

CHAPTER NO. 489

HOUSE BILL NO. 532

INTRODUCED BY PAVLOVICH, DAILY, HARRINGTON, COONEY,
QUILICI, MAGONE, JOHNSTON, MENAHAN,
GILLIGAN, McBRIDE

IN THE HOUSE

February 2, 1979	Introduced and referred to Committee on Education and Cultural Resources.
February 16, 1979	Committee recommend bill do pass. Report adopted.
February 17, 1979	Second reading, pass consideration.
February 19, 1979	Second reading, do pass as amended.
February 21, 1979	Correctly engrossed. Third reading, passed. Transmitted to second house.

IN THE SENATE

February 22, 1979	Introduced and referred to Committee on Education.
March 20, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 22, 1979	Second reading, concurred in.
March 24, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 26, 1979	Returned from second house. Concurred in as amended. On motion, consideration passed for the day.
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March 29, 1979

Second reading, amendments
adopted.

March 30, 1979

Third reading, amendments
adopted. Sent to enrolling.

Reported correctly enrolled.

1 *House* BILL NO. *532*
 2 INTRODUCED BY *Carlton Daily* *Hamilton* *Correy* *Quinn*
 3 *Mazone* *John* *Menahan* *William* *McBride*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE
 5 DISQUALIFICATION OF A COUNTY SUPERINTENDENT FROM HEARING
 6 MATTERS OF CONTROVERSY UNDER CERTAIN CIRCUMSTANCES;
 7 PROVIDING FOR APPOINTMENT OF ANOTHER COUNTY SUPERINTENDENT
 8 BY THE SUPERINTENDENT OF PUBLIC INSTRUCTION; AUTHORIZING
 9 PAYMENT OF NECESSARY AND PROPER EXPENSES BY THE COUNTY IN
 10 WHICH THE CONTROVERSY WAS INITIATED; AND AMENDING SECTION
 11 20-3-210, MCA."

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

14 NEW SECTION. Section 1. Disqualification of county
 15 superintendent. A county superintendent may not hear or
 16 decide matters of controversy pursuant to 20-3-210 when:

17 (1) he is a party to or has an interest in the
 18 controversy;

19 (2) he is related to either party in the controversy
 20 by consanguinity or affinity within the sixth degree,
 21 computed according to the rules of law; or

22 (3) either party to the controversy makes and files
 23 with the superintendent of public instruction an affidavit
 24 that he has reason to believe and does believe that he
 25 cannot have a fair and impartial hearing before the county

1 superintendent by reason of the bias or prejudice of the
 2 county superintendent.

3 NEW SECTION. Section 2. Superintendent of public
 4 instruction to appoint another county superintendent. (1)
 5 When a county superintendent is disqualified pursuant to
 6 [section 1], the superintendent of public instruction must
 7 appoint another county superintendent to hear and decide the
 8 matter of controversy arising pursuant to 20-3-210.

9 (2) The county superintendent appointed pursuant to
 10 subsection (1) must be reimbursed for all necessary and
 11 proper expenses incurred by the county in which the
 12 controversy was initiated.

13 Section 3. Section 20-3-210, MCA, is amended to read:
 14 "20-3-210. Controversy appeals and hearings. (1) ~~The~~
 15 Except as provided under [section 1] the county
 16 superintendent shall hear and decide all matters of
 17 controversy arising in his county as a result of decisions
 18 of the trustees of a district in the county. When appeals
 19 are made under 20-4-204 relating to the termination of
 20 services of a tenure teacher or under 20-4-207 relating to
 21 the dismissal of a teacher under contract, the county
 22 superintendent may appoint a qualified attorney at law to
 23 act as a legal adviser who shall assist the superintendent
 24 in preparing findings of fact and conclusions of law.
 25 Subsequently, either the teacher or trustees may appeal to

1 the superintendent of public instruction under the
2 provisions for appeal of controversies in this title.
3 Furthermore, he shall hear and decide all controversies
4 arising under:

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

7 (b) any other provision of this title for which a
8 procedure for resolving controversies is not expressly
9 prescribed.

10 (2) The county superintendent shall hear the appeal
11 and take testimony in order to determine the facts related
12 to the controversy and may administer oaths to the witnesses
13 that testify at the hearing. He shall prepare a written
14 transcript of the hearing proceedings. The decision on the
15 matter of controversy which is made by the county
16 superintendent shall be based upon the facts established at
17 such hearing.

18 (3) The decision of the county superintendent may be
19 appealed to the superintendent of public instruction, and if
20 it is appealed, the county superintendent shall supply a
21 transcript of the hearing and any other documents entered as
22 testimony at the hearing to the superintendent of public
23 instruction."

-End-

HOUSE BILL NO. 532

INTRODUCED BY PAVLOVICH, DAILY, HARRINGTON, COONEY,

QUILICI, MAGONE, JOHNSTON, MENAHAN,

GILLIGAN, McBRIDE

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE DISQUALIFICATION OF A COUNTY SUPERINTENDENT FROM HEARING MATTERS OF CONTROVERSY UNDER CERTAIN CIRCUMSTANCES; PROVIDING FOR APPOINTMENT OF ANOTHER COUNTY SUPERINTENDENT BY THE SUPERINTENDENT---OF---PUBLIC---INSTRUCTION COUNTY SUPERINTENDENT OF SCHOOLS; AUTHORIZING PAYMENT OF NECESSARY AND PROPER EXPENSES BY THE COUNTY IN WHICH THE CONTROVERSY WAS INITIATED; AND AMENDING SECTION 20-3-210, MCA."

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

NEW SECTION. Section 1. Disqualification of county superintendent. A county superintendent may not hear or decide matters of controversy pursuant to 20-3-210 when:

(1) he is a party to or has an interest in the controversy;

(2) he is related to either party in the controversy by consanguinity or affinity within the sixth degree, computed according to the rules of law; or

(3) either party to the controversy makes and files with the superintendent--of--public--instruction COUNTY

SUPERINTENDENT OF SCHOOLS an affidavit that he has reason to believe and does believe that he cannot have a fair and impartial hearing before the county superintendent by reason of the bias or prejudice of the county superintendent.

NEW SECTION. Section 2. Superintendent---of---public instruction THE COUNTY SUPERINTENDENT to appoint another county superintendent. (1) When a county superintendent is disqualified pursuant to [section 1], the superintendent--of public--instruction THAT COUNTY SUPERINTENDENT must appoint another county superintendent to hear and decide the matter of controversy arising pursuant to 20-3-210.

(2) The county superintendent appointed pursuant to subsection (1) must be reimbursed for all necessary and proper expenses incurred by the county in which the controversy was initiated.

Section 3. Section 20-3-210, MCA, is amended to read: "20-3-210. Controversy appeals and hearings. (1) Except as provided under [section 1] the county superintendent shall hear and decide all matters of controversy arising in his county as a result of decisions of the trustees of a district in the county. When appeals are made under 20-4-204 relating to the termination of services of a tenure teacher or under 20-4-207 relating to the dismissal of a teacher under contract, the county superintendent may appoint a qualified attorney at law to

1 act as a legal adviser who shall assist the superintendent
 2 in preparing findings of fact and conclusions of law.
 3 Subsequently, either the teacher or trustees may appeal to
 4 the superintendent of public instruction under the
 5 provisions for appeal of controversies in this title.
 6 Furthermore, he shall hear and decide all controversies
 7 arising under:

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

10 (b) any other provision of this title for which a
 11 procedure for resolving controversies is not expressly
 12 prescribed.

13 (2) The county superintendent shall hear the appeal
 14 and take testimony in order to determine the facts related
 15 to the controversy and may administer oaths to the witnesses
 16 that testify at the hearing. He shall prepare a written
 17 transcript of the hearing proceedings. The decision on the
 18 matter of controversy which is made by the county
 19 superintendent shall be based upon the facts established at
 20 such hearing.

21 (3) The decision of the county superintendent may be
 22 appealed to the superintendent of public instruction, and if
 23 it is appealed, the county superintendent shall supply a
 24 transcript of the hearing and any other documents entered as
 25 testimony at the hearing to the superintendent of public

1 instruction.

2 (4) COST INCURRED BY THE OFFICE OF THE COUNTY
 3 SUPERINTENDENT SHALL BE BORNE BY THE COUNTY IN WHICH THE
 4 HEARING OCCURRED."

-End-

1 HOUSE BILL NO. 532

2 INTRODUCED BY PAVLOVICH, DAILY, HARRINGTON, COONEY,

3 QUILICI, MAGONE, JOHNSTON, MENAHAN,

4 GILLIGAN, McBRIDE

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6 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE
7 DISQUALIFICATION OF A COUNTY SUPERINTENDENT FROM HEARING
8 MATTERS OF CONTROVERSY UNDER CERTAIN CIRCUMSTANCES;
9 PROVIDING FOR APPOINTMENT OF ANOTHER COUNTY SUPERINTENDENT
10 BY THE SUPERINTENDENT--OF--PUBLIC--INSTRUCTION COUNTY
11 SUPERINTENDENT OF SCHOOLS; AUTHORIZING PAYMENT OF NECESSARY
12 AND PROPER EXPENSES BY THE COUNTY IN WHICH THE CONTROVERSY
13 WAS INITIATED; AND AMENDING SECTION 20-3-210, MCA."

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15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:16 NEW SECTION. Section 1. Disqualification of county
17 superintendent. A county superintendent may not hear or
18 decide matters of controversy pursuant to 20-3-210 when:19 (1) he is a party to or has an interest in the
20 controversy;21 (2) he is related to either party in the controversy
22 by consanguinity or affinity within the sixth degree,
23 computed according to the rules of law; or24 (3) either party to the controversy makes and files
25 with the ~~superintendent-of-public-instruction~~ COUNTY

1 SUPERINTENDENT OF SCHOOLS an affidavit that he has reason to
2 believe and does believe that he cannot have a fair and
3 impartial hearing before the county superintendent by reason
4 of the bias or prejudice of the county superintendent.

5 NEW SECTION. Section 2. ~~Superintendent--of--public~~
6 ~~instruction~~ THE COUNTY SUPERINTENDENT to appoint another
7 county superintendent. (1) When a county superintendent is
8 disqualified pursuant to [section 1], ~~the-superintendent--of~~
9 ~~public--instruction~~ THAT COUNTY SUPERINTENDENT must appoint
10 another county superintendent to hear and decide the matter
11 of controversy arising pursuant to 20-3-210.

12 (2) ~~The--county--superintendent--appointed-pursuant-to~~
13 ~~subsection-(1)--must-be-reimbursed--for--all--necessary--and~~
14 ~~proper--expenses--incurred--by--the~~ THE county in which the
15 controversy was initiated SHALL REIMBURSE THE COUNTY SERVED
16 BY THE COUNTY SUPERINTENDENT APPOINTED PURSUANT TO
17 SUBSECTION (1) FOR ACTUAL COSTS OF TRAVEL, ROOM, AND BOARD
18 AS A RESULT OF THE APPOINTMENT. SUCH COUNTY SUPERINTENDENT
19 IS ENTITLED TO EXPENSES AS PROVIDED IN 20-3-203(1).

20 Section 3. Section 20-3-210, MCA, is amended to read:
21 "20-3-210. Controversy appeals and hearings. (1) ~~The~~
22 Except as provided under [section 1], the county
23 superintendent shall hear and decide all matters of
24 controversy arising in his county as a result of decisions
25 of the trustees of a district in the county. When appeals

1 are made under 20-4-204 relating to the termination of
 2 services of a tenure teacher or under 20-4-207 relating to
 3 the dismissal of a teacher under contract, the county
 4 superintendent may appoint a qualified attorney at law to
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 6 in preparing findings of fact and conclusions of law.
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 8 the superintendent of public instruction under the
 9 provisions for appeal of controversies in this title.
 10 Furthermore, he shall hear and decide all controversies
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 13 approval of tuition applications; or

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 18 and take testimony in order to determine the facts related
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 21 transcript of the hearing proceedings. The decision on the
 22 matter of controversy which is made by the county
 23 superintendent shall be based upon the facts established at
 24 such hearing.

25 (3) The decision of the county superintendent may be

1 appealed to the superintendent of public instruction, and if
 2 it is appealed, the county superintendent shall supply a
 3 transcript of the hearing and any other documents entered as
 4 testimony at the hearing to the superintendent of public
 5 instruction.

6 ~~(4) COST INCURRED BY THE OFFICE OF THE COUNTY~~
 7 ~~SUPERINTENDENT SHALL BE BORNE BY PAID FROM THE GENERAL FUND~~
 8 ~~BUDGET OF THE COUNTY IN WHICH THE HEARING OCCURRED~~
 9 ~~CONTROVERSY IS INITIATED."~~

-End-

March 20, 1979

SENATE STANDING COMMITTEE REPORT
(Education)

That House Bill No. 532, third reading bill, be amended as follows:

1. Page 2, lines 12 through 14.

Following: "(2)"

Strike: remainder of lines 12 through "by the" on line 14

Insert: "The"

2. Page 2, line 15.

Following: "initiated"

Insert: "shall reimburse the county served by the county superintendent appointed pursuant to subsection (1) for actual costs of travel, room, and board as a result of the appointment. Such county superintendent is entitled to expenses as provided in 20-3-203(1)"

3. Page 4, line 3.

Following: "BE"

Strike: "BORNE BY"

Insert: "paid from the general fund budget of"

4. Page 4, line 4.

Strike: "HEARING OCCURRED"

Insert: "controversy is initiated"