

HOUSE BILL 83

Introduced by Daily

12/29	Introduced
12/30	Referred to Education & Cultural Resources
1/04	First Reading
1/08	Hearing
1/15	Committee Report--Bill Passed as Amended
1/19	2nd Reading Do Pass as Amended Motion Failed

1 HOUSE BILL NO. 83

2 INTRODUCED BY DAILY

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING TEACHER
5 TERMINATION LAWS; REQUIRING THAT TRUSTEES REHIRE A TEACHER
6 TERMINATED FOR FINANCIAL REASONS IF THE FINANCIAL CONDITION
7 CAUSING TERMINATION IS RESOLVED WITHIN THE NEXT 4 YEARS;
8 REQUIRING REHIRING TO BE BASED ON SENIORITY; AMENDING
9 SECTIONS 20-4-204 AND 20-4-206, MCA; AND PROVIDING AN
10 IMMEDIATE EFFECTIVE DATE."
11

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

13 Section 1. Section 20-4-204, MCA, is amended to read:

14 "20-4-204. Termination of tenure teacher services.

15 (1) (a) The following persons may make a recommendation in
16 writing to the trustees of the district for termination of
17 the services of a tenure teacher:

18 (i) a district superintendent;

19 (ii) in a district without a district superintendent, a
20 principal;

21 (iii) in a district without a district superintendent or
22 a principal, the county superintendent or a trustee of the
23 district.

24 (b) The recommendation must state clearly and
25 explicitly the specific reason or reasons leading to the

1 recommendation for termination.

2 (2) Whenever the trustees of a district receive a
3 recommendation for termination, the trustees shall, before
4 May 1 of the current school fiscal year, notify the teacher
5 of the recommendation for termination and of the teacher's
6 right to a hearing on the recommendation. The notification
7 must be delivered by certified letter or by personal
8 notification for which a signed receipt is returned. The
9 notification must include:

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

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

14 (3) The teacher may, in writing, waive the right to a
15 hearing. Unless the teacher waives the right to a hearing,
16 the trustees shall set a hearing date, giving consideration
17 to the convenience of the teacher, not less than 10 days or
18 more than 20 days from receipt of the notice of
19 recommendation for termination.

20 (4) The trustees shall:

21 (a) conduct the hearing on the recommendation at a
22 regularly scheduled or special meeting of the board of
23 trustees and in accordance with 2-3-203; and

24 (b) resolve at the conclusion of the hearing to
25 terminate the teacher or to reject the recommendation for

1 termination.

2 (5) The tenure teacher may appeal a decision to
3 terminate to the county superintendent who may appoint a
4 qualified attorney at law as legal adviser who shall assist
5 the superintendent in preparing findings of fact and
6 conclusions of law.

7 (6) Subsequently, either the teacher or the trustees
8 may appeal to the superintendent of public instruction under
9 the provision for the appeal of controversies in this title.

10 (7) If the trustees terminate a teacher for financial
11 reasons and the financial condition causing the termination
12 is resolved within the next 4 years, the terminated teacher
13 must be rehired. If a position for which a terminated
14 teacher is certified becomes available, rehiring must be
15 based on seniority."

16 **Section 2.** Section 20-4-206, MCA, is amended to read:

17 "20-4-206. Notification of nontenure teacher reelection
18 -- acceptance -- termination and statement of reason. (1)
19 The trustees shall provide written notice by May 1 to all
20 nontenure teachers who have been reelected. A nontenure
21 teacher who does not receive written notice of reelection or
22 termination is automatically reelected for the ensuing
23 school fiscal year.

24 (2) A nontenure teacher who receives notification of
25 his reelection for the ensuing school fiscal year shall

1 provide the trustees with his written acceptance of the
2 conditions of reelection within 20 days after the receipt of
3 the notice of reelection. Failure to so notify the trustees
4 within 20 days may be considered nonacceptance of the
5 tendered position.

6 (3) When the trustees notify a nontenure teacher of
7 termination, the teacher may within 10 days after receipt of
8 the notice make written request of the trustees for a
9 statement in writing of the reasons for termination of
10 employment. Within 10 days after receipt of the request, the
11 trustees shall furnish to the teacher a true statement of
12 reasons for termination.

13 (4) If a nontenure teacher believes the reasons
14 provided by the trustees are not true, the teacher may
15 request in writing within 10 days of receipt of the
16 statement of reasons that the county superintendent hold a
17 hearing in accordance with 20-3-210 to determine whether the
18 reasons are true. A hearing must be scheduled within 10 days
19 and held within 45 days after receipt of the request, except
20 that the period may be extended upon agreement between the
21 trustees and the teacher. The burden of proof that the
22 reasons are not true rests with the teacher, and the showing
23 must be demonstrated by clear and convincing evidence.

24 (5) If, after a hearing, the county superintendent
25 determines that the reasons are not true, the county

1 superintendent shall order the trustees to offer the teacher
2 a contract for the ensuing school fiscal year.

3 (6) If the trustees terminate a teacher for financial
4 reasons and the financial condition causing the termination
5 is resolved before the beginning of the next school year,
6 the terminated teacher must be rehired.

7 ~~(6)~~(7) The provisions of ~~this-section~~ subsection (1) do
8 not apply to cases in which a nontenure teacher is
9 terminated when the financial condition of the school
10 district requires a reduction in the number of teachers
11 employed and the reason for the termination is to reduce the
12 number of teachers employed."

13 NEW SECTION. Section 3. Effective date. [This act] is
14 effective on passage and approval.

-End-

APPROVED BY COMM. ON EDUCATION
AND CULTURAL RESOURCES

HOUSE BILL NO. 83

INTRODUCED BY DAILY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING TEACHER
TERMINATION LAWS; REQUIRING THAT TRUSTEES REHIRE A TEACHER
TERMINATED FOR FINANCIAL REASONS IF THE FINANCIAL CONDITION
CAUSING TERMINATION IS RESOLVED WITHIN THE NEXT 4 YEARS;
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Section 1. Section 20-4-204, MCA, is amended to read:**"20-4-204. Termination of tenure teacher services.**

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writing to the trustees of the district for termination of
the services of a tenure teacher:

(i) a district superintendent;

(ii) in a district without a district superintendent, a
principal;

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

(b) The recommendation must state clearly and
explicitly the specific reason or reasons leading to the

recommendation for termination.

(2) Whenever the trustees of a district receive a
recommendation for termination, the trustees shall, before
May 1 of the current school fiscal year, notify the teacher
of the recommendation for termination and of the teacher's
right to a hearing on the recommendation. The notification
must be delivered by certified letter or by personal
notification for which a signed receipt is returned. The
notification must include:

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

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

(3) The teacher may, in writing, waive the right to a
hearing. Unless the teacher waives the right to a hearing,
the trustees shall set a hearing date, giving consideration
to the convenience of the teacher, not less than 10 days or
more than 20 days from receipt of the notice of
recommendation for termination.

(4) The trustees shall:

(a) conduct the hearing on the recommendation at a
regularly scheduled or special meeting of the board of
trustees and in accordance with 2-3-203; and

(b) resolve at the conclusion of the hearing to
terminate the teacher or to reject the recommendation for

1 termination.

2 (5) The tenure teacher may appeal a decision to
3 terminate to the county superintendent who may appoint a
4 qualified attorney at law as legal adviser who shall assist
5 the superintendent in preparing findings of fact and
6 conclusions of law.

7 (6) Subsequently, either the teacher or the trustees
8 may appeal to the superintendent of public instruction under
9 the provision for the appeal of controversies in this title.

10 (7) If the trustees terminate a teacher for financial
11 reasons and the financial condition causing the termination
12 is resolved within the next 4 years, the terminated teacher
13 must be rehired OFFERED A CONTRACT FOR REHIRE. If a position
14 for which a terminated teacher is CURRENTLY AND
15 APPROPRIATELY certified becomes available, rehiring must be
16 based on seniority."

17 **Section 2.** Section 20-4-206, MCA, is amended to read:

18 **"20-4-206. Notification of nontenure teacher reelection**
19 **-- acceptance -- termination and statement of reason. (1)**
20 **The trustees shall provide written notice by May 1 to all**
21 **nontenure teachers who have been reelected. A nontenure**
22 **teacher who does not receive written notice of reelection or**
23 **termination is automatically reelected for the ensuing**
24 **school fiscal year.**

25 (2) A nontenure teacher who receives notification of

1 his reelection for the ensuing school fiscal year shall
2 provide the trustees with his written acceptance of the
3 conditions of reelection within 20 days after the receipt of
4 the notice of reelection. Failure to so notify the trustees
5 within 20 days may be considered nonacceptance of the
6 tendered position.

7 (3) When the trustees notify a nontenure teacher of
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17 statement of reasons that the county superintendent hold a
18 hearing in accordance with 20-3-210 to determine whether the
19 reasons are true. A hearing must be scheduled within 10 days
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21 that the period may be extended upon agreement between the
22 trustees and the teacher. The burden of proof that the
23 reasons are not true rests with the teacher, and the showing
24 must be demonstrated by clear and convincing evidence.

25 (5) If, after a hearing, the county superintendent

1 determines that the reasons are not true, the county
2 superintendent shall order the trustees to offer the teacher
3 a contract for the ensuing school fiscal year.

4 (6) If the trustees terminate a teacher for financial
5 reasons and the financial condition causing the termination
6 is resolved before the beginning of the next school year,
7 the terminated teacher must be rehired OFFERED A CONTRACT
8 FOR REHIRE FOR THE NEXT SCHOOL YEAR.

9 ~~{6}~~{7} The provisions of ~~this-section~~ subsection (1) do
10 not apply to cases in which a nontenure teacher is
11 terminated when the financial condition of the school
12 district requires a reduction in the number of teachers
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