



# SENATE BILL No. 265

January 26, 1993, Introduced by Senators EMMONS and WELBORN and referred to the Committee on Education.

A bill to amend sections 1 and 2 of article I, sections 1 and 2 of article II, and sections 1 and 2 of article III of Act No. 4 of the Public Acts of the Extra Session of 1937, entitled as amended

"An act relative to continuing tenure of office of certificated teachers in public educational institutions; to provide for probationary periods; to regulate discharges or demotions; to provide for resignations and leaves of absence; to create a state tenure commission and to prescribe the powers and duties thereof; and to prescribe penalties for violation of the provisions of this act,"

being sections 38.71, 38.72, 38.81, 38.82, 38.91, and 38.92 of the Michigan Compiled Laws; to add sections 3a and 5 to article II and section 3 to article III; and to repeal certain parts of the act.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1 Section 1. Sections 1 and 2 of article I, sections 1 and 2  
2 of article II, and sections 1 and 2 of article III of Act No. 4

1 of the Public Acts of the Extra Session of 1937, being sections  
2 38.71, 38.72, 38.81, 38.82, 38.91, and 38.92 of the Michigan  
3 Compiled Laws, are amended and sections 3a and 5 are added to  
4 article II and section 3 is added to article III to read as  
5 follows:

6 ARTICLE I.

7 Sec. 1. The term "teacher" as used in this act ~~shall~~  
8 ~~include all~~ MEANS A certificated ~~persons~~ INDIVIDUAL employed  
9 for a full school year by any board of education or controlling  
10 board of any public educational institution. AN INDIVIDUAL WHO  
11 IS NOT CERTIFICATED BUT IS EMPLOYED FOR A FULL SCHOOL YEAR PURSU-  
12 ANT TO SECTION 1233B OF THE SCHOOL CODE OF 1976, ACT NO. 451 OF  
13 THE PUBLIC ACTS OF 1976, BEING SECTION 380.1233B OF THE MICHIGAN  
14 COMPILED LAWS, IS CONSIDERED TO BE A TEACHER FOR THE PURPOSE OF  
15 SERVING THE PROBATIONARY PERIOD UNDER ARTICLE II, BUT SUCH AN  
16 INDIVIDUAL IS NOT CONSIDERED A TEACHER FOR THE PURPOSE OF CON-  
17 TINUING TENURE UNDER ARTICLE III UNTIL HE OR SHE BECOMES  
18 CERTIFICATED. "TEACHER" DOES NOT INCLUDE AN INDIVIDUAL WHOSE  
19 TEACHING CERTIFICATE HAS EXPIRED OR HAS BEEN SUSPENDED OR  
20 REVOKED.

21 Sec. 2. The term "certificated" ~~shall be as~~ MEANS HOLDING  
22 A VALID TEACHING CERTIFICATE, AS defined by the state board of  
23 education. FOR THE PURPOSE OF THIS SECTION, AN INDIVIDUAL IS  
24 CONSIDERED TO BE HOLDING A VALID TEACHING CERTIFICATE IF THE  
25 INDIVIDUAL HAS ON FILE WITH HIS OR HER EMPLOYING SCHOOL DISTRICT  
26 EITHER AN APPROPRIATE TEACHING CERTIFICATE ISSUED BY THE STATE  
27 BOARD OF EDUCATION OR, IF THE INDIVIDUAL'S APPLICATION FOR A

1 TEACHING CERTIFICATE HAS NOT BEEN CONFIRMED OR REJECTED BY THE  
2 STATE BOARD, WRITTEN EVIDENCE FROM THE INDIVIDUAL'S TEACHER EDU-  
3 CATION COLLEGE THAT HE OR SHE MEETS THE REQUIREMENTS DESCRIBED IN  
4 SECTION 1535 OF THE SCHOOL CODE OF 1976, ACT NO. 451 OF THE  
5 PUBLIC ACTS OF 1976, BEING SECTION 380.1535 OF THE MICHIGAN  
6 COMPILED LAWS.

7 ARTICLE II.

8 Sec. 1. ~~All teachers during the first 2 school years of~~  
9 ~~employment shall be deemed to be in a period of probation:~~  
10 ~~Provided, That any teacher under contract at the time this act~~  
11 ~~becomes effective who has previously rendered 2 or more years of~~  
12 ~~service in the same school district shall be granted continuing~~  
13 ~~tenure immediately upon reappointment by the controlling board:~~  
14 ~~Any such controlling board by unanimous vote of its members, how-~~  
15 ~~ever, may refuse to appoint a teacher who has rendered 2 or more~~  
16 ~~years service in the school district under its control. In the~~  
17 ~~event the vote against reappointment of such teacher is not unan-~~  
18 ~~imous the controlling board shall deem such teacher as on con-~~  
19 ~~tinuing tenure with full right to hearing and appeal as provided~~  
20 ~~in article 4 and article 6 of this act: Provided further, That~~  
21 ~~the controlling board, after this act becomes effective, may~~  
22 ~~place on continuing tenure any teacher who has previously~~  
23 ~~rendered 2 or more years of service.~~

24 (1) SUBJECT TO SUBSECTIONS (2) AND (3), A TEACHER IS IN A  
25 PROBATIONARY PERIOD DURING HIS OR HER FIRST 4 FULL SCHOOL YEARS  
26 OF EMPLOYMENT.

1 (2) A TEACHER UNDER CONTRACT BUT NOT ON CONTINUING TENURE AS  
2 OF THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS  
3 SUBSECTION IS IN A PROBATIONARY PERIOD DURING HIS OR HER FIRST 2  
4 FULL SCHOOL YEARS OF EMPLOYMENT.

5 (3) A TEACHER ON CONTINUING TENURE AS OF THE EFFECTIVE DATE  
6 OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION CONTINUES TO BE  
7 ON CONTINUING TENURE EVEN IF THE TEACHER HAS NOT SERVED FOR AT  
8 LEAST 4 FULL SCHOOL YEARS OF EMPLOYMENT.

9 Sec. 2. ~~No~~ A teacher shall NOT be required to serve more  
10 than 1 probationary period in any 1 school district or  
11 institution. ~~Provided, That a third year of probation may be~~  
12 ~~granted by the controlling board~~ HOWEVER, upon notice to the  
13 tenure commission, THE CONTROLLING BOARD MAY GRANT A THIRD YEAR  
14 OF PROBATION TO A TEACHER DESCRIBED IN SECTION 1(2) OF THIS  
15 ARTICLE.

16 SEC. 3A. (1) IF A PROBATIONARY TEACHER IS EMPLOYED BY A  
17 SCHOOL DISTRICT FOR AT LEAST 1 FULL SCHOOL YEAR, THE CONTROLLING  
18 BOARD OF THE PROBATIONARY TEACHER'S EMPLOYING SCHOOL DISTRICT  
19 SHALL ENSURE THAT THE TEACHER IS PROVIDED WITH AN INDIVIDUALIZED  
20 DEVELOPMENT PLAN DEVELOPED BY APPROPRIATE ADMINISTRATIVE PERSON-  
21 NEL IN CONSULTATION WITH THE INDIVIDUAL TEACHER AND THAT THE  
22 TEACHER IS PROVIDED WITH AT LEAST AN ANNUAL YEAR-END PERFORMANCE  
23 EVALUATION EACH YEAR DURING THE TEACHER'S PROBATIONARY PERIOD.  
24 THE ANNUAL YEAR-END PERFORMANCE EVALUATION SHALL BE BASED ON, BUT  
25 IS NOT LIMITED TO, AT LEAST 2 CLASSROOM OBSERVATIONS HELD AT  
26 LEAST 60 DAYS APART, UNLESS A SHORTER INTERVAL BETWEEN THE 2  
27 CLASSROOM OBSERVATIONS IS MUTUALLY AGREED UPON BY THE TEACHER AND

1 THE ADMINISTRATION, AND SHALL INCLUDE AT LEAST AN ASSESSMENT OF  
2 THE TEACHER'S PROGRESS IN MEETING THE GOALS OF HIS OR HER INDI-  
3 VIDUALIZED DEVELOPMENT PLAN. THIS SUBSECTION DOES NOT PREVENT A  
4 COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CONTROLLING BOARD AND  
5 THE TEACHER'S BARGAINING REPRESENTATIVE UNDER ACT NO. 336 OF THE  
6 PUBLIC ACTS OF 1947, BEING SECTIONS 423.201 TO 423.216 OF THE  
7 MICHIGAN COMPILED LAWS, FROM PROVIDING FOR MORE PERFORMANCE EVAL-  
8 UATIONS OR CLASSROOM OBSERVATIONS IN ADDITION TO THOSE REQUIRED  
9 UNDER THIS SUBSECTION. EXCEPT AS SPECIFICALLY STATED IN THIS  
10 SUBSECTION, THIS SECTION DOES NOT REQUIRE A PARTICULAR METHOD FOR  
11 CONDUCTING A PERFORMANCE EVALUATION OR CLASSROOM OBSERVATION OR  
12 FOR PROVIDING AN INDIVIDUALIZED DEVELOPMENT PLAN.

13 (2) FAILURE OF A SCHOOL DISTRICT TO COMPLY WITH SUBSECTION  
14 (1) WITH RESPECT TO AN INDIVIDUAL TEACHER IN A PARTICULAR SCHOOL  
15 YEAR IS CONCLUSIVE EVIDENCE THAT THE TEACHER'S PERFORMANCE FOR  
16 THAT SCHOOL YEAR WAS SATISFACTORY.

17 SEC. 5. EMPLOYMENT IN A POSITION OTHER THAN AS AN ACTIVE  
18 CLASSROOM TEACHER SHALL NOT BE CONSIDERED AS EMPLOYMENT FOR THE  
19 PURPOSE OF COMPLETING A PROBATIONARY PERIOD UNDER THIS ARTICLE.

20 ARTICLE III.

21 Sec. 1. (1) After the satisfactory completion of the proba-  
22 tionary period, a teacher shall be employed continuously by the  
23 controlling board under which the probationary period has been  
24 completed, and shall not be dismissed or demoted except as speci-  
25 fied in this act.

26 (2) IF A TEACHER EMPLOYED IN A PROGRAM OPERATED BY A  
27 CONSORTIUM OF SCHOOL DISTRICTS WAS PREVIOUSLY ON CONTINUING

1 TENURE IN A SCHOOL DISTRICT THAT PARTICIPATES IN THE CONSORTIUM,  
2 THE TEACHER SHALL BE CONSIDERED TO BE ON CONTINUING TENURE ONLY  
3 IN THAT SCHOOL DISTRICT. IF A TEACHER EMPLOYED IN A PROGRAM  
4 OPERATED BY A CONSORTIUM OF SCHOOL DISTRICTS WAS NOT PREVIOUSLY  
5 ON CONTINUING TENURE IN A SCHOOL DISTRICT THAT PARTICIPATES IN  
6 THE CONSORTIUM AND SATISFACTORILY COMPLETES THE PROBATIONARY  
7 PERIOD, THE TEACHER SHALL BE CONSIDERED TO BE ON CONTINUING  
8 TENURE ONLY IN THE SCHOOL DISTRICT THAT IS THE FISCAL AGENT FOR  
9 THE CONSORTIUM.

10 (3) If the controlling board ~~shall provide~~ PROVIDES in a  
11 contract of employment of ~~any~~ A teacher employed other than as  
12 a classroom teacher, including but not limited to, a superinten-  
13 dent, assistant superintendent, principal, department head or  
14 director of curriculum, made with ~~such~~ THE teacher after the  
15 completion of the probationary period, that ~~such~~ THE teacher  
16 shall not be ~~deemed~~ CONSIDERED to be granted continuing tenure  
17 in ~~such~~ THAT OTHER capacity by virtue of ~~such~~ THE contract of  
18 employment, then ~~such~~ THE teacher shall not be granted tenure  
19 in ~~such~~ THAT OTHER capacity, but shall be ~~deemed~~ CONSIDERED  
20 to have been granted continuing tenure as an active classroom  
21 teacher in ~~such~~ THE school district. Upon the termination of  
22 ~~any~~ such A contract of employment, if ~~such~~ THE controlling  
23 board ~~shall~~ DOES not ~~re-employ such~~ REEMPLOY THE teacher  
24 under contract in ~~any such~~ THE capacity COVERED BY THE  
25 CONTRACT, ~~such~~ THE teacher shall be continuously employed by  
26 ~~such~~ THE controlling board as an active classroom teacher.  
27 Failure of ~~any~~ A controlling board to ~~re-employ any such~~

1 REEMPLOY A teacher in any such capacity upon the termination of  
2 any such contract of employment DESCRIBED IN THIS SUBSECTION  
3 shall not be ~~deemed~~ CONSIDERED to be a demotion ~~within the~~  
4 ~~provisions of~~ UNDER this act. The salary in the position to  
5 which ~~such~~ THE teacher is assigned shall be the same as if ~~he~~  
6 THE TEACHER had been continuously employed in the newly assigned  
7 position. Failure of ~~any such~~ A controlling board to so pro-  
8 vide in any such contract of employment of ~~any~~ A teacher in a  
9 capacity other than a classroom teacher shall be ~~deemed~~  
10 CONSIDERED to constitute the employment of ~~such~~ THE teacher on  
11 continuing contract in ~~such~~ THE OTHER capacity and subject to  
12 ~~the provisions of~~ this act.

13 (4) Continuing tenure ~~shall~~ DOES not apply to an annual  
14 assignment of extra duty for extra pay.

15 (5) IF A TEACHER SATISFACTORILY COMPLETES THE PROBATIONARY  
16 PERIOD AS AN ADULT EDUCATION TEACHER, THE TEACHER SHALL BE CON-  
17 SIDERED TO BE ON CONTINUING TENURE IN THE SCHOOL DISTRICT ONLY  
18 FOR ADULT EDUCATION AND SHALL NOT BY VIRTUE OF COMPLETING THE  
19 PROBATIONARY PERIOD AS AN ADULT EDUCATION TEACHER BE CONSIDERED  
20 TO BE ON CONTINUING TENURE IN THE SCHOOL DISTRICT FOR ELEMENTARY  
21 AND SECONDARY EDUCATION.

22 Sec. 2. If a teacher on continuing tenure is employed by  
23 another controlling board, ~~he shall~~ THE TEACHER IS not ~~be~~  
24 subject to another probationary period of more than ~~1 year~~ 2  
25 YEARS beginning with the date of employment, and may at the  
26 option of the controlling board be placed immediately on  
27 continuing tenure. ~~Any~~ A notice provided under section 3 of

1 article 2 shall be given ~~at least~~ NOT LATER THAN 60 days before  
2 the completion of the ~~year of probation~~ PROBATIONARY PERIOD.  
3 If a teacher on continuing tenure becomes an employee of another  
4 controlling board as a result of school district annexation, con-  
5 solidation or other form of school district reorganization, ~~he~~  
6 THE TEACHER shall be placed on continuing tenure within 30 days  
7 unless the controlling board, by a 2/3 vote on an individual  
8 basis, places the teacher on not more than ~~1 year~~ 2 YEARS'  
9 probation. HOWEVER, IF SUCH A TEACHER IS UNDER CONTRACT BUT NOT  
10 ON CONTINUING TENURE WITH THE EMPLOYING BOARD AS OF THE EFFECTIVE  
11 DATE OF THE AMENDATORY ACT THAT ADDED THIS SENTENCE, THE TEACHER  
12 IS NOT SUBJECT TO ANOTHER PROBATIONARY PERIOD OF MORE THAN 1 YEAR  
13 BEGINNING WITH THE DATE OF EMPLOYMENT.

14 SEC. 3. THE CONTROLLING BOARD OF THE SCHOOL DISTRICT  
15 EMPLOYING A TEACHER ON CONTINUING TENURE SHALL ENSURE THAT THE  
16 TEACHER IS PROVIDED WITH A PERFORMANCE EVALUATION AT LEAST ONCE  
17 EVERY 3 YEARS AND, IF THE TEACHER HAS RECEIVED A LESS THAN SATIS-  
18 FACTORY PERFORMANCE EVALUATION, THE SCHOOL DISTRICT SHALL PROVIDE  
19 THE TEACHER WITH AN INDIVIDUALIZED DEVELOPMENT PLAN DEVELOPED BY  
20 APPROPRIATE ADMINISTRATIVE PERSONNEL IN CONSULTATION WITH THE  
21 INDIVIDUAL TEACHER. THE PERFORMANCE EVALUATION SHALL BE BASED  
22 ON, BUT IS NOT LIMITED TO, AT LEAST 2 CLASSROOM OBSERVATIONS CON-  
23 DUCTED DURING THE PERIOD COVERED BY THE EVALUATION AND, IF THE  
24 TEACHER HAS AN INDIVIDUALIZED DEVELOPMENT PLAN, SHALL INCLUDE AT  
25 LEAST AN ASSESSMENT OF THE TEACHER'S PROGRESS IN MEETING THE  
26 GOALS OF HIS OR HER INDIVIDUALIZED DEVELOPMENT PLAN. THIS  
27 SECTION DOES NOT PREVENT A COLLECTIVE BARGAINING AGREEMENT



1 BETWEEN THE CONTROLLING BOARD AND THE TEACHER'S BARGAINING  
2 REPRESENTATIVE UNDER ACT NO. 336 OF THE PUBLIC ACTS OF 1947,  
3 BEING SECTIONS 423.201 TO 423.216 OF THE MICHIGAN COMPILED LAWS,  
4 FROM PROVIDING FOR MORE PERFORMANCE EVALUATIONS OR CLASSROOM  
5 OBSERVATIONS IN ADDITION TO THOSE REQUIRED UNDER THIS SECTION.

6 Section 2. Section 5 of article IV of Act No. 4 of the  
7 Public Acts of the Extra Session of 1937, being section 38.105 of  
8 the Michigan Compiled Laws, is repealed.