

SENATE BILL NO. 140

INTRODUCED BY

*Towne* *Stacy Fournelle* *Annott*  
BY REQUEST OF THE BOARD OF PUBLIC EDUCATION

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE BOARD OF PUBLIC EDUCATION TO PLACE A WRITTEN REPRIMAND IN A PERSON'S CERTIFICATION FILE AS A RESULT OF A HEARING ON REVOCATION OR SUSPENSION OF A TEACHER, ADMINISTRATOR, OR SPECIALIST CERTIFICATE; CLARIFYING THE PROCEDURE FOR NOTIFYING A PERSON WHEN THE BOARD OF PUBLIC EDUCATION INTENDS TO CONSIDER THE SUSPENSION OR REVOCATION OF A CERTIFICATE; AMENDING SECTION 20-4-110, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 20-4-110, MCA, is amended to read:

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

- (a) making any statement of material fact in applying for a certificate that the applicant knows to be false;
- (b) any reason that would have required or authorized the denial of the teacher, administrator, or specialist certificate to the person if it had been known at the time the certificate was issued;
- (c) incompetency;
- (d) gross neglect of duty;
- (e) conviction of, entry of a guilty verdict, a plea of guilty, or a plea of no contest to a criminal offense involving moral turpitude in this state or any other state or country;
- (f) immoral conduct related to the teaching profession;
- (g) substantial and material nonperformance of the employment contract between the teacher, administrator, or specialist and the trustees of a school or school district without good cause or the written consent of the trustees; or
- (h) denial, revocation, suspension, or surrender of a teacher, administrator, or specialist certificate

1 in another state for any reason constituting grounds for similar action in this state.

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

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

7 (b) the superintendent of public instruction.

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

14 (b) The superintendent shall review the report and any supporting evidence included in the report  
15 and may conduct further investigation. If the superintendent is satisfied that sufficient grounds exist, the  
16 superintendent may request action by the board of public education under subsection (1). The request must  
17 be brought within 1 year after discovery of the events that gave rise to the report.

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

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

21 (4) The board shall give a 30-day written notification to any person when the board intends to  
22 consider the suspension or revocation of a certificate. Service of the notice must be accomplished by  
23 sending the notification by registered mail to the last address that the person has provided to the  
24 superintendent of public instruction.

25 (5) The board shall conduct an investigation of the reasons for the suspension or revocation charge  
26 and then, if the investigation warrants further action, conduct a hearing in the manner provided by board  
27 policies. At the hearing, the board shall afford the person an opportunity for defense against the charge.

28 ~~(5)(6)~~ After a hearing, the board may place a written reprimand in the person's certification file or  
29 may suspend or revoke the person's teacher, administrator, or specialist certificate, except that in the case  
30 of a first violation under subsection (1)(g), the maximum penalty is a 2-year suspension of the person's

1 certificate.

2 ~~(6)~~(7) Whenever the superintendent of public instruction denies the issuance or the renewal of a  
3 teacher, administrator, or specialist certificate, the applicant may appeal the denial to the board of public  
4 education. The board shall hear the appeal in the same manner provided in this section for suspension or  
5 revocation and in accordance with the policies of the board. The decision of the board is final."

6  
7 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

8 -END-

APPROVED BY COM ON EDUCATION  
AND CULTURAL RESOURCES

SENATE BILL NO. 140

INTRODUCED BY TOEWS, STANG, FORRESTER, ARNOTT  
BY REQUEST OF THE BOARD OF PUBLIC EDUCATION

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE BOARD OF PUBLIC EDUCATION TO PLACE  
A WRITTEN REPRIMAND IN A PERSON'S CERTIFICATION FILE AS A RESULT OF A HEARING ON  
REVOCAION OR SUSPENSION OF A TEACHER, ADMINISTRATOR, OR SPECIALIST CERTIFICATE;  
AUTHORIZING THE BOARD OF PUBLIC EDUCATION TO INFORM A SCHOOL DISTRICT OF THE EXISTENCE  
OF A LETTER OF REPRIMAND UPON REQUEST; CLARIFYING THE PROCEDURE FOR NOTIFYING A  
PERSON WHEN THE BOARD OF PUBLIC EDUCATION INTENDS TO CONSIDER A LETTER OF REPRIMAND  
OR THE SUSPENSION OR REVOCAION OF A CERTIFICATE; AMENDING SECTION 20-4-110, MCA; AND  
PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 20-4-110, MCA, is amended to read:

**"20-4-110. ~~Suspension~~ LETTER OF REPRIMAND, SUSPENSION, revocation, and denial of  
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- (a) making any statement of material fact in applying for a certificate that the applicant knows to be false;
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- (c) incompetency;
- (d) gross neglect of duty;
- (e) conviction of, entry of a guilty verdict, a plea of guilty, or a plea of no contest to a criminal offense involving moral turpitude in this state or any other state or country;
- (f) immoral conduct related to the teaching profession;
- (g) substantial and material nonperformance of the employment contract between the teacher, administrator, or specialist and the trustees of a school or school district without good cause or the written

1 consent of the trustees; or

2 (h) denial, revocation, suspension, or surrender of a teacher, administrator, or specialist certificate  
3 in another state for any reason constituting grounds for similar action in this state.

4 (2) The board may initiate proceedings under this section if a request for the suspension or  
5 revocation of the teacher, administrator, or specialist certificate of any person is made to it by:

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

9 (b) the superintendent of public instruction.

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

16 (b) The superintendent shall review the report and any supporting evidence included in the report  
17 and may conduct further investigation. If the superintendent is satisfied that sufficient grounds exist, the  
18 superintendent may request action by the board of public education under subsection (1). The request must  
19 be brought within 1 year after discovery of the events that gave rise to the report.

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

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

23 (4) The board shall give a 30-day written notification to any person when the board intends to  
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25 must be accomplished by sending the notification by registered mail to the last address that the person has  
26 provided to the SCHOOL DISTRICT OR THE superintendent of public instruction.

27 (5) The board shall conduct an investigation of the reasons for the suspension or revocation charge  
28 and then, if the investigation warrants further action, conduct a hearing in the manner provided by board  
29 policies. At the hearing, the board shall afford the person an opportunity for defense against the charge.

30 ~~(5)~~(6) After a hearing, the board may place a written reprimand in the person's certification file or

1 may suspend or revoke the person's teacher, administrator, or specialist certificate, except that in the case  
2 of a first violation under subsection (1)(g), the maximum penalty is a 2-year suspension of the person's  
3 certificate. THE BOARD MAY, UPON A REQUEST BY A SCHOOL DISTRICT, INFORM THE SCHOOL  
4 DISTRICT THAT A PERSON'S CERTIFICATION FILE INCLUDES A LETTER OF REPRIMAND, BUT THE  
5 BOARD MAY NOT PROVIDE A COPY OF THE LETTER WITHOUT FIRST DETERMINING THAT THE PUBLIC'S  
6 RIGHT TO KNOW OUTWEIGHS THE PERSON'S RIGHT TO PRIVACY.

7 ~~(6)~~(7) Whenever the superintendent of public instruction denies the issuance or the renewal of a  
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9 education. The board shall hear the appeal in the same manner provided in this section for suspension or  
10 revocation and in accordance with the policies of the board. The decision of the board is final."

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12 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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-END-

## 1 SENATE BILL NO. 140

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28 (f) immoral conduct related to the teaching profession;

29 (g) substantial and material nonperformance of the employment contract between the teacher,  
 30 administrator, or specialist and the trustees of a school or school district without good cause or the written

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13

-END-



## HOUSE STANDING COMMITTEE REPORT

March 13, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Education and Cultural Resources report that Senate Bill 140 (third reading copy -- blue) be concurred in as amended.

Signed: Peggy Arnott  
Peggy Arnott, Vice-Chair

Carried by: Rep. Arnott

And, that such amendments read:

1. Page 1, line 18.

Following: "may"

Insert: "issue a letter of reprimand or may"

-END-

SB 140

Committee Vote:  
Yes 14, No 4.

HOUSE

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