SENATE BILL NO. 395

INTRODUCED BY PINSONEAULT, HOCKETT

IN THE SENATE

FEBRUARY 22, 1991

FEBRUARY 25, 1991

s ...

FEBRUARY 15, 1991

INTRODUCED AND REFERRED TO COMMITTEE ON EDUCATION & CULTURAL RESOURCES.

FIRST READING.

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

PRINTING REPORT.

FEBRUARY 23, 1991 SECOND READING, DO PASS.

ENGROSSING REPORT.

FIRST READING.

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

TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 4, 1991

APRIL 2, 1991

APRIL 6, 1991

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

INTRODUCED AND REFERRED TO COMMITTEE ON EDUCATION & CULTURAL RESOURCES.

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

COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.

SECOND READING, CONCURRED IN.

RETURNED TO SENATE.

IN THE SENATE

APRIL 9, 1991

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

INTRODUCED BY HUSALBULT 1 2 3 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAWS 4 RELATED TO THE TRANSFER OF TERRITORY FROM ONE ELEMENTARY OR 5 HIGH SCHOOL DISTRICT TO ANOTHER: AMENDING SECTIONS 20-6-313 6 7 AND 20-6-320, MCA; AND PROVIDING AN EFFECTIVE DATE." 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 9 Section 1. Section 20-6-213, MCA, is amended to read: 10 "20-6-213. Transfer of territory from one elementary 11 district to another. (1) A majority of the registered 12 electors of any an elementary district who-are-qualified-to 13 vote-under-the-provisions-of-20-20-301--and who reside in 14 territory which that is a part of an elementary district may 15

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;

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

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

N Yontana Legislative Council

1 the taxable value of the district to less than \$100,000 unless the remaining territory of the district will contain 2 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:

-2-

INTRODUCED BILL

56 395

LC 1920/01

1	(a) file such the petition;	l shall grant or deny the requested transfer of territory. The
2	(b) set a hearing place, date, and time for	2 decision must be based on the effects that the transfer
3	consideration of the petition that is not more than 40 days	3 would have on those residing in the territory proposed for
4	after receipt of the petition; and	4 transfer as well as those residing in the remaining
5	(c) give notice of the place, date, and time of the	5 territory of the elementary district.
6	hearing. The notices shall must be posted in the districts	6 (6) The decision of the county superintendent is final
7	affected by the request petition for the transfer of	7 30 days after its date unless it is appealed to the board of
8	territory in the manner prescribed in this title for school	8 county commissioners by a resident or, taxpayer, or
9	elections, with at least one such notice posted in the	9 representative of either-district the elementary districts
10	territory to be transferred.	10 affected by the territory transfer.
11	(4) The county superintendent shall conduct the hearing	11 (7) The decision of the board of county commissioners,
12	as scheduled in accordance with the rules of procedure	12 after a hearing on such the matter and consideration of the
13	adopted by the superintendent of public instruction pursuant	13 materialpresentedat record from the county
14	to 20-3-107(3), and any resident, or taxpayer, or	<pre>14 superintendent's hearing, shallbe is final 30 days after</pre>
15	representative of the affected districts shall must be	15 its date unless prior to that time it has been contested
16	heard. If-the-county-superintendent-considersitadvisable	16 through the filing of a valid petition to submit the
17	andinthebestinterestsoftheresidentsofsuch	17 question to a vote of the people in the <u>elementary</u> district
18	territory7-he-shall-grant-the-petitioned-requestandorder	18 from which the land is to be transferred ₇ -which-has-been. In
19	thechangeofdistrictboundariestocoincide-with-the	19 order for a petition to be valid, the petition must be
20	boundary-description-in-the-petitionOtherwiseheshall;	20 signed by a-majority 20% of the electors of the elementary
21	by-order7-deny-the-request7-Bither-of-the-orders-shall-be	21 district whoreside-in-the-territory-to-be-transferred-and
22	(5) Within 30 days after the hearing, the county	22 who are qualified to vote in elections for that district
23	superintendent shall, after considering the testimony and	23 under 20-20-3017ispresentedprior-to-that-time. When a
24	exhibits presented at the hearing, issue findings of fact,	24 <u>valid</u> petition is submitted under this subsection, the
25	conclusions of law, and an order. The county superintendent	25 question of whether the landshall territory must be

ß

-4-

transferred to another district shall must be put before the 1 voters at the next regular school election in the affected 2 elementary district. The results of the vote must be the 3 final decision on the petition for transfer of territory. (5)(8) Whenever a petition to transfer territory from 5 one elementary district to another elementary district would 6 7 create a joint elementary district or affect the boundary of an existing joint elementary district, the petition shall to 8 transfer territory must be presented to the county 9 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 affected by such the petition, and the duties prescribed in 13 14 this section for the county superintendent and the board of county commissioners shall must be performed jointly by such 15 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 district to another. (1) A majority of registered electors 19 of any a high school district who--are--qualified--to--vote 20 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 territory in which they reside to another high school 24 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 attached: 3 4 (b) the territory to be transferred is not located within 3 miles, over the shortest practical route, of an 5 6 operating school of the high school district from which it is to be detached: 7 (c) the transfer of such the territory will not reduce 8 9 the taxable value of the district to less than \$300,000 unless the remaining territory of the high school district 10 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 would receive the territory has approved in writing the 14 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 description of the high school district to which it is to be 23 24 transferred: 25 (b) state the reasons why such the transfer is

-5-

-6-

(c) state the number of high-school-age children 2 residing in such the territory; and 3 (d) be accompanied by a \$50 nonrefundable filing fee. 4 (3) A petition that meets the criteria specified in 5 subsection (1) and that contains all the information 6 required by subsection (2) is a valid petition. On receipt 7 of a valid petition for a territory transfer, the county 8 9 superintendent shall:

requested; and

1

(a) present the petition to the board of county 10 commissioners for certification that the criteria set forth 11 in subsection (1) have been met. The board shall, within 10 12 days of receiving the petition, return it to the county 13 superintendent with certification, signed by a majority of 14 the board, that such the criteria have been met or with a 15 notation, signed by a majority of the board, that the 16 criteria have not been met. The board's certification is 17 binding on the county superintendent unless the county 18 superintendent believes that the certification is in error. 19 A dispute between the board and the county commissioners 20 superintendent on this issue must be decided by the 21 superintendent of public instruction and the decision of the 22 superintendent of public instruction on the matter is final. 23 (b) file the petition as certified by the board of 24 25 county commissioners7.

fc (4) If the petition is certified or adjusted on 1 appeal to the superintendent of public instruction to meet 2 3 the criteria specified in subsection (1), the county superintendent shall: 4 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 (d)(b) give notice of the place, date, and time of the 8 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 elections, with at least one notice posted in the territory 12 17 to be transferred. (4)(5) The county superintendent shall conduct the 14 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 taxpayer, or representative of either affected high school 18 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-

25 orders-shall-be

24

-7-

Otherwise7-he-shall-by-order-deny-the-request.-Either-of-the

-8-

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 <u>petitioned</u> 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) If a petition to transfer territory from one

high school district to another high school district would create a joint high school district or affect the boundary of any existing joint high school district, the petition must be presented to the county superintendent of the county where the territory proposed for transfer is located. The county superintendent shall notify any other county superintendents of counties with districts affected by the petition, and the duties prescribed in this section for the county superintendent must be performed jointly by such county officials."
NEW SECTION. Section 3. Effective date. [This act] is

8 effective July 1, 1991.

-End-

LC 1920/01

52nd Legislature

Penate BILL NO. 395 1 INTRODUCED BY Line Second T that the 2 3 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAWS 4 RELATED TO THE TRANSFER OF TERRITORY FROM ONE ELEMENTARY OR 5 HIGH SCHOOL DISTRICT TO ANOTHER; AMENDING SECTIONS 20-6-313 6 AND 20-6-320, MCA; AND PROVIDING AN EFFECTIVE DATE." 7 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 9 10 Section 1. Section 20-6-213, MCA, is amended to read: "20-6-213. Transfer of territory from one elementary 11 district to another. (1) A majority of the registered 12 electors of any an elementary district who-are-qualified-to 13 vote-under-the-provisions-of-20-20-301--and who reside in 14 territory which that is a part of an elementary district may 15 16 petition the county superintendent to transfer such the 17 territory in which they reside to another elementary district when: 18

AND CULTURAL RESOURCES

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

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

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

tana Legislative Council

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 <u>in writing</u> 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 <u>must</u> :
12	(a) describe provide a legal description of the
13	territory that is requested to be transferred and to-what \underline{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:
	SECOND READING

-2-

LC 1920/01

and the second second

LC 1920/01

1	(a) file such the petition;	1 shall grant or deny the requested transfer of territory. The
2	(b) set a hearing place, date, and time for	2 decision must be based on the effects that the transfer
3	consideration of the petition that is not more than 40 days	3 would have on those residing in the territory proposed for
4	after receipt of the petition; and	4 transfer as well as those residing in the remaining
5	(c) give notice of the place, date, and time of the	5 territory of the elementary district.
6	hearing. The notices shall must be posted in the districts	6 (6) The decision of the county superintendent is final
7	affected by the request petition for the transfer of	7 30 days after its date unless it is appealed to the board of
8	territory in the manner prescribed in this title for school	8 county commissioners by a resident or, taxpayer, or
9	elections, with at least one such notice posted in the	9 representative of either-district the elementary districts
10	territory to be transferred.	10 affected by the territory transfer.
11	(4) The county superintendent shall conduct the hearing	11 (7) The decision of the board of county commissioners,
12	as scheduled in accordance with the rules of procedure	12 after a hearing on such the matter and consideration of the
13	adopted by the superintendent of public instruction pursuant	13 materialpresentedat record from the county
14	to 20-3-107(3), and any resident, or taxpayer, or	<pre>14 superintendent's hearing, shallbe is final 30 days after</pre>
15	representative of the affected districts shall must be	15 its date unless prior to that time it has been contested
16	heard. if-the-county-superintendent-considersitadvisable	16 <u>through the filing of</u> a <u>valid</u> petition to submit the
17	andinthebestinterestsoftheresidentsofsuch	17 question to a vote of the people in the <u>elementary</u> district
18	territory-he-shall-grant-the-petitioned-requestandorder	<pre>18 from which the land is to be transferred7-which-has-been. In</pre>
19	thechangeofdistrictboundariestocoincide-with-the	19 order for a petition to be valid, the petition must be
20	boundary-description-in-the-petitionOtherwiseyheshally	20 signed by e-majority 20% of the electors of the <u>elementary</u>
21	by-order;-deny-the-request:-Bither-of-the-orders-shall-be	21 district whoreside-in-the-territory-to-be-transferred-and
22	(5) Within 30 days after the hearing, the county	22 who are qualified to vote in elections for that district
23	superintendent shall, after considering the testimony and	23 under 20-20-3017ispresentedprior-to-that-time. When a
24	exhibits presented at the hearing, issue findings of fact,	24 valid petition is submitted under this subsection, the
25	conclusions of law, and an order. The county superintendent	25 question of whether the landshall territory must be

when any advantation on a constraint of the states of the states of the states are not constraint or the states are a state of the

2

•

-4-

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

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

Section 2. Section 20-6-320, MCA, is amended to read: 17 "20-6-320. Transfer of territory from one high school 18 district to another. (1) A majority of registered electors 19 of any a high school district who--are--qualified--to--vote 20 under---the--provisions--of--20-20-301--and who reside in 21 territory that is a part of a high school district may 22 petition the county superintendent to transfer such the 23 territory in which they reside to another high school 24 district if: 25

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 <u>to be transferred</u> is not located 5 within 3 miles, over the shortest practical route, of an 6 operating school of the <u>high school</u> 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 <u>high school</u> 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 <u>must</u>:

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

-5-

-6-

.

LC 1920/01

.

1	requested; and	1	(c)[4] If the petition is certified or adjusted on
2	(c) state the number of high-school-age children	2	appeal to the superintendent of public instruction to meet
3	residing in such the territory; and	3	the criteria specified in subsection (1), the county
4	(d) be accompanied by a \$50 nonrefundable filing fee.	4	superintendent shall:
5	(3) A petition that meets the criteria specified in	5	(a) set a hearing place, date, and time for
6	subsection (1) and that contains all the information	6	consideration of the petition that is not more than 40 days
7	required by subsection (2) is a valid petition. On receipt	7	after receipt of the petition; and
8	of a valid petition for a territory transfer, the county	8	d, d ,
9	superintendent shall:	9	hearing. The notices must be posted in the high school
10	(a) present the petition to the board of county	10	districts affected by the request petition for the territory
11	commissioners for certification that the criteria set forth	11	transfer in the manner prescribed in this title for school
12	in subsection (1) have been met. The board shall, within 10	12	elections, with at least one notice posted in the territory
13	days of receiving the petition, return it to the county	13	to be transferred.
14	superintendent with certification, signed by a majority of	14	<pre>(4)(5) The county superintendent shall conduct the</pre>
15	the board, that such the criteria have been met or with a	15	hearing as scheduled in accordance with the rules of
16	notation, signed by a majority of the board, that the	16	procedure adopted by the superintendent of public
17	criteria have not been met. The board's certification is	17	instruction pursuant to $20-3-107(3)$, and any resident, or
18	binding on the county superintendent unless the county	18	taxpayer, or representative of either affected high school
19	superintendent believes that the certification is in error.	19	district must be heard. Ifthecountysuperintendent
20	A dispute between the board and the county commissioners	20	considersitadvisableandinthe-best-interests-of-the
21	superintendent on this issue must be decided by the	21	residents-of-the-territoryy-he-shallgrantthepetitioned
22	superintendent of public instruction and the decision of the	22	requestandorderthechangeofdistrict-boundaries-to
23	superintendent of public instruction on the matter is final.	23	coincide-with-theboundarydescriptioninthepetition-
24	(b) file the petition as certified by the board of	24	Otherwise;-he-shall-by-order-deny-the-request;-Either-of-the
25	county commissioners;	25	orders-shall-be

-7-

-8-

1 (6) Within 30 days after the hearing, the county 2 superintendent shall, after considering the testimony and exhibits presented at the hearing, issue findings of fact, 3 conclusions of law, and an order. The county superintendent 4 shall grant or deny the requested transfer of territory. The 5 decision must be based on the effects that the transfer 6 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 •

LC 1920/01

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 <u>NEW SECTION.</u> Section 3. Effective date. [This act] is

8 effective July 1, 1991.

-End-

-10-

52nd Legislature

LC 1920/01

tana Leoislative Counci

INTRODUCED BY Jusse Buc T Hale H 1 2 3 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAWS 4 RELATED TO THE TRANSFER OF TERRITORY FROM ONE ELEMENTARY OR 5 HIGH SCHOOL DISTRICT TO ANOTHER; AMENDING SECTIONS 20-6-313 6 AND 20-6-320, MCA; AND PROVIDING AN EFFECTIVE DATE." 7 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 9 10 Section 1. Section 20-6-213, MCA, is amended to read: "20-6-213. Transfer of territory from one elementary 11 district to another. (1) A majority of the registered 12 electors of any an elementary district who-are-qualified-to 13 vote-under-the-provisions-of-20-20-301--and who reside in 14 15 territory which that is a part of an elementary district may 16 petition the county superintendent to transfer such the territory in which they reside to another elementary 17 18 district when: (a) such the territory to be transferred is contiguous 19 20 to the district to which it is to be attached; 21 (b) such the territory to be transferred is not located within 3 miles, over the shortest practical route, of an 22 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

LC 1920/01

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 <u>; and</u>
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 <u>must</u> 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 \underline{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: THIPD PEADING

THIRD READING

-2-56 395

	1	shall grant or deny the requested transfer of territory. The
date, and time for	2	decision must be based on the effects that the transfer
s not more than 40 days	3	would have on those residing in the territory proposed for
	4	transfer as well as those residing in the remaining
e, date, and time of the	5	territory of the elementary district.
osted in the districts	6	(6) The decision of the county superintendent is final
for the transfer of	7	30 days after its date unless it is appealed to the board of
in this title for school	8	county commissioners by a resident or, taxpayer, or
notice posted in the	9	representative of either-district the elementary districts
	10	affected by the territory transfer.
hall conduct the hearing	11	(7) The decision of the board of county commissioners,
the rules of procedure	12	after a hearing on such the matter and consideration of the
olic instruction pursuant	13	materialpresentedat record from the county
it <u>, or</u> taxpayer <u>, or</u>	14	superintendent's hearing, shallbe is final 30 days after
listricts shall <u>must</u> be	15	its date unless prior to that time it has been contested
considersitadvisable	16	through the filing of a valid petition to submit the
theresidentsofsuch	17	question to a vote of the people in the elementary district
coned-requestandorder	18	from which the land is to be transferred ,-which-has-been. In
stocoincide-with-the	19	order for a petition to be valid, the petition must be
t-Otherwise;heshall;	20	signed by a-majority 20% of the electors of the elementary
of-the-orders-shall-be	21	district whoreside-in-the-territory-to-be-transferred-and
he hearing, the county	22	who are qualified to vote in elections for that district
idering the testimony and	23	under 20-20-3017ispresentedprior-to-that-time. When a
issue findings of fact,	24	valid petition is submitted under this subsection, the
The county superintendent	25	question of whether the landshall territory must be

1 (a) file such the petition;

2 (b) set a hearing place, 3 consideration of the petition that is after receipt of the petition; and 4

5 (c) give notice of the place. hearing. The notices shall must be pos 6 7 affected by the request petition territory in the manner prescribed in 8 9 elections, with at least one such 10 territory to be transferred.

11 (4) The county superintendent sh as scheduled in accordance with 12 adopted by the superintendent of publ 13 14 to 20-3-107(3), and any resident 15 representative of the affected di 16 heard. if-the-county-superintendent-e and---in--the--best--interests--of--t 17 18 territory-he-shall-grant-the-petitio 19 the--change--of--district--boundaries 20 boundary-description-in-the-petition-21 by-ordery-deny-the-request=-Either-of 22 (5) Within 30 days after the 23 superintendent shall, after consid exhibits presented at the hearing, is 24 conclusions of law, and an order. The county superintendent 25

-3-

-4-

LC 1920/01

1 transferred to another district shall must be put before the 2 voters at the next regular school election in the affected elementary district. The results of the vote must be the 3 final decision on the petition for transfer of territory. 4 (5)(8) Whenever a petition to transfer territory from 5 one elementary district to another elementary district would 6 7 create a joint elementary district or affect the boundary of an existing joint elementary district, the petition shall to 8 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 county commissioners shall must be performed jointly by such 15 16 county officials." 17 Section 2. Section 20-6-320, MCA, is amended to read: *20-6-320. Transfer of territory from one high school 18 district to another. (1) A majority of registered electors 19

of any <u>a</u> high school district who--are--qualified--to--vote under---the--provisions--of--20-20-301--and who reside in territory that is a part of a high school district may petition the county superintendent to transfer such the territory <u>in which they reside</u> to another high school 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: (b) the territory to be transferred is not located 4 5 within 3 miles, over the shortest practical route, of an operating school of the high school district from which it 6 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 would receive the territory has approved in writing the 14 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. (2) The petition must be addressed to the county 19 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	<pre>(4) If the petition is certified or adjusted on</pre>
ldren	2	appeal to the superintendent of public instruction to meet
	3	the criteria specified in subsection (1), the county
<u>e</u> .	4	superintendent shall:
ed in	5	(a) set a hearing place, date, and time for
ation	6	consideration of the petition that is not more than 40 days
ceipt	7	after receipt of the petition; and
ounty	8	(d)(b) give notice of the place, date, and time of the
	9	hearing. The notices must be posted in the high school
ounty	10	districts affected by the request petition for the territory
forth	11	transfer in the manner prescribed in this title for school
in 10	12	elections, with at least one notice posted in the territory
ounty	13	to be transferred.
ty of	14	(4)(5) The county superintendent shall conduct the
th a	15	hearing as scheduled in accordance with the rules of
t the	16	procedure adopted by the superintendent of public
n is	17	instruction pursuant to 20-3-107(3), and any resident, or
ounty	18	taxpayer, or representative of either affected high school
error.	19	district must be heard. Ifthecountysuperintendent
oners	20	considersitadvisableandinthe-best-interests-of-the
the	21	residents-of-the-territory-he-shallgrantthepetitioned
of the	22	request and order the change of district - boundaries - to
inal.	23	coincide=with-theboundarydescriptioninthepetition-
ard of	24	Otherwise;-ke-shall-by-order-deny-the-requestEither-of-the
	25	orders-shall-be

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

(a) present the petition to the board of cou 10 commissioners for certification that the criteria set for 11 in subsection (1) have been met. The board shall, within 12 days of receiving the petition, return it to the cou 13 superintendent with certification, signed by a majority 14 the board, that such the criteria have been met or with 15 notation, signed by a majority of the board, that 16 criteria have not been met. The board's certification 17 binding on the county superintendent unless the co 18 superintendent believes that the certification is in er 19 A dispute between the board and the county commission 20 superintendent on this issue must be decided by 21 superintendent of public instruction and the decision of 22 superintendent of public instruction on the matter is fi 23 (b) file the petition as certified by the boa 24 county commissioners; 25

-7-

1 (6) Within 30 days after the hearing, the county superintendent shall, after considering the testimony and 2 3 exhibits presented at the hearing, issue findings of fact, conclusions of law, and an order. The county superintendent 4 5 shall grant or deny the requested transfer of territory. The decision must be based on the effects that the transfer 6 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 2θ 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 Montana Administrative Procedure Act, Title 2, chapter 4. 20 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 of any existing joint high school district, the petition 24 1 must be presented to the county superintendent of the county 25

-9-

where the territory <u>proposed for transfer</u> is located. The county superintendent shall notify any other county superintendents of counties with districts affected by the petition, and the duties prescribed in this section for the county superintendent must be performed jointly by such county officials."

7 NEW SECTION. Section 3. Effective date. [This act] is

B effective July 1, 1991.

-End-

LC 1920/01

.

SB 0395/02

SB 0395/02

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
**	20-6-215. Hansler of Certitory from one elementary
12	district to another. (1) A majority of the <u>registered</u>
13	electors of any an elementary district who-are-qualified-to
14	vote-under-the-provisions-of-20-20-301and 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
2 2	within 3 miles, over the shortest practical route, of an
23	operating school of the district from which it is to be
24	detached;

detached;

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

Montana Legislative Council

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 <u>; and</u>
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 <u>must</u> :
12	(a) describe provide a legal description of the
13	territory that is requested to be transferred and to-what \underline{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:

REFERENCE BILL -2-

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--Otherwise7--he--shall7 21 by-ordery-deny-the-request--Either-of-the-orders-shall-be 22 (5) Within 30 days after the hearing, the county superintendent shall, after considering the testimony and 23 24 exhibits presented at the hearing, issue findings of __fact, conclusions of law, and an order. The county superintendent 25

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	materialpresentedat record from the county
14	superintendent's hearing, shellbe 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 <u>elementary</u> 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 whoreside-in-the-territory-to-be-transferred-and
22	who are qualified to vote in elections for that district
23	under 20-20-3017ispresentedprior-to-that-time. When a
24	valid petition is submitted under this subsection, the
25	question of whether the landshall <u>territory must</u> be

-3-

SB 395

-4-

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

۰.-

5 (5)(8) Whenever a petition to transfer territory from б 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:

(a) the territory adjoins to be transferred is
 <u>contiguous to the high school</u> district to which it is to be
 attached;

4 (b) the territory <u>to be transferred</u> is not located 5 within 3 miles, over the shortest practical route, of an 6 operating school of the <u>high school</u> 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 <u>in writing</u> the 15 transfer<u>; and</u>

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

19 (2) The petition must be addressed to the county20 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

-5-

SB 395

-6-

1	requested; and	1	tet <u>(4)</u>
2	(c) state the number of high-school-age children	2	appeal to
3	residing in such the territory; and	3	the crite
4	(d) be accompanied by a \$50 nonrefundable filing fee.	4	superintend
5	(3) A petition that meets the criteria specified in	5	<u>(a)</u> se
6	subsection (1) and that contains all the information	б	considerat
7	required by subsection (2) is a valid petition. On receipt	7	after rece
8	of a valid petition for a territory transfer, the county	8	(d) (b)
9	superintendent shall:	9	hearing. T
10	(a) present the petition to the board of county	10	districts
11	commissioners for certification that the criteria set forth	11	transfer
12	in subsection (1) have been met. The board shall, within 10	12	elections,
13	days of receiving the petition, return it to the county	13	to be tran
14	superintendent with certification, signed by a majority of	14	(4) (5)
15	the board, that such <u>the</u> criteria have been met or with a	15	hearing a
16	notation, signed by a majority of the board, that the	16	procedure
17	criteria have not been met. The board's certification is	17	instructio
18	binding on the county superintendent unless the county	18	taxpayer,
19	superintendent believes that the certification is in error.	19	district
20	A dispute between the board and the county commissioners	20	considers-
21	superintendent on this issue must be decided by the	21	residents-
22	superintendent of public instruction and the decision of the	22	requesta
23	superintendent of public instruction on the matter is final.	23	coincide-w
24	(b) file the petition as certified by the board of	24	Otherwise,
25	county commissioners;	25	orders-sha

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	<pre>{d}(b) give notice of the place, date, and time of the</pre>
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	<pre>(4)(5) The county superintendent shall conduct the</pre>
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. Ifthecountysuperintendent
20	considersitadvisableandinthe-best-interests-of-the
21	residents-of-the-territory;-he-shallgrantthepetitioned
22	requestandorderthechangeofdistrict-boundaries-to
23	coincide-with-theboundarydescriptioninthepetition-
24	Otherwise,-he-shall-by-order-deny-the-requestBither-of-the

hall-be

-7-

.

SB 395

-8-

SB 0395/02

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

-9-

SB 395

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

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

-End-

-10-

SB 395

SB 0395/02

52nd Legislature

SB 0395/02

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 DATE." 8 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 petition the county superintendent to transfer such the 17 territory in which they reside to another elementary 18 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;



SB	0395/02	2
----	---------	---

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 <u>; and</u>
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 <u>must</u> 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 $\underline{\mathbf{a}}$
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

-2- SB 395 REFERENCE BILL

SB 395

1	county superintendent shall:	1
2	(a) file such the petition;	2
3	(b) set a hearing place, date, and time for	3
4	consideration of the petition that is not more than 40 days	4
5	after receipt of the petition; and	5
6	(c) give notice of the place, date, and time of the	6
7	hearing. The notices shall must be posted in the districts	7
8	affected by the request petition for the transfer of	8
9	territory in the manner prescribed in this title for school	9
10	elections, with at least one such notice posted in the	10
11	territory to be transferred.	11
12	(4) The county superintendent shall conduct the hearing	12
13	as scheduled in accordance with the rules of procedure	13
14	adopted by the superintendent of public instruction pursuant	14
15	to 20-3-107(3), and any resident, or taxpayer, or	15
16	representative of the affected districts shall must be	16
17	heard. Ifthe-county-superintendent-considers-it-advisable	17
18	andinthebestinterestsoftheresidentsofsuch	18
19	territoryheshall-grant-the-petitioned-request-and-order	19
20	the-change-ofdistrictboundariestocoincidewiththe	20
21	boundarydescriptionin-the-petitionOtherwisehe-shail-	21
22	by-orderdeny-the-requestEither-of-the-orders-shall-be	22
23	(5) Within 30 days after the hearing, the county	23
24	superintendent shall, after considering the testimony and	24
25	exhibits presented at the hearing, issue findings of fact,	25

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	materialpresentedat 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 n-majority 20% of the electors of the <u>elementary</u>
22	district who-reside-in-the-territory-to-betransferredand
23	who are qualified to vote in elections for that district
24	under 20-20-3017-is-presented-prior-tothattime. When a
25	valid petition is submitted under this subsection, the

-3-

~

۹

-4-

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 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 12 Such The county superintendent shall notify any other county superintendents of counties with elementary districts 13 14 affected by such the petition, and the duties prescribed in this section for the county superintendent and the board of 15 16 county commissioners shall must be performed jointly by such 17 county officials." Section 2. Section 20-6-320, MCA, is amended to read: 18 19 "20-6-320. Transfer of territory from one high school district to another. (1) A majority of registered electors 20 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 (e) the territory proposed to be transferred to another 17 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;

-5-

SB 395

-6-

5B 395

2 requested; and (c) state the number of high-school-age children 3 4 residing in such the territory; and 5 (d) be accompanied by a \$50 nonrefundable filing fee. (3) A petition that meets the criteria specified in 6 7 subsection (1) and that contains all the information required by subsection (2) is a valid petition. On receipt 8 9 of a valid petition for a territory transfer, the county 10 superintendent shall: 11 (a) present the petition to the board of county commissioners for certification that the criteria set forth 12 13 in subsection (1) have been met. The board shall, within 10 days of receiving the petition, return it to the county 14 superintendent with certification, signed by a majority of 15 16 the board, that such the criteria have been met or with a notation, signed by a majority of the board, that the 17 18 criteria have not been met. The board's certification is binding on the county superintendent unless the county 19 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

(b) state the reasons why such the transfer is

1

1 county commissioners;. 2 (c)(4) If the petition is certified or adjusted on 3 appeal to the superintendent of public instruction to meet the criteria specified in subsection (1), the county 4 5 superintendent shall: (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 9 (d) give notice of the place, date, and time of the hearing. The notices must be posted in the high school 10 districts affected by the request petition for the territory 11 12 transfer in the manner prescribed in this title for school 13 elections, with at least one notice posted in the territory to be transferred. 14 (4)(5) The county superintendent shall conduct the 15 16 hearing as scheduled in accordance with the rules of procedure adopted by the superintendent of public 17 18 instruction pursuant to 20-3-107(3), and any resident, or 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 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

-8-

SB 0395/02

SB 395

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 <u>petitioned</u> 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	<pre>+5+(8) If a petition to transfer territory from one</pre>
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

-9-

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-

-10-