

HOUSE BILL 194

Introduced by Rice, et al.

1/16	Introduced
1/16	Referred to Judiciary
1/24	Hearing
1/25	Tabled in Committee

1 House BILL NO. 194
2 INTRODUCED BY Ron J. Nelson
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THAT A
5 PROCEEDING FOR REVIEW OF A DECISION OF THE STATE
6 SUPERINTENDENT OF PUBLIC INSTRUCTION BE FILED IN THE
7 DISTRICT COURT FOR THE COUNTY IN WHICH THE DISPUTE OCCURRED;
8 AND AMENDING SECTION 2-4-702, MCA."

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

11 **Section 1.** Section 2-4-702, MCA, is amended to read:

12 "2-4-702. Initiating judicial review of contested
13 cases. (1) (a) A person who has exhausted all administrative
14 remedies available within the agency and who is aggrieved by
15 a final decision in a contested case is entitled to judicial
16 review under this chapter. This section does not limit
17 utilization of or the scope of judicial review available
18 under other means of review, redress, relief, or trial de
19 novo provided by statute.

20 (b) A party who proceeds before an agency under the
21 terms of a particular statute shall not be precluded from
22 questioning the validity of that statute on judicial review,
23 but such party may not raise any other question not raised
24 before the agency unless it is shown to the satisfaction of
25 the court that there was good cause for failure to raise the

1 question before the agency.

2 (2) (a) Proceedings for review shall be instituted by
3 filing a petition in district court within 30 days after
4 service of the final decision of the agency or, if a
5 rehearing is requested, within 30 days after the decision
6 thereon. Except as otherwise provided by statute, the
7 petition shall be filed in the district court for the county
8 where the petitioner resides or has his principal place of
9 business or where the agency maintains its principal office.
10 A proceeding for review of a decision of the state
11 superintendent of public instruction shall be filed in the
12 district court for the county in which the dispute occurred.
13 Copies of the petition shall be promptly served upon the
14 agency and all parties of record.

15 (b) The petition shall include a concise statement of
16 the facts upon which jurisdiction and venue are based, a
17 statement of the manner in which the petitioner is
18 aggrieved, and the ground or grounds specified in 2-4-704(2)
19 upon which the petitioner contends he is entitled to relief.
20 The petition shall demand the relief to which the petitioner
21 believes he is entitled, and the demand for relief may be in
22 the alternative.

23 (3) Unless otherwise provided by statute, the filing
24 of the petition shall not stay enforcement of the agency's
25 decision. The agency may grant or the reviewing court may

1 order a stay upon terms which it considers proper, following
2 notice to the affected parties and an opportunity for
3 hearing. A stay may be issued without notice only if the
4 provisions of 27-19-315, 27-19-316, and 27-19-317 are met.

5 (4) Within 30 days after the service of the petition
6 or within further time allowed by the court, the agency
7 shall transmit to the reviewing court the original or a
8 certified copy of the entire record of the proceeding under
9 review. By stipulation of all parties to the review
10 proceedings, the record may be shortened. A party
11 unreasonably refusing to stipulate to limit the record may
12 be taxed by the court for the additional costs. The court
13 may require or permit subsequent corrections or additions to
14 the record."

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