

SENATE BILL NO. 395

INTRODUCED BY PINSONEAULT, HOCKETT

IN THE SENATE

FEBRUARY 15, 1991                   INTRODUCED AND REFERRED TO COMMITTEE  
ON EDUCATION & CULTURAL RESOURCES.

FIRST READING.

FEBRUARY 21, 1991                   COMMITTEE RECOMMEND BILL  
DO PASS. REPORT ADOPTED.

FEBRUARY 22, 1991                   PRINTING REPORT.

FEBRUARY 23, 1991                   SECOND READING, DO PASS.

FEBRUARY 25, 1991                   ENGROSSING REPORT.

THIRD READING, PASSED.  
AYES, 49; NOES, 0.

TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 4, 1991                   INTRODUCED AND REFERRED TO COMMITTEE  
ON EDUCATION & CULTURAL RESOURCES.

FIRST READING.

APRIL 2, 1991                   COMMITTEE RECOMMEND BILL BE  
CONCURRED IN. REPORT ADOPTED.

APRIL 6, 1991                   SECOND READING, CONCURRED IN.

ON MOTION, RULES SUSPENDED. BILL  
PLACED ON THIRD READING THIS DAY.

THIRD READING, CONCURRED IN.  
AYES, 96; NOES, 1.

RETURNED TO SENATE.

IN THE SENATE

APRIL 9, 1991                   RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *395*  
 2 INTRODUCED BY *Pinsonault*

3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAWS  
 5 RELATED TO THE TRANSFER OF TERRITORY FROM ONE ELEMENTARY OR  
 6 HIGH SCHOOL DISTRICT TO ANOTHER; AMENDING SECTIONS 20-6-313  
 7 AND 20-6-320, MCA; AND PROVIDING AN EFFECTIVE DATE."  
 8

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

10 **Section 1.** Section 20-6-213, MCA, is amended to read:

11 "**20-6-213. Transfer of territory from one elementary**  
 12 **district to another.** (1) A majority of the registered  
 13 electors of any an elementary district who-are-qualified-to  
 14 vote-under-the-provisions-of-20-20-301--and who reside in  
 15 territory which that is a part of an elementary district may  
 16 petition the county superintendent to transfer such the  
 17 territory in which they reside to another elementary  
 18 district when:

19 (a) such the territory to be transferred is contiguous  
 20 to the district to which it is to be attached;

21 (b) such the territory to be transferred is not located  
 22 within 3 miles, over the shortest practical route, of an  
 23 operating school of the district from which it is to be  
 24 detached;

25 (c) the transfer of such the territory will not reduce

1 the taxable value of the district to less than \$100,000  
 2 unless the remaining territory of the district will contain  
 3 not less than 50,000 acres of nontaxable Indian land; and

4 (d) the board of trustees of the school district that  
 5 would receive the territory has approved in writing the  
 6 transfer; and

7 (e) the territory proposed to be transferred to another  
 8 elementary district has not been included in a petition  
 9 filed under this section in the previous 3 years.

10 (2) The petition shall must be addressed to the county  
 11 superintendent and shall must:

12 (a) describe provide a legal description of the  
 13 territory that is requested to be transferred and to-what a  
 14 description of the elementary district to which it is to be  
 15 transferred;

16 (b) state the reasons why such the transfer is  
 17 requested; and

18 (c) state the number of elementary school-age children  
 19 residing in such the territory; and

20 (d) be accompanied by a \$50 nonrefundable filing fee.

21 (3) A petition that meets the criteria specified in  
 22 subsection (1) and that contains all the information  
 23 required by subsection (2) is considered a valid petition.

24 On receipt of a valid petition for a territory transfer, the  
 25 county superintendent shall:



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1 (a) file such the petition;

2 (b) set a hearing place, date, and time for  
3 consideration of the petition that is not more than 40 days  
4 after receipt of the petition; and

5 (c) give notice of the place, date, and time of the  
6 hearing. The notices ~~shall~~ must be posted in the districts  
7 affected by the ~~request~~ petition for the transfer of  
8 territory in the manner prescribed in this title for school  
9 elections, with at least one such notice posted in the  
10 territory to be transferred.

11 (4) The county superintendent shall conduct the hearing  
12 as scheduled in accordance with the rules of procedure  
13 adopted by the superintendent of public instruction pursuant  
14 to 20-3-107(3), and any resident, or taxpayer, or  
15 representative of the affected districts shall must be  
16 ~~heard. If the county superintendent considers it advisable~~  
17 ~~and in the best interests of the residents of such~~  
18 ~~territory, he shall grant the petitioned request and order~~  
19 ~~the change of district boundaries to coincide with the~~  
20 ~~boundary description in the petition. Otherwise, he shall,~~  
21 ~~by order, deny the request. Either of the orders shall be~~

22 (5) Within 30 days after the hearing, the county  
23 superintendent shall, after considering the testimony and  
24 exhibits presented at the hearing, issue findings of fact,  
25 conclusions of law, and an order. The county superintendent

1 shall grant or deny the requested transfer of territory. The  
2 decision must be based on the effects that the transfer  
3 would have on those residing in the territory proposed for  
4 transfer as well as those residing in the remaining  
5 territory of the elementary district.

6 (6) The decision of the county superintendent is final  
7 30 days after its date unless it is appealed to the board of  
8 county commissioners by a resident or, taxpayer, or  
9 representative of either district the elementary districts  
10 affected by the territory transfer.

11 (7) The decision of the board of county commissioners,  
12 after a hearing on such the matter and consideration of the  
13 ~~material--presented--at~~ record from the county  
14 superintendent's hearing, ~~shall--be~~ is final 30 days after  
15 its date unless prior to that time it has been contested  
16 through the filing of a valid petition to submit the  
17 question to a vote of the people in the elementary district  
18 from which the land is to be transferred, ~~which has been.~~ In  
19 order for a petition to be valid, the petition must be  
20 signed by a majority 20% of the electors of the elementary  
21 district ~~who--reside in the territory to be transferred and~~  
22 who are qualified to vote in elections for that district  
23 under 20-20-301, ~~is--presented--prior to that time.~~ When a  
24 valid petition is submitted under this subsection, the  
25 question of whether the ~~land--shall~~ territory must be

1 transferred to another district ~~shall~~ must be put before the  
 2 voters at the next regular school election in the affected  
 3 elementary district. The results of the vote must be the  
 4 final decision on the petition for transfer of territory.

5 {5}(8) Whenever a petition to transfer territory from  
 6 one elementary district to another elementary district would  
 7 create a joint elementary district or affect the boundary of  
 8 an existing joint elementary district, the petition ~~shall~~ to  
 9 transfer territory must be presented to the county  
 10 superintendent of the county where the territory is located.  
 11 Such The county superintendent shall notify any other county  
 12 superintendents of counties with elementary districts  
 13 affected by such the petition, and the duties prescribed in  
 14 this section for the county superintendent and the board of  
 15 county commissioners ~~shall~~ must be performed jointly by such  
 16 county officials."

17 **Section 2.** Section 20-6-320, MCA, is amended to read:

18 "20-6-320. Transfer of territory from one high school  
 19 district to another. (1) A majority of registered electors  
 20 of any a high school district ~~who--are--qualified--to--vote~~  
 21 ~~under---the---provisions---of---20-20-301---and~~ who reside in  
 22 territory that is a part of a high school district may  
 23 petition the county superintendent to transfer such the  
 24 territory in which they reside to another high school  
 25 district if:

1 (a) the territory adjoins to be transferred is  
 2 contiguous to the high school district to which it is to be  
 3 attached;

4 (b) the territory to be transferred is not located  
 5 within 3 miles, over the shortest practical route, of an  
 6 operating school of the high school district from which it  
 7 is to be detached;

8 (c) the transfer of such the territory will not reduce  
 9 the taxable value of the district to less than \$300,000  
 10 unless the remaining territory of the high school district  
 11 contains not less than 50,000 acres of nontaxable Indian  
 12 land; and

13 (d) the board of trustees of the school district that  
 14 would receive the territory has approved in writing the  
 15 transfer; and

16 (e) the territory proposed to be transferred to another  
 17 high school district has not been included in a petition  
 18 filed under this section in the previous 3 years.

19 (2) The petition must be addressed to the county  
 20 superintendent and ~~shall~~ must:

21 (a) describe provide a legal description of the  
 22 territory that is requested to be transferred and ~~to what~~ a  
 23 description of the high school district to which it is to be  
 24 transferred;

25 (b) state the reasons why such the transfer is

1 requested; and

2 (c) state the number of high-school-age children  
3 residing in such the territory; and

4 (d) be accompanied by a \$50 nonrefundable filing fee.

5 (3) A petition that meets the criteria specified in  
6 subsection (1) and that contains all the information  
7 required by subsection (2) is a valid petition. On receipt  
8 of a valid petition for a territory transfer, the county  
9 superintendent shall:

10 (a) present the petition to the board of county  
11 commissioners for certification that the criteria set forth  
12 in subsection (1) have been met. The board shall, within 10  
13 days of receiving the petition, return it to the county  
14 superintendent with certification, signed by a majority of  
15 the board, that such the criteria have been met or with a  
16 notation, signed by a majority of the board, that the  
17 criteria have not been met. The board's certification is  
18 binding on the county superintendent unless the county  
19 superintendent believes that the certification is in error.  
20 A dispute between the board and the county commissioners  
21 superintendent on this issue must be decided by the  
22 superintendent of public instruction and the decision of the  
23 superintendent of public instruction on the matter is final.

24 (b) file the petition as certified by the board of  
25 county commissioners.

1 ~~(c)~~(4) If the petition is certified or adjusted on  
2 appeal to the superintendent of public instruction to meet  
3 the criteria specified in subsection (1), the county  
4 superintendent shall:

5 (a) set a hearing place, date, and time for  
6 consideration of the petition that is not more than 40 days  
7 after receipt of the petition; and

8 ~~(d)~~(b) give notice of the place, date, and time of the  
9 hearing. The notices must be posted in the high school  
10 districts affected by the request petition for the territory  
11 transfer in the manner prescribed in this title for school  
12 elections, with at least one notice posted in the territory  
13 to be transferred.

14 ~~(4)~~(5) The county superintendent shall conduct the  
15 hearing as scheduled in accordance with the rules of  
16 procedure adopted by the superintendent of public  
17 instruction pursuant to 20-3-107(3), and any resident, or  
18 taxpayer, or representative of either affected high school  
19 district must be heard. ~~if--the--county--superintendent~~  
20 ~~considers--it--advisable--and--in--the--best--interests--of--the~~  
21 ~~residents--of--the--territory--he--shall--grant--the--petitioned~~  
22 ~~request--and--order--the--change--of--district--boundaries--to~~  
23 ~~coincide--with--the--boundary--description--in--the--petition.~~  
24 ~~Otherwise, he shall by order deny the request. Either of the~~  
25 ~~orders shall be~~

1       (6) Within 30 days after the hearing, the county  
 2 superintendent shall, after considering the testimony and  
 3 exhibits presented at the hearing, issue findings of fact,  
 4 conclusions of law, and an order. The county superintendent  
 5 shall grant or deny the requested transfer of territory. The  
 6 decision must be based on the effects that the transfer  
 7 would have on those residing in the territory proposed for  
 8 transfer as well as those residing in the remaining  
 9 territory of the high school district.

10       (7) The decision of the county superintendent is final  
 11 20 30 days after its date unless it is appealed pursuant to  
 12 20-3-107 to the superintendent of public instruction by a  
 13 resident, taxpayer, or representative of either high school  
 14 district affected by the petitioned territory transfer. The  
 15 decision of the superintendent of public instruction, after  
 16 consideration of the ~~material-presented-at~~ record from the  
 17 county superintendent's hearing, is final 30 days after its  
 18 date. The final order of the superintendent of public  
 19 instruction is subject to judicial review pursuant to the  
 20 Montana Administrative Procedure Act, Title 2, chapter 4.

21       (5)(8) If a petition to transfer territory from one  
 22 high school district to another high school district would  
 23 create a joint high school district or affect the boundary  
 24 of any existing joint high school district, the petition  
 25 must be presented to the county superintendent of the county

1       where the territory proposed for transfer is located. The  
 2 county superintendent shall notify any other county  
 3 superintendents of counties with districts affected by the  
 4 petition, and the duties prescribed in this section for the  
 5 county superintendent must be performed jointly by such  
 6 county officials."

7       NEW SECTION. Section 3. Effective date. [This act] is  
 8 effective July 1, 1991.

-End-

APPROVED BY COMM. ON EDUCATION AND CULTURAL RESOURCES

1 INTRODUCED BY Senate BILL NO. 395  
President

2  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAWS  
5 RELATED TO THE TRANSFER OF TERRITORY FROM ONE ELEMENTARY OR  
6 HIGH SCHOOL DISTRICT TO ANOTHER; AMENDING SECTIONS 20-6-313  
7 AND 20-6-320, MCA; AND PROVIDING AN EFFECTIVE DATE."

8  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 20-6-213, MCA, is amended to read:

11 "20-6-213. Transfer of territory from one elementary  
12 district to another. (1) A majority of the registered  
13 electors of any an elementary district who-are-qualified-to  
14 vote-under-the-provisions-of-20-20-301--and who reside in  
15 territory which that is a part of an elementary district may  
16 petition the county superintendent to transfer such the  
17 territory in which they reside to another elementary  
18 district when:

19 (a) such the territory to be transferred is contiguous  
20 to the district to which it is to be attached;

21 (b) such the territory to be transferred is not located  
22 within 3 miles, over the shortest practical route, of an  
23 operating school of the district from which it is to be  
24 detached;

25 (c) the transfer of such the territory will not reduce

1 the taxable value of the district to less than \$100,000  
2 unless the remaining territory of the district will contain  
3 not less than 50,000 acres of nontaxable Indian land; and

4 (d) the board of trustees of the school district that  
5 would receive the territory has approved in writing the  
6 transfer; and

7 (e) the territory proposed to be transferred to another  
8 elementary district has not been included in a petition  
9 filed under this section in the previous 3 years.

10 (2) The petition shall must be addressed to the county  
11 superintendent and shall must:

12 (a) describe provide a legal description of the  
13 territory that is requested to be transferred and to-what a  
14 description of the elementary district to which it is to be  
15 transferred;

16 (b) state the reasons why such the transfer is  
17 requested; and

18 (c) state the number of elementary school-age children  
19 residing in such the territory; and

20 (d) be accompanied by a \$50 nonrefundable filing fee.

21 (3) A petition that meets the criteria specified in  
22 subsection (1) and that contains all the information  
23 required by subsection (2) is considered a valid petition.

24 On receipt of a valid petition for a territory transfer, the  
25 county superintendent shall:





1 (a) file such the petition;

2 (b) set a hearing place, date, and time for  
3 consideration of the petition that is not more than 40 days  
4 after receipt of the petition; and

5 (c) give notice of the place, date, and time of the  
6 hearing. The notices ~~shall~~ must be posted in the districts  
7 affected by the request petition for the transfer of  
8 territory in the manner prescribed in this title for school  
9 elections, with at least one such notice posted in the  
10 territory to be transferred.

11 (4) The county superintendent shall conduct the hearing  
12 as scheduled in accordance with the rules of procedure  
13 adopted by the superintendent of public instruction pursuant  
14 to 20-3-107(3), and any resident, or taxpayer, or  
15 representative of the affected districts ~~shall~~ must be  
16 heard. ~~if the county superintendent considers it advisable~~  
17 ~~and in the best interests of the residents of such~~  
18 ~~territory, he shall grant the petitioned request and order~~  
19 ~~the change of district boundaries to coincide with the~~  
20 ~~boundary description in the petition; otherwise, he shall,~~  
21 ~~by order, deny the request. Either of the orders shall be~~

22 (5) Within 30 days after the hearing, the county  
23 superintendent shall, after considering the testimony and  
24 exhibits presented at the hearing, issue findings of fact,  
25 conclusions of law, and an order. The county superintendent

1 shall grant or deny the requested transfer of territory. The  
2 decision must be based on the effects that the transfer  
3 would have on those residing in the territory proposed for  
4 transfer as well as those residing in the remaining  
5 territory of the elementary district.

6 (6) The decision of the county superintendent is final  
7 30 days after its date unless it is appealed to the board of  
8 county commissioners by a resident or, taxpayer, or  
9 representative of either district the elementary districts  
10 affected by the territory transfer.

11 (7) The decision of the board of county commissioners,  
12 after a hearing on such the matter and consideration of the  
13 material---presented---at record from the county  
14 superintendent's hearing, shall--be is final 30 days after  
15 its date unless prior to that time it has been contested  
16 through the filing of a valid petition to submit the  
17 question to a vote of the people in the elementary district  
18 from which the land is to be transferred, which has been. In  
19 order for a petition to be valid, the petition must be  
20 signed by a majority 20% of the electors of the elementary  
21 district who--reside in the territory to be transferred and  
22 who are qualified to vote in elections for that district  
23 under 20-20-301,--is--presented--prior--to--that--time. When a  
24 valid petition is submitted under this subsection, the  
25 question of whether the land--shall territory must be

1 transferred to another district shall must be put before the  
 2 voters at the next regular school election in the affected  
 3 elementary district. The results of the vote must be the  
 4 final decision on the petition for transfer of territory.

5 ~~(5)~~(8) Whenever a petition to transfer territory from  
 6 one elementary district to another elementary district would  
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 9 transfer territory must be presented to the county  
 10 superintendent of the county where the territory is located.  
 11 Such The county superintendent shall notify any other county  
 12 superintendents of counties with elementary districts  
 13 affected by such the petition, and the duties prescribed in  
 14 this section for the county superintendent and the board of  
 15 county commissioners shall must be performed jointly by such  
 16 county officials."

17 **Section 2.** Section 20-6-320, MCA, is amended to read:

18 "20-6-320. Transfer of territory from one high school  
 19 district to another. (1) A majority of registered electors  
 20 of any a high school district ~~who--are--qualified--to--vote~~  
 21 ~~under---the---provisions---of---20-20-301---and~~ who reside in  
 22 territory that is a part of a high school district may  
 23 petition the county superintendent to transfer such the  
 24 territory in which they reside to another high school  
 25 district if:

1 (a) the territory adjoins to be transferred is  
 2 contiguous to the high school district to which it is to be  
 3 attached;

4 (b) the territory to be transferred is not located  
 5 within 3 miles, over the shortest practical route, of an  
 6 operating school of the high school district from which it  
 7 is to be detached;

8 (c) the transfer of such the territory will not reduce  
 9 the taxable value of the district to less than \$300,000  
 10 unless the remaining territory of the high school district  
 11 contains not less than 50,000 acres of nontaxable Indian  
 12 land; and

13 (d) the board of trustees of the school district that  
 14 would receive the territory has approved in writing the  
 15 transfer; and

16 (e) the territory proposed to be transferred to another  
 17 high school district has not been included in a petition  
 18 filed under this section in the previous 3 years.

19 (2) The petition must be addressed to the county  
 20 superintendent and shall must:

21 (a) describe provide a legal description of the  
 22 territory that is requested to be transferred and to-what a  
 23 description of the high school district to which it is to be  
 24 transferred;

25 (b) state the reasons why such the transfer is

1 requested; and

2 (c) state the number of high-school-age children  
3 residing in ~~such~~ the territory; and

4 (d) be accompanied by a \$50 nonrefundable filing fee.

5 (3) A petition that meets the criteria specified in  
6 subsection (1) and that contains all the information  
7 required by subsection (2) is a valid petition. On receipt  
8 of a valid petition for a territory transfer, the county  
9 superintendent shall:

10 (a) present the petition to the board of county  
11 commissioners for certification that the criteria set forth  
12 in subsection (1) have been met. The board shall, within 10  
13 days of receiving the petition, return it to the county  
14 superintendent with certification, signed by a majority of  
15 the board, that ~~such~~ the criteria have been met or with a  
16 notation, signed by a majority of the board, that the  
17 criteria have not been met. The board's certification is  
18 binding on the county superintendent unless the county  
19 superintendent believes that the certification is in error.  
20 A dispute between the board and the county commissioners  
21 superintendent on this issue must be decided by the  
22 superintendent of public instruction and the decision of the  
23 superintendent of public instruction on the matter is final.

24 (b) file the petition as certified by the board of  
25 county commissioners;\_

1 ~~(c)~~(4) If the petition is certified or adjusted on  
2 appeal to the superintendent of public instruction to meet  
3 the criteria specified in subsection (1), the county  
4 superintendent shall:

5 (a) set a hearing place, date, and time for  
6 consideration of the petition that is not more than 40 days  
7 after receipt of the petition; and

8 ~~(d)~~(b) give notice of the place, date, and time of the  
9 hearing. The notices must be posted in the high school  
10 districts affected by the request petition for the territory  
11 transfer in the manner prescribed in this title for school  
12 elections, with at least one notice posted in the territory  
13 to be transferred.

14 ~~(4)~~(5) The county superintendent shall conduct the  
15 hearing as scheduled in accordance with the rules of  
16 procedure adopted by the superintendent of public  
17 instruction pursuant to 20-3-107(3), and any resident, or  
18 taxpayer, or representative of either affected high school  
19 district must be heard. if--the--county--superintendent  
20 considers--it--advisable--and--in--the--best--interests--of--the  
21 residents--of--the--territory,--he--shall--grant--the--petitioned  
22 request--and--order--the--change--of--district--boundaries--to  
23 coincide--with--the--boundary--description--in--the--petition.  
24 Otherwise,--he--shall--by--order--deny--the--request. Either--of--the  
25 orders--shall--be

1       (6) Within 30 days after the hearing, the county  
 2 superintendent shall, after considering the testimony and  
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 6 decision must be based on the effects that the transfer  
 7 would have on those residing in the territory proposed for  
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 9 territory of the high school district.

10       (7) The decision of the county superintendent is final  
 11 20 30 days after its date unless it is appealed pursuant to  
 12 20-3-107 to the superintendent of public instruction by a  
 13 resident, taxpayer, or representative of either high school  
 14 district affected by the petitioned territory transfer. The  
 15 decision of the superintendent of public instruction, after  
 16 consideration of the ~~material-presented-at~~ record from the  
 17 county superintendent's hearing, is final 30 days after its  
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 22 high school district to another high school district would  
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 4 petition, and the duties prescribed in this section for the  
 5 county superintendent must be performed jointly by such  
 6 county officials."

7       NEW SECTION. Section 3. Effective date. [This act] is  
 8 effective July 1, 1991.

-End-

1 *Senate* BILL NO. *395*  
 2 INTRODUCED BY *Paul Sawant*

3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAWS  
 5 RELATED TO THE TRANSFER OF TERRITORY FROM ONE ELEMENTARY OR  
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 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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 15 territory which that is a part of an elementary district may  
 16 petition the county superintendent to transfer such the  
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 23 operating school of the district from which it is to be  
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1 the taxable value of the district to less than \$100,000  
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 22 subsection (1) and that contains all the information  
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24 On receipt of a valid petition for a territory transfer, the  
 25 county superintendent shall:

THIRD READING  
 SB 395



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2 (b) set a hearing place, date, and time for  
3 consideration of the petition that is not more than 40 days  
4 after receipt of the petition; and

5 (c) give notice of the place, date, and time of the  
6 hearing. The notices ~~shall~~ must be posted in the districts  
7 affected by the request petition for the transfer of  
8 territory in the manner prescribed in this title for school  
9 elections, with at least one such notice posted in the  
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11 (4) The county superintendent shall conduct the hearing  
12 as scheduled in accordance with the rules of procedure  
13 adopted by the superintendent of public instruction pursuant  
14 to 20-3-107(3), and any resident, or taxpayer, or  
15 representative of the affected districts ~~shall~~ must be  
16 heard. ~~if the county superintendent considers it advisable~~  
17 ~~and in the best interests of the residents of such~~  
18 ~~territory, he shall grant the petitioned request and order~~  
19 ~~the change of district boundaries to coincide with the~~  
20 ~~boundary description in the petition. Otherwise, he shall~~  
21 ~~by order, deny the request. Either of the orders shall be~~

22 (5) Within 30 days after the hearing, the county  
23 superintendent shall, after considering the testimony and  
24 exhibits presented at the hearing, issue findings of fact,  
25 conclusions of law, and an order. The county superintendent

1 shall grant or deny the requested transfer of territory. The  
2 decision must be based on the effects that the transfer  
3 would have on those residing in the territory proposed for  
4 transfer as well as those residing in the remaining  
5 territory of the elementary district.

6 (6) The decision of the county superintendent is final  
7 30 days after its date unless it is appealed to the board of  
8 county commissioners by a resident or taxpayer, or  
9 representative of either district the elementary districts  
10 affected by the territory transfer.

11 (7) The decision of the board of county commissioners,  
12 after a hearing on such the matter and consideration of the  
13 material---presented---at record from the county  
14 superintendent's hearing, shall--be is final 30 days after  
15 its date unless prior to that time it has been contested  
16 through the filing of a valid petition to submit the  
17 question to a vote of the people in the elementary district  
18 from which the land is to be transferred, which has been. In  
19 order for a petition to be valid, the petition must be  
20 signed by a majority 20% of the electors of the elementary  
21 district who--reside in the territory to be transferred and  
22 who are qualified to vote in elections for that district  
23 under 20-20-301,--is--presented--prior--to--that--time. When a  
24 valid petition is submitted under this subsection, the  
25 question of whether the land--shall territory must be

1 transferred to another district shall must be put before the  
 2 voters at the next regular school election in the affected  
 3 elementary district. The results of the vote must be the  
 4 final decision on the petition for transfer of territory.

5 ~~(5)~~ (8) Whenever a petition to transfer territory from  
 6 one elementary district to another elementary district would  
 7 create a joint elementary district or affect the boundary of  
 8 an existing joint elementary district, the petition shall to  
 9 transfer territory must be presented to the county  
 10 superintendent of the county where the territory is located.  
 11 Such The county superintendent shall notify any other county  
 12 superintendents of counties with elementary districts  
 13 affected by such the petition, and the duties prescribed in  
 14 this section for the county superintendent and the board of  
 15 county commissioners shall must be performed jointly by such  
 16 county officials."

17 **Section 2.** Section 20-6-320, MCA, is amended to read:

18 "20-6-320. Transfer of territory from one high school  
 19 district to another. (1) A majority of registered electors  
 20 of any a high school district ~~who are qualified to vote~~  
 21 ~~under the provisions of 20-28-301~~ and who reside in  
 22 territory that is a part of a high school district may  
 23 petition the county superintendent to transfer such the  
 24 territory in which they reside to another high school  
 25 district if:

1 (a) the territory adjoins to be transferred is  
 2 contiguous to the high school district to which it is to be  
 3 attached;

4 (b) the territory to be transferred is not located  
 5 within 3 miles, over the shortest practical route, of an  
 6 operating school of the high school district from which it  
 7 is to be detached;

8 (c) the transfer of such the territory will not reduce  
 9 the taxable value of the district to less than \$300,000  
 10 unless the remaining territory of the high school district  
 11 contains not less than 50,000 acres of nontaxable Indian  
 12 land; and

13 (d) the board of trustees of the school district that  
 14 would receive the territory has approved in writing the  
 15 transfer; and

16 (e) the territory proposed to be transferred to another  
 17 high school district has not been included in a petition  
 18 filed under this section in the previous 3 years.

19 (2) The petition must be addressed to the county  
 20 superintendent and shall must:

21 (a) describe provide a legal description of the  
 22 territory that is requested to be transferred and to-what a  
 23 description of the high school district to which it is to be  
 24 transferred;

25 (b) state the reasons why such the transfer is

1 requested; and

2 (c) state the number of high-school-age children  
3 residing in ~~such~~ the territory; and

4 (d) be accompanied by a \$50 nonrefundable filing fee.

5 (3) A petition that meets the criteria specified in  
6 subsection (1) and that contains all the information  
7 required by subsection (2) is a valid petition. On receipt  
8 of a valid petition for a territory transfer, the county  
9 superintendent shall:

10 (a) present the petition to the board of county  
11 ~~commissioners~~ for certification that the criteria set forth  
12 in subsection (1) have been met. The board shall, within 10  
13 days of receiving the petition, return it to the county  
14 superintendent with certification, signed by a majority of  
15 the board, that ~~such~~ the criteria have been met or with a  
16 notation, signed by a majority of the board, that the  
17 criteria have not been met. The board's certification is  
18 binding on the county superintendent unless the county  
19 superintendent believes that the certification is in error.  
20 A dispute between the board and the county ~~commissioners~~  
21 superintendent on this issue must be decided by the  
22 superintendent of public instruction and the decision of the  
23 superintendent of public instruction on the matter is final.

24 (b) file the petition as certified by the board of  
25 county commissioners.

1 ~~(c)~~(4) If the petition is certified or adjusted on  
2 appeal to the superintendent of public instruction to meet  
3 the criteria specified in subsection (1), the county  
4 superintendent shall:

5 (a) set a hearing place, date, and time for  
6 consideration of the petition that is not more than 40 days  
7 after receipt of the petition; and

8 ~~(d)~~(b) give notice of the place, date, and time of the  
9 hearing. The notices must be posted in the high school  
10 districts affected by the request petition for the territory  
11 transfer in the manner prescribed in this title for school  
12 elections, with at least one notice posted in the territory  
13 to be transferred.

14 ~~(4)~~(5) The county superintendent shall conduct the  
15 hearing as scheduled in accordance with the rules of  
16 procedure adopted by the superintendent of public  
17 instruction pursuant to 20-3-107(3), and any resident, or  
18 taxpayer, or representative of either affected high school  
19 district must be heard. ~~if--the--county--superintendent~~  
20 ~~considers--it--advisable--and--in--the--best--interests--of--the~~  
21 ~~residents--of--the--territory,--he--shall--grant--the--petitioned~~  
22 ~~request--and--order--the--change--of--district--boundaries--to~~  
23 ~~coincide--with--the--boundary--description--in--the--petition.~~  
24 ~~Otherwise,--he--shall--by--order--deny--the--request. Either--of--the~~  
25 ~~orders--shall--be~~



1       (6) Within 30 days after the hearing, the county  
 2 superintendent shall, after considering the testimony and  
 3 exhibits presented at the hearing, issue findings of fact,  
 4 conclusions of law, and an order. The county superintendent  
 5 shall grant or deny the requested transfer of territory. The  
 6 decision must be based on the effects that the transfer  
 7 would have on those residing in the territory proposed for  
 8 transfer as well as those residing in the remaining  
 9 territory of the high school district.

10       (7) The decision of the county superintendent is final  
 11 20 30 days after its date unless it is appealed pursuant to  
 12 20-3-107 to the superintendent of public instruction by a  
 13 resident, taxpayer, or representative of either high school  
 14 district affected by the petitioned territory transfer. The  
 15 decision of the superintendent of public instruction, after  
 16 consideration of the ~~material-presented-at~~ record from the  
 17 county superintendent's hearing, is final 30 days after its  
 18 date. The final order of the superintendent of public  
 19 instruction is subject to judicial review pursuant to the  
 20 Montana Administrative Procedure Act, Title 2, chapter 4.

21       (5)(8) If a petition to transfer territory from one  
 22 high school district to another high school district would  
 23 create a joint high school district or affect the boundary  
 24 of any existing joint high school district, the petition  
 25 must be presented to the county superintendent of the county

1       where the territory proposed for transfer is located. The  
 2 county superintendent shall notify any other county  
 3 superintendents of counties with districts affected by the  
 4 petition, and the duties prescribed in this section for the  
 5 county superintendent must be performed jointly by such  
 6 county officials."

7       NEW SECTION. Section 3. Effective date. [This act] is  
 8 effective July 1, 1991.

-End-

## 1 SENATE BILL NO. 395

2 INTRODUCED BY PINSONEAULT, HOCKETT

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAWS  
5 RELATED TO THE TRANSFER OF TERRITORY FROM ONE ELEMENTARY OR  
6 HIGH SCHOOL DISTRICT TO ANOTHER; AMENDING SECTIONS 20-6-313  
7 AND 20-6-320, MCA; AND PROVIDING AN EFFECTIVE DATE."

8  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 20-6-213, MCA, is amended to read:

11 "20-6-213. Transfer of territory from one elementary  
12 district to another. (1) A majority of the registered  
13 electors of any an elementary district who are qualified to  
14 vote under the provisions of 20-20-301 and who reside in  
15 territory which that is a part of an elementary district may  
16 petition the county superintendent to transfer such the  
17 territory in which they reside to another elementary  
18 district when:

19 (a) such the territory to be transferred is contiguous  
20 to the district to which it is to be attached;

21 (b) such the territory to be transferred is not located  
22 within 3 miles, over the shortest practical route, of an  
23 operating school of the district from which it is to be  
24 detached;

25 (c) the transfer of such the territory will not reduce

1 the taxable value of the district to less than \$100,000  
2 unless the remaining territory of the district will contain  
3 not less than 50,000 acres of nontaxable Indian land; and

4 (d) the board of trustees of the school district that  
5 would receive the territory has approved in writing the  
6 transfer; and

7 (e) the territory proposed to be transferred to another  
8 elementary district has not been included in a petition  
9 filed under this section in the previous 3 years.

10 (2) The petition ~~shall~~ must be addressed to the county  
11 superintendent and ~~shall~~ must:

12 (a) describe provide a legal description of the  
13 territory that is requested to be transferred and to what a  
14 description of the elementary district to which it is to be  
15 transferred;

16 (b) state the reasons why such the transfer is  
17 requested; and

18 (c) state the number of elementary school-age children  
19 residing in such the territory; and

20 (d) be accompanied by a \$50 nonrefundable filing fee.

21 (3) A petition that meets the criteria specified in  
22 subsection (1) and that contains all the information  
23 required by subsection (2) is considered a valid petition.

24 On receipt of a valid petition for a territory transfer, the  
25 county superintendent shall:

1 (a) file such the petition;

2 (b) set a hearing place, date, and time for  
3 consideration of the petition that is not more than 40 days  
4 after receipt of the petition; and

5 (c) give notice of the place, date, and time of the  
6 hearing. The notices ~~shall~~ must be posted in the districts  
7 affected by the request petition for the transfer of  
8 territory in the manner prescribed in this title for school  
9 elections, with at least one such notice posted in the  
10 territory to be transferred.

11 (4) The county superintendent shall conduct the hearing  
12 as scheduled in accordance with the rules of procedure  
13 adopted by the superintendent of public instruction pursuant  
14 to 20-3-107(3), and any resident, or taxpayer, or  
15 representative of the affected districts shall must be  
16 heard. ~~if the county superintendent considers it advisable~~  
17 ~~and in the best interests of the residents of such~~  
18 ~~territory, he shall grant the petitioned request and order~~  
19 ~~the change of district boundaries to coincide with the~~  
20 ~~boundary description in the petition. Otherwise, he shall,~~  
21 ~~by order, deny the request. Either of the orders shall be~~

22 (5) Within 30 days after the hearing, the county  
23 superintendent shall, after considering the testimony and  
24 exhibits presented at the hearing, issue findings of fact,  
25 conclusions of law, and an order. The county superintendent

1 shall grant or deny the requested transfer of territory. The  
2 decision must be based on the effects that the transfer  
3 would have on those residing in the territory proposed for  
4 transfer as well as those residing in the remaining  
5 territory of the elementary district.

6 (6) The decision of the county superintendent is final  
7 30 days after its date unless it is appealed to the board of  
8 county commissioners by a resident or, taxpayer, or  
9 representative of either district the elementary districts  
10 affected by the territory transfer.

11 (7) The decision of the board of county commissioners,  
12 after a hearing on such the matter and consideration of the  
13 material---presented---at record from the county  
14 superintendent's hearing, shall--be is final 30 days after  
15 its date unless prior to that time it has been contested  
16 through the filing of a valid petition to submit the  
17 question to a vote of the people in the elementary district  
18 from which the land is to be transferred,--which-has-been. In  
19 order for a petition to be valid, the petition must be  
20 signed by a majority 20% of the electors of the elementary  
21 district who--reside-in-the-territory-to-be-transferred-and  
22 who are qualified to vote in elections for that district  
23 under 20-20-301,--is--presented--prior-to-that-time. When a  
24 valid petition is submitted under this subsection, the  
25 question of whether the land--shall territory must be

1 transferred to another district ~~shall~~ must be put before the  
 2 voters at the next regular school election in the affected  
 3 elementary district. The results of the vote must be the  
 4 final decision on the petition for transfer of territory.

5 ~~(5)~~(8) Whenever a petition to transfer territory from  
 6 one elementary district to another elementary district would  
 7 create a joint elementary district or affect the boundary of  
 8 an existing joint elementary district, the petition ~~shall~~ to  
 9 transfer territory must be presented to the county  
 10 superintendent of the county where the territory is located.  
 11 Such The county superintendent shall notify any other county  
 12 superintendents of counties with elementary districts  
 13 affected by such the petition, and the duties prescribed in  
 14 this section for the county superintendent and the board of  
 15 county commissioners ~~shall~~ must be performed jointly by such  
 16 county officials."

17 **Section 2.** Section 20-6-320, MCA, is amended to read:

18 **"20-6-320. Transfer of territory from one high school**  
 19 **district to another.** (1) A majority of registered electors  
 20 of any a high school district ~~who--are--qualified--to--vote~~  
 21 ~~under---the---provisions---of---20-20-301---and~~ who reside in  
 22 territory that is a part of a high school district may  
 23 petition the county superintendent to transfer such the  
 24 territory in which they reside to another high school  
 25 district if:

1 (a) the territory adjoins to be transferred is  
 2 contiguous to the high school district to which it is to be  
 3 attached;

4 (b) the territory to be transferred is not located  
 5 within 3 miles, over the shortest practical route, of an  
 6 operating school of the high school district from which it  
 7 is to be detached;

8 (c) the transfer of such the territory will not reduce  
 9 the taxable value of the district to less than \$300,000  
 10 unless the remaining territory of the high school district  
 11 contains not less than 50,000 acres of nontaxable Indian  
 12 land; and

13 (d) the board of trustees of the school district that  
 14 would receive the territory has approved in writing the  
 15 transfer; and

16 (e) the territory proposed to be transferred to another  
 17 high school district has not been included in a petition  
 18 filed under this section in the previous 3 years.

19 (2) The petition must be addressed to the county  
 20 superintendent and ~~shall~~ must:

21 (a) describe provide a legal description of the  
 22 territory that is requested to be transferred and to-what a  
 23 description of the high school district to which it is to be  
 24 transferred;

25 (b) state the reasons why such the transfer is

1 requested; and

2 (c) state the number of high-school-age children  
3 residing in such the territory; and

4 (d) be accompanied by a \$50 nonrefundable filing fee.

5 (3) A petition that meets the criteria specified in  
6 subsection (1) and that contains all the information  
7 required by subsection (2) is a valid petition. On receipt  
8 of a valid petition for a territory transfer, the county  
9 superintendent shall:

10 (a) present the petition to the board of county  
11 commissioners for certification that the criteria set forth  
12 in subsection (1) have been met. The board shall, within 10  
13 days of receiving the petition, return it to the county  
14 superintendent with certification, signed by a majority of  
15 the board, that such the criteria have been met or with a  
16 notation, signed by a majority of the board, that the  
17 criteria have not been met. The board's certification is  
18 binding on the county superintendent unless the county  
19 superintendent believes that the certification is in error.  
20 A dispute between the board and the county commissioners  
21 superintendent on this issue must be decided by the  
22 superintendent of public instruction and the decision of the  
23 superintendent of public instruction on the matter is final.

24 (b) file the petition as certified by the board of  
25 county commissioners;

1 ~~(c)~~(4) If the petition is certified or adjusted on  
2 appeal to the superintendent of public instruction to meet  
3 the criteria specified in subsection (1), the county  
4 superintendent shall:

5 (a) set a hearing place, date, and time for  
6 consideration of the petition that is not more than 40 days  
7 after receipt of the petition; and

8 ~~(d)~~(b) give notice of the place, date, and time of the  
9 hearing. The notices must be posted in the high school  
10 districts affected by the request petition for the territory  
11 transfer in the manner prescribed in this title for school  
12 elections, with at least one notice posted in the territory  
13 to be transferred.

14 ~~(4)~~(5) The county superintendent shall conduct the  
15 hearing as scheduled in accordance with the rules of  
16 procedure adopted by the superintendent of public  
17 instruction pursuant to 20-3-107(3), and any resident, or  
18 taxpayer, or representative of either affected high school  
19 district must be heard. if--the--county--superintendent  
20 considers--it--advisable--and--in--the--best--interests--of--the  
21 residents--of--the--territory--he--shall--grant--the--petitioned  
22 request--and--order--the--change--of--district--boundaries--to  
23 coincide--with--the--boundary--description--in--the--petition--  
24 otherwise, he shall by order deny the request. Either of the  
25 orders shall be

1       (6) Within 30 days after the hearing, the county  
 2 superintendent shall, after considering the testimony and  
 3 exhibits presented at the hearing, issue findings of fact,  
 4 conclusions of law, and an order. The county superintendent  
 5 shall grant or deny the requested transfer of territory. The  
 6 decision must be based on the effects that the transfer  
 7 would have on those residing in the territory proposed for  
 8 transfer as well as those residing in the remaining  
 9 territory of the high school district.

10       (7) The decision of the county superintendent is final  
 11 20 30 days after its date unless it is appealed pursuant to  
 12 20-3-107 to the superintendent of public instruction by a  
 13 resident, taxpayer, or representative of either high school  
 14 district affected by the petitioned territory transfer. The  
 15 decision of the superintendent of public instruction, after  
 16 consideration of the ~~material presented at~~ record from the  
 17 county superintendent's hearing, is final 30 days after its  
 18 date. The final order of the superintendent of public  
 19 instruction is subject to judicial review pursuant to the  
 20 Montana Administrative Procedure Act, Title 2, chapter 4.

21       (5)(8) If a petition to transfer territory from one  
 22 high school district to another high school district would  
 23 create a joint high school district or affect the boundary  
 24 of any existing joint high school district, the petition  
 25 must be presented to the county superintendent of the county

1 where the territory proposed for transfer is located. The  
 2 county superintendent shall notify any other county  
 3 superintendents of counties with districts affected by the  
 4 petition, and the duties prescribed in this section for the  
 5 county superintendent must be performed jointly by such  
 6 county officials."

7       **NEW SECTION. Section 3. Effective date.** [This act] is  
 8 effective July 1, 1991.

-End-

## 1 SENATE BILL NO. 395

2 INTRODUCED BY PINSONEAULT, HOCKETT

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAWS  
5 RELATED TO THE TRANSFER OF TERRITORY FROM ONE ELEMENTARY OR  
6 HIGH SCHOOL DISTRICT TO ANOTHER; AMENDING SECTIONS ~~20-6-313~~  
7 20-6-213 AND 20-6-320, MCA; AND PROVIDING AN EFFECTIVE  
8 DATE."  
9

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

11 **Section 1.** Section 20-6-213, MCA, is amended to read:

12 \*20-6-213. Transfer of territory from one elementary  
13 district to another. (1) A majority of the registered  
14 electors of any an elementary district who are qualified to  
15 vote under the provisions of 20-20-301 and who reside in  
16 territory which that is a part of an elementary district may  
17 petition the county superintendent to transfer such the  
18 territory in which they reside to another elementary  
19 district when:

20 (a) such the territory to be transferred is contiguous  
21 to the district to which it is to be attached;

22 (b) such the territory to be transferred is not located  
23 within 3 miles, over the shortest practical route, of an  
24 operating school of the district from which it is to be  
25 detached;

1 (c) the transfer of such the territory will not reduce  
2 the taxable value of the district to less than \$100,000  
3 unless the remaining territory of the district will contain  
4 not less than 50,000 acres of nontaxable Indian land; and

5 (d) the board of trustees of the school district that  
6 would receive the territory has approved in writing the  
7 transfer; and

8 (e) the territory proposed to be transferred to another  
9 elementary district has not been included in a petition  
10 filed under this section in the previous 3 years.

11 (2) The petition ~~shall~~ must be addressed to the county  
12 superintendent and ~~shall~~ must:

13 (a) describe provide a legal description of the  
14 territory that is requested to be transferred and to what a  
15 description of the elementary district to which it is to be  
16 transferred;

17 (b) state the reasons why such the transfer is  
18 requested; and

19 (c) state the number of elementary school-age children  
20 residing in such the territory; and

21 (d) be accompanied by a \$50 nonrefundable filing fee.

22 (3) A petition that meets the criteria specified in  
23 subsection (1) and that contains all the information  
24 required by subsection (2) is considered a valid petition.

25 On receipt of a valid petition for a territory transfer, the

1 county superintendent shall:

2 (a) file such the petition;

3 (b) set a hearing place, date, and time for  
4 consideration of the petition that is not more than 40 days  
5 after receipt of the petition; and

6 (c) give notice of the place, date, and time of the  
7 hearing. The notices ~~shall~~ must be posted in the districts  
8 affected by the request petition for the transfer of  
9 territory in the manner prescribed in this title for school  
10 elections, with at least one such notice posted in the  
11 territory to be transferred.

12 (4) The county superintendent shall conduct the hearing  
13 as scheduled in accordance with the rules of procedure  
14 adopted by the superintendent of public instruction pursuant  
15 to 20-3-107(3), and any resident, or taxpayer, or  
16 representative of the affected districts shall must be  
17 heard. ~~if--the-county-superintendent-considers-it-advisable~~  
18 ~~and--in--the--best--interests--of--the--residents--of--such~~  
19 ~~territory,--he--shall--grant--the--petitioned--request--and--order~~  
20 ~~the--change--of--district--boundaries--to--coincide--with--the~~  
21 ~~boundary--description--in--the--petition,--otherwise,--he--shall,~~  
22 ~~by--order,--deny--the--request,--either--of--the--orders--shall--be~~

23 (5) Within 30 days after the hearing, the county  
24 superintendent shall, after considering the testimony and  
25 exhibits presented at the hearing, issue findings of fact,

1 conclusions of law, and an order. The county superintendent  
2 shall grant or deny the requested transfer of territory. The  
3 decision must be based on the effects that the transfer  
4 would have on those residing in the territory proposed for  
5 transfer as well as those residing in the remaining  
6 territory of the elementary district.

7 (6) The decision of the county superintendent is final  
8 30 days after its date unless it is appealed to the board of  
9 county commissioners by a resident or, taxpayer, or  
10 representative of either-district the elementary districts  
11 affected by the territory transfer.

12 (7) The decision of the board of county commissioners,  
13 after a hearing on such the matter and consideration of the  
14 ~~material---presented---at~~ record from the county  
15 superintendent's hearing, ~~shall-be~~ is final 30 days after  
16 its date unless prior to that time it has been contested  
17 through the filing of a valid petition to submit the  
18 question to a vote of the people in the elementary district  
19 from which the land is to be transferred, ~~which-has-been.~~ In  
20 order for a petition to be valid, the petition must be  
21 signed by a-majority 20% of the electors of the elementary  
22 ~~district who-reside-in-the-territory-to-be--transferred--and~~  
23 ~~who are qualified to vote in elections for that district~~  
24 ~~under 20-20-301,--is--presented--prior--to--that--time.~~ When a  
25 valid petition is submitted under this subsection, the



1 question of whether the ~~land--shall~~ territory must be  
 2 transferred to another district ~~shall~~ must be put before the  
 3 voters at the next regular school election in the affected  
 4 elementary district. The results of the vote must be the  
 5 final decision on the petition for transfer of territory.

6 (5)(8) Whenever a petition to transfer territory from  
 7 one elementary district to another elementary district would  
 8 create a joint elementary district or affect the boundary of  
 9 an existing joint elementary district, the petition ~~shall~~ to  
 10 transfer territory must be presented to the county  
 11 superintendent of the county where the territory is located.  
 12 ~~Such~~ The county superintendent shall notify any other county  
 13 superintendents of counties with elementary districts  
 14 affected by ~~such~~ the petition, and the duties prescribed in  
 15 this section for the county superintendent and the board of  
 16 county commissioners ~~shall~~ must be performed jointly by such  
 17 county officials."

18 **Section 2.** Section 20-6-320, MCA, is amended to read:

19 "20-6-320. Transfer of territory from one high school  
 20 district to another. (1) A majority of registered electors  
 21 of any a high school district ~~who are qualified to vote~~  
 22 ~~under the provisions of 20-20-301 and~~ who reside in  
 23 territory that is a part of a high school district may  
 24 petition the county superintendent to transfer ~~such~~ the  
 25 territory in which they reside to another high school

1 district if:

2 (a) the territory adjoins to be transferred is  
 3 contiguous to the high school district to which it is to be  
 4 attached;

5 (b) the territory to be transferred is not located  
 6 within 3 miles, over the shortest practical route, of an  
 7 operating school of the high school district from which it  
 8 is to be detached;

9 (c) the transfer of ~~such~~ the territory will not reduce  
 10 the taxable value of the district to less than \$300,000  
 11 unless the remaining territory of the high school district  
 12 contains not less than 50,000 acres of nontaxable Indian  
 13 land; and

14 (d) the board of trustees of the school district that  
 15 would receive the territory has approved in writing the  
 16 transfer; and

17 (e) the territory proposed to be transferred to another  
 18 high school district has not been included in a petition  
 19 filed under this section in the previous 3 years.

20 (2) The petition must be addressed to the county  
 21 superintendent and ~~shall~~ must:

22 (a) describe provide a legal description of the  
 23 territory that is requested to be transferred and ~~to what a~~  
 24 description of the high school district to which it is to be  
 25 transferred;

1 (b) state the reasons why such the transfer is  
2 requested; and

3 (c) state the number of high-school-age children  
4 residing in such the territory; and

5 (d) be accompanied by a \$50 nonrefundable filing fee.

6 (3) A petition that meets the criteria specified in  
7 subsection (1) and that contains all the information  
8 required by subsection (2) is a valid petition. On receipt  
9 of a valid petition for a territory transfer, the county  
10 superintendent shall:

11 (a) present the petition to the board of county  
12 commissioners for certification that the criteria set forth  
13 in subsection (1) have been met. The board shall, within 10  
14 days of receiving the petition, return it to the county  
15 superintendent with certification, signed by a majority of  
16 the board, that such the criteria have been met or with a  
17 notation, signed by a majority of the board, that the  
18 criteria have not been met. The board's certification is  
19 binding on the county superintendent unless the county  
20 superintendent believes that the certification is in error.  
21 A dispute between the board and the county commissioners  
22 superintendent on this issue must be decided by the  
23 superintendent of public instruction and the decision of the  
24 superintendent of public instruction on the matter is final.

25 (b) file the petition as certified by the board of

1 county commissioners;.

2 (c)(4) If the petition is certified or adjusted on  
3 appeal to the superintendent of public instruction to meet  
4 the criteria specified in subsection (1), the county  
5 superintendent shall:

6 (a) set a hearing place, date, and time for  
7 consideration of the petition that is not more than 40 days  
8 after receipt of the petition; and

9 (d)(b) give notice of the place, date, and time of the  
10 hearing. The notices must be posted in the high school  
11 districts affected by the request petition for the territory  
12 transfer in the manner prescribed in this title for school  
13 elections, with at least one notice posted in the territory  
14 to be transferred.

15 (4)(5) The county superintendent shall conduct the  
16 hearing as scheduled in accordance with the rules of  
17 procedure adopted by the superintendent of public  
18 instruction pursuant to 20-3-107(3), and any resident, or  
19 taxpayer, or representative of either affected high school  
20 district must be heard. ~~if--the--county--superintendent~~  
21 ~~considers-it-advisable-and-in--the--best--interests--of--the~~  
22 ~~residents--of--the--territory, he shall grant the petitioned~~  
23 ~~request-and-order--the--change--of--district--boundaries--to~~  
24 ~~coincide--with--the--boundary--description--in-the-petition-~~  
25 ~~otherwise, he shall by order deny the request. Either of the~~

1 ~~orders-shall-be~~

2       (6) Within 30 days after the hearing, the county  
 3 superintendent shall, after considering the testimony and  
 4 exhibits presented at the hearing, issue findings of fact,  
 5 conclusions of law, and an order. The county superintendent  
 6 shall grant or deny the requested transfer of territory. The  
 7 decision must be based on the effects that the transfer  
 8 would have on those residing in the territory proposed for  
 9 transfer as well as those residing in the remaining  
 10 territory of the high school district.

11       (7) The decision of the county superintendent is final  
 12 ~~20~~ 30 days after its date unless it is appealed pursuant to  
 13 20-3-107 to the superintendent of public instruction by a  
 14 resident, taxpayer, or representative of either high school  
 15 district affected by the petitioned territory transfer. The  
 16 decision of the superintendent of public instruction, after  
 17 consideration of the ~~material-presented-at~~ record from the  
 18 county superintendent's hearing, is final 30 days after its  
 19 date. The final order of the superintendent of public  
 20 instruction is subject to judicial review pursuant to the  
 21 Montana Administrative Procedure Act, Title 2, chapter 4.

22       ~~†5†~~(8) If a petition to transfer territory from one  
 23 high school district to another high school district would  
 24 create a joint high school district or affect the boundary  
 25 of any existing joint high school district, the petition

1 must be presented to the county superintendent of the county  
 2 where the territory proposed for transfer is located. The  
 3 county superintendent shall notify any other county  
 4 superintendents of counties with districts affected by the  
 5 petition, and the duties prescribed in this section for the  
 6 county superintendent must be performed jointly by such  
 7 county officials."

8       **NEW SECTION. Section 3.** Effective date. [This act] is  
 9 effective July 1, 1991.

-End-