

SENATE BILL NO. 260

INTRODUCED BY G. HERTZ, C. NEUMANN, A. GRIFFITH, L. JONES

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE ALTERATION OF SERVICE DISTRICT BOUNDARIES FOR CERTAIN PURPOSES; PROVIDING THAT THE PURPOSES INCLUDE AN INABILITY TO ACCESS PUBLIC SERVICES OR IMPROVEMENT OF PUBLIC SAFETY SERVICES; PROVIDING FOR PETITION, PUBLIC HEARING, AND ELECTION PROCEDURES FOR ALTERING SERVICE HOSPITAL DISTRICT BOUNDARIES; PROVIDING FOR RECONCILIATION PAYMENTS BETWEEN CERTAIN SCHOOL DISTRICTS WHEN ISOLATED PUPILS ARE INVOLVED; ESTABLISHING A PROCESS FOR A SCHOOL DISTRICT TO SEEK A RECONCILIATION PAYMENT BY PETITIONING THE COUNTY SUPERINTENDENT AND PAYING A PROCESSING FEE; PROVIDING THAT THE TAXABLE VALUE OF TERRITORY TRANSFERRED BETWEEN SCHOOL DISTRICTS IS SPLIT BETWEEN THE DISTRICTS FOR A PERIOD OF 3 YEARS; PROVIDING FOR PAYMENTS BETWEEN DISTRICTS FOLLOWING A TERRITORY TRANSFER IF A RECONCILIATION PAYMENT WAS MADE PREVIOUSLY; PROVIDING DEFINITIONS; AMENDING SECTION 20-6-105, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Definitions.** For the purposes of [sections 1 through 8], the following definitions apply:

(1) "HOSPITAL DISTRICT" MEANS A DISTRICT CREATED PURSUANT TO TITLE 7, CHAPTER 34, PART 21.

(1)(2) "Inability to access public services" means the inability of a real property owner to reach public services in the county in which the owner's property is located due to:

(a) a physical or geographical barrier;

(b) a lack of PUBLIC county or PUBLIC county-maintained roads; or

(c) a lack of legal access on existing PRIVATE roads that would require the owner to, REQUIRING travel through INTO an adjacent county and then back into the county in which the owner's property is located;

OR

(D) ACCESS ON ROADS THAT REQUIRE AMBULANCES TO TRAVEL MORE THAN 60 MINUTES TO REACH THE  
PROPERTY WHEN FOLLOWING ALL SPEED LIMITS.

~~(2) "Public safety services" means law enforcement, firefighting, hospital, ambulance, or  
emergency medical services offered to the general public.~~

(3) "Public services" means any of the following that are offered to the general public:

(a) county services and facilities;

(b) educational services and facilities; or

(c) hospital or emergency medical services and facilities.

(4) ~~(a)~~ "Qualified petitioner" means:

(A) FOR A PETITION RELATED TO A HOSPITAL DISTRICT, an owner of real property in a service-LOCATED  
WITHIN THE HOSPITAL district:

(i) whose property is more ~~quickly~~ REASONABLY accessible to ~~public safety services or public  
services headquartered in the county seat or closest city, town, resort community, resort area, or resort area  
district of an adjoining county than to public safety services or public services headquartered in the county seat  
or closest city, town, resort community, resort area, or resort area district of the county in which the owner's  
property is located, or~~

(ii) from whose property the owner has an inability to access public services from the county seat  
or closest city, town, resort community, resort area, or resort area district of the county in which the owner's  
property is located;

(B) FOR A PETITION RELATED TO A SCHOOL DISTRICT, A PETITION DESCRIBED IN 20-6-105.

~~(b) For the purposes of [sections 1 through 8], a qualified petitioner includes a real property owner  
that is a corporation, limited liability company, partnership, or trust regardless of the state of principal domicile.~~

~~(5) "Service district" means a hospital district created under Title 7, chapter 34, part 21, or a s  
chool district created under Title 20, chapter 6.~~

(5) "SCHOOL DISTRICT" MEANS A SCHOOL DISTRICT CREATED UNDER TITLE 20, CHAPTER 6.

NEW SECTION. Section 2. Alteration of ~~service~~ district boundaries for purposes of public  
safety or inaccessibility. (1) A qualified petitioner may petition for the alteration of service HOSPITAL district OR

SCHOOL DISTRICT boundaries to improve public safety services or due to an inability to access public services as provided in [sections 1 through 8].

(2) A petition FOR A HOSPITAL DISTRICT under [sections 1 through 8] must provide for the transfer of property to an existing ~~service~~ HOSPITAL district or for the creation of a new ~~service~~ HOSPITAL district AND MUST FOLLOW THE PROCEDURES PROVIDED FOR IN 7-2-2801, 7-2-2802, AND [SECTIONS 1 THROUGH 8].

~~(3) A petition under [sections 1 through 8] must follow the procedures provided for in 7-2-2801 and 7-2-2802 and [sections 1 through 8].~~

~~(3) A PETITION FOR A SCHOOL DISTRICT UNDER [SECTIONS 1 THROUGH 8] MUST PROVIDE FOR THE TRANSFER OF PROPERTY TO AN EXISTING SCHOOL DISTRICT AS DESCRIBED IN 20-6-105.~~

NEW SECTION. Section 3. Public hearing on alteration of ~~service~~ district boundaries. (1) Within 30 days after certification that a petition to change a ~~service~~ HOSPITAL district boundary is sufficient as provided in [section 2], the board of the ~~service~~ HOSPITAL district in the adjoining county into which boundary changes are proposed shall, after providing public notice pursuant to 7-1-2121 in the county seat of each adjoining county, hold a public hearing in the area proposed to be transferred from one ~~service~~ HOSPITAL district to another for the purposes of educating the public and soliciting public comment on the petition to change the ~~service~~ HOSPITAL district boundary.

(2) If there is no existing ~~service~~ HOSPITAL district in the county into which the property is proposed to be moved, the petition must also call for the creation of a new ~~service~~ HOSPITAL district in the county. The county or the closest city, town, resort community, resort area, or resort area district in the adjacent county shall, after providing public notice pursuant to 7-1-2121 in the county seat of each adjoining county, hold a public hearing within 30 days after certification of the petition in the area proposed to be transferred from one ~~service~~ HOSPITAL district to another for the purposes of educating the public and soliciting public comment on the petition to change the ~~service~~ HOSPITAL district boundary and to create a new ~~service~~ HOSPITAL district within that county.

~~(3) FOR A PETITION TO CHANGE A SCHOOL DISTRICT BOUNDARY, A HEARING MUST BE HELD AS REQUIRED IN 20-6-105.~~

1           **NEW SECTION. Section 4. Order for election -- registered electors entitled to vote.** (1) After the  
2 public hearing held under [section 3] FOR A HOSPITAL DISTRICT PETITION, the board of county commissioners in  
3 the county in which the ~~service~~-HOSPITAL district is located shall order and give notice of an election to be held  
4 at the next election most immediately following the public hearing.

5           (2) Only registered electors within the area proposed to be transferred may vote in the election.

6           (3) (a) The notice must require that the ballot contain the legal description of the proposed  
7 boundary change, together with any descriptive name or names for the property that may be in common use.

8           (b) In the case of the creation of a new ~~service~~ HOSPITAL district, the notice must require that the  
9 ballot contain the legal description of the proposed new ~~service~~ HOSPITAL district.

10          (4) The election must be conducted in conformance with Title 13, chapter 1, part 4.

11  
12           **NEW SECTION. Section 5. Effect of election -- resolution by board of county commissioners --**  
13 **WITHDRAWAL OF TAXABLE VALUE.** (1) After the canvas of votes cast in an election held in accordance with  
14 [section 4], FOR A HOSPITAL DISTRICT PETITION, if more than 50% of the votes cast approve the proposed ~~service~~  
15 HOSPITAL district boundary change or more than 50% of the votes cast approve the creation of a new ~~service~~  
16 HOSPITAL district, then the board of county commissioners shall, by resolution, declare the boundary to be  
17 changed ~~or TO~~ the new ~~service~~ HOSPITAL district created as of January 1 of the year immediately following the  
18 election.

19          (2) THE TAXABLE VALUE OF THE AREA WITHDRAWN FROM THE HOSPITAL DISTRICT MUST BE WITHDRAWN IN  
20 EQUAL PARTS OVER A 3-YEAR PERIOD FROM THE EFFECTIVE DATE OF THE BOUNDARY CHANGE.

21          (3)\_\_\_\_\_ The resolution must include the legal description of the new ~~service~~ HOSPITAL district boundary.

22  
23           **NEW SECTION. Section 6. Notification of boundary change.** (1) Upon implementation of a ~~service~~  
24 HOSPITAL district OR SCHOOL DISTRICT boundary change under [sections 1 through 8], the county clerks and  
25 recorders in the adjoining counties where the boundary was changed shall notify the department of  
26 administration, the department of revenue, and the secretary of state of the boundary change.

27          (2) The department of revenue shall certify to each adjoining county the total taxable value within  
28 each county for the year following implementation of the ~~service~~-district boundary change to account for the

transfer of the property.

~~NEW SECTION. Section 7. Effect on school districts. School district boundaries impacted by a change of service district boundary under [sections 1 through 8] must be adjusted to ensure the affected property is relocated to the school district that is accessible to the affected property.~~

~~NEW SECTION. Section 7. Effect on hospital districts. Hospital district boundaries impacted by a change of service district boundary under [sections 1 through 8] must be adjusted to ensure the affected property is relocated to the hospital district that is accessible to the affected property or to the new hospital district created by the petition.~~

~~NEW SECTION. SECTION 8. WITHDRAWN PROPERTY SUBJECT TO EXISTING INDEBTEDNESS. ALL TAXABLE PROPERTY WITHIN A HOSPITAL DISTRICT OR SCHOOL DISTRICT WITHDRAWN UNDER [SECTIONS 1 THROUGH 8] REMAINS SUBJECT TO TAXATION FOR ANY BONDED INDEBTEDNESS OF THE EXISTING HOSPITAL DISTRICT OR SCHOOL DISTRICT AS OF THE DATE THE PETITION TO ALTER THE HOSPITAL DISTRICT OR SCHOOL DISTRICT BOUNDARY IS SUBMITTED TO THE SAME EXTENT IT WOULD HAVE BEEN SUBJECT IF NOT WITHDRAWN.~~

~~NEW SECTION. Section 9. Alteration of hospital district boundaries for purposes of public safety or inaccessibility. Hospital district boundaries may be altered to improve public safety services or due to an inability to access public services as provided in [sections 1 through 8].~~

~~NEW SECTION. SECTION 10. DEFINITIONS. FOR THE PURPOSES OF [SECTIONS 10 THROUGH 14] AND 20-6-105, THE FOLLOWING DEFINITIONS APPLY:~~

~~(1) "ADVISORY CAPACITY" HAS THE SAME MEANING AS PROVIDED IN 2-15-102.~~

~~(2) "DISTRICT OPERATIONAL LEVIES" MEANS PROPERTY TAX LEVIES IMPOSED ON THE PROPERTY OF A SCHOOL DISTRICT IN SUPPORT OF THE SCHOOL DISTRICT'S BUDGETED OPERATIONS. THE TERM INCLUDES LEVIES FOR ALL SCHOOL DISTRICT BUDGETED FUNDS EXCEPT THE DEBT SERVICE FUND. THE TERM DOES NOT INCLUDE COUNTYWIDE SCHOOL LEVIES.~~

(3) "ISOLATED PUPIL" MEANS A PUPIL WHO IS ENROLLED AND ADMITTED IN A NONRESIDENT DISTRICT CONTIGUOUS TO THE PUPIL'S RESIDENT SCHOOL DISTRICT UNDER CONDITIONS SPECIFIED IN 20-5-321 AND WHO IS UNABLE TO ACCESS ONSITE SERVICES OF A RESIDENT SCHOOL DISTRICT.

(4) "RECONCILIATION PAYMENT" MEANS PAYMENT PROVIDED FOR IN [SECTION 12] FROM A RESIDENT SCHOOL DISTRICT TO REIMBURSE A SCHOOL DISTRICT OF ATTENDANCE FOR EDUCATING AN ISOLATED PUPIL OF THE RESIDENT SCHOOL DISTRICT.

(5) "RESIDENT SCHOOL DISTRICT" MEANS THE SCHOOL DISTRICT WHERE AN ISOLATED PUPIL MAINTAINS LEGAL RESIDENCE AS DEFINED IN 1-1-215.

(6) "SCHOOL DISTRICT" MEANS A SCHOOL DISTRICT CREATED UNDER TITLE 20, CHAPTER 6.

(7) "SCHOOL DISTRICT OF ATTENDANCE" MEANS THE SCHOOL DISTRICT IN WHICH THE ISOLATED PUPIL IS ENROLLED, ADMITTED, AND RECEIVING ONSITE INSTRUCTION.

(8) "UNABLE TO ACCESS ONSITE SERVICES OF A RESIDENT SCHOOL DISTRICT" MEANS A CASE IN WHICH A PUPIL RESIDES IN A LOCATION WHERE, BECAUSE OF GEOGRAPHIC CONDITIONS BETWEEN THE PUPIL'S HOME AND THE SCHOOL THAT THE PUPIL WOULD ATTEND WITHIN THE RESIDENT SCHOOL DISTRICT, IT IS IMPRACTICAL TO ACCESS ONSITE PROGRAMS IN THE RESIDENT SCHOOL DISTRICT BASED ON A TRAVEL TIME OF MORE THAN 60 MINUTES UNDER NORMAL WEATHER CONDITIONS OVER A PUBLICLY OWNED AND MAINTAINED ROAD USING THE SHORTEST PASSABLE ROUTE WHILE COMPLYING WITH ALL APPLICABLE SPEED LIMITS TO THE SCHOOL THE PUPIL WOULD ATTEND IN THE RESIDENT SCHOOL DISTRICT.

**NEW SECTION. SECTION 11. QUALIFICATION FOR RECONCILIATION PAYMENT -- PETITION TO QUALIFY. (1)**

A SCHOOL DISTRICT THAT HAS ENROLLED AND ADMITTED AN ISOLATED PUPIL IS QUALIFIED FOR A RECONCILIATION PAYMENT AS PROVIDED IN THIS SECTION WHEN THE ISOLATED PUPIL IS A RESIDENT OF A CONTIGUOUS SCHOOL DISTRICT THAT HAS A TAXABLE VALUE OF AT LEAST \$100 MILLION AND A TAXABLE VALUE PER-ANB AMOUNT THAT IS GREATER THAN 1.5 TIMES THE TAXABLE VALUE PER-ANB AMOUNT IN THE SCHOOL DISTRICT OF ATTENDANCE.

(2) (A) ON PAYMENT OF A PROCESSING FEE OF \$100 TO THE COUNTY SUPERINTENDENT OF THE COUNTY IN WHICH THE RESIDENT SCHOOL DISTRICT OF AN ISOLATED PUPIL IS LOCATED, A SCHOOL DISTRICT THAT MEETS THE REQUIREMENTS OF SUBSECTION (1) MAY ANNUALLY PETITION TO QUALIFY FOR A RECONCILIATION PAYMENT CALCULATED PURSUANT TO [SECTION 12].

1           (B) TO QUALIFY FOR A RECONCILIATION PAYMENT IN THE SUBSEQUENT FISCAL YEAR, THE SCHOOL  
2 DISTRICT SHALL FILE A PETITION WITH THE COUNTY SUPERINTENDENT NO LATER THAN JUNE 1. THE PETITION MUST  
3 INCLUDE SUPPORTING EVIDENCE FOR THE QUALIFICATION OF THE SCHOOL DISTRICT OF ATTENDANCE FOR A  
4 RECONCILIATION PAYMENT, INCLUDING THE NUMBER OF FULL-TIME EQUIVALENT ISOLATED PUPILS WHO WERE ENROLLED  
5 AND ADMITTED TO THE SCHOOL DISTRICT OF ATTENDANCE AND RECEIVING ONSITE INSTRUCTION IN THE CURRENT  
6 SCHOOL YEAR.

7           (3) (A) UPON RECEIPT OF A PETITION FOR A RECONCILIATION PAYMENT, THE COUNTY SUPERINTENDENT  
8 SHALL UNDERTAKE A REASONABLE INQUIRY TO ASSESS THE VALIDITY OF THE PETITION AND ELIGIBILITY FOR THE  
9 RECONCILIATION PAYMENT. THE COUNTY SUPERINTENDENT SHALL EXERCISE THEIR BEST JUDGMENT AND MAKE A  
10 DETERMINATION BASED ON AVAILABLE AND CREDIBLE EVIDENCE, DOCUMENTATION, AND APPLICABLE LAWS AND  
11 POLICIES. THE COUNTY SUPERINTENDENT SHALL AFFORD DEFERENCE TO THE PETITIONER'S ASSERTIONS, ENSURING  
12 THAT THE EVALUATION PROCESS REMAINS FAIR, TRANSPARENT, AND CONSISTENT WITH ESTABLISHED CRITERIA.

13           (B) THE COUNTY SUPERINTENDENT MAY UTILIZE RESOURCES AND EXPERTISE FROM THE OFFICE OF PUBLIC  
14 INSTRUCTION, THE DEPARTMENT OF REVENUE, AND THE DEPARTMENT OF TRANSPORTATION TO VERIFY THE CREDIBILITY  
15 OF THE EVIDENCE PRESENTED AND TO BETTER ASCERTAIN THE FACTS SURROUNDING THE PETITION.

16           (4) THE COUNTY SUPERINTENDENT SHALL COMPLETE THE INQUIRY AND COMMUNICATE THE FINDINGS AND  
17 DETERMINATION, INCLUDING A DESIGNATION OF THE NUMBER OF FULL-TIME EQUIVALENT ISOLATED PUPILS ENROLLED IN  
18 THE DISTRICT OF ATTENDANCE, TO THE PETITIONER AND THE RESIDENT SCHOOL DISTRICT WITHIN 30 CALENDAR DAYS  
19 FROM THE DATE OF RECEIPT OF THE PETITION. IF FURTHER INFORMATION OR CLARIFICATION IS REQUIRED TO MAKE AN  
20 INFORMED DETERMINATION, THE COUNTY SUPERINTENDENT MAY REQUEST ADDITIONAL DOCUMENTATION OR ENGAGE IN  
21 DIALOGUE WITH THE PETITIONER WITHIN THIS TIMEFRAME.

22           (5) (A) AN AFFECTED SCHOOL DISTRICT THAT DISAGREES WITH THE COUNTY SUPERINTENDENT'S  
23 DETERMINATION MAY APPEAL TO THE DISTRICT COURT BY FILING A VERIFIED PETITION WITH THE COURT CLERK AND  
24 SERVING A COPY OF THE PETITION ON THE COUNTY SUPERINTENDENT. THE PETITION MUST CLEARLY OUTLINE THE  
25 OBJECTIONS OF THE SCHOOL DISTRICT TO THE BASIS OF THE COUNTY SUPERINTENDENT'S DETERMINATION AND THE  
26 OBJECTIVE CRITERIA SET FORTH IN [SECTIONS 10 THROUGH 14].

27           (B) FILING AND SERVING THE PETITION STAYS THE COUNTY SUPERINTENDENT'S DECISION UNTIL THE  
28 COURT REACHES A FINAL DETERMINATION ON THE MATTER. THE COURT SHALL SCHEDULE A HEARING AT THE EARLIEST

1 POSSIBLE CONVENIENCE. THE COURT SHALL REVIEW THE RECORD AND DETERMINE WHETHER THE COUNTY  
2 SUPERINTENDENT'S DECISION CONSTITUTED AN ABUSE OF DISCRETION. THE PROCEEDINGS MUST BE SUMMARY AND  
3 INFORMAL, AND THE COURT'S DECISION MUST BE CONSIDERED FINAL.

4  
5 **NEW SECTION. SECTION 12. PROPORTIONAL RECONCILIATION OF TAXABLE VALUATION --**

6 **REIMBURSEMENT FOR ISOLATED PUPILS.** (1) THE RESIDENT SCHOOL DISTRICT SHALL IMPOSE A LEVY AND MAKE A  
7 RECONCILIATION PAYMENT TO THE SCHOOL DISTRICT OF ATTENDANCE AS CALCULATED IN THIS SECTION WHEN A  
8 PETITION UNDER [SECTION 11] HAS BEEN GRANTED TO A SCHOOL DISTRICT OF ATTENDANCE BY THE APPLICABLE COUNTY  
9 SUPERINTENDENT.

10 (2) FOLLOWING APPROVAL OF THE PETITION AND NOT LATER THAN THE FIRST TUESDAY IN SEPTEMBER,  
11 THE SCHOOL DISTRICT OF ATTENDANCE SHALL NOTIFY THE RESIDENT SCHOOL DISTRICT OF THE MILLS BUDGETED TO BE  
12 IMPOSED BY THE SCHOOL DISTRICT OF ATTENDANCE FOR DISTRICT OPERATIONAL LEVIES PURSUANT TO ITS FINAL  
13 BUDGET ADOPTED IN COMPLIANCE WITH 20-9-131.

14 (3) THE RESIDENT SCHOOL DISTRICT SHALL CALCULATE AND IMPOSE LEVIES ON ALL OF ITS TAXABLE VALUE  
15 SUFFICIENT TO GENERATE THE AMOUNT OF THE RECONCILIATION PAYMENT. THE RECONCILIATION PAYMENT MUST BE  
16 INCORPORATED INTO THE TUITION BUDGET OF THE DISTRICT OF RESIDENCE. THE AMOUNT OF THE RECONCILIATION  
17 PAYMENT MUST BE CALCULATED BY:

18 (A) MULTIPLYING THE NUMBER OF FULL-TIME EQUIVALENT ISOLATED PUPILS OF THE RESIDENT SCHOOL  
19 DISTRICT IN THE PRIOR YEAR AS APPROVED BY THE COUNTY SUPERINTENDENT PURSUANT TO [SECTION 11(4)] BY THE  
20 MILL VALUE PER-ANB AMOUNT DETERMINED PURSUANT TO SUBSECTION (4); AND

21 (B) MULTIPLYING THE RESULT OF SUBSECTION (3)(A) BY THE NUMBER OF MILLS REPORTED BY THE  
22 DISTRICT OF ATTENDANCE UNDER SUBSECTION (2).

23 (4) THE MILL VALUE PER-ANB AMOUNT FOR THE RESIDENT SCHOOL DISTRICT UNDER SUBSECTION (3)(A)  
24 MUST BE CALCULATED BY THE OFFICE OF PUBLIC INSTRUCTION AND REPORTED BY MAY 1 WITH THE INFORMATION  
25 REQUIRED IN 20-9-369(1)(A) TO THE RESIDENT SCHOOL DISTRICT AND TO THE SCHOOL DISTRICT OF ATTENDANCE BASED  
26 ON THE CERTIFIED TAXABLE VALUE OF THE RESIDENT SCHOOL DISTRICT FOR THE PRIOR SCHOOL FISCAL YEAR DIVIDED BY  
27 THE RESIDENT SCHOOL DISTRICT'S BUDGETED ANB IN THE PRIOR SCHOOL FISCAL YEAR.

28 (5) REVENUE GENERATED FROM THE RECONCILIATION PAYMENT LEVY IMPOSED ON THE RESIDENT SCHOOL

DISTRICT PURSUANT TO SUBSECTION (4) MUST BE DEPOSITED IN THE TUITION FUND OF THE RESIDENT SCHOOL DISTRICT  
AND USED SOLELY FOR RECONCILIATION PAYMENTS TO THE DISTRICT OF ATTENDANCE.

(6) BY DECEMBER 31, THE RESIDENT SCHOOL DISTRICT SHALL PAY AT LEAST ONE-HALF OF THE  
RECONCILIATION PAYMENT PROVIDED FOR IN THIS SECTION TO THE SCHOOL DISTRICT OF ATTENDANCE. THE REMAINING  
OBLIGATION MUST BE PAID BY JUNE 15 OF THE SAME FISCAL YEAR.

(7) UPON RECEIPT OF THE RECONCILIATION PAYMENT, A SCHOOL DISTRICT OF ATTENDANCE SHALL  
DEPOSIT THE PAYMENT IN THE SCHOOL DISTRICT'S FLEXIBILITY FUND OR ANY OTHER BUDGETED FUNDS IN THE  
DISCRETION OF THE TRUSTEES.

**NEW SECTION. SECTION 13. ADVISORY COUNCIL.** (1) A SCHOOL DISTRICT WITH AN ENROLLMENT OF  
ISOLATED PUPILS COMPRISING 5% OR MORE OF ITS BUDGETED ANB SHALL ESTABLISH AN ADVISORY COUNCIL  
DEDICATED TO FOSTERING OPEN DIALOGUE AND COLLABORATION ON MATTERS THAT IMPACT ISOLATED PUPILS AND  
OTHER NONRESIDENT PUPILS FROM THE AREAS IN WHICH ISOLATED PUPILS RESIDE. THE COUNCIL SHALL SERVE IN AN  
ADVISORY CAPACITY AS A VITAL FORUM FOR LISTENING TO AND VOICING THE CONCERNS AND INSIGHTS OF PARENTS,  
GUARDIANS, AND COMMUNITY MEMBERS REGARDING THE EDUCATIONAL EXPERIENCES OF ISOLATED PUPILS.

(2) THE BOARD OF TRUSTEES OF THE DISTRICT OF ATTENDANCE SHALL APPOINT MEMBERS TO THE  
ADVISORY COUNCIL FOLLOWING A PUBLIC NOTICE PROCESS THAT INVITES COMMUNITY PARTICIPATION AND EXPRESSIONS  
OF INTEREST. THE SIZE OF THE COUNCIL, THE TERMS OF SERVICE, AND SPECIFIC RESPONSIBILITIES MUST BE OUTLINED  
BY DISTRICT POLICY. A MAJORITY OF THE COUNCIL'S MEMBERS MUST BE PARENTS OR LEGAL GUARDIANS OF ISOLATED  
PUPILS. THE BOARD MAY APPOINT OTHER STAKEHOLDERS AT ITS DISCRETION.

(3) THE AGENDA FOR REGULAR MEETINGS OF THE BOARD MAY INCLUDE, AT THE COUNCIL'S REQUEST, A  
DEDICATED ITEM FOR A REPORT FROM THE ADVISORY COUNCIL.

**Section 14.** Section 20-6-105, MCA, is amended to read:

**"20-6-105. Transfer of territory from one district to another -- hearing on effects of proposed  
transfer -- burden of proof -- standard of proof -- appeal to district court.** (1) (a) Except as provided in  
~~[sections 1 through 8],~~ 20-6-214, 20-6-215, 20-6-308, AND 20-6-322, ~~and subsections (1)(b) and (1)(c) of this~~  
section, a petition to transfer territory from one school district to another may be presented to the county

superintendent if:

(i) (A) the petition is signed by 60% of the registered electors qualified to vote at general elections in the territory proposed for transfer;

(ii) (B) the territory to be transferred is contiguous to the district to which it is to be attached, includes taxable property, and has school-age children living in it;

(iii) (C) the territory to be transferred is not located within 3 miles, over the shortest practicable route, of an operating school in the district from which it is to be transferred; and

(iv) (D) the board of trustees of the school district that would receive the territory has approved the proposed transfer by a resolution adopted by a majority of the members of the board of trustees at a meeting for which proper notice was given.

~~(b) — A petition to transfer territory to or from a K-12 district may not be presented to a county superintendent unless both school boards and the county superintendents have agreed in writing.~~

~~(c) — Registered voters within the exterior boundaries of school districts that consolidated during the years 2004 to 2008 may petition for changes in their boundaries under the law in effect on July 1, 2005.~~

(2) Once a petition to transfer territory has been filed, an additional petition to transfer that territory may not be filed for 4 years 1 FULL FISCAL YEAR unless the county superintendents have agreed in writing.

(3) The petition for a transfer of territory must be delivered to the county superintendent and must:

(a) provide a legal description of the territory that is requested to be transferred and a description of the district to which the territory is to be transferred;

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

(c) state the number of school-age children residing in the territory.

(4) If both the trustees of the receiving and transferring school districts have approved the proposed territory transfer in writing, the county superintendent shall grant the transfer.

(5) For any petition that meets the criteria specified in subsection (1) and contains the information required by subsection (3) but that has not been approved in writing by the board of trustees of the school district that would transfer the territory, the county superintendent shall:

(a) not more than 40 days after receipt of the petition, set a place, date, and time for a hearing to consider the petition; and

(b) give notice of the place, date, and time of the hearing. The notice must be posted in the districts affected by the petition for the transfer of territory in the manner prescribed in this title for notices for school elections, with at least one notice posted in the territory to be transferred. Notice must also be delivered to the board of trustees of the school district from which the territory is to be transferred.

(6) The county superintendent shall conduct a hearing as scheduled, and any resident, taxpayer, or representative of the receiving or transferring district must, upon request, be heard. At the hearing, the petitioners have the initial burden of presenting evidence on the proposed transfer's effect on:

(a) the educational opportunity for the students in the receiving and transferring districts, including but not limited to:

(i) class size;

(ii) ability to maintain demographic diversity;

(iii) local control;

(iv) parental involvement; and

(v) the capability of the receiving district to provide educational services;

(b) student transportation, including but not limited to:

(i) safety;

(ii) cost; ~~and~~

(iii) travel time of students; AND

(IV) WHETHER THERE ARE ISOLATED PUPILS IN THE TERRITORY PROPOSED FOR TRANSFER;

(c) the economic viability of the proposed new districts, including but not limited to:

(i) the existence of a significant burden on:

(A) IF THE TRANSFER IS APPROVED, the taxpayers of the district from which the territory will be transferred; OR

(B) IF THE TRANSFER IS REJECTED, THE TAXPAYERS OF THE DISTRICT TO WHICH THE TERRITORY IS TO BE TRANSFERRED;

(ii) the significance of any loss in state funding for the students in both the receiving and transferring districts;

(iii) the viability of the future bonding capacity of the receiving and transferring districts, including

but not limited to the ability of the receiving district and the transferring district to meet minimum bonding requirements;

(iv) the ability of the receiving district and the transferring district to maintain sufficient reserves; and

(v) the cumulative effect of other transfers of territory out of the district in the previous 8 years on the taxable value of the district from which the territory is to be transferred. In cases where the cumulative effect of other transfers of territory out of the district in the previous 8 years is equal to or greater than 25% of the district's taxable value, the following additional factors must be considered and weighed in the decision:

(A) the district's rate of passage of discretionary levies placed before the voters over the previous 8 years;

(B) the district's reduction or elimination of instructional staff or programs over the previous 8 years; and

(C) any increase in district taxes over the previous 8 years and the likely increase in district taxes if the transfer is granted.

(7) After receiving evidence from both the proponents and opponents of the proposed territory transfer on the effects described in subsection (6), the county superintendent shall, within 30 days after the hearing, issue findings of fact, conclusions of law, and an order.

(8) If, based on a preponderance of the evidence, the county superintendent determines that the evidence on the effects described in subsection (6) supports a conclusion that a transfer of the territory is in the best and collective interest of students in the receiving and transferring districts and does not negatively impact the ability of the districts to serve those students, the county superintendent shall grant the transfer. If the county superintendent determines that, based on a preponderance of the evidence presented at the hearing, a transfer of the territory is not in the best and collective interest of students in the receiving and transferring districts and will negatively impact the ability of the districts to serve those students, the county superintendent shall deny the territory transfer.

(9) The decision of the county superintendent is final 30 days after the date of the decision unless it is appealed to the district court by a resident, taxpayer, or representative of either district affected by the petitioned territory transfer. The county superintendent's decision must be upheld unless the court finds that the

county superintendent's decision constituted an abuse of discretion under this section. THE COUNTY SUPERINTENDENT SHALL NOTIFY THE DEPARTMENT OF REVENUE OF THE APPROVAL OF A PETITION TO TRANSFER TERRITORY FROM ONE SCHOOL DISTRICT TO ANOTHER.

(10) Whenever a petition to transfer territory from one district to another district creates a joint district or affects the boundary of an existing joint district, the petition to transfer territory must be delivered to the county superintendent of the county in which the territory proposed to be transferred 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. If the number of county superintendents involved is an even number, the county superintendents shall jointly appoint an additional county superintendent from an unaffected county to join them in conducting the hearing required in subsection (6) and in issuing the decision required in subsection (8). The decision issued under subsection (8) must be made by a majority of the county superintendents.

(11) A petition seeking to transfer territory out of or into a K-12 district must propose the transfer of territory for both elementary and high school purposes. In the case of a proposed transfer out of or into a K-12 district, a petition that fails to propose the transfer of territory for both elementary and high school purposes is invalid for the purposes of this section.

(12) IF A PETITION TO TRANSFER TERRITORY IS GRANTED UNDER THIS SECTION, FOR THE 3 YEARS IMMEDIATELY FOLLOWING THE TRANSFER:

(A) THE TAXABLE VALUE OF TERRITORY TRANSFERRED MUST BE DIVIDED EQUALLY BETWEEN THE SCHOOL DISTRICT FROM WHICH THE TERRITORY WAS TRANSFERRED AND THE SCHOOL DISTRICT TO WHICH THE PROPERTY WAS TRANSFERRED;

(B) WHEN CERTIFYING TAXABLE VALUES PURSUANT TO 15-10-202, THE DEPARTMENT OF REVENUE SHALL INCLUDE HALF OF THE CERTIFIED VALUE OF THE TRANSFERRED TERRITORY IN EACH SCHOOL DISTRICT'S CERTIFIED TAXABLE VALUE;

(C) EACH SCHOOL DISTRICT SHALL CALCULATE THE MILLS REQUIRED FOR ITS DISTRICT OPERATIONAL LEVIES, AS DEFINED IN [SECTION 10], BASED ON THE CERTIFIED TAXABLE VALUE PROVIDED UNDER SUBSECTION (12)(B);  
AND

(D) WHEN LEVYING TAXES FOR DISTRICT OPERATIONAL LEVIES PURSUANT TO 20-9-142, THE COUNTY

COMMISSIONERS SHALL FIX AND LEVY ONE-HALF OF THE NUMBER OF MILLS FOR EACH DISTRICT'S OPERATIONAL LEVIES ON THE FULL TAXABLE VALUE OF ALL PROPERTY WITHIN THE TRANSFERRED TERRITORY.

(13) (A) WHEN A PETITION TO TRANSFER TERRITORY HAS BEEN GRANTED FOR A SCHOOL DISTRICT THAT HAS PAID A RECONCILIATION PAYMENT TO ANOTHER SCHOOL DISTRICT UNDER [SECTION 12]:

(i) THE SCHOOL DISTRICT TO WHICH THE TERRITORY HAS BEEN TRANSFERRED SHALL BUDGET AND IMPOSE A LEVY FOR 3 CONSECUTIVE YEARS FOLLOWING THE TRANSFER TO GENERATE REVENUE EQUAL TO THE MOST RECENT RECONCILIATION PAYMENT IT RECEIVED FROM THE DISTRICT FROM WHICH THE TERRITORY HAS BEEN TRANSFERRED; AND

(ii) THE SCHOOL DISTRICT IMPOSING THE LEVY SHALL DEPOSIT THE REVENUE IN ITS TUITION FUND AND PAY THE DISTRICT FROM WHICH THE TERRITORY WAS TRANSFERRED AN AMOUNT EQUAL TO THE REVENUE RAISED IN SUBSECTION (13)(A)(i) FOR 3 CONSECUTIVE YEARS FOLLOWING THE TRANSFER, WITH AT LEAST HALF OF THE ANNUAL PAYMENT MADE BY DECEMBER 31 AND THE REMAINDER BY JUNE 15 OF THE SAME FISCAL YEAR.

(B) THE DISTRICT FROM WHICH THE TERRITORY IS TRANSFERRED SHALL DEPOSIT THE RECEIVED PAYMENT IN ITS FLEXIBILITY FUND OR ALLOCATE IT AMONG ITS BUDGETED FUNDS AS DETERMINED BY THE TRUSTEES."

**NEW SECTION. Section 15. Codification instruction.** (1) [Sections 1 through 8] are intended to be codified as an integral part of Title 7, chapter 2, and the provisions of Title 7, chapter 2, apply to [sections 1 through 8].

(2) [Section 9] is intended to be codified as an integral part of Title 7, chapter 34, part 21, and the provisions of Title 7, chapter 34, part 21, apply to [section 9].

(3) [SECTIONS 10 THROUGH 13] ARE INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 20, CHAPTER 6, PART 1, AND THE PROVISIONS OF TITLE 20, CHAPTER 6, PART 1, APPLY TO [SECTIONS 10 THROUGH 13].

**NEW SECTION. SECTION 16. SEVERABILITY.** IF A PART OF [THIS ACT] IS INVALID, ALL VALID PARTS THAT ARE SEVERABLE FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF [THIS ACT] IS INVALID IN ONE OR MORE OF ITS APPLICATIONS, THE PART REMAINS IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE INVALID APPLICATIONS.

**NEW SECTION. Section 17. Effective date.** [This act] is effective on passage and approval.

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