintendent has general supervision of the schools of the  
 15 county within the limitations prescribed by this title and  
 16 shall perform the following duties or acts:

17 (1) determine, establish, and reestablish trustee  
 18 nominating districts in accordance with the provisions of  
 19 20-3-352, 20-3-353, and 20-3-354;

20 (2) administer and file the oaths of members of the  
 21 boards of trustees of the districts in his county in  
 22 accordance with the provisions of 20-3-307;

23 (3) register the teacher, or specialist, or  
 24 specialized instructor certificates or emergency  
 25 authorization of employment of any person employed in the

1 county as a teacher, specialist, specialized instructor,  
 2 principal, or district superintendent in accordance with the  
 3 provisions of 20-4-202;

4 (4) act on each tuition application submitted to him  
 5 in accordance with the provisions of 20-5-301, 20-5-302,  
 6 20-5-304, and 20-5-311 and transmit the tuition information  
 7 required by 20-5-312;

8 (5) file a copy of the audit report for a district in  
 9 accordance with the provisions of 20-9-203;

10 (6) classify districts in accordance with the  
 11 provisions of 20-6-201 and 20-6-301;

12 (7) keep a transcript and reconcile the district  
 13 boundaries of the county in accordance with the provisions  
 14 of 20-6-103;

15 (8) fulfill all responsibilities assigned to him under  
 16 the provisions of this title regulating the organization,  
 17 alteration, or abandonment of districts;

18 (9) act on any unification proposition and, if  
 19 approved, establish additional trustee nominating districts  
 20 in accordance with 20-6-312 and 20-6-313;

21 (10) estimate the average number belonging (ANB) of an  
 22 opening school in accordance with the provisions of  
 23 20-6-502, 20-6-503, 20-6-504, or 20-6-506;

24 (11) process and, when required, act on school  
 25 isolation applications in accordance with the provisions of

1 20-9-302;

2 (12) complete the budgets, compute the budgeted  
3 revenues and tax levies, file final and emergency budgets,  
4 and fulfill such other responsibilities assigned to him  
5 under the provisions of this title regulating school  
6 budgeting systems;

7 (13) submit an annual financial report to the  
8 superintendent of public instruction in accordance with the  
9 provisions of 20-9-211;

10 (14) quarterly, unless otherwise provided by law, order  
11 the county treasurer to apportion state money, county school  
12 money, and any other school money subject to apportionment  
13 in accordance with the provisions of 20-9-212, 20-9-334,  
14 20-9-347, 20-10-145, or 20-10-146;

15 (15) act on any request to transfer average number  
16 belonging (ANB) in accordance with the provisions of  
17 20-9-313(3);

18 (16) calculate the estimated budgeted general fund  
19 sources of revenue in accordance with the provisions of  
20 20-9-348 and the other general fund revenue provisions of  
21 the general fund part of this title;

22 (17) compute the revenues and the district and county  
23 levy requirements for each fund included in each district's  
24 final budget and report such the computations to the board  
25 of county commissioners in accordance with the provisions of

1 the general fund, transportation, bonds, and other school  
2 funds parts of this title;

3 (18) file and forward bus driver certifications,  
4 transportation contracts, and state transportation  
5 reimbursement claims in accordance with the provisions of  
6 20-10-103, 20-10-143, or 20-10-145;

7 (19) for districts which do not employ a district  
8 superintendent or principal, recommend library book and  
9 textbook selections in accordance with the provisions of  
10 20-7-204 or 20-7-602;

11 (20) notify the superintendent of public instruction of  
12 a textbook dealer's activities when required under the  
13 provisions of 20-7-605 and otherwise comply with the  
14 textbook dealer provisions of this title;

15 (21) act on district requests to allocate federal money  
16 for indigent children for school food services in accordance  
17 with the provisions of 20-10-205;

18 (22) perform any other duty prescribed from time to  
19 time by this title, any other act of the legislature, the  
20 policies of the board of public education, the policies of  
21 the board of regents relating to community college  
22 districts, or the rules of the superintendent of public  
23 instruction;

24 (23) administer the oath of office to trustees without  
25 the receipt of pay for administering the oath;

1 (24) keep a record of his official acts, preserve all  
2 reports submitted to him under the provisions of this title,  
3 preserve all books and instructional equipment or supplies,  
4 keep all documents applicable to the administration of the  
5 office, and surrender such all records, books, supplies, and  
6 equipment to his successor;

7 (25) within 90 days after the close of the school  
8 fiscal year, publish an annual report in the county  
9 newspaper stating the following financial information for  
10 the school fiscal year just ended for each district of the  
11 county:

12 (a) the total of the cash balances of all funds  
13 maintained by the district at the beginning of the year;

14 (b) the total receipts that were realized in each fund  
15 maintained by the district;

16 (c) the total expenditures that were made from each  
17 fund maintained by the district; and

18 (d) the total of the cash balances of all funds  
19 maintained by the district at the end of the school fiscal  
20 year; and

21 (26) hold meetings for the members of the trustees from  
22 time to time at which matters for the good of the districts  
23 shall be discussed."

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

25 **"20-3-210. Controversy appeals and hearings. (1)**

1 Except as provided under 20-3-211, the county superintendent  
2 shall hear and decide all matters of controversy arising in  
3 his county as a result of decisions of the trustees of a  
4 district in the county. When appeals are made under 20-4-204  
5 relating to the termination of services of a tenure teacher  
6 or under 20-4-207 relating to the dismissal of a teacher or  
7 specialized instructor under contract, the county  
8 superintendent may appoint a qualified attorney at law to  
9 act as a legal adviser who shall assist the superintendent  
10 in preparing findings of fact and conclusions of law.  
11 Subsequently, either the teacher, specialized instructor, or  
12 trustees may appeal to the superintendent of public  
13 instruction under the provisions for appeal of controversies  
14 in this title. Furthermore, he shall hear and decide all  
15 controversies arising under:

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

18 (b) any other provision of this title for which a  
19 procedure for resolving controversies is not expressly  
20 prescribed.

21 (2) The county superintendent shall hear the appeal  
22 and take testimony in order to determine the facts related  
23 to the controversy and may administer oaths to the witnesses  
24 that testify at the hearing. He shall prepare a written  
25 transcript of the hearing proceedings. The decision on the

1 matter of controversy which is made by the county  
2 superintendent ~~shall~~ must be based upon the facts  
3 established at such the hearing.

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

10 (4) Cost incurred by the office of the county  
11 superintendent ~~shall~~ must be paid from the general fund  
12 budget of the county in which the controversy is initiated."

13 **Section 4.** Section 20-3-362, MCA, is amended to read:

14 "20-3-362. Powers of joint board of trustees. (1) When  
15 a joint board of trustees is formed as provided by 20-3-361,  
16 it shall have the power to:

17 (a) jointly employ a district superintendent under the  
18 provisions of 20-4-401;

19 (b) jointly employ teachers, and specialists, and  
20 specialized instructors under the provisions of 20-4-201;

21 (c) open a junior high school under the provisions of  
22 20-6-505 if the trustees of a county high school and the  
23 trustees of an elementary district have formed a joint board  
24 of trustees;

25 (d) prescribe and administer joint administrative

1 policy;

2 (e) jointly provide any program or service authorized  
3 under 20-3-324, including any joint provision of special  
4 education services as provided in 20-7-457; and

5 (f) prorate all items of joint expense among the  
6 school districts, provided that a controversy over any  
7 decision by the joint board to prorate joint costs may,  
8 within 30 days, be appealed by the trustees of any district  
9 to the superintendent of public instruction for a final  
10 decision as to what constitutes a fair and just proration of  
11 the cost.

12 (2) The joint board of trustees ~~shall~~ does not have  
13 the power to transact business that is not specifically  
14 related to the joint administration of the districts."

15 **Section 5.** Section 20-4-101, MCA, is amended to read:

16 "20-4-101. System and definitions of teacher, and  
17 specialist, and specialized instructor certification --  
18 student teacher exception. (1) In order to establish a  
19 uniform system of quality education and to ensure the  
20 maintenance of professional standards, a system of teacher,  
21 and specialist, and specialized instructor certification  
22 ~~shall~~ must be established and maintained under the  
23 provisions of this title and ~~no a person shall-be~~ is not  
24 permitted to teach in the public schools of the state until  
25 he has obtained a teacher certificate, or specialist

1 certificate, or specialized instructor certificate or the  
2 district has obtained an emergency authorization of  
3 employment from the state.

4 (2) As used in this part, "teacher, or specialist, or  
5 specialized instructor certificate" means a certificate  
6 issued or applied for under 20-4-106. The term "teacher, or  
7 specialist, or specialized instructor" refers to a person  
8 certified under 20-4-106.

9 (3) The above certification requirement ~~shall~~ does not  
10 apply to a student teacher who is hereby defined as a  
11 student enrolled in an institution of higher learning  
12 approved by the board of regents of higher education for  
13 teacher training and who is jointly assigned by ~~such~~ the  
14 institution of higher learning and the governing board of a  
15 district or a public institution to perform practice  
16 teaching in a nonsalaried status under the direction of a  
17 regularly employed and certificated teacher.

18 (4) A student teacher, while serving ~~such a~~ a  
19 nonsalaried internship under the supervision of a  
20 certificated teacher, ~~shall~~ must be accorded the same  
21 protection of the laws as that accorded a certificated  
22 teacher and shall, while acting as ~~such a~~ a student teacher,  
23 comply with all rules of the governing board of the district  
24 or public institution and the applicable provisions of  
25 20-4-301 relating to the duties of teachers.

1 (5) A school district may not hire a specialized  
2 instructor unless it determines that the specialized  
3 instructor has better qualifications and will enhance the  
4 district's program more than any certified teacher or  
5 specialist reasonably available to the district. A school  
6 district may hire a person who holds a current specialized  
7 instructor certificate issued by another district pursuant  
8 to 20-4-103."

9 **Section 6.** Section 20-4-102, MCA, is amended to read:  
10 "20-4-102. Board of public education policies. (1) To  
11 effect an orderly and uniform system of teacher, and  
12 specialist, and specialized instructor certification, the  
13 board of public education shall, upon the recommendation of  
14 the superintendent of public instruction and in accordance  
15 with the provisions of this title, prescribe and adopt  
16 policies for the issuance of teacher, or specialist and  
17 specialized instructor certificates. ~~Such~~ The policies ~~shall~~  
18 must provide for:

19 ~~(1)~~ (a) reasonable training and experience requirements  
20 for teacher, specialist, supervisor, and administrative  
21 certificates and endorsements thereon as provided by the  
22 certification classification in 20-4-106;

23 ~~(2)~~ (b) the renewal of teacher, or specialist, and  
24 specialized instructor certificates based on the same  
25 conditions prescribed for the initial issuance of

1 certificates;

2 (3)(c) the conduct of hearings on teacher, or  
3 specialist, and specialized instructor certification  
4 revocation, suspension, or denial;

5 (4)(d) the issuance of emergency authorization to a  
6 district to employ a person who is not the holder of a valid  
7 teacher certificate as an instructor of pupils; and

8 (5)(e) any other policy, not inconsistent with the  
9 law, which is necessary for the proper operation of a system  
10 of teacher, and specialist, and specialized instructor  
11 certification.

12 (2) Board of public education policies for specialized  
13 instructors must cover all courses of study taught in  
14 Montana elementary and secondary schools."

15 **Section 7.** Section 20-4-103, MCA, is amended to read:

16 "20-4-103. Issuance of teacher, or specialist, and  
17 specialized instructor certificates. (1) The superintendent  
18 of public instruction shall issue all teacher and specialist  
19 certificates in the state of Montana. In issuing teacher or  
20 specialist certificates, the superintendent of public  
21 instruction shall comply with the provisions of this title  
22 and the teacher and specialist certification policies  
23 adopted by the board of public education. The superintendent  
24 of public instruction shall may not issue a teacher or  
25 specialist certificate to any person who does not satisfy

1 the qualifications or other requirements of this title and  
2 of the board of public education policies for teacher or  
3 specialist certification.

4 (2) (a) The board of trustees of a district may issue  
5 specialized instructor certificates. In issuing these  
6 certificates, the board shall comply with the applicable  
7 provisions of this title and the specialized instructor  
8 certification policies adopted by the board of public  
9 education.

10 (b) A board of trustees may not issue a specialized  
11 instructor certificate to a person who does not satisfy the  
12 applicable qualifications or other requirements of this  
13 title and of the board of public education."

14 **Section 8.** Section 20-4-104, MCA, is amended to read:

15 "20-4-104. Qualifications. (1) Any person may be  
16 certified as a teacher when he satisfies the following  
17 qualifications:

18 (a) He is 18 years of age or older but is not more  
19 than 70 years of age.

20 (b) He has a certificate of a licensed physician  
21 attesting to his satisfactory health.

22 (c) He is of good moral and professional character.

23 (d) He has completed the teacher education program of  
24 a unit of the Montana university system or an essentially  
25 equivalent program at an accredited institution of equal



1 rank and standing as that of any unit of the Montana  
 2 university system, and such the training shall must be  
 3 evidenced by at least a bachelor's degree and a  
 4 certification of the completion of the teacher education  
 5 program, except as provided for in 20-4-106(1)(d).

6 (e) He has subscribed to the following oath or  
 7 affirmation before an officer authorized by law to  
 8 administer oaths:

9 "I solemnly swear (or affirm) that I will support The  
 10 Constitution of the United States of America and The  
 11 Constitution of the State of Montana."

12 (2) Any person may be certified as a specialist when  
 13 he satisfies the requirements of subsections (1)(a) through  
 14 (1)(c) and the requirement for a specialist certificate  
 15 provided in 20-4-106(2).

16 (3) Any person may be certified as a specialized  
 17 instructor if he satisfies the requirements of subsections  
 18 (1)(a) through (1)(c) and meets the qualifications  
 19 prescribed by the board of public education."

20 **Section 9.** Section 20-4-108, MCA, is amended to read:

21 "20-4-108. Term of teacher, and specialist, and  
 22 specialized instructor certificates -- renewal. (1) Any  
 23 teacher, or specialist, or specialized instructor  
 24 certificate issued---by---the---superintendent--of--public  
 25 instruction-shall must bear the dates of issue and validity

1 and ~~shall--be~~ is valid for a term of 5 school fiscal years,  
 2 except that class 5 provisional certificates ~~shall--be~~ are  
 3 valid for the number of years, up to a maximum of 5 years,  
 4 provided by the policies of the board of public education.  
 5 The period of validity for any certificate ~~shall--begin~~  
 6 begins on July 1 immediately preceding the date of issue,  
 7 except that a teacher, or specialist, or specialized  
 8 instructor who applies for certification after March 1 may,  
 9 upon request, have the period of validity of the certificate  
 10 begin on July 1 following the date of application.

11 (2) Teacher, and specialist, and specialized  
 12 instructor certificates ~~shall~~ must be renewed for similar  
 13 periods of time on the basis of the board of public  
 14 education policies for teacher, and specialist, and  
 15 specialized instructor certification renewal."

16 **Section 10.** Section 20-4-109, MCA, is amended to read:

17 "20-4-109. Fees for teacher, and specialist, and  
 18 specialized instructor certificates. (1) Each person  
 19 applying for the issuance or renewal of a teacher, or  
 20 specialist, or specialized instructor certificate shall pay  
 21 a fee not to exceed \$5 for each school fiscal year that the  
 22 certificate will be valid. In addition to this fee, each  
 23 person who has never held any class of Montana teacher or  
 24 specialist certificate or a specialized instructor  
 25 certificate or for whom an emergency authorization of

1 employment has never been issued shall pay a filing fee of  
 2 \$5. The fees must be paid to the superintendent of public  
 3 instruction, who shall deposit the fees with the state  
 4 treasurer in the following manner:

5 (a) \$3 to the credit of the state special revenue fund  
 6 created in subsection (2);

7 (b) \$2 to the general fund.

8 (2) There is an account in the state special revenue  
 9 fund. Money from fees for teacher, or specialist, or  
 10 specialized instructor certificates required in subsection  
 11 (1) must be deposited in the account. The money in the  
 12 account must be used for expenses of the certification  
 13 standards and practices advisory council created in  
 14 2-15-1522."

15 **Section 11.** Section 20-4-110, MCA, is amended to read:

16 "20-4-110. Suspension, revocation, and denial --  
 17 appeals. (1) The board of public education may suspend or  
 18 revoke the teacher or specialist certificate of any person  
 19 for any of the following reasons:

20 (a) making any statement of material fact in the  
 21 application for a certificate which the applicant knows to  
 22 be false;

23 (b) any reason that would have required or authorized  
 24 the denial of the teacher or specialist certificate to the  
 25 person if it had been known at the time the certificate was

1 issued;

2 (c) incompetency;

3 (d) gross neglect of duty;

4 (e) conviction of, entry of a guilty verdict, a plea  
 5 of guilty, or a plea of no contest to a criminal offense  
 6 involving moral turpitude in this state or any other state  
 7 or country;

8 (f) immoral conduct related to the teaching  
 9 profession;

10 (g) substantial and material nonperformance of the  
 11 employment contract between the teacher or specialist and  
 12 the trustees of a district without good cause or the written  
 13 consent of the trustees; or

14 (h) denial, revocation, suspension, or surrender of a  
 15 teacher or specialist certificate in another state for any  
 16 reason constituting grounds for similar action in this  
 17 state.

18 (2) The board may initiate proceedings under this  
 19 section if a request for the suspension or revocation of the  
 20 teacher or specialist certificate of any person is made to  
 21 it by:

22 (a) the trustees of a district as to a teacher or  
 23 specialist employed by that district within the 12 months  
 24 immediately preceding receipt of the request by the board of  
 25 public education; or

1 (b) the superintendent of public instruction.

2 (3) (a) If the employment relationship between a  
3 school district and a teacher or specialist is terminated or  
4 not renewed because the trustees have reason to believe that  
5 the teacher or specialist engaged in conduct described in  
6 subsection (1)(e) or (1)(f), the trustees shall make a  
7 written report to the superintendent of public instruction  
8 describing the circumstances of the termination or  
9 nonrenewal of the employment relationship.

10 (b) The superintendent shall review the report and may  
11 conduct further investigation. If he is satisfied that  
12 sufficient grounds exist, he may request action by the board  
13 of public education under subsection (2)(b). The request  
14 must be brought within 1 year after discovery of the events  
15 that gave rise to the report.

16 (c) The trustees and the superintendent shall ensure  
17 the confidentiality of the report.

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

21 (4) The board shall give a 30-day written notification  
22 to any person when the board intends to consider the  
23 suspension or revocation of his certificate. The board shall  
24 conduct an investigation of the reasons for the suspension  
25 or revocation charge and then, if the investigation warrants

1 further action, conduct a hearing in the manner provided by  
2 board policies. At the hearing the board shall afford the  
3 person an opportunity to defend himself and his  
4 qualifications against the charge.

5 (5) After a hearing, the board may suspend or revoke  
6 the person's teacher or specialist certificate, except that  
7 in the case of a first violation under subsection (1)(g),  
8 the maximum penalty is a 2-year suspension of the person's  
9 certificate.

10 (6) Whenever the superintendent of public instruction  
11 denies the issuance or the renewal of a teacher or  
12 specialist certificate, the applicant may appeal the denial  
13 to the board of public education. The board shall hear the  
14 appeal in the same manner provided in this section for  
15 suspension or revocation and in accordance with the policies  
16 of the board. The decision of the board ~~shall be~~ is final.

17 (7) A board of trustees may suspend or revoke a  
18 specialized instructor certificate for any of the reasons  
19 specified in subsection (1). The suspension or revocation  
20 proceedings must be conducted in accordance with procedures  
21 established by policies of the board of public education.  
22 The decision of the board of trustees is final. A revocation  
23 is permanent but does not bar the applicant from applying  
24 for certification at a future date."

25 **Section 12.** Section 20-4-201, MCA, is amended to read:

1       \*20-4-201. Employment of teachers, and specialists,  
 2 and specialized instructors by contract. (1) The trustees of  
 3 any district ~~shall have the authority to~~ may employ any  
 4 person as a teacher, or specialist, or specialized  
 5 instructor but only a person who holds a valid Montana  
 6 teacher, or specialist, or specialized instructor  
 7 certificate or for whom an emergency authorization of  
 8 employment has been issued that qualifies such the person to  
 9 perform the duties prescribed by the trustees for the  
 10 position of employment. Each teacher, or specialist, or  
 11 specialized instructor ~~shall~~ must be employed under written  
 12 contract, and each contract of employment ~~shall~~ must be  
 13 authorized by a proper resolution of the trustees and ~~shall~~  
 14 must be executed in duplicate by the chairman of the  
 15 trustees and the clerk of the district in the name of the  
 16 district and by the teacher, or specialist, or specialized  
 17 instructor.

18       (2) No A contract of employment with a teacher, or  
 19 specialist ~~shall, or specialized instructor~~ may not require  
 20 such the teacher, or specialist, or specialized instructor  
 21 to teach more than 5 days a week or on any holiday  
 22 recognized by 20-1-305. No A deduction ~~shall~~ may not be made  
 23 from a teacher's, or specialist's, or specialized  
 24 instructor's salary by reason of the fact that a holiday  
 25 falls on a school day. ~~Any--teacher's--or--specialist's~~ A

1 contract made in conflict with the 5-days-per-week provision  
 2 of this section ~~shall~~ is not be enforceable against the  
 3 teacher, or specialist, or specialized instructor.

4       (3) Whenever the board of trustees of two or more  
 5 school districts form a joint board of trustees under the  
 6 provisions of 20-3-361, such the joint board of trustees may  
 7 execute a contract of employment with a teacher, or  
 8 specialist, or specialized instructor who shall serve the  
 9 districts. When such a contract is executed, the districts  
 10 shall prorate the compensation provided by such the contract  
 11 on the basis of the total number of instructional hours  
 12 expended by such the teacher, or specialist, or specialized  
 13 instructor within each district.

14       (4) Any contract executed under the provisions of this  
 15 section may contain the oath or affirmation prescribed in  
 16 20-4-104, and the teacher, or specialist, or specialized  
 17 instructor shall subscribe to such the oath or affirmation  
 18 before an officer authorized by law to administer oaths."

19       **Section 13.** Section 20-4-202, MCA, is amended to read:

20       \*20-4-202. ~~Teacher---and---specialist---~~ certification  
 21 Certification registration. (1) Any person employed as a  
 22 teacher, specialist, specialized instructor, principal, or  
 23 district superintendent shall register his certificate or  
 24 the district shall register its emergency authorization of  
 25 employment for a teacher with the county superintendent of

1 the county wherein he is employed in order to validate his  
 2 employment status and permit payment under his employment  
 3 contract. If a teacher, or specialist, or specialized  
 4 instructor does not register his certificate with the county  
 5 superintendent within 60 calendar days after he begins to  
 6 perform his services, he ~~shall~~ is not be eligible to receive  
 7 any further compensation under his contract of employment  
 8 until he has registered his certificate. After the schools  
 9 of a district have been open for 60 calendar days in the  
 10 current school fiscal year, the county superintendent shall  
 11 notify each district of the county of each teacher, or  
 12 specialist, or specialized instructor who has registered his  
 13 current valid certificate, and the district ~~shall~~ may not  
 14 pay any teacher, specialist, or specialized instructor who  
 15 has not registered his certificate until the county  
 16 superintendent ~~does-notify~~ notifies the district of ~~such~~ the  
 17 registration.

18 (2) A teacher, or specialist, or specialized  
 19 instructor employed by a joint district shall register his  
 20 certificate with the county superintendent of the county in  
 21 which he is working. A teacher, or specialist, or  
 22 specialized instructor employed by a special education  
 23 cooperative shall register his certificate with the county  
 24 superintendent of the county in which the special education  
 25 cooperative is based."

1 **Section 14.** Section 20-4-203, MCA, is amended to read:  
 2 **"20-4-203. Teacher tenure.** (1) Whenever a teacher has  
 3 been elected by the offer and acceptance of a contract for  
 4 the fourth consecutive year of employment by a district in  
 5 a position requiring teacher certification except as a  
 6 district superintendent, or specialist, or specialized  
 7 instructor, the teacher is considered to be reelected from  
 8 year to year thereafter as a tenure teacher at the same  
 9 salary and in the same or a comparable position of  
 10 employment as that provided by the last executed contract  
 11 with the teacher unless the trustees resolve by majority  
 12 vote of their membership to terminate the services of the  
 13 teacher in accordance with the provisions of 20-4-204.  
 14 (2) The tenure of a teacher with a district may not be  
 15 impaired upon termination of services of the teacher if the  
 16 following conditions exist:  
 17 (a) the tenure teacher is terminated because the  
 18 financial condition of the district requires a reduction in  
 19 the number of teachers employed; and  
 20 (b) continued employment rights are provided for in a  
 21 collectively bargained contract of the district."  
 22 **NEW SECTION. Section 15. Renewal of specialized**  
 23 **instructor contract.** A contract between the trustees of a  
 24 district and a specialized instructor expires and may be  
 25 renewed in a manner agreed to by the trustees and the

1 specialized instructor.

2 **Section 16.** Section 20-4-207, MCA, is amended to read:

3 \*20-4-207. Dismissal of teacher or specialized  
4 instructor under contract. (1) The trustees of any district  
5 may dismiss a teacher or specialized instructor before the  
6 expiration of his employment contract for immorality,  
7 unfitness, incompetence, or violation of the adopted  
8 policies of such the trustees.

9 (2) (a) The following persons may recommend the  
10 dismissal of a teacher or specialized instructor for cause  
11 under subsection (1):

12 (i) a district superintendent;

13 (ii) in a district without a district superintendent, a  
14 principal; or

15 (iii) in a district without a district superintendent  
16 or a principal, the county superintendent or a trustee of  
17 the district.

18 (b) A person listed in subsection (2)(a) who  
19 recommends dismissal of a teacher or specialized instructor  
20 shall give notice of the recommendation in writing to each  
21 trustee of the district and to the teacher or specialized  
22 instructor.

23 (c) The notice must state the specific instances of  
24 behavior or acts that led to the recommendation for  
25 dismissal.

1 (3) (a) Whenever the trustees of any district receive  
2 a recommendation for dismissal, the trustees shall notify  
3 the teacher or specialized instructor of his right to a  
4 hearing before the trustees either by certified letter or by  
5 personal notification for which a signed receipt must be  
6 returned. The teacher or specialized instructor may in  
7 writing waive the right to a hearing. Unless the teacher or  
8 specialized instructor waives the right to a hearing, the  
9 teacher or specialized instructor and trustees shall agree  
10 on a hearing date not less than 5 days or more than 20 days  
11 from the notice of intent to recommend dismissal.

12 (b) The trustees shall conduct a hearing on the  
13 recommendation and resolve at the conclusion of the hearing  
14 to dismiss the teacher or specialized instructor or to  
15 reject the recommendation for dismissal.

16 (4) With the exception of a county superintendent, a  
17 person who recommends dismissal pursuant to subsection (2)  
18 may suspend the teacher or specialized instructor from  
19 active performance of duty with pay pending the hearing date  
20 if the teacher's or specialized instructor's behavior or  
21 acts that led to the recommendation for dismissal are  
22 contrary to the welfare of the students or the effective  
23 operation of the school district.

24 (5) Any teacher or specialized instructor who has been  
25 dismissed may in writing within 10 days appeal such the

1 dismissal to the county superintendent. Following such an  
 2 appeal, a hearing must be scheduled within 10 days and held  
 3 within 30 days after the appeal, except that the period may  
 4 be extended upon agreement between the teacher or  
 5 specialized instructor and the trustees. If the county  
 6 superintendent, after a hearing, determines that the  
 7 dismissal by the trustees was made without good cause, he  
 8 shall order the trustees to reinstate such the teacher or  
 9 specialized instructor and to compensate such the teacher or  
 10 specialized instructor at his contract amount for the time  
 11 lost during the pending of the appeal."

12 **Section 17.** Section 20-4-301, MCA, is amended to read:

13 **"20-4-301. Duties of teacher or specialized instructor**  
 14 **-- nonpayment for failure to comply.** (1) Any teacher or  
 15 specialized instructor under contract with a district shall:

16 (a) conform to and enforce the laws, board of public  
 17 education policies, and the policies of the trustees of the  
 18 district;

19 (b) utilize the course of instruction prescribed by  
 20 the trustees;

21 (c) keep, in a neat and businesslike manner, a  
 22 teacher's register in the form and on the blanks prescribed  
 23 by the superintendent of public instruction;

24 (d) within 10 days after the conclusion of each school  
 25 semester, prepare a report in the manner and on the forms

1 prescribed by the superintendent of public instruction,  
 2 which must include the pupil attendance and absence data  
 3 from his teacher's register that is necessary to calculate  
 4 ANB. The report must be submitted to:

5 (i) the district superintendent, if there is one;

6 (ii) the principal of the school, if there is one and  
 7 there is no district superintendent; or

8 (iii) the county superintendent or all county  
 9 superintendents when the teacher or specialized instructor  
 10 is reporting for a joint district, if there is no district  
 11 superintendent or principal;

12 (e) exercise due diligence in the care of school  
 13 grounds and buildings, furniture, equipment, books, and  
 14 supplies; and

15 (f) provide moral and civic instruction by:

16 (i) endeavoring to impress the pupils with the  
 17 principles of morality, truth, justice, and patriotism;

18 (ii) teaching the pupils to avoid idleness, profanity,  
 19 and falsehood;

20 (iii) instructing the pupils in the principles of free  
 21 government and training them to comprehend the rights,  
 22 responsibilities, and dignity of American citizenship.

23 (2) The trustees are authorized to withhold the salary  
 24 warrant of any teacher or specialized instructor who does  
 25 not comply with the provisions of subsection (1)(a) or

1 (1)(b) until the teacher or specialized instructor does  
2 comply with the provisions.

3 (3) The trustees may not pay any teacher or  
4 specialized instructor his last month's salary until he has  
5 provided a complete and accurate semester report to the  
6 required person, as determined by the person and as required  
7 in subsection (1)(d) of this section."

8 **Section 18.** Section 20-7-456, MCA, is amended to read:

9 "20-7-456. Tenure of teachers employed by  
10 cooperatives. (1) Teachers who have tenure rights with a  
11 district and are employed by a cooperative of which their  
12 district is a member do not lose their tenure with the  
13 district.

14 (2) Nontenured teachers employed by a cooperative  
15 acquire tenure with a cooperative in the same manner as  
16 prescribed in 20-4-203, and the provisions of 20-4-204  
17 through 20-4-207 are applicable to teachers employed by a  
18 cooperative.

19 (3) Tenure for a teacher employed by a cooperative is  
20 acquired only with the cooperative and not with a member  
21 school district of a cooperative.

22 (4) For the purposes of tenure of a teacher employed  
23 by a cooperative, special education cooperative contract  
24 renewals may not be used to limit the teacher's progress  
25 toward tenure status.

1 (5) A specialized instructor employed by a cooperative  
2 does not acquire tenure."

3 **NEW SECTION. Section 19.** Codification instruction.  
4 [Section 15] is intended to be codified as an integral part  
5 of Title 20, chapter 4, part 2, and the provisions of Title  
6 20, chapter 4, part 2, apply to [section 15].

7 **NEW SECTION. Section 20.** Effective date --  
8 termination. (1) [This act] is effective July 1, 1989, and  
9 if approved after July 1, 1989, applies retroactively,  
10 within the meaning of 1-2-109, to July 1, 1989.

11 (2) [This act] terminates June 30, 1991.

-End-