

PROPERTY TRANSFERS

INFORMATION AND STATUTORY PROVISIONS

REVISED 2004

**MICHIGAN DEPARTMENT OF EDUCATION
OFFICE OF ADMINISTRATIVE LAW**

FOREWORD

Students sitting in our classrooms today are the leaders of tomorrow. It is up to all of us to ensure that we provide them with every opportunity to enrich their lives. As Michigan continues to move ahead and provide quality education for our children, we realize that many resources are used to enhance quality programs in our public schools.

Parents also play an important role in their child's education. The transfer of property from one school district to another in Michigan has a long history - one that many parents have taken advantage of for more than 100 years.

Transfer of property dates back to 1874, when the Michigan Supreme Court ruled on a dispute involving a boundary change between school districts – Clement v Everest, 29 Mich 19 (1874). The transfer of property is one way that parents can pursue the quality education of their choice for their child.

This document provides a general overview of the present statutory provisions on property transfers as they appear in the Revised School Code. In addition to explaining the property transfer process, it delineates the roles and responsibilities of local and intermediate school districts, and the Superintendent of Public Instruction.

In short, the information in this document should provide helpful information to those who wish to know more about the property transfer process.

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Superintendent of Public Instruction

The general overview of the property transfer statute was prepared by the staff of the Office of Administrative Law. Information in the article reflects the understanding of the Office of Administrative Law staff regarding provisions of the property statute, and not necessarily those of the Superintendent of Public Instruction.

GENERAL OVERVIEW OF THE PROPERTY TRANSFER STATUTE

The statutory provisions covering the procedures for transferring a parcel of property from one school district to another contiguous school district are found in the Revised School Code, MCL 380.951 et seq.; MCL 380.612; and MCL 388.1010(b). The statutory provisions are included at the end of this document.

Action to seek a transfer of property from one school district to another school district may be initiated by several different means. The most frequently used method, is when a resident property owner (or group of resident property owners) files a petition with an intermediate school district requesting that the property be detached from one school district and attached to another. Another method is initiated by a local board of education or a board of a condominium association filing a resolution with the intermediate school district seeking to have property transferred into or out of the district.

Requirements for Seeking a Property Transfer

When a petition to transfer property is filed, the terms of the statute clearly limit the right to petition to persons who both own and reside on the land to be transferred. Consequently, nonresident property owners do not meet the legal requirements to file a petition to have property transferred. It is not uncommon, however, for property owned by nonresident owners to be transferred from one school district to another. This occurs when a property transfer petition filed by a resident property owner, or a group of resident property owners, includes property owned by nonresident property owners. Petitions filed by a group of resident property owners are often referred to as block transfers.

Another requirement of the statute governing property transfers concerns the number of signatures of resident property owners needed to have a valid petition. The statute requires that two-thirds of the persons who own and reside on the land to be transferred must sign the petition. Thus, if the property is jointly owned by a husband and wife, both must sign the petition in order to meet the two-thirds requirement. If a petition is filed by a group of resident property owners, at least two-thirds of the resident owners whose property is to be transferred must sign the petition. Given this requirement, it follows that in a block transfer up to one-third of the resident property owners who do not sign the petition also may have their property transferred to another district – even against their will. Property belonging to nonresident property owners also may be included in property transfer petitions, provided the petition is signed by at least two-thirds of the resident property owners.

Contiguity is another statutory requirement that must be met; the territory to be transferred must be contiguous to the school district to which it is to be attached. A parcel belonging to resident owners must be contiguous to the district to which it is attached. In a block transfer petition, the territory to be transferred is considered in its entirety when determining contiguity. The Attorney General has issued opinions on the issue of contiguity: territory which touches only at a corner is contiguous; territory separated by a river or a road is considered contiguous.

Meeting of ISD Board(s) to Consider Property Transfer Petitions or Resolutions: Requirements and Responsibilities

It sometimes happens that a property transfer petition may involve more than one intermediate school district. In cases where transferred property would become part of another intermediate school district as well as another local district, the boards of education of both intermediate school districts must sit as a joint board of education to act on the petition or resolution. The superintendent of the intermediate school district where the property transfer petition, or resolution, is filed is responsible for calling and giving proper notice for a joint meeting of the affected intermediate school boards.

Information contained in the notice of the meeting should include: the time and place of the meeting and the proposed alterations in the school district boundaries to be considered by the board. This notice is to be published once at least 10 days before the meeting in newspapers of general circulation in the territory of the affected school districts. It is important to note that the statutory provisions of the Open Meetings Act (MCL 15.261 et seq) about posting notice of board of education meetings should also be followed. The meeting of the intermediate school district(s) should be scheduled in a timely fashion, so that final action on the property transfer is taken before 60 days have passed from the time the petition, or resolution, was filed.

If the territory under consideration for transfer extends into two or more intermediate districts, it must be acted upon by at least a quorum of each of the affected intermediate boards. When intermediate boards meet jointly, they must elect one of their members chairperson and another secretary of the meeting. Further, some board members may not be eligible to participate in the proceedings. Section 612 of the Revised School Code (MCL 380.612(2)) prohibits a member of an intermediate school board who is a member of a constituent district board from participating in proceedings conducted to detach territory from, or attach territory to, the constituent district of which he or she is a board member. Thus, if an intermediate school board (or joint board) had a member or members who also served on the board of the district that would lose or receive property as a result of the property transfer action, the member(s) would not be eligible to vote or participate in the proceedings.

The statute places a limit on the amount of property that may be transferred by intermediate school district board action in any one transfer. That limit is ten percent of the latest assessed valuation of the entire school district from which the territory is to be detached. A transfer that involves over ten percent of the latest assessed valuation of the entire school district must be approved by an affirmative vote of a majority of the school electors of the district from which the territory is to be detached after the intermediate school board(s) approves the transfer. The Michigan Supreme Court has held that the statute requires a vote of the electors only when the area involved in a single transfer exceeds ten percent of the latest taxable valuation of the school district. It held that the statute cannot be read to require voter approval of transfers which, cumulatively with previous transfers, exceed the limit. Owendale-Gagetown School District v State Board of Education, 413 Mich 1.

Property Transfer Follow-up Responsibilities of ISDs

What happens when a property transfer petition or resolution is approved by an intermediate school district board (or joint board) and no further appeal is taken by the losing district?

Several follow-up activities take place, and the responsibility to follow-up rests primarily with the intermediate school district(s) involved in the transfer. There are some responsibilities, however, that rest with the affected school districts. The follow-up activities and responsibilities are found in Sections 954, 955, 961, and 966 of the Revised School Code.

Responsibilities of intermediate school district boards include:

- Determining the effective date of the transfer, which shall be not less than ten days after the date of the determination.
- Determining whether personal property of a school district is to be transferred.
- Determining an equitable payment to be made to an affected school district for the loss of any real property owned by the district.
- Having a map prepared showing in detail the boundaries of the affected school districts before alteration and the boundaries of territory attached or detached.
- Filing a certified copy of the map with the secretary of each affected school district, with each affected township supervisor or city assessor, with the Office of Administrative Law (Form OS-4143), and the Secretary of State.
- Certify to the Department of Treasury the fact of the transfer, the description of the territory transferred, the bonded indebtedness of the school district from which the territory is detached, the assessed valuation of the school district from which the territory is detached, the assessed valuation of the detached territory, and other information the Department of Treasury may require. (This follow-up responsibility of the intermediate school district occurs if the school district to which territory is attached chooses to pay the school district from which the land is detached the present value of the pro rata bonded indebtedness of the detached territory.)

Property Transfer Follow-up Responsibilities of School Districts

The follow-up activities and responsibilities of the local, affected school districts depend in large part on the timing of the transfer, the bonded indebtedness, and taxes levied in each school district. What must be determined at the time of the transfer is the bonded indebtedness of each affected school district -- the district losing property and the district gaining property. The portion of the taxes on the transferred territory that are for paying off bonded indebtedness stay with (continue to be paid to) the losing district. This arrangement continues only for the bonded indebtedness at the time of the transfer and not for bond levies incurred by the losing district after the transfer.

By the same token, the owners of the transferred territory do not assume the existing bonded indebtedness of the school district to which their property is attached, until the obligation for that bonded indebtedness to the former school district is retired. Of course, bond levies passed in the receiving district after the transfer has occurred are assumed by the owners of the transferred territory. The board of the receiving district, however, may exempt, by resolution, the newly transferred territory from new debt levies for up to three years.

Thus, the main follow-up responsibilities of the affected school districts fall on the district which receives the territory. School officials of the receiving district must certify the required debt retirement levies for the bonds of the losing school district, and the territory over which the levies are to be spread, to the proper taxing officials when certifying other taxes to be levied by the district. Then, when tax

collecting officials remit these collections, along with the other tax collections, to the receiving school district, school officials are responsible for immediately transmitting the proper portion for debt retirement to the losing district.

If the receiving school district in a property transfer action chooses to settle the bonded indebtedness of the transferred property, it may pay off the pro rata share of bonded indebtedness to the losing school district. In the event this is done, the transferred territory is subject to the bond debt retirement tax levy for bonded indebtedness of the receiving school district that existed at the time of transfer. The receiving school district may use up to fifteen percent of its state school aid for one year to make a settlement with the losing school district. December tax levies go to the losing school district on property transfers made after September 1 of a given year.

The timing of a property transfer also controls where the school operational millage on the transferred property will go. If the transfer is effective before September 1, it is levied by the receiving district. If the transfer is effective after September 1, it is levied by the losing district. The responsibility for follow-up activities to certify the operational millage for the transferred territory to the proper taxing officials rests with the school district entitled to receive the taxes.

Rights of Certain Pupils in Property Transfers

The statute also speaks to what happens to pupils when a property transfer occurs. Pupils who are in the twelfth grade at the time of the change, or will be entering the twelfth grade at the beginning of the school year immediately following the transfer, may continue to attend school in the losing district without paying tuition. This choice is not within the discretion of either school district. The choice rests with those persons whose property has been transferred, or those living on property that has been transferred.

Property Transfer Appeals to the Superintendent of Public Instruction

What happens when the board of an intermediate school district (or joint board) turns down the request of a petitioner to transfer property to another district, and the petitioner still wants the property transferred? Or, what recourse does a school district have if the action of the board of the intermediate school district on a property transfer petition or resolution means that it will lose property? The statute provides the answer to these questions. An appeal may be made to the Superintendent of Public Instruction to appeal the action or inaction of the intermediate board(s) on a petition or resolution.

Additional ISD Responsibilities

The responsibilities of intermediate school district boards when property transfer requests are granted have been outlined above. Other additional responsibilities occur once decisions have been made by the intermediate board(s). It is the responsibility of the intermediate school district board or its officers to:

- notify all adversely affected parties involved in the property appeal process of their right to appeal the decision of the intermediate school board(s) to the Superintendent of Public Instruction, and to
- notify the parties of the ten day time period in which to file an appeal.

If the intermediate board(s) denies the petition to transfer property, one or more of the resident property owner petitioners (as an adversely affected party) could appeal the decision to the Superintendent of Public Instruction. The board of the school district that failed to have the property attached to it (as an adversely affected party) could also appeal the decision to the Superintendent of Public Instruction. On the other hand, if the intermediate board(s) grants the property transfer, the losing school district (as an adversely affected party) could appeal the decision to the Superintendent of Public Instruction.

Appeal Timelines

The timeline for filing an appeal with the Superintendent of Public Instruction is short. An appeal must be filed and received in the Office of Administrative Law within ten (10) days of the date that the intermediate board(s) took action. In instances where the intermediate board(s) fails to take action on a petition or resolution within 60 days from the date it was filed, an appeal to the Superintendent of Public Instruction may be made. This type of appeal, where no action was taken by the intermediate board(s), must be filed and received by the Superintendent of Public Instruction in a timely fashion, as well. Generally, an appeal on the inaction of the intermediate board(s) would be filed within the ten (10) day period following the 60th day after the original petition or resolution was filed with the intermediate board – or between day 61 and day 70 after filing the petition or resolution. In some cases, however, the intermediate boards may notify the affected parties that it does not intend to take action. If this happens, the affected parties could appeal that decision to the Superintendent of Public Instruction. Again, the responsibility to notify the adversely affected parties of their right to appeal and the time frame in which the appeal, if taken, must be filed rests with the intermediate school district.

If the action of the intermediate board(s) in a property transfer case is appealed to the Superintendent of Public Instruction, the determination of the intermediate board(s) is not implemented while the appeal is pending and until the Superintendent of Public Instruction makes a final decision on the appeal.

Superintendent of Public Instruction Administrative Law Judges

Under the State Board of Education Act, MCL 388.1010, the authority to hear appeals from decisions on alterations of boundaries of school districts rests with the Superintendent of Public Instruction. The function of the State Board of Education under this provision was transferred to the Superintendent of Public Instruction via Executive Order 1996-11 and 1996-12. The statute allows the Superintendent to appoint administrative law judges to hear property transfer appeals and prepare written reports for the Superintendent's consideration.

Appeal Acknowledgment/Information

When an appeal is filed with the Superintendent of Public Instruction, it is acknowledged by letter. The acknowledgment letter indicates the date the appeal was received, the docket number assigned to the appeal, the Administrative Law Judge assigned to the case, and that notice of the hearing will be sent approximately one month before the hearing date. A copy of the property transfer statute and an informational sheet on property transfer procedures is enclosed with the acknowledgement letter.

Information from ISD

A copy of the acknowledgment letter is sent to the appropriate intermediate school district, along with a Department of Education form (OS-4132 – Property Transfer Appeal Information) which is to be filled out by the responsible intermediate school district superintendent. The completed form is to be returned to the Office of Administrative Law.

Hearing Notice

When Form OS-4132 is returned, a hearing date is scheduled and a hearing notice is sent to the parties and to the intermediate school district(s) involved. Hearings are usually held in the Tenure Hearing Room, Second Floor, John A. Hannah Building, 608 West Allegan Street, Lansing, Michigan.

The notice of hearing contains additional information that should be heeded. For instance, if a party fails to appear at the hearing, the hearing may proceed and the decision may be made in the absence of the party. In plain words, if you do not show you may not win – or at least the chances of winning are severely reduced. The chances are reduced because the hearing process is de novo at the Superintendent level. De novo is defined as “anew, afresh, a second time, again.” The term de novo means, literally a new hearing or a hearing the second time, and means that a case shall be heard the same as though it had not been heard before.¹ If you are for or against the transfer, you should present your position at the hearing, so that it becomes part of the case record. If you offer a rebuttal to evidence presented by those opposing your position, that will become part of the case record, as well. The Superintendent of Public Instruction is to consider only the record made at the hearing when it makes its decision.

This leads to another section included in the notice of hearing: the caution against any of the parties involved in the case communicating with the administrative law judge or Superintendent directly or indirectly about issues of fact or law in the case. The prohibition about direct communication is fairly easy to understand. The Superintendent of Public Instruction, as a general rule, does not read letters sent to him concerning a pending property transfer. An example of prohibited indirect communication might include school district or intermediate school district officials contacting Department officials (other than the administrative law judge) to “lobby” for a certain outcome in a pending property transfer appeal.

The Hearing Process

When a property transfer appeal is filed with the Superintendent of Public Instruction, it is not considered to be a “contested case” pursuant to the definitions in the Michigan Administrative Procedures Act, MCL 24.201 et seq. However, the hearing format is designed to provide a due process procedure. The Administrative Law Judge presides at the hearing. A court reporter is present to take a verbatim record of the hearing. A transcript is made of the hearing. The parties involved in the proceeding have certain rights, namely:

¹ Luther v Board of Education of the Alpena Public Schools, 62 Mich App 32; 233 NW2d 173 (1975); see also, Strepek v Board of Education of the School District of the City of Berkley, State Tenure Commission docket number 85-13 (1985).

- To represent themselves or to be represented by counsel. (If represented by counsel, attorneys should promptly file an appearance with the Office of Administrative Law and serve a copy on the other parties).
- To introduce documents.
- To examine documents presented by others.
- To testify.
- To present witnesses.
- To examine witnesses presented by the other side.
- To make a closing statement.
- To receive the recommendation of the administrative law judge.
- To present specific written objections to the administrative law judge's recommendation to the Superintendent of Public Instruction within 20 days of receipt.
- To receive a copy of the final order of the Superintendent of Public Instruction.

Prior to giving testimony, all individuals take an oath (are sworn). Any person who testifies must do so from his or her own knowledge. Persons seeking or opposing the transfer should be prepared to explain the reasons for their position. Persons wishing to offer documents or other possible exhibits, should bring enough copies for all of the parties and the administrative law judge (at least five copies). Documents and other possible exhibits do not become part of the record automatically. They must be offered into evidence and received as admissible by the administrative law judge. Since one of the basic elements of due process in a contested hearing is the opportunity for cross-examination, letters sent by those who cannot attend the hearing are discouraged, because letters cannot be cross-examined.

The Administrative Law Judge's Recommended Decision and Order

After the hearing, the Administrative Law Judge prepares a report in the form of a recommended decision and order to go to the Superintendent of Public Instruction. A copy of the recommended decision and order goes to the parties in the property transfer appeal– the petitioner(s) and the affected school districts. The parties have 20 days within receipt of the Administrative Law Judge's recommended decision and order to file specific written objections with the Superintendent of Public Instruction. The Administrative Law Judge's recommended decision and order is usually prepared and sent to the parties several months after the hearing.

The Final Decision of the Superintendent of Public Instruction

When the time has elapsed for filing objections to the Administrative Law Judge's recommended decision and order, the case record is transmitted to the Superintendent of Public Instruction. Among other things, the case record includes the transcript of the hearing, the recommended decision and order prepared by the Administrative Law Judge, objections (if any) filed by the parties, and maps and other exhibits. In making his final determination in a case, the Superintendent may confirm, modify, or set aside the order of the intermediate board or the joint intermediate school boards. The action of the Superintendent of Public Instruction on the appeal is the final action of the agency.

Through the years, the Superintendent of Public Instruction has addressed some general issues on the subject of property transfers. Some of the general issues addressed include procedural changes affecting Department staff and intermediate school districts. The Superintendent of Public Instruction follows

policy of the State Board of Education on property transfers in districts involved in desegregation litigation.

The question is frequently raised about the factors the Agency considers when making a decision whether or not to transfer property. Some have urged the State Board to promulgate rules or guidelines that will follow or apply in deciding each property transfer case. The Court of Appeals has held, however, that an administrative agency need not always promulgate rules to cover every conceivable situation before enforcing a statute; an administrative agency may announce new principles through adjudicative proceedings in addition to rule-making proceedings. The effective administration of a statute by an administrative agency cannot always be accomplished through application of predetermined general rules; rather, some principles of interpretation must evolve in response to actual cases in controversy presented to the agency, AFSCME v Wayne County, 152 Mich App 87.

The Supreme Court, has responded to the following question about the property transfer statute: Are the sections of the school code dealing with transfer of property between districts unconstitutional in that they provide no standards which the county board or the joint boards and the State Board of Education shall follow in the transfer of school property to another school district? The plaintiff, in this case, while agreeing that the legislative power to alter school district boundaries may be delegated to subordinate authorities, claimed that no standard or yardstick has been provided for the guidance of the subordinate authority.

The Court held that the legislature provided sufficient standards in the statutory provisions for the detachment of territory from one school district and the attachment thereof to another: in requiring that the territory be contiguous to the district to which it was to be attached, in requiring that designated parties may request such action, in requiring voter approval (Note: this provision has since been amended to require a vote of the electors only when the proposed transfer comprises more than ten percent of the district's valuation), in prescribing notice requirements for board meetings when the transfer will be considered, in requiring the filing of a map showing in detail the new boundaries, and in prescribing for an equitable payment for the taking of property and for an accounting, Lansing Dist. v State Board of Education, 367 Mich 591.

The courts have held that property transfer determinations are within the discretion of the State Board of Education (Note: now Superintendent of Public Instruction), as an administrative agency. Wayne County Circuit Court held in Harper Woods v The State Board of Education, and the Grosse Pointe Public School System, 75 070458 AA, Aug. 6, 1976:

In summary, it appears that the State Board in considering this matter, balanced all of the interests that could possibly be affected by the transfer of the school district territory in question, and weighed all the factors, pro and con, before deciding that the proposed transfer should not be granted. It appears, further, that said Board properly exercised its discretion as an administrative agency, and this Court should not disturb its factual findings.

Even in the face of the decisions of Michigan courts, some still seek a "checklist" or "guide" which contains very precise listings of those conditions or facts wherein the Superintendent would exercise his discretionary powers to grant the transfer, as well as conditions wherein transfer would be denied. In

truth, the Superintendent of Public Instruction considers many factors – all factors that it, in its discretion, finds relevant to the unique facts in each appeal.

In broad terms, the Superintendent considers factors that relate to the educational opportunities of children. It also considers transportation factors of distance, safety, and availability. It considers petitioner's ties to a community, the effect a transfer would have on the affected school district, the reasons given for the action taken by the intermediate school district, and the racial population of the affected districts. Many other relevant factors are considered by the Superintendent of Public Instruction in exercising his discretion in property transfer matters.

The final order of the Superintendent of Public Instruction in a property transfer appeal is transmitted to the parties within a day or two after the Superintendent's decision. A copy of the order is also sent to the intermediate school district(s). If the Superintendent's decision is to grant the property transfer, there are follow-up responsibilities for the intermediate school district(s). Those responsibilities have been listed above under the hearing: Property Transfer Follow-up Responsibilities of ISDs.

Judicial Review of the Superintendent of Public Instruction Decisions

One final note. Although the property transfer statute states that the decision of the Superintendent of Public Instruction is final, judicial review of the Superintendent's decision is available. When a person has exhausted all administrative remedies available within an agency and is aggrieved by a final decision or order in a contested case, whether the decision or order is affirmative or negative in form, the decision or order is subject to direct review by the courts as provided by law. The provisions with regard to judicial review of an agency decision that is not a contested case are found in MCL 600.631 and MCR 7.104.

Act 451 of 1976

380.951 Transfer of territory between school districts; resolution or petition; final action; territory being detached to be contiguous; approval of electors; request by board of condominium association. [M.S.A. 15.4951]

Sec. 951. (1) An intermediate school board may detach territory from 1 school district and attach the territory to another school district if requested to do so by resolution of the board of a school district whose boundaries would be changed by the action; subject to subsection (2), by resolution of the board of a condominium association acting pursuant to a petition signed by not less than 2/3 of the co-owners of the condominium association who reside on the land to be transferred; or if petitioned by not less than 2/3 of the persons who own and reside on the land to be transferred. The intermediate school board shall take final action within 60 days after the receipt of the resolution or petition. The territory to be detached shall be contiguous to the school district to which it is attached. If the latest assessed valuation of the territory to be detached is more than 10% of the latest assessed valuation of the entire school district from which the territory is to be detached, the action of the intermediate school board shall not be effective unless approved by an affirmative vote of a majority of the school electors of the school district from which the territory is to be detached.

(2) The board of a condominium association may request that an intermediate school board detach territory from 1 school district and attach the territory to another school district as described in subsection (1) only if the board of the condominium association represents the co-owners of a condominium project that is completed and not less than 75% of the units are sold and occupied.

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977 ;--Am. 1988, Act 508, Imd. Eff. Dec. 29, 1988 ;--Am. 1990, Act 147, Imd. Eff. June 27, 1990 .

380.952 Notice of meeting and of proposed alterations in school district boundaries. [M.S.A. 15.4952]

Sec. 952. The intermediate superintendent shall give 10 days' notice of the time and place of the meeting of the intermediate school board and of the proposed alterations in school district boundaries to be considered by publication once before the meeting in newspapers of general circulation in the territory of the affected school districts.

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977 ;--Am. 1982, Act 370, Imd. Eff. Dec. 28, 1982 .

380.953 Territory extending into 2 or more school districts; joint meeting of boards; filing resolution or petition; notice of meeting; action on resolution or petition; quorum; election of chairperson and secretary. [M.S.A. 15.4953]

Sec. 953. If the territory of school districts the boundaries of which are affected by the proposed alteration extends into 2 or more intermediate school districts, the intermediate school board of each intermediate school district shall meet jointly and sit as a single board to act upon the request for the transfer of territory. The resolution or petition for the transfer of territory may be filed with the intermediate school board of 1 of the intermediate school districts. The intermediate superintendent shall call the joint meeting of the affected intermediate school boards and give the notice of the intermediate school districts' meeting under section 952. Action on the resolution or petition for transfer of territory shall be taken only at a meeting attended by at least a quorum of each of the intermediate school boards. The intermediate school boards meeting jointly shall elect 1 of their members chairperson and another secretary of the meeting.

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977 .

380.953a Transfer of territory; basis for decision. [M.S.A. 15.4953a]

Sec. 953a. In making a decision on a proposed transfer of territory under this part, the intermediate school board, or the intermediate school boards meeting jointly, shall consider the welfare of the affected pupil, including, but not limited to, the length of the pupil's commute to and from school, on a school bus or otherwise.

History: Add. 1995, Act 289, Eff. July 1, 1996 .

380.954 Map; preparation; contents; filing certified copy. [M.S.A. 15.4954]

Sec. 954. If the intermediate school board or the joint intermediate school boards approve alterations in the boundaries of school districts, the board or joint boards shall cause a map to be prepared showing in detail the boundaries of the affected school districts before alteration and the boundaries of territory attached or detached. A copy of the map bearing the certification of the intermediate superintendent or the chairperson of the joint boards shall be filed with the secretary of each affected school district and with each affected township supervisor or city assessor.

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977 .

380.955 Effective date of transfer; transfer of personal property; payment for loss of property; accounting; adjournment. [M.S.A. 15.4955]

Sec. 955. The intermediate school board or joint intermediate school boards shall determine the effective date of the transfer, which shall not be less than 10 days after the date of the determination, and shall determine whether personal property of a school district is to be transferred. If real property owned by a school district is transferred to another school district, the intermediate school board shall determine an equitable payment for the loss of the property. The intermediate school board or joint intermediate school boards may require an accounting from the affected boards of education and, for the purpose of making the determination, may adjourn subject to the call of the president of the intermediate school board or chairperson of the joint intermediate school boards.

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977 .

380.961 Territory detached from school district having bonded indebtedness; taxes; bond issue; exemptions; collections; payment of present value of pro rata bonded indebtedness; certifications; settlement of bonded indebtedness.

Sec. 961. (1) If territory is detached from a school district which has bonded indebtedness and transferred to another school district, the territory shall remain as part of the district from which detached for the purpose of levying debt retirement taxes for the bonded indebtedness until the bonds are redeemed or sufficient funds are available in the debt retirement fund for that purpose. The transferred territory shall not be part of the school district from which detached for the purpose of a subsequent bond issue, nor shall the detached territory be part of the school district from which detached for tax levies imposed for the purpose of bonded indebtedness created or assumed at a time when the portion of detached territory was not a part of the district or territory approving or assuming the bonded indebtedness. The territory shall be a part of the school district to which transferred for all other purposes.

(2) The territory shall not be subject to debt retirement tax levies for bonded indebtedness of the school district to which transferred existing at the time of transfer until the bonded indebtedness of the school district from which the territory was transferred existing at the time of the transfer is retired or sufficient funds are available and earmarked in the debt retirement fund for that purpose. The board of the school district to which the property is attached, by resolution, may exempt the property from the debt tax levies for not more than 3 years. The school officials of the district to which the territory is attached shall certify required debt retirement levies for the bonds

of the school district from which the territory was detached, and the territory over which the levies are to be spread, to the proper taxing officials when certifying other taxes to be levied by the school district. The tax collecting officials shall remit the collections with other tax collections to the school district to which the property is attached. The officials of that school district shall immediately transmit the collections to the school district from which the territory was detached.

(3) The school district to which territory is attached may pay to the school district from which the land is detached the present value of the pro rata bonded indebtedness of the detached territory. The intermediate school board shall certify to the department of treasury the fact of the transfer, the description of the territory transferred, the bonded indebtedness of the school district from which the territory is detached, the assessed valuation of the school district from which the territory is detached, the assessed valuation of the detached territory, and other information the department of treasury may require. The department of treasury shall determine the pro rata share of the bonded indebtedness of the detached territory to the board of the school district from which the territory is detached. The department of treasury shall certify the amount determined to the intermediate school board. The intermediate school board shall certify the amounts to the boards of the school districts affected. The school district to which the territory is transferred may pay the sum to the school district from which the territory has been detached. Settlement of the bonded indebtedness shall be made on the state equalized valuation in the year of transfer. The school district receiving the money shall apply it under the terms and tenor of the bond issue.

(4) A transfer made after September 1 in a given year shall be a part of the territory from which detached for the purpose of the succeeding December tax levy in the year of transfer. Upon settlement of the bonded indebtedness by the school district to which the territory has been attached, the territory is subject to the bond debt retirement tax levy for bonded indebtedness of the school district to which attached existing at the time of transfer. For the purpose of making the settlement, the school district to which the territory is attached may use up to 15% of state school aid in 1 year.

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977 ;--Am. 1983, Act 118, Imd. Eff. July 18, 1983 .

380.966 Levy of school operational millage; certification. [M.S.A. 15.4966]

Sec. 966. If territory is attached to a school district effective before September 1 of a year, school operational millage for that year shall be levied on property in the territory by the attaching school district. If territory is attached to a school district effective on or after September 1 of a year, school operational millage for that year shall be levied on property in the territory by the school district from which the territory is detached. The school officials of the district entitled to levy school operational millage upon the transferred territory shall certify the school operational millage, and the territory over which it is to be spread, to the proper taxing officials when certifying the taxes to be levied by the school district.

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977 .

380.971 Appeal to state board of education. [M.S.A. 15.4971]

Sec. 971. (1) One or more resident owners of land considered for transfer from 1 school district to another, or the board of a school district whose territory is affected, may appeal the action of the intermediate school board or joint intermediate school boards in transferring the land, the failure to transfer the land, or action relative to the accounting determination to the state board within 10 days after the action or determination by the intermediate school board or the joint intermediate school boards. If the intermediate school board or the joint intermediate school boards fail to take action within the time limit under section 951, the appeal may be made to the state board within 10 days following the termination of the period. The pendency of an

appeal shall suspend the action or determination of the intermediate school board or joint intermediate school boards.

(2) The state board may confirm, modify, or set aside the order of the intermediate school board or the joint intermediate school boards. In considering an appeal, the state board shall consider the welfare of the affected pupil, including, but not limited to, the length of the pupil's commute to and from school, on a school bus or otherwise. The action of the state board on the appeal is final.

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977 ;--Am. 1995, Act 289, Eff. July 1, 1996 .

380.976 Change in boundaries; continued attendance of twelfth grade pupils without payment of tuition. [M.S.A. 15.4976]

Sec. 976. If the boundaries of a school district are changed pursuant to this part, a pupil in the twelfth grade at the time of the change or entering twelfth grade at the beginning of the school year immediately following the change shall be allowed to continue attending school in the school district which the pupil attended before the change without payment of tuition.

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977 .

388.1010 Additional powers and duties. [M.S.A. 15.1023(10)]

Sec. 10. The state board of education shall have the following powers and duties

(b) Regulation of school bus transportation, review of the annexation or attachment of nonoperating school districts to operating school districts, and the hearing of appeals from decisions on alterations of boundaries of school districts as may be provided by law. The board may appoint a hearing officer to hear the appeals from decisions on alterations of boundaries of school districts who shall prepare a written report for consideration of the board. A copy of the written report shall be furnished to the designated appellant and appellee, who within 20 days may file written objections to the report with the state board of education for its consideration. After considering the report of the hearing officer and any objections filed by interested parties, the board may determine the appeal or order a hearing by it of the appeal from the decision on alterations of boundaries of school districts.

History: 1964, Act 287, Eff. Aug. 28, 1964 ;--Am. 1965, Act 382, Imd. Eff. Aug. 18, 1965 ;--Am. 1969, Act 229, Eff. July 1, 1971 ;--Am. 1976, Act 374, Eff. Jan. 13, 1977 .

380.612 Board; eligibility for membership; participation in proceedings to detach or attach territory. [M.S.A. 15.4612]

Sec. 612. (1) A school elector of a constituent district shall be eligible to election or appointment to membership on the intermediate school board. A member of a board of a constituent district shall be eligible to election or appointment to membership on the intermediate school board.

(2) A member of an intermediate school board who is a member of a constituent district board shall not participate in proceedings conducted pursuant to part 11 to detach territory from or attach territory to the constituent district of which he or she is a board member.

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977 .