



School Funding Interim Commission

64th Montana Legislature

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TO: School Funding Interim Commission
FROM: Pad McCracken, Research Analyst
RE: SB 331 (2015; Hansen) and emergency authorizations
DATE: March 9, 2016

You have requested an overview of SB 331 from the 2015 session and information on emergency authorizations in Montana. A copy of [SB 331 as introduced](#) by Sen. Hansen is attached. The bill basically took the procedure currently found in ARM 10.57.107, in which districts that cannot find a properly licensed teacher can request an emergency authorization from the Superintendent of Public Instruction, and incorporated it into statute allowing districts to self-authorize and simply inform the Superintendent they had done so. The bill contained requirements that the district widely advertise for the position in an attempt to find a licensed teacher and that the individual for whom the emergency authorization is sought:

- holds a license from another state in the subject area;
- holds a bachelor's degree in the subject area; or
- provides to the district acceptable expertise in the subject area.

The bill was [heard in the Senate Education and Cultural Resources Committee on February 20, 2015](#), and was supported by several school administrators and opposed by the Board of Public Education, the Office of Public Instruction, the Montana School Boards Association, School Administrators of Montana, and MEA-MFT. Robert Carson, director of the Northern Plains Transition to Teaching Program at MSU, was an informational witness.

Proponents largely discussed the difficulty they experienced in recruiting teachers in hard-to-fill subject areas and being "dinged" in their accreditation reports when they failed to secure licensed teachers. Dale Bernard, superintendent from Geysers, asked that Geysers be allowed to determine who is best qualified to teach Geysers children.

Opponents questioned whether the Legislature had authority over teacher licensure, emphasized the "core value" of a properly trained, professional, and highly regarded teacher corps, and discussed the need for Montana school administrators to better understand the flexibility for hiring that already exists.

In the ensuing discussion, opponents offered to work with the sponsor to amend the bill to highlight the flexibility under existing rule and also to better align statute and rule. The committee amended the bill in executive action and passed the bill unanimously. During second

reading on the Senate floor, Sen. Hansen stated that, upon deeper reflection, the bill's original purpose was not reflected in its amended state and asked that it be indefinitely postponed. The Senate obliged.

In addition to a copy of SB 331, I am attaching the following information I received from the Office of Public Instruction:

1. A table that shows the number of emergency authorizations issued during the past decade; and
2. Additional tables that list the schools and endorsement areas of emergency authorizations issued in the past several years.

While the decline in authorizations between 2007 and 2014 may reflect broader economic conditions and supply and demand issues, I was also told that these fluctuations may have been due to changes in the emergency authorization application and issuance procedures at OPI as well.

Also, I inquired with the Montana School Boards Association (MTSBA) and the School Administrators of Montana about efforts to educate district officials about existing flexibility in hiring practices. Both organizations have highlighted this topic in communications to their members and at conferences and workshops this past year as a result of the conversation initiated by SB 331. The final attachment to this memo is a reference produced by MTSBA and distributed by both organizations describing the licensing flexibility that currently exists under statute and administrative rule.

Please let me know if there is additional information you need on this topic for your April 4-5 meeting.

P.S. This related situation was recently brought to my attention:

Fort Benton School District was unable to hire a teacher licensed and endorsed for high school art for the 2015-16 school year and sought emergency authorization for the district's elementary-endorsed art teacher. Their application and subsequent appeal were denied because both statute and rule prohibit emergency authorizations for persons who are currently licensed. I can provide more information on this at the April meeting.

SENATE BILL NO. 331

INTRODUCED BY K. HANSEN

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A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING SCHOOL DISTRICT TRUSTEES TO EMPLOY CERTAIN QUALIFIED INDIVIDUALS WITHOUT A TEACHING LICENSE WHEN THE DISTRICT CANNOT SECURE THE SERVICES OF AN INDIVIDUAL WITH A TEACHING LICENSE; AMENDING SECTION 20-4-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 20-4-101, MCA, is amended to read:

"20-4-101. System and definitions of teacher and specialist certification -- student teacher exception. (1) (a) In order to establish a uniform system of quality education balanced with the needs of individual school districts and the control vested in school district trustees pursuant to Article X, section 8, of the Montana constitution and to ensure the maintenance of professional standards, a system of teacher and specialist certification must be established and maintained under the provisions of this title ~~and~~ Except as provided in subsection (1)(b), a person may not be permitted to teach in the public schools of the state until the person has obtained a teacher or specialist certificate or the district has obtained an emergency authorization of employment from the state.

(b) For a school year in which the trustees of a district cannot secure the services of a person holding a teacher or specialist certificate, the trustees may employ as a teacher a person without a teacher or specialist certificate when the person:

- (i) holds a valid and current teacher or specialist license for the subject area from another state;
- (ii) holds a bachelor's degree in the subject area; or
- (iii) provides to the district acceptable evidence of expertise in the subject area.

(c) Trustees utilizing the exception under subsection (1)(b) must submit documentation to the office of public instruction that the position was advertised through the teacher placement offices of the Montana job service and the Montana university system far enough in advance to reasonably enable qualified applicants to submit applications and credentials and to be interviewed.

(2) As used in this part, "teacher or specialist certificate" means a certificate issued or applied for under



1 20-4-106. The term "teacher or specialist" refers to a person certified under 20-4-106.

2 (3) The certification requirement does not apply to a student teacher who is a student enrolled in an
3 institution of higher learning approved by the board of regents of higher education for teacher training and who
4 is jointly assigned by the institution of higher learning and the governing board of a district or a public institution
5 to perform practice teaching in a nonsalaried status under the direction of a regularly employed and certificated
6 teacher.

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

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

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- END -

Emergency Authorizations FY 2005-2015

Endorsement	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	Total
Agriculture			2										2
Art K-12		1	1									1	3
Biology	1	1											2
Broadfield Science				3								2	5
Broadfield Social Studies	1												1
Business Education	1	1									1		3
Computer Science K-12	2												2
Drama	1												1
Elementary	1	1								1	8	6	17
English				1	1							1	3
Family & Consumer Sciences	3	2			1						1		7
History													0
Industrial Arts												1	1
Mathematics 5-12	6	1			2						1	1	11
Music K- 12	3	4									1	4	12
PE/Health K-12													0
Principal K-12													0
School Counseling K-12	5	3	1	2	1					1		1	14
Special Education P-12	1	1									2		4
Technology Education				1	1								2
Trade & Industry - Health Occupations													0
Trade and Industry - Automotive		1											1
World Language - French K-12	1												1
World Language - Japanese K-12	1	1											2
World Language - Latin K-12	1	2			1								4
World Language--Arabic									1				1
World Language - Spanish K-12	2	1			1							1	5
Total	30	20	4	7	8	0	0	No Data Available	1	2	14	18	104

Emergency Authorizations Issued 2012-13 and 2013-14	
School	Endorsement
2012-13 Missoula	Arabic K-12
2013-14 Kinsey School	Elementary
2013-14 Dixon Elementary-Missoula Area Education Cooperative	School Counselor

Emergency Authorizations Issued 2014-15	
School	Endorsement
Grass Range	Math
Trego	Elementary
Cut Bank (Glacier Elem. on Hutterite Colony)	Elementary
Glendive	Elementary
Dawson County --Bloomfield School	Elementary
Ekalaka	Elementary
Sidney	Elementary
Sidney	Special Education
Glendive	Family and Consumer Sciences
Townsend	Business Education
Fairview	Elementary
Browning (pending)	Elementary
Browning (pending)	Music
Alberton	Special Education

Emergency Authorizations Issued 2015-16	
School	Endorsement
Lindsay School—Dawson Co	Elementary
Whitefish	Music
Cut Bank	Math
Browning	Elementary
Eureka	School Counselor
Geraldine	Broadfield Science
Bainville	Art
Noxon	Industrial Education
Richey	English
Butte Central Catholic	Music
Frontier School—Roosevelt County	Elementary
Deer Creek School—Dawson County	Elementary
Denton	Spanish
West Yellowstone	Broadfield Science
Hobson	Music
Denton	Music
Browning	Elementary
Browning	Elementary



Prepared by MTSBA, Updated March 1, 2016

Existing Options to Address Recruitment and Retention Through Flexible Licensing				
Option	Sources of Authority	Prerequisites	Limits on Length	Other Details
Use a substitute teacher	10.55.716, ARM	GED or high school diploma, 3 hours of training by the district and a fingerprint background check. All requirements can be waived by the district if the substitute has prior substitute teaching experience in another public school from November 2002 or earlier.	No more than 35 consecutive teaching days (which is 20% of the school year) for the same teacher under BPE Rule. However, you could use the same substitute all year long for successive absences of different staff as long as each regular teacher for whom the substitute is covering is back by 35 consecutive teaching days.	If you run out of the maximum days on the substitute, the rule says you can convert them to an emergency authorization of employment for the remainder of the year.
Emergency Authorization of Employment	10.57.107, ARM and 20-4-111, MCA	Statute says must previously have held a valid teacher certificate OR can have met requirements of rule. Rule is more flexible, allowing a bachelor's degree or acceptable evidence of cultural experience (specifically for Class 7 American Indian Language Specialist).	Valid for one school year at a time. Can be renewed from year to year provided conditions of scarcity continue to persist.	Can't get this authorization if you held a class 5 alternative license the year before seeking emergency authorization. However, you could gain credits while employed in an emergency authorization situation that could be used to qualify for a Class 5 in a subsequent year. Provided that the district goes through the process to fill a position through emergency authorization, no violation of the accreditation standards will be assessed in spite of the fact that the district will not be using a licensed and endorsed teacher in the position.
Hire a retired licensed educator	19-20-732, MCA	School district has to certify to OPI and TRS that district has been unable to fill the position due to no qualified applications or no acceptance of offer by a nonretired teacher.	No limit on the district. There is a 3 year lifetime limit on a retired individual going to work under this provision and the retired member must have at least 30 years of experience in TRS.	This used to be a temporary provision in law, but the Legislature passed SB 141 by Senator Jones in the 2015 Session, removing the termination date from the law and making this flexibility permanent.



Prepared by MTSBA, Updated March 1, 2016

Existing Options to Address Recruitment and Retention Through Flexible Licensing				
Option	Sources of Authority	Prerequisites	Limits on Length	Other Details
Class 4 CTE	10.57.420 et seq., ARM, and 20-4-106, MCA	4A is for licensed teachers without a CTE endorsement, 4b is for people with at least a bachelor's degree and 4c is for people with at least a diploma or GED. BPE has enacted substantial flexibility beyond what is required by statute.	None. This is treated like any other license or endorsement.	Available to anyone with 10,000 hours (approximately 5 years fulltime OTJ) experience in automotive technology, welding, auto body, industrial mechanics, small engines, heavy equipment operations, electronics, horticulture, agriculture mechanics, building trades, building maintenance, culinary arts, metals, drafting, computer information systems, graphic arts, aviation, health occupations, machining, diesel mechanics, videography, and theater arts.
Class 5 Alternative	10.57.424 et. Seq., ARM, and 20-4-106, MCA	Scaled requirements that depend on the alternative you are seeking (e.g. higher requirements to get a Class 5 for a superintendent than for an elementary teacher)	Good for a maximum of three years.	Applicant must submit a plan showing how he or she will meet full licensure requirements by the end of the 3 year license. Board also allows nonqualifying master's degrees when accepted by the University. Note NPTTP option below for secondary licensure.
Internships	10.55.602 (defined) and 10.55.607 (requirements), ARM	Available to anyone with a current license and endorsement in one subject who wants to move to a new licensed role/endorsement area. All endorsements are available through internships.	Requirements must be satisfied within 3 years and must include a plan between the intern, the school district and an accredited preparation program.	Person can start teaching in new subject area immediately.
If all else fails, take a ding on the district's assurance standards	Accreditation standards requiring adherence to licensing	None - determined locally	If you repeat for more than one year, you will take a larger ding.	Regardless of how many times you violate the assurance standards, the district won't be in jeopardy of losing funding under 20-9-311(8)(d) unless it is also failing to meet the performance and content standards. Also, you can have a minor violation on inputs and as long as you have no violations on outputs, your overall accreditation remains regular.
<p>Note: Both the University of Montana and Montana State University provide flexible options for candidates seeking licensure at both the elementary and secondary level. One particularly unique program is the Northern Plains Transitions to Teaching Program (NPTTP) offered through Montana State University for secondary teacher licensure. NPTTP is a masters level teacher preparation program that allows candidates to earn their teaching certificate in two years, the second of which can be as a contract, salaried teacher. The program is offered 100% online to candidates with at least a bachelor's degree in a content area recognized for licensure purposes who maintained at least a 2.75 GPA during the course of their undergraduate studies. Go to http://www.montana.edu/nptt/ for more information.</p>				