

Nineteen Hundred Thirty-One  
Supplement

to

# Mason's Minnesota Statutes

(1927 thru 1931)

Containing the text of the acts of the 1929 and 1931 Sessions of the  
Legislature, both new and amendatory, and notes showing repeals,  
together with annotations from the various courts, state  
and federal, construing the constitution, statutes,  
charters and court rules of Minnesota



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## CHAPTER 14

### Education

#### §2747. Appeal from order.

Determination of board in granting or rejecting petition will not be disturbed by the courts unless based upon erroneous theory of law, or unless the decision is clearly arbitrary, oppressive, fraudulent or in unreasonable disregard of the best interests of the territory affected, or such as to work manifest injustice. 174M347, 219NW289.

Verdict that rejection of petition was arbitrary and unreasonable held sustained by evidence. 174M347, 219NW289.

Action of county board in detaching territory from one district and adding it to another is legislative in character, and cannot be disturbed unless arbitrary, unreasonable or unjust or against the best interests of the public. 174M 380, 219NW456.

**§2748. Changing boundaries of school districts.**—By like proceedings, and upon petition of the majority of the freeholders of each district affected, qualified to vote at school meetings, the boundaries of any existing district may be changed, or two or more districts consolidated, or one or more districts annexed to an existing district. No change in the boundaries of a district by organization of a new district, by detachment of land on petition of the owner or owners, or otherwise shall be made, so as to leave the old district without at least one school house used for school purposes and without at least four sections of land if not a consolidated district and not less than 12 sections if a consolidated district, nor shall any change of districts in any way affect the liabilities of the territory so changed upon any bond or other obligation; but any such real estate shall be taxed for such outstanding liability and interest, as if no change had been made. In case of the consolidation or annexation of districts, whether under the foregoing or any other provisions of the law, action shall be brought by or against the new or remaining district upon any cause existing in favor of or against any discontinued district, but a judgment in such action against such existing district shall be satisfied only from taxes upon the real property included in the discontinued district, when the liability was incurred.

Provided, that when any incorporated borough, village or city of seven thousand or less inhabitants, has within its limits a school district, however organized, or is wholly or partly included within the boundaries of any school district, however organized, or whenever any such school district shall include within its boundaries part or the whole of any incorporated borough, village or city of seven thousand inhabitants, or less, the boundaries of any such district or districts may be enlarged or changed so as to include all lands within the corporate limits of such borough, city or village or so as to include lands within and outside of such incorporated borough, city, or village, but contiguous to said district in the following manner, to-wit:

Whenever a majority of the legal voters residing within such school district and a majority of the legal voters residing upon the lands proposed to be attached or an-

nexed to such school districts shall petition the board of county commissioners of the county wherein such district is situated for an enlargement of such district, and shall file a petition with the auditor of said county, it shall be the duty of the board of county commissioners at its next regular meeting, or special meeting, to set a time and place for hearing upon such petition, and it shall cause a copy of the notice of such hearing to be posted in some public place in each district to be affected by such proposed change, and a copy thereof to be served upon the clerk of each of said districts, at least ten (10) days before the time appointed for such hearing. The posting of such copy of notice shall be proven by the affidavit of the person posting the same; said affidavit shall state the time and place of posting and serving of the copy of notice as herein specified, and upon filing proof of the posting and serving of such notice in the office of the county auditor, the board of county commissioners shall at the time and place fixed proceed with the consideration of such matter and shall hear all evidence offered by any person interested, tending to show what territory should be included within such district, and having heard the evidence they shall, if they find it conducive to the good of the inhabitants of the territory affected, proceed to enlarge the said school district as asked for in the petition, and to fix the boundaries thereof and of all the remaining school districts thereby affected, attaching to or detaching contiguous territory to or from any of such districts, in such manner as in their judgment the best interests of the persons and districts thereby affected may require; provided, that no action or order changing any boundaries of any school district shall be valid unless and until the foregoing requirements as to posting and serving of notices have been observed; and provided further, that whenever the territory affected by any of the foregoing proceedings lies in two or more counties, like proceedings shall be had in each county affected, and no order in such proceedings shall be valid unless concurred in by the county board of all such counties affected.

At the time of making such division, enlargement or change of boundaries, the county commissioners shall apportion to the district so enlarged that portion of the debts of said other districts as may seem to them right and proper, and said apportionment when so made shall be binding upon all the districts affected, and the county commissioners may also apportion to said districts so enlarged, such portion of the property of such other districts as shall seem to them just and proper. Said last mentioned apportionment shall be subject to review by the district court;

And provided further, that any person or officer of any school district aggrieved by any order of the county board made pursuant to the provisions of this section, may appeal to the district court from such order, such appeal to be governed by the provisions of section 1285, Revised Laws 1905 [Mason's

Minn. St., 1927, §2747]. (As amended Mar. 20, 1931, c. 81.)

174M380, 219NW456, note under §2747.

The County Board cannot create a new common school district from the territory of an existing district so as to leave the latter without a school house. Zimmerman, 179M30, 228N W168.

Detachment lands from one district and attachment of same to another district, held not improper though small loss to one district of tax revenue would result, as the interest of both districts to be considered. 179M445, 229NW585.

The limitation as to the territorial extent of a district set off from another district is applicable to an independent district located in a village. Op. Atty. Gen., Feb. 18, 1930.

This section is applicable to an independent district containing an incorporated village. Op. Atty. Gen., May 10, 1930.

**§2748-2. Detachment of lands in certain cases legalized.**—That in all cases where in a proceeding instituted in court for the detachment of unplatted agricultural lands from cities containing 10,000 inhabitants, or less, the territorial limits of which were identical with a school district created by special law, situated therein, the territorial limits of such school district, when organized being defined as being the territorial limits of such city, where judgment detaching such lands from such cities was entered more than 20 years prior to the passage of this act, and no appeal was taken from such judgment, all proceedings in reference to such detachment, are hereby legalized and the detachment of such lands thereunder validated for all purposes. (Act Apr. 13, 1929, c. 183, §1.)

Public officials who have no personal pecuniary interest in the matter involved will not be permitted to raise the question of the constitutionality of a statute to avoid the performance of a ministerial duty which it clearly imposes upon them. 181M427, 232NW737. See Dun. Dig. 8935(78).

**§2748-3. Lands to become part of school district.**—Petition.—That all such unplatted agricultural lands thus detached, so situated as to come under the conditions and provisions of section one of this act, shall form and become a part of the organized school district or school districts existing adjoining such city as determined by the board of county commissioners as herein provided, to the same force and effect as if the proceedings for the detachment of such lands had provided, and the laws of this state, then in force, had permitted the detachment of such lands from such special school district of which said lands were formerly a part, providing that the owner or owners of such lands within six months after the passage of this act, prepare and file a petition setting forth the facts as above, in the office of the County Auditor of the county in which said lands are situated, to have the share of any outstanding bonded indebtedness, which said lands should bear prorated and determined as hereinafter provided. (Act Apr. 13, 1929, c. 183, §2.)

**§2748-4. Hearing on petition.**—When such petition is thus filed it shall be the duty of the board of county commissioners at its next meeting to set a time and place for hearing upon such petition and the petitioner shall serve or cause to be served a notice of such

hearing upon the president or clerk of such special school district from which said lands, describing the same, have been detached by the detachment thereof from such city, at least ten days before the time fixed for such hearing on said petition. (Act Apr. 13, 1929, c. 183, §3.)

**§2748-5. County Board to pro-rate indebtedness.**—If upon such hearing it shall be made to appear that there is any outstanding bonded indebtedness of such special school district, then the board of county commissioners in its order attaching such lands to and including the same in such school district or districts adjoining such city and said lands and within said county, shall fix and determine the pro-rata share of such bonded indebtedness, based upon assessed valuations then existing, which such lands should pay and bear, and such detached lands shall pay such fixed share of such outstanding bonded indebtedness and any renewal thereof and interest thereon, and unless the same is paid in full by the owner of such detached lands, which may be made at any time, there shall be levied at the time of the levying of the taxes for school purposes upon the taxable property of such special school district, an equal rate for the payment of interest and any maturing principal of such bonded indebtedness, upon the real estate and lands thus detached, each year until the amount so designated and fixed by the board of county commissioners shall be paid in full, and the county auditor shall levy upon such detached lands and place the same upon the tax list of the taxing district where the same is then situate, in the same manner as other taxes therein and such taxes shall be collected with and in like manner as county and state taxes are paid and payment thereof enforced, and the county treasurer shall pay such taxes when collected over to the treasurer of such special school district from which said lands have been detached, in the same manner as other taxes are paid over. (Act Apr. 13, 1929, c. 183, §4.)

**§2748-6. Application.**—The provisions of this act shall not affect any action or proceeding now pending in any of the courts of this state. (Act Apr. 13, 1929, c. 183, §5.)

**§2748-7. Invalidity of one part not to affect balance of act.**—If any provision or part of this act shall be held invalid it shall not invalidate or in any manner affect any other provision or part thereof. (Act Apr. 13, 1929, c. 183, §6.)

**§2753. Dissolution of school districts.**—Any district in which for two years no school has been held and no provision made by it for the education of its pupils may be dissolved by the county board on its own motion; or such district, or any other district, may be dissolved by the county board on a petition signed by a majority of the resident free-holders of the district, or on presentation of resolutions passed by a majority vote at a legal meeting of the electors of the district. The territory of a district so dissolved shall be attached by order of the board to one or more existing districts or to unorganized territory upon notice as in other cases

of change of boundaries, as in its judgment shall seem most equitable having regard to the convenience of the inhabitants. If there be no unorganized territory in the county, the board may by such dissolution create unorganized territory to be governed by the laws relating to such territory. (As amended Apr. 25, 1931, c. 367.)

"Funds" is limited to cash, and school board cannot sell school house located on leased land. The school house belongs to the district to which territory containing it is assigned. Op. Atty. Gen., Jan. 14, 1929.

**§2766. Dissolution of consolidated school districts.**—Any Consolidated School District in which the school building is destroyed or is unfit for school purposes may be dissolved in the following manner:

Upon presentation to the clerk of such Consolidated School District of a petition signed and acknowledged by at least twenty-five per cent of the resident freeholders, qualified to vote at school meetings, of such consolidated school district, asking that the question of dissolution of such consolidated school district, be submitted to the resident free-holders qualified to vote at school meetings, the clerk shall, within ten days, cause ten day's posted notice to be given in each of the original school districts or parts of districts, comprising said consolidated district, and one week's published notice if there be a newspaper published in such original districts or parts of districts, of an election or special meeting to be held, at the time and place specified in such notice, to vote upon the question of such dissolution. The terms, "electors" and "qualified voters" in this chapter, mean freeholders residing in such consolidated school district, qualified to vote for school officers and the term "majority of the votes," means a majority vote of such resident freeholders voters therein. (As amended Apr. 20, 1931, c. 249.)

**§2768-1. School districts dissolved.**—That where a new school district has been or is hereafter created wholly from territory of one existing district, and such new district has or shall fail for a period of three years immediately following its organization to provide a school house within the district and conduct school therein, and has provided or shall provide, during said three-year period, for the education of its pupils in the district from which the territory was taken, such district shall upon the passage of this act or upon the expiration of said three-year period become dissolved and its territory shall revert to and become a part of the district from which it was taken. (Act Feb. 13, 1929, c. 15.)

Unconstitutional as special legislation. 230 NW115.

This statute did not dissolve a district which provided for education of its children by paying tuition in other districts. Op. Atty. Gen., June 28, 1929.

**§2768-2. Disposition of property.**—That all property and funds, including taxes levied or in process of collection or in the possession of the County Treasurer, of the district so dissolved, remaining after the payment of its obligations, shall become the property of and belong to the district to which the terri-

tory is attached. (Act Feb. 13, 1929, c. 15, §2.)

**§2774. Division of funds on change of district.**

Word "credits" does not include buildings and equipment. Op. Atty. Gen., Aug. 3, 1929.

**§§2780-1 to 2780-7. [Repealed].**

Repealed by Laws 1929, c. 9, §17, post, §§2780-8 to 2780-17.

**§2780-6.**

Members of a school board of a consolidated school district are not entitled to compensation for services rendered as such members. Op. Atty. Gen., May 23, 1931.

**§2780-8. School districts may be consolidated.**—Any county having less than seven organized school districts may consolidate such districts into one county district which shall be designated as the.....county school district, in the following manner.

The board of county commissioners of such county may by resolution, and shall upon petition to such board signed by not less than ten per cent of the qualified voters of the county according to the votes of the then last preceding general election, submit to the qualified electors of the county at the next general election to be held in such county not less than thirty days thereafter, the proposition of consolidating said districts into a county district. The ballots submitting the same shall read as follows:

For Consolidation.....  
Against Consolidation.....

Such ballots shall be voted, canvassed and the result declared and returned in the same manner as ballots for elective county officers. If a majority of the votes cast on the proposition be for consolidation, the county auditor shall make proper orders to give effect to such vote and shall transmit a copy thereof to the clerk of each district.

The school board of each district shall continue to maintain schools therein except that no such board shall have authority to make any contract relating to school business of the ensuing school year in the same manner as if no consolidation had been voted until July 1st next following, at which time all records, moneys, credits and funds of said districts, shall be delivered to the county treasurer to act as custodian of same until such time as the organization of the county district shall have been completed. The county treasurer shall give a receipt for such records and funds and shall cause the financial accounts and statements to be audited by competent authority. (Act Feb. 7, 1929, c. 9, §1, as amended Feb. 26, 1931, c. 31, §1.)

In issuing bonds for building purposes procedure prescribed by Laws 1927, c. 131, as amended [§§1938-3 to 1938-13] should be followed, and matter should be submitted to electors. Op. Atty. Gen., Sept. 10, 1929.

School board of county district organized under this act may, without submitting matter to electors, fix school house site, build school houses, change sites, sell sites and buildings and levy tax. Op. Atty. Gen., Sept. 10, 1929.

State is liable for tuition where high school pupils residing in Lake County, organized into a county district under this law, attend high school at Ely in St. Louis County, though Lake County has a high school. Op. Atty. Gen., Dec. 9, 1929.

**§2780-9. School Board—Election—Terms.**

—The school board of any such county district shall consist of five members, except as herein otherwise provided, to be elected at the same time and in the same manner as school board members in a ten or more townships district but for a term of five years. The board of county commissioners shall appoint the members of such board on or before March 1st following the general election at which time the question of consolidation was submitted, the length of each term for which they are to be appointed being such as to cause the term of one member of said board to expire on August 1st following the next general election and one member on each August 1st thereafter. The school board of the county district shall meet within ten days after the appointment by the county board, and thereafter as may be necessary, and shall organize in the same manner as independent districts and shall do whatever business is necessary for the best interest of the county district for the ensuing school year and thereafter shall organize in the same manner and at the same time as boards of independent districts. Provided, however, that if within the county there is a school district of ten or more townships with an area greater than one-half the area of the county the members of said board of said district shall continue to serve as members of the school board of the county district for the full term and for the same office for which he or she was elected and until his or her successor has qualified and the board of county commissioners shall appoint such additional members for such terms that the term of all the members of said school board shall expire in consecutive order as above provided.

Those persons elected as members of the board of the school district of ten or more townships at the same election at which the question of consolidation was carried shall take office and continue in office as members of the board of the county district at the time and for the same term as though such school district of ten or more townships were being continued and members of such last named board whose terms expire on August 1st after such election shall become members of the board of such county school district and so continue until the expiration of such term. (Act Feb. 7, 1929, c. 9, §2.)

**§2780-10. Duties of school board.**—It shall be the duty of said board to furnish school facilities to every child of school age residing in any part of said county district, either by building school houses, leasing school rooms, transporting said children to the nearest school, boarding said children within convenient distance of school at the expense of said board or otherwise, and to provide necessary supplies, texts, and library books.

The annual meeting as held in ten or more townships districts need not be held, but the clerk of said board shall publish once in a legal newspaper published in the county the annual report required by law to be made by the district treasurer.

When not otherwise provided in this act, the school board of any such county district

shall have and shall exercise all the powers and be subject to the same laws and regulations as boards of ten or more townships districts, and all laws applicable to ten or more townships districts, and all laws applicable to State Aid for Equalizing Educational Opportunities in Unorganized Territory shall apply to said county district including chapter 467, General Laws, 1921 [ §§3022 to 3026 ]. (Act Feb. 7, 1929, c. 9, §3, as amended by Act Feb. 26, 1931, c. 31, §2.)

Procedure to be followed by board created under this act in selling abandoned school houses and sites, suggested. Op. Atty. Gen., July 3, 1930.

**§2780-11. Time of election.**—The election of the county district shall be held on the same day as the election in ten or more townships districts at the same time and in the same manner as elections are held therein. (Act Feb. 7, 1929, c. 9, §4.)

**§2780-12. Election districts.**—Each county commissioner district, as it may from time to time exist, shall constitute an election district from which shall be elected one member of said board. In case there is a ten or more townships district within the county such as herein referred to and in case there are two members of the board of said district living within one commissioner district then the board of county commissioners shall appoint an additional member to such school board so that at all times there shall be a member of such school board from each commissioner district and such board shall consist of six members only until the expiration of the term first expiring of the said two members from the same commissioner district. In making the appointment of the additional member as aforesaid and in determining the length of the terms for which three members shall be appointed so that the terms of the members of the new board shall expire in consecutive order the term of the member from the commissioners district from which there are two members first expiring shall be disregarded. (Act Feb. 7, 1929, c. 9, §5.)

**§2780-13. Compensation of Board members—Clerk—Treasurer.**—The members of the board shall receive a per diem of \$6.00 while attending any regular or special meeting of the board, but not, however, more than \$108.00 in any one year, and shall receive five cents per mile in going to and from his place of residence to the place of meeting by the usual route of travel.

The clerk and treasurer of the county district shall receive such additional compensation as may be fixed by the board of education, provided, however, the clerk shall not receive more than \$720.00 and the treasurer not more than \$600.00 as total compensation which includes mileage, in any one year in county having an assessed valuation of less than \$5,000,000.00 which shall be in lieu of any allowance for office clerk hire. (Act Feb. 7, 1929, c. 9, §6.)

**§2780-14. Office of County Superintendent abolished.**—Upon the completion of the organization of a county district and the election of a superintendent, the office of county superintendent of schools in said county shall

cease to exist from January 1st next following and the functions and duties of the county superintendent of schools shall be performed by the superintendent of the county district. (Act Feb. 7, 1929, c. 9, §7.)

**§2780-15. County Attorney to serve as attorney for board.**—Whenever any county organizes as a county district, the county attorney shall serve as attorney for the county board of education without additional compensation from said board of the county district, but the board of county commissioners of such county may allow such additional compensation for legal services rendered to said county board of education as said board of county commissioners shall deem proper. (Act Feb. 7, 1929, c. 9, §8.)

**§2780-16. Elections validated.**—In all cases where an election has been held pursuant to the provisions of Section 1, Chapter 82, General Laws 1927 [§§2780-1], and a majority of the votes cast on the proposition were in favor of consolidation, said election is hereby declared valid and continued in effect and further proceedings thereunder shall be had pursuant to this enactment and the organization of the district and school board, the powers and duties thereof, the terms of the members thereof, their election, appointment and compensation shall be as herein provided. (Act Feb. 7, 1929, c. 9, §9.)

**§2780-17. Inconsistent acts repealed.**—That all acts and parts of acts inconsistent with the Provisions of this act including Chapter 82, General Laws 1927, is hereby repealed. (Act Feb. 7, 1929, c. 9, §10.)

**§2789. Annexation of land to school districts.**—When any freeholder shall present to the board of any county a petition, verified by him, stating that he owns land adjoining any district, or separated therefrom by not more than one-quarter section, and that such intervening land is vacant and unoccupied, or that its owner is unknown, and that he desires his said land, together with such intervening land, set off to such adjoining district, and his reasons for asking such change, the board, upon notice and hearing as in other cases, and upon proof of all the allegations of the petition, may make its order granting the same, and like notice of such change shall be given as in other cases; provided, that if the land, or any part thereof, sought to be attached and the adjoining district lie in different counties, such annexation shall not be effective, until such petition has been presented to the county board of each county and each such board has made its order granting the same, in the manner herein provided; and provided, that any person or officer of any school district aggrieved by any order of the county board made pursuant to the provisions of this section, or by any order of the county board, made on the rehearing before it of any such petition, may appeal to the district court from such order, such appeal to be governed by the provisions of Section 2676, General Statutes 1913 [Mason's St., §2747]. (As amended Apr. 17, 1931, c. 189.)

County board had no jurisdiction of a petition of a landowner asking that his land be set

out from the Albert Lea school district. Op. Atty. Gen., July 8, 1931.

**§2793. Annual elections in school districts.**—The annual meeting of all common and independent districts shall be held on the third Tuesday in July, at 7 o'clock p. m., unless a different hour has been fixed at the preceding annual meeting, upon ten days' posted notice given by the clerk, and specifying the matters to come before such meeting; but failure of the clerk to give such notice, or to specify the business to be transacted thereat, shall not affect the validity of any business except the raising of money to build or purchase a schoolhouse, the authorizing of an issue of bonds, the fixing of a schoolhouse site, the organization as an independent district, or the change from an independent to a common district. The boards of education or trustees in special school districts may fix the time of the annual meeting, when so authorized by vote of the district: Provided, that the polls at all school meetings shall be held open at least one hour. Provided, that in all independent school districts containing two or more townships the polls shall be held open at least three hours. (As amended Apr. 25, 1931, c. 390.)

**§2794. Special school meetings.**

There is no limit on the number of elections that may be had for change of site on proper petition to clerk. Op. Atty. Gen., July 8, 1929.

School site may be designated by the electors at a special school meeting if such action is specified in the notice of the meeting; and where a petition signed by twenty-three holders and voters requesting the call of a special meeting is filed, it is the duty of the clerk to call such a meeting without waiting for action on that petition by the board, but the clerk cannot insert in the notice of the meeting a specification of business not included in the petition, and when the petition specifies a particular site for a school another site cannot be selected at the special meeting. Where the petition requested the calling of a special meeting, the meeting is to be of a deliberative character and must be held at some one place. Op. Atty. Gen., Jan. 10, 1930.

**§2797. Publication of proceedings of boards of independent school districts.**

Matter of what shall be published is left to the sound discretion of the school board. Op. Atty. Gen., Sept. 16, 1929.

**§2798. Powers of annual meeting \* \* \* \***

4. To designate a site for a school house, and provide for building or otherwise placing a school house thereon, when proper notice has been given, but a site on which a school house stands or is begun shall not be changed, except by vote therefor, designating a new site, of three-fifths of the legal voters of the district voting on the question, who have resided therein not less than one year prior to the vote. (As amended Feb. 19, 1929, c. 26.)

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Where high school burned, a vote of majority of electors was necessary to authorize new building on different site owned by the district. Op. Atty. Gen., Apr. 26, 1929.

Vote of three-fifths of electors of more than one year residence is necessary to change site on which school building now stands. Op. Atty. Gen., July 8, 1929.

Where bonds have been voted for the building of a new junior high school without the designation of a site, the board of education has no power to fix the site, but must proceed under subdivision 4 of this section by submitting the

same to the electors. Op. Atty. Gen., Jan. 10, 1930.

Act relating to power of common school districts to build residences for use of teachers. Laws 1931, c. 109.

A vote of electors in favor of issuing bonds to be used for erection of a new school building may be rescinded by a subsequent vote to remodel and repair the old building instead. Op. Atty. Gen., Mar. 16, 1931.

School district cannot by a vote of the electors close the school and transport the pupils to another district where the board refuses to do so. Op. Atty. Gen., June 10, 1931.

**§2799. Candidates for school district offices.**

An agreement that of the six directors of a school district, three should be residents of a village and three residents of the district outside the village, is not legal. Op. Atty. Gen., July 15, 1931.

**§2800. Additional powers of meetings in common school districts.**

Op. Atty. Gen., June 10, 1931; note under § 2798.

**§2802-16. Where city council performs duties of board of education.**—That in any city in this state, containing 10,000 inhabitants or less, in which the city council or common council performs the duties of a board of education, the said council may be relieved of said duties, and a board of school inspectors may be elected, and when such election is had, all the powers and duties resting upon the said city council in relation to the public schools of such city, shall vest in and be performed by said inspectors, who shall be known as "the board of education" of such city. (Act Apr. 20, 1903, c. 289, §1.)

**§2802-17. Legal voters shall petition city council.**—Whenever a majority of the legal voters of such city, to be determined by the total vote cast in such city at the last general election, shall desire to relieve the council of the said city from the duties of controlling and managing the public schools of said city, such legal voters shall petition the common council or city council for the election of a board of education, which petition shall be filed with the city recorder or city clerk of said city at least forty (40) days before the city election of said city. (Act Apr. 20, 1903, c. 289, §2.)

**§2802-18. Notice of election.**—Upon filing of such petition, the said council shall immediately cause notice to be given that at the next city election the question will be submitted to the voters of said city whether the method of managing the public schools of said city shall be changed, and shall submit said question to the voters at the next election occurring more than thirty (30) days after the filing of said petition. The said question shall be submitted to said electors on the city ballot and may be in the following form:

In favor of a new board of education, against a new board of education, and the voter shall put an X mark opposite the proposition he shall vote for. If a majority of those voting on said question at said election shall vote in favor of such new board, then the management, direction, supervision and control of the public schools of such city shall

be vested in such board of education, and shall be divested out of the council of said city. (Act Apr. 20, 1903, c. 189, §3.)

**§2802-19. Nomination and election of school inspectors.**—Nominations for members of such board of education, to be denominated "school inspectors," may be made and such inspectors may be elected at the same election at which, the proposition to change the management and control of the schools from the city council to the board of education shall be submitted; and if said proposition is adopted by the voters, as specified in section 3 of this act, the inspectors so elected shall immediately become the board of education of said city, and shall be vested with all the powers, rights, duties and privileges theretofore vested in the council of said city acting as a board of education. (Act Apr. 20, 1903, c. 289, §4.)

**§2802-20. Election and term of office of school inspectors.**—Such school inspectors shall be elected at the same election and in the same manner that city officers are elected under the provisions of the charter of the city in which such school district is situate, or under the provisions of any amendments to such charter, or under the provisions of any home rule charter, or any amendments thereto, and the term of office of such inspectors shall begin at the same time as the terms of such city officers.

Such school inspectors shall, however, be elected as follows:

Two (2) inspectors shall be elected from each ward of said city, and one inspector shall be elected at large, said inspectors shall hold office for four years and until their successors are elected and qualified; but at the first election one of the inspectors from each ward shall be nominated and elected to hold office for two years only, and thereafter one inspector from each ward shall be elected for four years. (Act Apr. 20, 1903, c. 289, §5; amended Mar. 16, 1907, c. 50; §1.)

**§2802-21. Board of education—powers—organization.**—The inspectors so elected and qualified shall be a body corporate and shall be known as the board of education of said city which shall be their corporate name. Said board of education may sue and be sued, have a corporate seal, and may do and perform all the acts and things and have all the powers and duties which their predecessors, such council, as the board of education, could do or perform in the management, control and operation of the public schools of said city. They may employ such clerks and clerical help, physicians, truant officers and such other officers as to them may seem necessary, and may pay for the same such sum or sums as to them may seem just and proper. They may appoint an attorney for said board at an annual compensation to be fixed by said board. They may also secure such other counsel and legal advice and services as to them may seem proper, whether an attorney has been appointed by them at an annual compensation or not. They shall also have full control and charge of all the funds of the said public schools and have power to levy all necessary taxes for educational pur-

poses, for the construction of school houses, the equipment thereof, and for the necessary equipment of all the public schools of said city, and for the maintenance and support of said schools. Said board of education shall elect one of their number president of said board, who shall hold office for two years and until his successor is elected and qualified. (Laws 1903, c. 289, §6, as amended Laws 1907, c. 50, §2.)

**§2802-22. Treasurer — Bonds.**—The city clerk or city recorder shall ex-officio be the secretary of the board of education, and the city treasurer shall ex-officio be the treasurer of said board of education. The funds of the said board of education shall be paid out on the warrant of the board, signed by the president and countersigned by the secretary, and the secretary and treasurer of said board shall give bonds for the faithful performance of their duties, and for the faithful care and custody of the funds of said board, in such amounts and as often as shall be required by the board. (Act Apr. 20, 1903, c. 289, §7.)

**§2802-23. Educational fund transferred.**—Upon the adoption by the legal voters of any such city of such change of the management of the public schools of such city from such city council to such board of education, and immediately after the election and organization of such board, all funds in the city treasury of said city belonging to the educational fund, or to the school fund, or to the common schools of said city, shall immediately be subject to the order, drafts and warrants and under the exclusive control of said board of education, and the city council of said city shall have no further authority over said funds. The city treasurer of said city shall hold the same subject to the order of said board of education only. (Act Apr. 20, 1903, c. 289, §8.)

**§2802-24. School board officers receive no salary.**—No member of the board of education shall receive any salary, fees or compensation whatsoever for any duties required of him as a member of such board. The city clerk or city recorder shall receive no salary, fees or compensation whatsoever for acting as the secretary of such board of education. The city treasurer shall receive no salary, fees or compensation, whatsoever for acting as the treasurer of said board of education, but the salaries, fees or compensation paid to the said city clerk or city recorder by such city; and the salary or compensation paid to such city treasurer by such city shall be in full compensation for all service required by the provisions of this act. (Act Apr. 20, 1903, c. 289, §9.)

**§2802-25. Officers may not be interested in contracts.**—No member of the board of education, secretary of said board, or treasurer thereof, shall be a party to, or interested in, any contract made with the said board of education, nor shall said board of education engage any superintendent of schools or any teacher for the schools of the said city who is related by blood or marriage to any member of said board of education, except by the unanimous consent and vote of all members-

elect of said board. (Act Apr. 20, 1903, c. 289, §10; amended Apr. 9, 1929, c. 141.)

"Except by unanimous consent and vote of all members-elect of the board" qualifies only prohibition against employment of superintendent and teachers. Op. Atty. Gen., Aug. 20, 1929.

**§2802-26. Board of education to establish voting places in certain cases.**—In all bond elections for school purposes held in a city organized as a school district under the provisions of chapter 289, Laws 1903, the board of education of such city shall before notice is given of any such election as required by law, adopt a resolution therein establishing a voting place in each ward of such city and appoint two judges and a clerk for each such ward to act as the officers of election at the voting place therein established. The polls at each voting place shall be held open from 2 P. M. to 9 P. M. on the day of such election. Immediately after closing the polls the judges and clerk of each voting place shall canvass and count the ballots, place such ballots in an envelope, seal it and file such sealed envelope and their return of the result with the clerk of the board of education. Such sealed envelope containing the ballots shall remain on file in the clerks' office and shall not be opened except upon order of court in appropriate contest proceedings. Within five days after the filing of the returns in the office of the clerk the board of education shall meet and canvass the return and by resolution declare the result. (Act Mar. 11, 1921, c. 77, §1.)

**§2802-27. Present statutes shall govern.**—Except as herein provided such bond elections shall be held and conducted as provided by the general statutes relative to such elections. (Act Mar. 11, 1921, c. 77, §2.)

**§2802-28. Board to fix compensation—How paid.**—The board of education shall have authority to fix the compensation of judges and clerks acting as such at the aforesaid elections and the compensation so fixed shall be paid out of the moneys in the general fund of the district. (Act Mar. 11, 1921, c. 77, §3.)

**§2802-29. Schools to make labor regulations.**—That the school board of any independent school district which is within the limits of any city of the second class may adopt any ordinance duly enacted by the council of such second class city, including the penalty provisions for the enforcement thereof, relating to residence requirements, wage scales, and other regulations pertaining to labor on public works, and to require that it be a part of the specifications in contracts and be effective in all construction or repair work or any other public work involving the improvement of school property of such independent district. (Act Apr. 20, 1931, c. 276, §1.)

**§2802-30. School board to adopt forms and methods.**—That such school board may adopt and use the same forms and methods of regulating said ordinance as is used by the council of such city of the second class. (Act Apr. 20, 1931, c. 276, §2.)

**§2802-31. To be additional powers.**—That these powers shall be in addition to all other

powers now vested in the school boards of an independent school district which is within the limits of any city of the second class. (Act Apr. 20, 1931, c. 276, §3.)

**§2803-1. Powers of school boards in certain common school districts.**—That the school board of every common school district which is maintaining and which for at least 2 years next prior to the passage of this act has maintained a four year accredited high school or high school department shall have and possess all of the powers now or hereafter vested in the school board of independent school districts. Provided however that as to common districts having an assessed valuation of more than Two Million (\$2,000,000) Dollars none of the powers of independent districts shall be extended to or assumed by such districts except the provisions of law relating to courses of study and the hiring of teachers and superintendents. (Act Apr. 17, 1931, c. 188, §1.)

**§2805. School board of common districts.**

A director of an independent school district who has taken oath of office need not take a second oath when chosen as treasurer by the members of the school board. 171M376, 214NW 258.

Offices of treasurer of district and county commissioner are incompatible. 157M263, 196N W467.

**§2806. School board of independent districts.**

171M376, 214NW258, note under §2805.

**§2807. Boards in independent districts—Meeting and organization—Officers—Superintendent.**

171M376, 214NW258, note under §2805.

**§2807-1. Election of officers in certain school districts.**—That in all special school districts where the election of school officers, by the provisions of any special law, is held at the same time and place and in the same manner as the election of village officers of a village and the judges of the village election act as judges of the school election, and such village has been or shall be organized as a city, such school election shall be held at the same time and place and in the same manner as the election of city officers in said city, and the judges of the city election shall act as judges of said school election. (Act Mar. 27, 1929, c. 92.)

**§2807-2. School board to be elected at large in certain cases.**—Any school district, however organized, now or hereafter having a population of not less than 10,000 and not more than 20,000 inhabitants, and wherein the members of its governing board are elected by and from precincts or subdivisions of the district, shall elect such members by and from the district at large upon the electors thereof voting in favor of so doing, as herein provided. (Act Mar. 9, 1931, c. 52, §1.)

**§2807-3. Petitions—elections.**—Whenever a petition, signed by 100 or more qualified electors of any such district, shall be presented to the governing board thereof requesting that the proposition of electing the

members of such board by and from the district at large be submitted to the electors of such district, the governing board shall by resolution direct such proposition to be submitted at the next general election held not less than 30 days and not more than 60 days thereafter, if any. If there be no such general election to be so held, the said board shall cause a special election to be called and held in the manner provided for the calling and holding of other special elections in said district. (Act Mar. 9, 1931, c. 52, §2.)

**§2807-4. Ballot.**—The ballot used at such election shall be substantially in the following form:

“Shall the members of the governing board of our school district be elected by and from the district at large?

Yes.....  
No.....”

Notice shall be given and such election shall be conducted and the ballots counted and canvassed, returns made, and the results declared in the same manner as in the case of other propositions submitted to the electors when voted upon by the district at large. (Act Mar. 9, 1931, c. 52, §3.)

**§2807-5. Conduct of elections.**—If a majority of the votes cast upon the proposition be in the affirmative, members of the board shall thereafter be elected by and from the district at large, but the several precincts or subdivisions of the district shall be continued as voting places, notwithstanding such change, and such elections shall be held and conducted as theretofore, except that the members of such board shall be elected by and from the district at large. (Act Mar. 9, 1931, c. 52, §4.)

**§2807-6. Members to finish term.**—The members of the board in office at the time such change is effected shall continue to serve for the balance of their respective terms, unless sooner vacated, and their successors shall be elected by and from the district at large. (Act Mar. 9, 1931, c. 52, §5.)

**§2807-7. Vacancies.**—Vacancies in the membership of the board occurring otherwise than by expiration of the term shall be filled by the board of education, and the member appointed by the board shall hold office until the next election after his appointment. (Act Mar. 9, 1931, c. 52, §6.)

**§2807-8. Election of school officer.**—That the members of the board of education or governing body, by whatever name they are legally known or called, of any independent school district in any city of the first class in the State of Minnesota, the territorial limits of which independent school district coincide with the territorial limits of such city, the government of which independent school district is not provided for in the charter of such city, shall be elected at the general municipal elections held in such city for the election of city officers; they shall be voted for in the several voting precincts and at the several places where city officers are or may be voted for at such general elections. The persons eligible to vote or entitled to vote at such general municipal elections for officers of such city, and only

such persons, shall be entitled to vote for members of such school board or other governing body. The polls shall be open for voting for officers of such school board during the times that the polls are open for the election of city officers and no longer. (Act Apr. 25, 1931, c. 359, §1.)

**§2807-9. Separate ballot box to be provided.**—A separate box shall be provided at each voting place in which shall be deposited the ballots cast for offices of such school board. (Act Apr. 25, 1931, c. 359, §2.)

**§2807-10. Judges and clerks to canvas ballots.**—The judges and clerks of election appointed to receive and count the ballots cast at such election for officers of such city shall act judges and clerks of such school district election, and shall certify to the board of education or governing body of said independent school district the number of votes cast in their respective precincts for each person voted for therein for such school district offices, and said board of education or governing body of said school district shall on the Monday following said election, at 8:00 o'clock P. M. meet and canvass the votes cast in said school district and declare the results thereof, and the clerk of said board of education or governing body shall issue certificates of election to the persons found by said canvassing board to be entitled thereto. (Act Apr. 25, 1931, c. 359, §3.)

**§2807-11. Terms of office.**—The terms of office of the members of such board or governing body shall be four (4) years and until their successors are elected and qualified, except that any school district coming within the provisions of this act shall, at the next general municipal election held more than sixty days after the passage and approval of this act, elect nine (9) members of the board or governing body of such school district, five (5) of whom shall be elected for two (2) years and four (4) for four (4) years, and the terms of all members holding office at the time of said election shall terminate on the second Monday next succeeding the said next general municipal election at twelve o'clock noon.

Thereafter at each general municipal election at which members of such board are to be elected, there shall be elected sufficient members to fill the places of the retiring members.

All members of such board or governing body elected at such general municipal elections shall take office at twelve o'clock noon on the second Monday next succeeding the general municipal election at which they were elected. (Act Apr. 25, 1931, c. 359, §4.)

**§2807-12. Must be approved by vote of people.**—The provisions hereof shall not become effective in any such independent school district until approved by the voters thereof as hereinafter provided. The question shall be submitted at any general election hereafter held upon a petition to that effect signed by qualified voters equal in number to ten per cent of the electors who voted at the last preceding school election, which petition shall be filed with the clerk of the governing body

of such city at least 30 days preceding the election at which the question is to be submitted. Thereupon, the governing body shall cause a sufficient number of ballots to be printed in substantially the following form:

"Shall school elections be held hereafter on the same date as city elections?

Yes.....

No....."

Each elector voting upon said proposition shall place a cross mark, thus (X), in a space to be left opposite the word "Yes" or the word "No," accordingly as he shall desire to vote for or against the proposition. Such ballots shall be deposited in separate ballot boxes provided for that purpose. The results of such vote shall be canvassed in the same manner as votes for members of the governing body of said city. If a majority of the votes cast on the proposition are in the affirmative, school elections in said district shall thereafter be held in accordance herewith, and until such time as said proposition may be voted upon as aforesaid, and until a majority of the votes cast on said proposition shall be cast in favor thereof, school elections in said district shall be held on the third Tuesday in May of each year; and that the members of said Board of Education or Governing Board of said district shall be elected for the terms, and in the manner now prescribed by law. (Act Apr. 25, 1931, c. 359, §5.)

**§2807-13. Inconsistent acts repealed.**—All acts and parts of acts inconsistent with this act are hereby repealed. (Act Apr. 25, 1931, c. 359, §6.)

**§2807-14. Effective January 1, 1932.**—This act shall take effect and be in force from and after January 1, 1932. (Act Apr. 25, 1931, c. 359, §7.)

#### **§2811. Vacancies.**

Vacancy in office of directors occasioned by absence of election in spring of 1930 may be filled by appointment under this section. Op. Atty. Gen., Nov. 27, 1929.

#### **§2812. Special election to fill vacancy.**

Vacancy in office of members of school board occasioned by lack of election in spring of 1930 may be filled under this section. Op. Atty. Gen., Nov. 27, 1929.

#### **§2813. Acceptance of office.**

A director of an independent school district who has taken an oath of office need not take a second oath when chosen as treasurer by the members of the school board. 171M376, 214NW 258.

#### **§2814. Quorum.**

Effect of designation of depository without formal meeting. School Dist. No. 75 v. F., 234 NW594. See Dun. Dig. 2699.

#### **§2815. Powers and duties of school board.**

Judgment against district, restraining performance of a contract, illegal for want of previous authorization by the voters, is not a bar to a suit by one of the contracting parties to recover for the reasonable value of the benefits received by the district. 175M201, 220NW606.

Independent school district may purchase building to be used as skating rink, etc. School board cannot be compelled to purchase by vote of electors. Op. Atty. Gen., Apr. 17, 1929.

A district has power to contract with a pub-

lic accountant to audit its books and affairs. Op. Atty. Gen., Dec. 9, 1929.

The board is authorized to pay architects' charges for plans and specifications out of the proceeds of a bond issue for "constructing a school building." Op. Atty. Gen., Jan. 14, 1930.

Member of board voting against a proposition may move for its reconsideration. Op. Atty. Gen., Jan. 28, 1930.

Where the electors authorize sale of school property no longer required for school purposes, the board may sell without advertising for bids, and at such price as it deems advisable; but the board is without power to donate the land to a city in the district, or to enter into a long term lease. Op. Atty. Gen., March 19, 1930.

District is without power to convey its school auditorium building to an American Legion Post for conversion into a war memorial, the only consideration being one dollar and the use of the building by the district as a community house. Op. Atty. Gen., Apr. 10, 1930.

It is the duty of the school board to act in good faith in selling an abandoned building, and to obtain the best price possible, and the board is not bound by a favorable vote of the electors on a proposition to sell the building at a nominal sum to an organization which pledges to use the same as a community building. Op. Atty. Gen., April 28, 1930.

While a school board has no power to expend money for medical or physical examination of children generally, it may provide for such examination of children who may apply for attendance at the next school session. Op. Atty. Gen., April 28, 1930, May 6, 1930.

In the call of a special meeting of the school board to vote on bond issue resolution the notice of meeting need not specify the business to come before the meeting; the school board need not have a definite site in view before passing the resolution; and the board is without power to select and acquire the site without designation by the electors. Op. Atty. Gen., May 13, 1930.

A school board has no authority to employ a superintendent of schools whose term is to extend beyond the year for which the members of the board are elected. Op. Atty. Gen., July 2, 1930.

Procedure to be followed by board of school district organized under Laws 1929, c. 9, §3 stated. Op. Atty. Gen., July 3, 1930.

Act authorizing school districts to contract in certain cases with cities for heating of buildings. Laws 1931, c. 134.

Act to permit regulation by school board of labor on public schools in independent school district within city of second class. Laws 1931, c. 276.

School board of independent consolidated school district may disregard petition by electors demanding that board call a special election to determine whether or not the district should continue the high school course. Op. Atty. Gen., April 20, 1931.

Where electors of independent school district authorized sale of small school building, the school board, on discovering that it could not sell it at a fair price, had no authority to wreck the building and use the material for other purposes. Op. Atty. Gen., April 29, 1931.

5.

Evidence of teacher's inability to maintain discipline or enforce school regulations held to sustain finding that board had cause for discharging teacher. *Edie v. S.*, 237NW177.

G. S. 1923, §§2926, 2927, relating to revocation and suspension of teachers' certificates, does not by implication repeal section 2815, subd. 5, providing that the board may discharge a teacher for cause. *Edie v. S.*, 237NW177.

**§2816. Further powers and duties of school board. \* \* \* \***

4. Provided for the free transportation of pupils to and from school, and to schools in other districts for grades and departments not maintained in the district, including high school, at the expense of the district, pro-

vided funds for such purpose are available and if agreeable to district to which it is proposed to transport the pupils, for the whole or such part of the school year as they may deem expedient, and subject to such rules and regulations as they may adopt; and they shall require from every person employed for that purpose, a reasonable bond for the faithful discharge of his duties, as prescribed by the board. (As amended Feb. 8, 1929, c. 12.)

\* \* \* \*

Subdivision 4 is amended by Laws 1929, c. 12. School district is not liable at common law for injuries to a pupil which result from the negligent operation of a bus used in the transportation of pupils at public expense. 173M5, 216NW533.

Where district is compensating parents of students for transporting them to school, a non-student is entitled to payment for transporting his child from the point where he crosses the district line. Op. Atty. Gen., Feb. 14, 1929.

Op. Atty. Gen., April 20, 1931; note under § 2815.

**§2816-4. School boards may contract for heat in certain cases.**—That the governing board of any school district having one or more buildings within a city maintaining a municipal central heating plant may contract with such city for the furnishing of heat for said buildings, for such term as it may deem for the best interest of the district, not, however, exceeding ten years. (Act Apr. 9, 1931, c. 134, §1.)

**§2816-5. May pay cost of connections.**—Where it is necessary for such city to lay mains or pipes to connect said buildings with its heating system, the said district is authorized to advance to such city all or any part of the cost thereof, upon such terms and conditions as shall be agreed upon. (Act Apr. 9, 1931, c. 134, §2.)

**§2817. Extension of powers of school boards.**

This section does not authorize suit against the school district to recover damages for personal injury caused by the negligence of its officers or its agents in the performance of its governmental functions. 177M446, 226NW292.

School district without athletic field cannot appropriate money to a city for the improvement of city property to be used by the school as an athletic field. Op. Atty. Gen., June 22, 1931.

**(§2818-1. Certain independent school districts may acquire athletic fields.**—In any independent school district of this state now or hereafter having an assessed valuation in excess of Sixteen Million (\$16,000,000.00) Dollars, and having within its limits a city of the fourth class, if five or more freeholders shall petition for the calling of a special election to vote upon the question of the district's acquiring a site for an athletic field or a building for physical education purposes or the erection of buildings for such purposes or the purchase of existing buildings suitable therefor, the board shall call such election in accordance with General Statutes 1923, Section 2794. In the event that such proposition is carried at such election by a majority vote of those voting upon the question, the school board shall proceed to acquire such site or buildings or to acquire such site and erect such buildings thereon, and

make the necessary tax levies therefor within the limits now provided by law. In the event that it is necessary to issue the bonds of the district to finance such purchase or building, such bonds may be issued within the limits now permitted by law and the board shall adopt the necessary resolutions submitting the question of issuing such bonds all in accordance with the existing laws for the issuance of bonds by such district. (Act Apr. 26, 1929, c. 392.)

**§2822. Instruction in adjoining district—**  
etc.

A district which has closed its schools and made provisions for instruction of its pupils in an adjoining district is not entitled to receive the special aid provided by §3031. Op. Atty. Gen., April 24, 1930.

Where a district has discontinued its school and sends its pupils to another independent district, the latter district may charge more tuition than it does for pupils from other districts. Op. Atty. Gen., Jan. 15, 1931.

**§2822-1. Transportation of pupils.**—That any school district transporting pupils of the district may transport pupils residing outside of the district but attending school within the district upon such pupils presenting themselves within the district on one of the regular routes traveled in the transportation of the pupils of the district. (Act Mar. 9, 1929, c. 68.)

**§2822-2. Transportation of pupils to junior colleges.**—That any school district not maintaining a junior college is hereby authorized, at the expense and cost of the district, to transport any resident pupil thereof to an adjoining or nearby district maintaining a junior college for the purpose of attending such college. (Act Apr. 20, 1931, c. 247.)

**§2822-3. Transportation of crippled children to school.**—The State Board of Education at its discretion and under such rules as it may adopt may assist school districts or the County Board of Education for unorganized territory in any county in providing for the transportation or board of such crippled children of school age as are unable to walk to school with the exercise of normal effort but are able to carry the regular course of study. To this end the State Board may grant to such school districts not to exceed one hundred and fifty dollars (\$150.00) annually for each such pupil transported or boarded; provided that the total expenditures under this Act shall not exceed the sum of \$20,000 for any one year. (Act Apr. 21, 1931, c. 280, §1.)

**§2822-4. Effective July 1, 1931.**—This act shall take effect and be in force from and after July 1, 1931. (Act Apr. 21, 1931, c. 280, §2.)

**§2833. Duties of treasurer of school districts.**—The treasurer shall receive and be responsible for all moneys of the district, and shall disburse the same on orders signed by the clerk and countersigned by the chairman, or other vouchers authorized by law. Each order shall state the fund on which it is drawn, the name of the payee, and the nature of the claim for which such order is issued. He shall keep an account of each

fund, and of all receipts and disbursements, showing the source of all such receipts and the nature and purpose of such disbursements, and within three days preceding the annual meeting shall file with the clerk a detailed financial statement of the district, showing all receipts and disbursements, and the nature of the same, the moneys on hand and the purposes to which the same are applicable, the credits of the district, and its outstanding liabilities, and the nature thereof. Such report, together with his vouchers, shall be examined by the board, and, if found correct, approved by resolution, entered in the records. If incomplete or inaccurate, a further or amended report may be required by the board. Such report, when complete, shall be laid before the annual meeting, to be in like manner approved. He shall make such further reports as may from time to time be called for by the board, and shall perform all duties usually incumbent on such officer. Every order drawn for the payment of teachers' wages, and for any other lawful purpose, after having been presented to the treasurer for payment, and not paid for want of funds, shall be endorsed by the treasurer by putting on the back thereof the words, "Not paid for want of funds," giving the date of indorsement and signed by the treasurer. A record of such presentment, non-payment and indorsement, shall be made by the treasurer. Every such order shall bear interest at the rate of 6 per cent per annum from the date of such presentment, and shall be paid in the order in which it is so presented and registered out of the first money received by the treasurer applicable to its payment (until the treasurer serves). The Treasurer shall serve a written notice upon the payee or his assignee, personally, or by mail, (that) when he is prepared to pay such order; such notice may be directed to the payee or his assignee at the address given in writing by such payee or assignee to such treasurer, at any time prior to the service of such notice; no order shall draw any interest if such address is not given when the same is unknown to the treasurer, and no order shall draw any interest after the service of such notice. (As amended Apr. 17, 1931, c. 187.)

177M479, 225NW444; note under §2834.

Where treasurer deposited school funds to his credit in a bank of which he was an officer, and orders were presented to and paid by the bank and indorsed, "Not paid for want of funds," and the bank sold them and the money was used by it in carrying on its business, the liability of the school district was not discharged when the payees of the orders received their money. 171 M376, 214NW258.

It is a breach of plain legal duty for a school district treasurer to make a payment on a warrant not presented to him for such payment and a payment without such presentation to a former holder of a warrant held not to be payment of the warrant and assignee may recover notwithstanding. 173M383, 217NW366.

Const., Art. 9, §12, is not self-executing, and what are "suitable laws" is a legislative question. 174M286, 219NW163.

Where retiring school district treasurer gave his check on bank to new treasurer and they went to bank, and bank merely changed the name of the depositor and returned the check, the transaction was in substance the same as if the old treasurer had given cash to the new treasurer and the new one was liable for all that he received. 178M199, 226NW514.

The holder of a warrant is not entitled to have the same split into two or more warrants, since but one order should be issued for every single bill. Op. Atty. Gen., March 3, 1930.

School treasurer must give notice to holders of warrants or orders "not paid for want of funds" when money becomes available in order to terminate running of interest, but if address of holder is not known, interest ceases as soon as money becomes available. Op. Atty. Gen., Apr. 1, 1931.

### §2834. Treasurers' bonds.

174M286, 219NW163, note under §2833.

Surety on school treasurer's bond was not liable for loss of amount deposited by the treasurer in a bank which was a depository de facto. 175M346, 221NW424.

Sureties of treasurer of school district, who was also cashier of a bank, which became a de facto depository and failed, were liable for the loss. School Dist. No. 1 v. Aiton, 173M428, 217NW496, and 175M346, 221NW424, distinguished. 177M479, 225NW444.

### §2836. Depository of funds in common and independent school districts.—

The governing board, by whatever name known, of the several common, independent and special school districts in this state may in their discretion, select and designate as a depository or depositories for school district moneys, any national or state bank, or banks, for a period not exceeding three years on the execution by such bank or banks of a sufficient bond to the school district in double the sum deposited, except in cases where the bond furnished is that of a surety company authorized to do business in the state of Minnesota, and in such cases the amount of bond shall be equal to the estimated sum to be deposited, to be approved by the board and filed in the office of the county auditor of the county wherein said school district may be situated, and thereupon may require the treasurer to deposit all or any part of the school district's money in such bank or banks, provided that such designation may be made in an amount not exceeding \$1,500 in common school districts and not exceeding \$3,000 in independent school or consolidated districts without the execution of any bond. Such designation shall be in writing and shall set forth all the terms and conditions upon which the deposits are made, be signed by the chairman and clerk or president and clerk as the case may be, and filed with the clerk. That thereupon such bank or banks shall become a legal depository or depositories for school district moneys, and thereafter the school district treasurer shall deposit such school district moneys therein as he shall be required from time to time to deposit by such school district governing board. (As amended Mar. 21, 1929, c. 76.)

175M346, 221NW424.

174M286, 219NW163, note under §2833.

Bank acting on designation by giving bond and accepting deposits cannot assert that it is not the legal depository or that conditions imposed by the school officers were not authorized by law. 39F(2d)387.

A school treasurer is absolutely liable for funds coming into his hands, except where deposit is in a legally designated depository. 173M428, 217NW496.

Surety had right to contract in reference to the exception to rule of absolute liability and to limited contract of indemnity in order not to be responsible for loss or failure or other acts of the depository. 173M428, 217NW496.

When the funds are deposited in a bank of which the treasurer, being a member of the school board, is also an officer and stockholder, the exception to the general rule is inoperative. 173M428, 217NW496.

A motion of school board directing treasurer to deposit funds in a certain bank was not written designation required, and bank, which failed to file bond, never became a legal depository, and on failure of the bank the treasurer remained liable for the funds. School Dist. No. 20 v. G., 178M317, 227NW50.

Op. Atty. Gen., Mar. 5, 1929; note under §1973-1.

Parol evidence was inadmissible to vary terms of bank's depository bond. 181M537, 233NW296. See Dun. Dig. 3397.

Sureties on depository bond held not entitled to consider school treasurer as agent for school district in making assurances as to liability of the sureties. 181M537, 233NW296. See Dun. Dig. 2701, 8672.

Bondsmen were liable notwithstanding school district, without authority, made time deposits and took certificates of deposit. School Dist. No. 75 v. F., 234NW594.

The evidence is not sufficient to sustain a finding that Liberty bonds deposited with the defendant bank, a designated depository of the plaintiff school district, were a substitute or in lieu of a bond executed with individual sureties, or that the taking of the Liberty bonds discharged such bond, or that another bank was designated as a depository; and the trial court was right in so directing the jury. School Dist. No. 75 v. F., 234NW594. See Dun. Dig. 2701.

Bondsmen of depository for school district, designated without any specifications as to time, were liable to school district where bank was taken over for liquidation three years and two days after designation. School Dist. No. 75 v. F., 234NW594.

Closing of bank was a default and no demand was necessary. School Dist. No. 75 v. F., 234NW594. See Dun. Dig. 2702.

School district may not designate bank located outside state. Op. Atty. Gen., June 8, 1929.

Bank designated as a depository for an amount in excess of \$3,000 must furnish a bond for the full amount for which it is designated as a depository. Op. Atty. Gen., Nov. 7, 1929.

Op. Atty. Gen., July 21, 1931, note under Laws 1931, c. 212.

**§2836-1. School boards may accept property in settlement of claims.—**Whenever any school district in this state now has or asserts any claim or judgment against any sureties on the bonds of any depository of its funds for the failure of any such depository to account for or pay over any such funds, and the school board or other governing body of said district shall determine that said claim or judgment or some part thereof is not collectible in cash, then any such school board or governing body may by resolution determine to accept and receive, in complete or partial satisfaction or settlement of any such claim or judgment, lands or interests therein within this state, and may acquire the same for and in the name of such district either by deed or deeds of conveyance from the owners, or as purchaser at execution sale or sales under any such judgment. (Act Apr. 20, 1931, c. 227, §1.)

**§2836-2. Title to be held by district.—**Title to lands or interests so acquired shall be held by said district in lieu of its moneys not accounted for or paid over as aforesaid, and the same and each tract or portion thereof shall be sold by such district as soon as and wherever there may be realized therefrom the fair value thereof as determined by such school board of governing body. Any such sale may be authorized by resolution of such school

board of governing body, and may be made for cash, or for part cash and the deferred balance secured by contract for deed or purchase money mortgage, on such terms as said board of governing body may approve. Conveyances, contracts or other instruments evidencing any such sale shall be executed, by the president or other presiding officer and the clerk or secretary of said board or governing body. Lands so acquired and held for resale as aforesaid shall be deemed public lands used for exclusively public purposes, and as such shall be exempt from taxation. (Act Apr. 20, 1931, c. 227, §2.)

#### §2837. Exemption of treasurer.

173M428, 217NW496, note under §2836.

174M286, 219NW163, note under §2833.

177M479, 225NW444; note under §2834.

School Dist. No. 20 v. G., 178M317, 227NW50; note under §2836.

Surety on school treasurer's bond was not liable for loss of amount deposited by the treasurer in a bank which was a depository de facto. 175M346, 221NW424.

**§2839-1. School treasurers may be reimbursed in certain cases.**—That where any school treasurer has or shall hereafter reimburse the district for loss of funds of the district on deposit in any bank which has or may become insolvent, such district may reimburse said treasurer for moneys so paid when a majority of the electors voting thereon at an annual or special meeting vote so to do, providing the notice of such annual or special meeting shall specify that such matter will be considered at such meeting. (Act Mar. 9, 1929, c. 67.)

The statute of limitation of actions affects the remedy, not the right. If it had run it could be waived as a defense. 181M523, 233NW 802. See Dun. Dig. 5661(83).

**§2839-2. Treasurer of school districts not to be responsible for losses in certain cases.**—That if the treasurer of any common or independent school district shall present to the governing board of such district in session a written request for the designation of a depository for the funds of the district, and such board shall refuse or shall fail to designate one or more depositories within 30 days after the presentation of such request, such treasurer may deposit the funds of said district in a bank or banks of his own selection in an amount not exceeding \$1,500.00 in any one bank, if a common school district, or not exceeding \$3,000.00 in any one bank, if an independent school district. Such treasurer shall not thereafter be liable for the loss of any such funds through the insolvency or default of any such bank in the absence of negligence on his part in the selection of such bank or banks. (Act Mar. 27, 1931, c. 90.)

**§2843-1. Salaries of school officers in certain districts.**—That in all Common School Districts of this state, having both a population of not less than 1400 inhabitants and an assessed valuation of not less than \$3,000,000, the salary of the chairman is fixed at \$50.00 per month and the salaries of the clerk and treasurer at \$35.00 per month each. (Act Apr. 9, 1931, c. 122, §1.)

**§2843-2. Board shall report population.**—The population reported to the county audi-

tor by the board of such Common School District and accepted by him shall be the population herein referred to, and the valuation shall be that fixed by the previous year's assessment. (Act Apr. 9, 1931, c. 122, §2.)

**§2843-3. Inconsistent acts repealed.**—All acts and parts inconsistent with the provisions hereof are hereby repealed. (Act Apr. 9, 1931, c. 122, §3.)

**§2844. Compensation of officers of independent districts.**—The clerk, or secretary, treasurer and superintendent of independent and special districts shall receive such compensation as may be fixed by the board. No officer or member of any school board shall receive pay as such, except as provided in this chapter. (As amended Apr. 11, 1929, c. 151.)

#### §2846. Contracts in districts.

Laws 1913, ch. 244, relating to advertisement for bids before letting contracts, does not apply to the school district in Mankato established by Special Laws 1878, ch. 156. 175M30, 220NW164.

Judgment against district, restraining performance of a contract, illegal for want of previous authorization by the voters, is not a bar to a suit by one of the contracting parties to recover for the reasonable value of the benefits received by the district. 175M201, 220NW 606.

Not necessary to advertise for bids before placing fire insurance on school property. Op. Atty. Gen., Dec. 17, 1929.

School district may employ accountant to audit books and affairs. Op. Atty. Gen., Dec. 9, 1929.

#### §2848. Opinion of attorney general.

Practical construction by opinion of Attorney General. 171M142, 214NW18.

#### §2849. Hours for opening and closing polls.

See §401-1.

**§2849-1. School districts may build residences for use of teachers.**—That common school districts, when authorized by a two-thirds majority of all the electors voting at said election, are hereby empowered to erect, purchase, or acquire a dwelling house for the use of its teacher or teachers; provided, however, that the proposition shall be submitted only at a meeting or election the notice of which stated that such proposition would be considered or submitted thereat. (Act Apr. 1, 1931, c. 109.)

### UNORGANIZED TERRITORY

#### §2852. Officers—Clerical help.

County treasurer's bond covers duties of treasurer as treasurer of county board of education. Op. Atty. Gen., May 9, 1929.

#### §2858. Powers and duties.

County board may employ public accountant to audit books and affairs. Op. Atty. Gen., Dec. 9, 1929.

The board has power to sue, and the county cannot maintain action against members of the board to recover the excess of compensation paid to themselves, and if the board refuses to sue action may be maintained by a taxpayer. Op. Atty. Gen., Apr. 8, 1930.

#### §2867. Bonds may be sold—Interest rate.

Power conferred by this section to pay judgments impliedly authorizes the board to sue and be sued. Op. Atty. Gen., Apr. 8, 1930.

**§2870-2. County board may issue refunding bonds in certain cases.**—That the county board of education for unorganized territory, by unanimous vote of the members thereof, may issue bonds for the purpose of refunding any bonds issued by an organized school district which has been dissolved and its territory reverted to unorganized territory, which said refunding bonds shall be chargeable against the territory that was chargeable with the payment of the bonds so proposed to be refunded. Such refunding bonds shall not run for a period shorter than five years nor longer than twenty years. The first refunding bond shall be due six years from the date of its issuance and shall be for not less than one-tenth of the total bond issue in question nor more than one-fifth thereof, and each subsequent bond shall be for a like amount and shall be payable one year from the maturity date of the bond to be paid the preceding year. The county auditor shall extend a tax against all the taxable property within the territory chargeable in the first instance with the payment of the bonds so refunded sufficient to pay the interest on such refunding bonds and any installment of principal that may be due in the following year. Such tax for the first year shall be fifty per cent in excess of the amount to be due the succeeding year, and thereafter each yearly levy shall be in such amount in excess, not exceeding fifty per cent, of the amount to be due the succeeding year, as the auditor may deem necessary. The county treasurer, upon the collection of such tax, shall apply the proceeds thereof to the payment of such interest or installment of principal, and shall file with the county auditor receipts therefor, together with the cancelled bonds so taken up. The state board of investment may invest the funds under its control in any refunding bonds so issued under the provisions of this act. (Act Apr. 9, 1931, c. 140.)

CONDUCT OF SCHOOLS

**§2883-1. Leif Erikson day.**—The ninth day of October is hereby designated as Leif Erikson Day and when it does not fall upon a school day the school day nearest such date is designated as Leif Erikson Day. On such day one half hour may be devoted in the schools to instruction and appropriate exercises relative to and in commemoration of the life and history of Leif Erikson and the principles and ideals he fostered. (Act Apr. 8, 1931, c. 120.)

**§2883-2. Columbus Day established.**—The twelfth day of October is hereby designated as Columbus Day and when it does not fall upon a school day the school day nearest such date is designated as Columbus Day. On such day one half hour may be devoted in the schools to instruction and appropriate exercises relative to and in commemoration of the life and history of Columbus and the principles and ideals he fostered. (Act Apr. 14, 1931, c. 175.)

TEACHERS—EXAMINATIONS AND CERTIFICATES

**§2900. [Repealed].**

Repealed by Act Apr. 26, 1929, c. 388, §14, post, §2900-14.

**§2900-1. Definitions.**—“Teachers,” within the meaning of this act, shall mean and include any and all persons employed in a public school to give instruction or supervision of teaching. (Act Apr. 26, 1929, c. 388, §1.)

**§2900-2. Qualifications of a teacher.**—A qualified teacher is one holding a certificate from the State Board of Education, as hereinafter provided, to perform the particular service for which he is employed in a public school. Contracts for teaching or supervision of teaching can be made only with qualified teachers. (Act Apr. 26, 1929, c. 388, §2.)

**§2900-3. Only State Board of Education to issue certificates.**—The authority to certificate teachers shall be vested solely in the State Board of Education, and such certificates shall be issued to such persons as the board shall find to be physically competent and morally fit to teach and to have the qualifications and training herein prescribed. (Act Apr. 26, 1929, c. 388, §3.)

**§2900-4. Classes of certificates.**—There shall be two classes of teacher certificates.

1. Elementary School Certificate
2. High School Certificate. (Act Apr. 26, 1929, c. 388, §4.)

**§2900-5. Elementary School Certificate.**—The Elementary School Certificate shall indicate the division or grades of the elementary field for which the holder has been trained. For the purpose of this act, “elementary field” shall include the first eight grades.

There shall be four kinds of Elementary School Certificates:

- Elementary School Advanced Certificate
- Elementary School Standard Certificate
- Elementary School Limited Certificate
- Elementary School Special Certificate

(a) The Elementary School Advanced Certificate shall qualify any holder thereof to teach in any elementary school, or, when so designated on the certificate, in any junior high school, and shall be issued to any person who holds a diploma of a Minnesota State Teachers College, or the College of Education of the University of Minnesota, showing that such holder has completed the four year course in Elementary Education of such college.

(b) The Elementary School Standard Certificate shall qualify any holder thereof to teach in any elementary school, and shall be issued to any person who holds a diploma of a Minnesota State Teachers College, showing that such holder has completed the two year course in Elementary Education of such college.

(c) The Elementary School Limited Certificate shall qualify any holder thereof to teach in ungraded elementary schools only, and may be issued to any person who has completed a one year course of professional training approved by and in an institution designated by the State Board of Education to give such training.

(d) The Elementary School Special Cer-

tificate shall qualify any holder thereof to teach Kindergarten, Music, Fine Arts, Industrial Arts or Physical Education, or such other special subject as the needs of the school may, from time to time, require, in any elementary school, and shall be issued to any person who holds a diploma of a Minnesota State Teachers College, or the College of Education of the University of Minnesota, showing that such holder has completed its standard course in the special subject or subjects as to which he applies for a certificate to teach, and may also be issued to any person who has completed an essentially equivalent course in an institution accredited and approved by the State Board of Education for training teachers in such special subjects.

An Elementary School Special Certificate, which shall qualify any holder thereof to teach defective children in any elementary school, may be issued by the State Board of Education, in its discretion, to any qualified elementary teacher, upon satisfactory showing to such board that the applicant is possessed of such other qualifications for such teaching as the State Board of Education may, from time to time, prescribe. (Act Apr. 26, 1929, c. 388, §5.)

**§2900-6. High School Certificate.**—There shall be two kinds of High School Certificates: High School General Certificate and High School Special Certificate, and as to each kind there shall be the Standard Certificate and the Advanced Certificate.

(a) The High School Standard General Certificate shall indicate the academic field or fields and the class or classes of high schools (junior or senior) for which the holder has been especially trained.

The High School Standard General Certificate shall qualify any holder thereof to teach academic subjects in junior high schools, senior high schools, four year high schools and junior-senior high school organizations. Provided that the holder of a High School Standard General Certificate shall be qualified to teach in the seventh and eighth grades of an eight year elementary school. Such certificate shall be issued to any person holding the degree of the College of Education of the University of Minnesota, or of a Minnesota State Teachers College, granted by virtue of the completion of a course, balanced as to academic and professional content, and designated by such college for the training of high school teachers.

The High School Standard General Certificate may be issued to any person holding the degree of an accredited liberal arts college or university in Minnesota, together with such professional training as shall be required by the State Board of Education.

(b) The High School Standard Special Certificate shall qualify any person to teach in the special fields of Agriculture, Home Training, Industrial Arts, Commercial Subjects, Physical Education, Music or Fine Arts, or such other special field as the needs of the schools may, from time to time, require. It shall show in which one or ones of the special fields aforesaid the holder is authorized to teach and shall qualify him to teach in such special fields in any high school or elementary

school. Such certificate may also indicate other high school subjects in which the holder has had training equivalent to that required in the academic field and shall qualify him to teach the same. Such certificates shall be issued to any person holding the degree of the College of Education of the University of Minnesota or of a Minnesota State Teachers College, granted by virtue of the completion of its course in the special field as to which he applies for a certificate to teach.

The High School Standard Special Certificate may be issued to any person holding the degree of a liberal arts college of this state, accredited and approved by the State Board of Education, granted by virtue of the completion of its course for the training of high school teachers in the special field as to which he applies for certificate to teach, provided that the course leading to such degree shall meet the requirements of the State Board of Education in such field.

The High School Standard Special Certificate may be issued to any person holding a diploma or degree of a technical training institution of this state, granted by virtue of the completion of a course therein which said board shall find to be substantially equivalent, with respect to such special subject or subjects, to the course of said College of Education for training of teachers therein, provided that such institution shall be accredited and approved by said board.

Provided that the State Board of Education shall have authority to issue special certificates to vocational teachers who present such qualifications of training and experience as meet the requirements of the Federal Board of Vocational Education or the special needs of the several vocational fields.

(c) Any person who has the preparation and training herein prescribed entitling him to receive a High School Standard General Certificate or a High School Standard Special Certificate, and who, in addition, has completed one year of graduate work of a kind and character accepted by the State Board of Education may be given a High School Advanced Certificate, either general or special, as may be appropriate to his training. Such High School Advanced Certificate shall qualify the holder thereof to teach the same subjects and in the same institutions which and in which the holder of a corresponding standard certificate is authorized to teach and in Junior Colleges. (Act Apr. 26, 1929, c. 388, §6.)

**§2900-7. Administration and Supervision.**—A person shall be qualified to be a principal or supervisor of or in any school when he shall hold a certificate qualifying him to teach in such school and in addition shall have such other qualifications with reference to special training and experience as the board may, from time to time, prescribe; provided that any person who is qualified to be principal of any high school is thereby qualified to be principal of any elementary school.

A person shall be qualified to be superintendent of schools in any school district when he shall hold a High School General Certificate and in addition shall have such other qualifications with reference to special train-

ing and experience as the board may, from time to time, prescribe.

When any person shall establish his qualifications to be a principal, supervisor or superintendent, as aforesaid, to the satisfaction of the board, such board may certify him as being qualified to be such principal, supervisor or superintendent, as the case may be. Contracts with principals, supervisors or superintendents shall not be valid unless they shall be qualified, as herein provided. (Act Apr. 26, 1929, c. 388, §7.)

**§2900-8. Applicants trained in other states.**—Wherever in this Act a certificate to teach is authorized to be issued to any holder of a diploma or a degree of a Minnesota State Teachers College, or of the College of Education of the University of Minnesota, or of a liberal arts college, or a technical training institution, such certificate may also, in the discretion of the State Board of Education, be issued to any holder of a diploma or a degree of a teacher training institution of equivalent rank and standing of any other state, granted by virtue of the completion of a course in teacher training essentially equivalent in content to that required by such Minnesota State Teachers College or the College of Education of the University of Minnesota or a liberal arts college in Minnesota or a technical training institution, as preliminary to the granting of a diploma or a degree of the same rank and class. (Act Apr. 26, 1929, c. 388, §8.)

**§2900-9. Duration and Renewal of Certificates.**—All certificates, except as herein provided, shall bear the date of issue and shall expire two years from July first nearest such date, and may be renewed for periods of not more than five years upon satisfactory evidence produced to the board of successful teaching in the public schools of the state for at least twelve (12) months during the period covered by the certificate.

If the holder of a five year certificate shall present to the board satisfactory evidence that he has actually and successfully taught in the public schools of the state for not less than five years, the board may issue to him a permanent certificate of the same class and kind as his five year certificate, which shall be valid unless and until suspended or revoked; provided, however, that the permanent certificate may be issued only to a teacher actually employed in the public schools of the state, or who has been so employed at any time during the two year period immediately preceding the date of application, and provided further that no permanent certificate shall be issued to a teacher who holds only an Elementary School Limited Certificate. Any person who applies for the issuance or renewal of a teacher's certificate and who possesses the training prescribed in this act, but who has not, at any time during the five year period immediately preceding, been employed in public school teaching service, may be required to furnish evidence of appropriate training in an accredited teacher training institution within such period, but not in excess of twelve weeks work.

An Elementary School Limited Certificate shall bear the date of issue and shall expire two years from July first nearest such date,

and may be renewed for periods of not more than five years, under conditions prescribed by the State Board of Education. (Act Apr. 26, 1929, c. 388, §9.)

**§2900-10. Fees for Teachers' Certificates.**—For the issuance, renewal or extension of a certificate to teach, each applicant for such certificate shall pay a fee. For each Elementary School Limited Certificate or renewal thereof the fee shall be fifty cents. For each permanent certificate the fee shall be five dollars. For all others, the fee shall be one dollar for each certificate or renewal thereof. Such fees shall be paid to the State Commissioner of Education, who shall deposit them with the State Treasurer, as provided by law, and report each month to the State Auditor the amount of fees collected for each kind of certificate. The State Auditor shall credit all such fees to the Teachers Institute, Training School and Examination Fund, and the same may be disbursed and used for the purposes for which such fund is provided.

Fees for the renewal or extension of certificates in force at the date of approval of this act shall be as provided in Sec. 2932, General Statutes of Minnesota 1923. (Act Apr. 26, 1929, c. 388, §10.)

**§2900-11. Suspension or Revocation of Certificates.**—The State Board of Education may, on the written complaint of the school board employing a teacher, or of the superintendent of the county where such teacher is employed, or of the State Commissioner of Education, which complaint shall specify generally the nature and character of the charges, suspend or revoke such teacher's certificate or license to teach, issued under this act or in force on the date of its approval, for any of the following causes:

- a. Immoral character or conduct.
- b. Failure, without justifiable cause, to teach for the term of his contract.
- c. Gross inefficiency or wilful neglect of duty.
- d. Affliction with active tuberculosis or some other communicable disease, while suffering from such disability.

The Secretary of the State Board of Education shall within five days after the filing of the complaint serve a copy thereof upon the teacher in person or by registered mail addressed to such teacher at his last known address, and such teacher shall, within ten days after the service of such copy upon him, file with the State Board of Education his answer to the charges specified. The Secretary of said board shall thereupon fix in writing a time for a hearing upon said complaint, and serve a copy thereof on said teacher. Such hearing shall be conducted by said board, or by the Commissioner or Deputy Commissioner, as the rules of the board may provide, unless the complaint is filed by the Commissioner, in which case it shall be conducted by the board or a member thereof designated by the board. The hearing shall be held in the office of the board unless the teacher at the time of filing his answer shall file therewith a written demand that the hearing be held in the county seat of the county wherein he is employed, in which case it shall be held

at such county seat. Such hearing shall be either private or public, as the teacher may elect, and the teacher shall have the right to appear in person and by counsel and to produce evidence thereat. All witnesses shall be sworn before testifying, and the official conducting such hearing is hereby authorized to administer the oath prescribed by law for witnesses in judicial proceedings. A record in writing shall be made of said proceedings and of all evidence produced thereat, and shall be forthwith filed with the board upon the conclusion of such hearing. A copy thereof shall be furnished to such teacher upon his request. Upon concluding such hearing, if conducted by the board, or the filing of such report, if conducted by the Commissioner, Deputy Commissioner, or member of the board, the board shall consider the same and make its decision within thirty days from the date of such hearing. In case of suspension or revocation, the order of the board shall fix the date at which suspension or revocation becomes effective, and in case of suspension, the duration thereof, and notice thereof shall forthwith be given in writing to the teacher and to the school board by which he is employed.

The action of the board shall be final and all orders of suspension or revocation shall be included in the certificate records of the Department of Education. (Act Apr. 26, 1929, c. 388, §11.)

**§2900-12. Outstanding Certificates Not Impaired.**—No provision of this act shall affect or impair the validity of certificates or licenses to teach in force at the date of approval of this act, or the rights and privileges of the holders by virtue thereof, save that any such certificate or license may be suspended or revoked for any of the causes and by the procedure specified in Section 11 [§2900-11] of this act, and provided, also, that a certificate in force at date of approval of this act may be exchanged, without fee, at the option of the holder, for a certificate which, under this act, shall give to the holder the same qualifications and rights which he had under and by virtue of such certificate. (Act Apr. 26, 1929, c. 388, §12.)

**§2900-13. Administrative Regulations.**—The State Board of Education shall have power, from time to time, to make and enforce such rules and regulations consistent with this act, as may be appropriate for the administration and enforcement thereof. (Act Apr. 26, 1929, c. 388, §13.)

**§2900-14. Repeal of Present Laws.**—Sections 2900, 2907, 2908, 2909, 2910, 2911, 2915, 2916, 2917, 2918, 2919, 2920, 2921, 2922, 2923, 2924, 2925, 2926, 2927, 2932, 2933, 2934, 2935, and 3058 of the General Statutes of Minnesota, 1923, Chapter 141, General Laws of 1925, and Chapter 160, General Laws of 1927, and all acts and parts of acts inconsistent herewith are repealed, but nothing herein contained shall be deemed to affect, modify or repeal Chapter 36, General Laws of 1927 [§§2935-1 to 2935-14], or any part thereof. (Act Apr. 26, 1929, c. 388, §14.)

**§2900-15.** This act shall take effect and be in force from and after its passage and approval, except that Sections 2907, 2908, 2909, 2910, 2915, 2918 and 2932 aforesaid shall continue in force until September 1, 1929. (Act Apr. 26, 1929, c. 388, §15.)

#### **§2903. Hiring of teachers—Contracts.**

Mandatory provision requiring written contract does not apply to teacher entitled to benefit of Tenure Act (Mason's Sts. §§2935-1 to 2935-14). 177M422, 227NW351.

Teacher's contract, held entire for period covered, and where she was unable to commence her services at the beginning of the school year and for over five weeks thereafter the school district was relieved from the contract of employment. 181M309, 232NW329. See Dun. Dig. 1727, 8686.

One married to the daughter of a member of a school board may not be elected as a principal without the unanimous vote of the board. Op. Atty. Gen., Apr. 9, 1931.

#### **§2906. Instruction in morals, etc.**

No constitutional provision is infringed by the practice whereby each school room is provided with a copy of King James' version of the Bible from which the teacher is required to read, without note or comment, extracts from the Old Testament, selected by the superintendent; pupils who do not desire to listen thereto being permitted to retire while such extracts are read. 171M142, 214NW18.

#### **§§2907 to 2911. [Repealed].**

Repealed by Act Apr. 26, 1929, c. 388, §14, effective Apr. 26, 1929, as to §2911, and Sept. 1, 1929, as to §§2907-2910. See ante, §§2900-14, 2900-15.

#### **§§2915 to 2927. [Repealed].**

Repealed by Act Apr. 26, 1929, c. 388, §14, effective Sept. 1, 1929, as to §§2915, 2918, and Apr. 26, 1929, as to remaining sections. See ante, §§2900-14, 2900-15.

#### **§2926.**

G. S. 1923, §§2926, 2927, relating to revocation and suspension of teachers' certificates, does not by implication repeal section 2815, subd. 5, providing that the board may discharge a teacher for cause. *Edie v. S.*, 237NW177.

#### **§§2931-1 to 2931-3. [Repealed].**

Repealed by Act Apr. 26, 1929, c. 388, §14, ante, §2900-14.

#### **§§2932 to 2935. [Repealed].**

Repealed by Act Apr. 26, 1929, c. 388, §14, effective Sept. 1, 1929 as to §2932, and Apr. 26, 1929, as to remaining sections. See ante, §§2900-14, 2900-15.

### **TEACHERS—EMPLOYMENT IN FIRST CLASS CITIES**

#### **§2935-1. Teacher defined.**

This act, constituting §§2935-1 to 2935-14, saved from repeal by Act Apr. 26, 1929, c. 388, §14, ante, §2900-14.

Mandatory provision of Mason's St. §2903, requiring teacher to have written contract, does not apply to teacher entitled to benefit of this act. 178M422, 227NW351.

Act applied to teacher notified prior to passage of act of reappointment for ensuing year. 178M422, 227NW351.

### **TEACHERS' RETIREMENT FUND**

#### **§§2936-2950. [Repealed].**

Repealed Apr. 25, 1931, c. 406, §15, post, §2950-15, except as provided in the repealing act.

#### **§§2930, 2940.**

These two sections are amended by Act Apr.

11, 1929, c. 163, §1, but it would seem that the amendatory act is repealed by the repeal of the amended act by Laws 1931, c. 406, §15, set forth, post, as §2950-15. The latter act re-enacts the subject matter of the former laws.

**§2950-1. Definitions.**—Unless the context indicates a different meaning, the following words and terms shall, wherever used in this act, have the meaning set after the same viz.:

1. The word "teacher" shall include any person who has rendered, is rendering, or shall hereafter render service as a teacher, supervisor, principal, superintendent, or librarian in the public schools of the state, located outside of the corporate limits of the cities of the first class, in the state teachers' colleges, or in any charitable institution supported in whole or in part by public funds, or who has been engaged, is engaged, or shall hereafter be engaged in educational administration in connection with the state public school system, including the state teachers' colleges but excluding the state university, whether the position be a public office or an employment, not including, however, members of any general governing or managing board or body connected with such system, or the officers of common, independent, special, or county school districts.

2. The word "teaching" shall mean and include the service performed by any person coming within the definition "teacher" as hereinbefore set forth.

3. The term "fund" shall mean the Teachers' Retirement Fund, hereinafter referred to.

4. The term "member of fund" shall mean every teacher who shall join and contribute to the Teachers' Retirement Fund as hereinafter provided.

5. The term "board" shall mean and refer to the Board of Trustees of the Teachers' Retirement Fund.

6. The feminine gender shall mean and include the masculine gender, and vice versa.

7. Wherever the plural of any of the above words or terms is used in this act, the plural shall have the same meaning as the singular as hereinbefore defined. (Act Apr. 25, 1931, c. 406, §1.)

**§2950-2. Teachers' retirement fund.**—For the purpose of improving educational service, better compensating teachers, making the occupation of teaching in this state more attractive to qualified persons encouraging savings and rewarding faithful and continued service, there is hereby established and created a fund to be known as the "Teachers' Retirement Fund." Said fund shall be derived from the following sources:

First: From payments made by teachers who become members of said fund, as herein provided, which payments and the accumulated interest thereon shall be designated as "teachers' savings."

Second: From donations, gifts, legacies, devices and bequests made to or for the benefit of said fund.

Third: From all interest derived from the investment or earnings of the moneys belonging to said fund.

Fourth: From the transfer to it of the

assets of the present Teachers' Insurance and Retirement Fund as hereinafter provided.

Fifth: From moneys contributed by the state as hereinafter provided. (Act Apr. 25, 1931, c. 406, §2.)

**§2950-3. Board of trustees created.**—The management of the fund shall be vested in a board of five trustees, to be known as the board of trustees of the Teachers' Retirement Fund. Said board shall be composed of the following persons. The commissioner of education, the state auditor, the commissioner of insurance, and two members of the fund who shall be elected by the members of the fund at the time and place of their annual meeting, hereinafter provided for. At the first election of said members of the fund one trustee shall be elected to serve for one year and one for two years. Thereafter the terms of said elective members shall begin on the first Monday in January next succeeding their election. Vacancies in the case of said elective members shall be filled by appointment by the remainder of the board, the appointee to serve until the members of the fund have elected a trustee to serve for the unexpired term caused by such vacancy. No person shall be appointed by the board or elected by the members of the fund as a trustee who is not a member of the fund in good standing at the time of such appointment or election.

Said board shall annually elect one of its members as president, shall elect a secretary and fix his salary, who shall serve during the pleasure of the board and be the executive officer of said board with such duties as the board shall prescribe. The board shall employ all other clerks and employes necessary to properly administer said fund. One half of the cost and expense of administering the provisions of this act shall be paid by the fund and the balance thereof by the state.

The state treasurer shall be ex-officio treasurer of said fund and his general bond to the state shall cover any liabilities for his acts as treasurer of said fund. He shall receive all moneys payable to said fund and pay out the same only on warrants issued by the state auditor, upon vouchers signed by the president and secretary of the board. Said treasurer shall give receipts for all moneys received by him for said fund, shall keep a full, correct and separate account of the financial transactions connected therewith, and shall make an annual report to the board at its annual meeting of the receipts and disbursements and other financial transactions connected with said fund.

All members of said board shall serve without compensation, but shall receive necessary expenses while attending all meetings of said board, to be paid out of said fund:

The board hereby created shall meet on the first Monday in January, 1932, or as soon thereafter as practicable, at a time and place to be fixed by the commissioner of education, for the purpose of organizing, electing a secretary and adopting by-laws, rules and regulations as hereinafter provided. Thereafter the board shall meet regularly at its office at such times as it shall determine. Special meetings may be held at any time at

the call of the president of the board or of any three members thereof.

The first fiscal year of the fund hereby created shall begin on January 1st, 1932, and end on June 30, 1932. Thereafter the fiscal year of the fund shall begin on the first day of July of each year and end on the 30th day of June of the following year.

A suitable office, with suitable furniture and office supplies, shall be provided by the state, through the proper officer for the use of said board and its secretary. (Act Apr. 25, 1931, c. 406, §3.)

**§2950-4. Powers of board.**—Said board shall have and is hereby granted power to frame by-laws for its own government and for the management of said fund, not inconsistent with the laws of the state, and to modify them at pleasure; to adopt, alter and enforce reasonable rules and regulations, not inconsistent with the laws of the state, for the administration and management of said fund, for the payment and collection of payments from members and for the payment of withdrawals and benefits; to pass upon and allow or disallow all applications for membership in the fund, and for credit for teaching service; to pass upon and allow or disallow all claims for withdrawals, pensions or benefits payable from said fund; to provide for the payment out of said fund of all necessary expenses for the administration thereof and of all claims for withdrawals, pensions or benefits allowed.

In passing upon all applications and claims said board may summon, swear, hear and examine witnesses, and in the case of claims for disability benefits, may require the claimant to submit to a medical examination by a physician of the board's choice, at the expense of the claimant, as a condition precedent to the passing on said claim, and in the case of all applications and claims, may conduct investigations necessary to determine the validity and merit of the same.

The board may sue or be sued in the name of the board of trustees of the Teachers' Retirement Fund, and in all actions brought by or against it said board shall be represented by the attorney general.

It shall be the duty of said board from time to time to certify to the State Board of Investment for investment as much of the funds in its hands as shall not be needed for current purposes. The State Board of Investment shall thereupon invest the sum so certified in such securities as are now or may hereafter be duly authorized legal investments for savings banks and trust companies, and all such securities so purchased shall be deposited with the state treasurer; but in case of necessity such securities shall be sold by said State Board of Investment upon request of said board in order to raise money for current purposes. All interest from said investments shall be credited to the fund and shall be used for current purposes, except as hereinafter provided.

The board shall keep a record of the receipts and disbursements of said fund and a separate account with each member, of said fund. It shall determine annually the net an-

nual interest earnings of said fund by deducting the expenses of said fund from the gross interest earnings. Five per cent of the net annual interest earnings shall annually be set aside as a contingency reserve until said contingency reserve equals five per cent of the assets of the fund. The contingency reserve so created shall be disbursed only by specific direction of the board. The remaining portion of the net annual interest earnings shall be apportioned and credited to the separate accounts of the members of the fund in proportion to the total amount to their credit therein.

The board shall present annually to the members of the fund at its annual meeting a report of the condition of said fund for the last preceding fiscal year, which shall include a statement of the receipts and disbursements of said fund, a list of the securities in which said fund is invested, and such other information as may be necessary or desirable.

One copy of said report shall be filed in the office of the commissioner of education, one with the governor, and other copies filed or distributed as the board may determine. Said report shall also be published in the biennial report of the commissioner of education. (Act Apr. 25, 1931, c. 406, §4.)

**§2950-5. Members of fund.**—Members of the fund shall include all teachers who render any teaching service, as herein defined, after August 1, 1931, in any of the schools or institutions to which this act applies, except:

1. Those who at the time of rendering such service have not attained the age of twenty-five years, but any such teacher who renders any teaching service after September first after attaining such age shall automatically become a member, and, providing further, that any such teacher who has not attained such age shall be admitted as a member upon written application to the board.

Any member of the fund who rendered teaching service before attaining the age of twenty-five years and who has not received credit therefor, may upon written application receive credit for such service and may pay into the fund five per cent of the annual salary received during such service, with interest at four per cent per annum from the time of rendering such service.

2. Those who have rendered teaching service prior to August 1, 1931, in any of the schools or institutions to which this act applies, but any such teacher shall be admitted as a member upon written application to the board made within two years after rendering the first teaching service subsequent to August 1, 1931. (Act Apr. 25, 1931, c. 406, §5.)

**§2950-6. Payments by members.**—Each member of the fund shall pay into the fund a sum equivalent to five per cent of her annual salary, no payment, however, to exceed \$100.00 per year, payable in the manner and at the times hereinafter provided. Said payments shall be credited to the account of the teacher paying the same.

It is hereby made the duty of each person, officer, board of education or managing body

required by law to draw the warrants or orders for payment of salaries to teachers to deduct and withhold from each month's salary due to every teacher who is a member of the fund the amount which such teacher is required to pay into said fund, as herein provided, and at the time of such deduction a statement showing the amount thereof shall be furnished to such teacher.

Such officer, board of education or other managing body of each school district or institution shall, between the first and fifteenth day of January and between the fifteenth and thirtieth days of June of each year, forward to the treasurer of the county in which such school or institution is situated a statement, verified by the secretary or clerk thereof, showing the amount of money so retained from each teacher in accordance with the provisions of this act, and with said statement shall transmit the entire amount so retained to the treasurer of said county; and in case any school district is situated in more than one county the report and remittance shall be sent to the senior county. Such board of education or other managing body shall also, on or before the thirtieth day of June of each year, transmit to the county superintendent of schools a statement showing the name of each teacher, the number of months of school taught by her during the year for which the statement is made, the number of months which constitutes a school year in said district or institution, and such other information as the board may require. If no teacher in such public school or other institution comes under the provisions of this act, said report shall state such fact. Each of the foregoing reports shall be verified by the person making the same. Provided, however, that if the drawing of the warrant or order for the payment of any teacher's salary devolves upon any state officer or board, such officer or board shall make the reports herein required directly to the board of trustees and shall remit the money so deducted to the state treasurer.

Each county superintendent shall on or before the first day of September of each year report under oath to the board, giving an itemized summary of the statements received by him from the school boards and other managing bodies, including a statement of the total amount withheld from the salaries of teachers as shown by said reports.

Between the fifteenth and twenty-eighth days of February and between the fifteenth and thirtieth days of July of each year, the county treasurer of each county shall transmit to the state treasurer all moneys received from the board of education and other managing bodies of schools or institutions to which this act applies, pursuant to the provisions of this act, and shall certify under oath to the correctness of the amount so received and transmitted, and shall furnish such other information as the board shall require. The state treasurer shall credit all moneys received or withheld pursuant to the provisions of this act to the fund, and the reports and data received by him from the county treasurer shall be available for the board.

Any person wilfully failing to perform any

of the duties imposed upon him by this section shall be guilty of a misdemeanor.

The state treasurer, the several county treasurers, and the treasurers of the various school districts and institutions to which this act applies shall be officially liable for the receipt, handling and disbursement of all moneys coming into their hands, belonging to said fund, and the sureties on the official bonds of each of said treasurers shall be liable for such moneys the same as for all other moneys belonging to the school funds of this state. (Act Apr. 25, 1931, c. 406, §6.)

**§2950-7. Funds of former association transferred to new fund.**—All moneys, property and securities to the credit of or payable to the Teachers' Insurance and Retirement Fund created by virtue of Chapter 199, Laws 1915 [Mason's Minn. St., 1927, §§2936 to 2950], on December 31st, 1931, shall be, and the same hereby are transferred and appropriated to the Teachers' Retirement Fund hereby created on January 1st, 1932; and the board of trustees of said Teachers' Retirement Fund, hereby created, shall keep a separate account of said moneys, property and securities so transferred and appropriated, and of moneys hereafter paid into the same, until said Teachers' Insurance and Retirement Fund is liquidated, as herein provided.

Teachers who are members of the Teachers' Insurance and Retirement Fund, as created by Laws 1915, Chapter 199, who do not become members of the Teachers' Retirement Fund, as herein provided, shall upon written application to the board made after January 1, 1932, and not later than January 1, 1934, each be paid in cash an amount equal to the sums of money which they have theretofore paid into said Teachers' Insurance and Retirement Fund.

Teachers whose accounts are so transferred to the new fund shall have the right to pay into such fund and receive similar credit therefor at the time paid any additional sum, either in cash or in installments, which payment or payments so made together with the amount which the teacher has previously paid shall not be in excess of five per cent of the teacher's average yearly salary for the five years of service immediately preceding multiplied by the number of years of previous service for which the teacher has been given credit. Provided, that in the case of any teacher who has rendered more than fifteen years of service there shall be assigned to the teacher's credit from state funds, as a part of such teacher's savings, for each year of service beyond fifteen, five per cent of the total additional amount that such teacher has a right to pay as hereinbefore provided, not, however, exceeding the amount paid by such teacher under such right, and in no event more than fifty per cent of the total additional amount which may be paid. The amount so assigned from state funds shall reduce to the extent thereof the total amount which the teacher may pay in addition to the funds transferred. Any moneys so contributed by the state shall be used only to purchase an annuity as hereinafter provided, and may not be withdrawn in cash as a part of the teacher's savings.

Teachers who in January 1, 1932, are then drawing annuities shall be members of the Teachers' Retirement Fund, hereby created, and shall receive in full satisfaction of all rights under Chapter 199, Laws 1915, an annuity equal to the annuity being paid to her or to which she would be entitled under said Chapter 199 on the basis of pro-rating by the board in effect on the 31st day of December, 1931.

Teachers who are members of the Teachers' Insurance and Retirement Fund, including annuitants, and who become members of the Teachers' Retirement Fund, hereby created, shall each have credited to her account in the records of the Teachers' Retirement Fund, as of January 1, 1932, an amount equal to the sums of money, which they have theretofore paid into said Teachers' Insurance and Retirement Fund. After provision has been made for all obligations against said Teachers' Insurance and Retirement Fund, as may be determined by the board in accordance with the terms of this act, the balance remaining in such fund shall be apportioned to the accounts of the members of the Teachers' Retirement Fund who were members of the Teachers' Insurance and Retirement Fund, including annuitants, on the basis of the amounts which they have paid, together with the time such payments shall have been in the fund; provided that not more than four per cent compound interest shall be credited to active members of the Teachers' Retirement Fund. Any surplus remaining shall be apportioned to the accounts of the then annuitants, to be used in the payment of annuities to be paid as hereinbefore provided. Any further funds which may be needed to pay the annuities payable to such annuitants as hereinbefore provided shall be paid from state funds as hereinafter specified. (Apr. 25, 1931, c. 406, §7.)

**§2950-8. Teachers from other states or other schools.**—Teachers from other states or from public schools of this state to which this act does not apply who become members of the fund may be given credit for such previous teaching service by the board, and, after having acquired credit for 15 years of teaching service in schools or institutions to which this act applies, such teachers may then pay into the fund an amount equal to five per cent of the average yearly salary, not exceeding \$2000.00, received during the five years immediately before making such payments, multiplied by the number of years of previous teaching service for which credit is given, together with interest thereon at the rate of four per cent per annum from the time of rendering such previous service.

The board shall provide in its rules and regulations the method and means for reinstatement as members of the fund of teachers who have withdrawn therefrom and who afterwards re-enter teaching service.

In computing the time of service of a teacher, the length of a legal school year in the district or institution where such service was rendered shall constitute a year under this act, provided such year is not less than the legal minimum school year of this state. No person shall be allowed credit for more

than one year of teaching service for any calendar year. If a teacher teaches for only a fractional part of any year, credit shall be given for such fractional part of the year as the term of service rendered bears to the legal school year in such district or institution, but in no case shall the legal year be less than the minimum school year of this state. (Act Apr. 25, 1931, c. 406, §8.)

**§2950-9. May withdraw fund when.**—When any teacher who is a member of this fund shall cease to render teaching service, as herein defined, in any school or institution to which this act applies, all moneys to the credit of such teacher as teacher's savings, shall, upon written application to the board, be paid to such teacher in cash. In case of the death of a member, before an annuity shall have been drawn, the amount to her credit as teacher's savings shall be payable to any beneficiary or beneficiaries designated in writing and filed with the board, and, if no beneficiary or beneficiaries be so designated, to her estate.

A teacher ceasing to render teaching service as in the preceding section provided, who shall have at said time to her credit 30 years or more of teaching service or has at such time attained the age of fifty-five years, may, in lieu of said cash payment, use the moneys to her credit as teachers' savings as follows:

1. To purchase from the fund a life annuity in such an amount as the teacher's age, the amount to her credit as teachers' savings and the mortality and interest tables in use by the board shall permit; or
2. To purchase from the fund an annuity for a term of fifteen, twenty or twenty-five years, in such an amount as the teacher's age, the amount to her credit as teachers' savings and the mortality and interest tables in use by said fund will permit.

If such teacher shall elect to purchase a life or term annuity, as hereinbefore provided, the state shall at the time of the payment of such annuity pay to said teacher an amount equivalent to such annuity, to be paid from state funds hereinafter provided; provided, however, that in case of a term annuity such payments by the state shall not continue after the death of such teacher. Provided further that the amount of the annuities so paid by the state shall not exceed in amount the term or life annuities which such annuitant could purchase with the moneys to her credit as teachers' savings for the first thirty-five years of teaching service, if she has a teaching service credit in excess of thirty-five years.

Annuities to be paid under the provisions hereof shall be payable quarterly on the first days of January, April, July, and October.

If, during the fifteenth or any subsequent year of teaching service, any member of the fund shall become totally disabled and the board shall determine that such member is permanently disqualified to render teaching service, as herein provided, such member shall, on written application to the board, be paid the amount to her credit as teachers' savings, or may use said amount to purchase from the fund a life or term annuity as above provided. If such teacher shall elect to pur-

chase a life or term annuity, as hereinbefore provided, the state shall at the time of the payment of such annuity pay to said teacher an amount equivalent to such annuity, to be paid from the state funds hereinafter provided; provided, however, that in case of a term annuity such payments by the state shall not continue after the death of such teacher.

Every teacher retired under said total disability provision shall, if required by the board, submit to an annual physical examination by a physician designated by the board, who shall report his findings to the board, and the board's decision as to the teacher's continued total disability and right to further benefits under said total disability provision shall be final.

A teacher who receives total disability benefits, as hereinbefore provided, shall have the amount of said benefits, exclusive of the payments made from state funds, charged against the amount credit to her account as teachers' savings. (Act Apr. 25, 1931, c. 406, §9.)

**§2950-10. Rights not assignable.**—The right of a teacher to avail herself of the benefits of this act is a personal right only and shall not be assignable. All moneys to the credit of a teacher's account in the fund, or any moneys payable to her from the fund shall belong to the State of Minnesota until actually paid to the teacher, or her beneficiary, pursuant to the provisions of this act. Any assignment or attempted assignment of a teacher's interest in said fund or of a beneficiary's interest therein by a teacher, or her beneficiary, shall be null and void and the same shall be exempt from garnishment or levy under attachment or execution. Any beneficiary designated by a teacher under the terms of this act may be changed or revoked by the teacher at her pleasure in such manner as the board may prescribe. In case a designated beneficiary dies before the teacher designating him dies and a new beneficiary is not designated, the teacher's estate shall be the beneficiary. (Act Apr. 25, 1931, c. 406, §10.)

**§2950-11. Teachers to elect members of board.**—At the time and place of the next annual meeting of the Minnesota Education Association, or its delegate assembly, those teachers who are members of the present Teachers' Insurance and Retirement Fund and who have theretofore filed application in writing with the commissioner of education to become members of the Teachers' Retirement Fund, hereby created, shall meet at the call of the commissioner of education for the purpose of electing two members of the board of trustees of the fund, hereby created, and annually thereafter at the time and place of the annual meeting of the Minnesota Education Association, or its delegate assembly, the members of said fund shall also meet at a time and place to be designated by the commissioner of education for the purpose of electing one or more members of said board of trustees, as hereinbefore provided, hearing the annual report of said board, and of transacting any other business that may properly

come before them. (Act Apr. 25, 1931, c. 406, §11.)

**§2950-12. Board to certify to state auditor.**—The board shall from time to time determine the amount of money necessary and presently needed to meet the state's obligations as in this act provided, and shall certify the amount so determined to the state auditor. In so certifying, the board shall certify separately the amount required to pay annuities to annuitants whose accredited teaching service was rendered for and in behalf of the state at large, together with the amount necessary to meet any operating cost for which the state is liable, and the amount required to pay annuities to annuitants whose accredited teaching service was rendered for and in behalf of the schools and institutions located outside of the cities of the first class. In case any annuitant has rendered accredited teaching service in part for the state at large and in part for the schools and institutions located outside of said cities of the first class, the amount certified for the payment of her annuity shall be pro-rated on the basis of the respective amounts contributed by such annuitant to her teachers' savings while rendering such respective teaching service.

The auditor is hereby directed to include in each annual state tax levy the amount or amounts so certified and not included in a previous levy, which amount or amounts are hereby annually levied against the taxable property of the state as herein further provided; provided, however, that the levy against the taxable property outside of cities of the first class shall not in any year exceed fifteen one-hundredth of a mill on each dollar of assessed valuation. In certifying the rate to the several county auditors, the state auditor shall certify, subject to the maximum levy hereinbefore prescribed, the amount required for annuities for teaching service rendered for the state at large, together with the amount required for the state's share of operating costs, against all the taxable property of the state, and shall certify the amount required for annuities for teaching service rendered for the schools and institutions outside of cities of the first class against all of the taxable property located outside of said cities. The proceeds of the tax levies so made are hereby appropriated for the payment of the certificates provided for in the following section. (Act Apr. 25, 1931, c. 406, §12.)

**§2950-13. Auditor may sell tax anticipation certificates.**—The auditor, upon receiving from the board any certificate or certificates as in the preceding section provided, is hereby authorized and directed, in anticipation of the taxes levied or to be levied as in the preceding section provided, to issue and sell certificates of indebtedness of the state in the aggregate amount of such certificate or certificates, not, however, exceeding the amount which will be produced by the maximum levy hereinbefore authorized, such certificates of indebtedness to be numbered serially and to be of such denominations and to bear such rate of interest, not exceeding five per cent per annum, as the auditor shall determine, and to mature at such date as the

auditor shall fix, not later, however, than the thirty-first day of December of the year following the next annual tax levy made after the date of issue. The interest on such certificates of indebtedness shall be payable with the principal thereof, and both principal and interest shall be payable exclusively from the proceeds of tax levies made as provided in the preceding section. Said certificates shall be in such form and upon such terms and conditions, not inconsistent with the terms of this act, as the state auditor shall determine, shall be signed by the governor and attested by the state auditor, and shall be sold for not less than par. Such certificates may be purchased by the state board of investment for the permanent school fund, swamp land fund, internal improvement fund, or any other trust fund of the State of Minnesota, and shall be deemed "authorized securities" within the provisions of section 7714, General Statutes 1923, and laws amendatory thereof and supplemental thereto.

The proceeds of the sale of certificate of indebtedness shall be used for the payment of the state's obligations under this act, provided, that if said proceeds in any year shall be insufficient to pay said obligations in full the amount available for the payment of annuities shall be prorated thereto. (Act Apr. 25, 1931, c. 406, §13.)

**§2950-14. Application.**—This act shall not apply to any city of the first class of this state, except as provided in Section 1 [§2950-1] hereof. (Act Apr. 25, 1931, c. 406, §14.)

**§2950-15. Law repealed.**—Chapter 199, Laws of 1915, as amended by Laws 1925, Chapter 404, Section 1 [Mason's Minn. St., 1927, §§2936 to 2950], is hereby repealed, except as hereinbefore provided; provided, that the present board of trustees of the Teachers' Insurance and Retirement Fund shall continue to serve and function as now provided by law until the board of trustees of the Teachers' Retirement Fund, hereby created, assumes its duties as herein provided. (Act Apr. 25, 1931, c. 406, §15.)

**§2950-16. Effective August 1, 1931.**—This act shall take effect and be in force from and after August 1st, 1931, except as hereinbefore provided. (Act Apr. 25, 1931, c. 406, §16.)

**§2953-1. County superintendents eligible to membership in retirement fund.**—That all county superintendents of schools now in office or who shall hereafter be elected or appointed thereto, and all former county superintendents of schools who have heretofore contributed to the Teachers' Insurance and Retirement Fund, as created by Chapter 199, Laws of 1915 [§§2936 to 2950-16], if otherwise eligible, are hereby made eligible to membership in said fund and shall be admitted to membership therein upon written application to the board of trustees of the Teachers' Insurance and Retirement Fund or to its secretary, and shall thereafter be subject to all of the provisions of said act and of all acts amendatory thereof. (Act Apr. 13, 1931, c. 146, §1.)

**§2953-2. To receive credits for payments.**—All such superintendents or former superintendents of schools who have heretofore contributed to said Teachers' Insurance and Retirement Fund and who become members thereof as hereinbefore provided shall receive the same credit for payments made and for service rendered as if they had been members of said fund during the time of such payments. Any superintendent or former superintendent who has heretofore received or would be entitled to receive, if he had been eligible to membership in the fund, an annuity shall be paid such annuity from the fund as he would have been entitled to had he been a member during all the time he contributed. (Act Apr. 13, 1931, c. 146, §2.)

**§2953-3. Board of trustees may refund payment.**—The board of trustees of said Teachers' Insurance and Retirement Fund shall refund to each county superintendent and each former superintendent of schools who has contributed to said fund and who does not become a member thereof as herein provided the amount of money so contributed, upon application therefore by such superintendent; provided that such application shall be made on or before January 1, 1933. (Act Apr. 13, 1931, c. 146, §3.)

**§2953-4. Payment into fund may be deducted from salaries.**—It is hereby made the duty of the county officials required by law to draw the warrants for the payment of the salaries of such county superintendents of schools to deduct and withhold from each month's salary due to each such superintendent the amount which such superintendent is required to pay into said Teachers' Insurance and Retirement Fund as herein specified, and the county treasurer shall remit the amount so withheld to the state treasurer at the time and in the manner of remitting moneys belonging to said fund received from boards of education or other managing bodies of school districts or other educational institutions, and shall report to the board of trustees of said fund the name of the county superintendent from whose salary such deductions were made and the amount of such deductions. (Act Apr. 13, 1931, c. 146, §4.)

## STATE BOARD OF EDUCATION

### §2958. State board of education.

**Explanatory note.**—The Attorney General has ruled that G. S. 1913, §2873, was not superseded by this act (§§2958 to 2972).

G. S., §2873, read as follows:

"The superintendent of education shall prepare a uniform system of records for public schools; require reports from county and other superintendents and principals of schools, teachers, school officers, and the chief officers of public and other educational institutions, to give such facts as he may deem of public value. He shall establish and carry into effect a uniform system of accounting by public school officers, and he shall have authority to supervise and examine the accounts and other records of all public schools. ('13 c. 550 §5)"

Minneapolis home rule charter, c. 13, §4, held not to apply to a school building and hence the board of education is not required to submit the location and design of the building to the planning commission for approval. 181M576, 233NW 834. See Dun. Dig. 6525, 6768, 8656.

**§2962. State commissioner of education.**

Minneapolis home rule charter, c. 13, §4, held not to apply to a school building and hence the board of education is not required to submit the location and design of the building to the planning commission for approval. 181M576, 233NW 834. See Dun. Dig. 6525, 6768, 8656.

**JUNIOR COLLEGES****§2992-1. Junior college departments, etc.**

Act relating to transportation of pupils to a junior college of a nearby district. Laws 1931, c. 247, ante, §2822-2.

**SCHOOL FUNDS****§2994. Payment of school apportionment.**

—Upon receiving a copy of such apportionment, the state auditor shall draw his warrants on the state treasury, payable to the several counties, for the amount due each county. There is hereby annually appropriated from the current school fund the amount of such apportionments. (As amended Apr. 24, 1931, c. 312, §1.)

**§2995. County auditor to make apportionment.**

—The county auditor, upon receiving the warrant from the state, shall forthwith apportion the amount thereof to the various school districts entitled thereto, and shall at the time of making the March and November tax settlements of each year apportion to the several school districts the amount received from liquor licenses, fines, estrays, and other sources, belonging to the general school fund, upon the same basis provided for the state apportionment, and such money shall be used only for the payment of teachers' wages; but no district shall receive any part of the money received from liquor licenses unless all sums paid for such licenses in such district are apportioned to the county school fund, and no district shall receive in any year from the apportioned fund, exclusive of special state aid, a greater amount than that appropriated by such district from its special and local one mill tax for that year, unless such district has levied for such year the maximum amount allowed by law for school purposes. The auditor shall include in such apportionment all amounts received from special state aid to schools—not theretofore apportioned. (As amended Apr. 24, 1931, c. 312, §2.)

**§2997-2. Funds from national forest to be used for school purposes in some cases.**

—The board of county commissioners of any county may, in its discretion, place the moneys, or any part thereof, received by such county from the federal government for and on account of any national forest lands situated therein into a special fund to be disbursed and paid over to any school district now or hereafter maintaining and operating any school wholly or partly within an area now or hereafter constituting a part of any auxiliary or state forest. Such action shall be taken by said board by resolution duly adopted by it, which resolution shall specify the terms and conditions under which said money shall be so paid over and disbursed to any school district or districts. (Act Apr. 25, 1931, c. 383.)

**PENALTIES****§3009. Basement room defined.**

See §1630-4(12).

**LIBRARIES**

**§3017. Tax levy for library purposes.**—In cities and villages of less than two thousand people, not levying a tax for public library purposes, the school board may maintain a public library for the use of all residents of the district, and provide ample and suitable rooms for its use in the school buildings and in any independent school district embracing any such village, where a library building has been erected with funds donated for library purposes the school district may levy an annual tax of not more than three mills, the proceeds of which tax shall be used for the support and maintenance of said library and shall be known as the library fund.

Upon a library being so established in any such school district whose library building has been erected with funds acquired by gift or donation, the school board is empowered to appoint a library board of nine members of which each member of the school board shall be a member ex officio.

In any such school district by gift or donation, the school board is empowered to appoint a library board of nine members of which each member of the school board shall be a member ex officio. The remaining members of such library board shall be appointed by the school board, one of which remaining members shall hold office for one year, one for two years and one for three years, from the first Saturday of September following their appointment, the term of office of each being specified in such appointment; annually thereafter such school board shall appoint a member of the library board for the term of three years and until his successor shall qualify. Such school board may remove any member so appointed for misconduct or neglect. Vacancies in such board shall be filled by appointment for the unexpired term. Members of such board shall receive no compensation for their services as such.

Immediately after appointment such board shall organize by electing one of its members as president and one as secretary and from time to time it may appoint such other officers and employes as it deems necessary. The secretary before entering upon his duties shall give bond to the school district in an amount fixed by the library board conditioned for the faithful discharge of his official duties. The library board shall adopt such by-laws and regulations for the government of the library and reading room and for the conduct of its business as may be expedient and conformable to law. It shall have exclusive control of the expenditures of all money collected for or placed to the credit of the library funds, and of the rooms and buildings provided for library purposes. All moneys received for such library fund shall be kept in the treasury of the school district credited to the library fund and be paid out only upon itemized vouchers approved by the library board. The library board may fix the com-

pensation of employees and remove any of them at pleasure.

All books or other property given, granted, conveyed, donated, devised or bequeathed to or purchased by such library shall vest in and be held in the name of such school district. Every library and reading room established hereunder shall be free to the use of the inhabitants of the school district, subject to such reasonable regulations as the directors may adopt.

When so established, no such library shall be abandoned without a 2/3 majority vote of the electors cast at any annual or special school meeting called for the purpose.

When so established, in cases where the building has been erected with funds so donated, no such library shall be abandoned without a 2/3 majority vote of the electors cast at any annual or special school meeting called for the purpose. (As amended Apr. 16, 1929, c. 210.)

#### §3020. School and village libraries may combine.

Member of school board cannot be employed jointly by district and municipality as librarian, but may be employed by the municipality after service has been contracted for, in view of § 10305. Op. Atty. Gen., Sept. 9, 1929.

School board of Hopkins may contract with the County of Hennepin for the furnishing of library service by the latter. Op. Atty. Gen., Apr. 10, 1931.

### STATE AID

#### §3026. Classification and definitions.

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(3) A four-year high school shall be a school giving one or more four-year courses beyond the eight-year elementary course, and which shall employ a superintendent, a high school principal and one or more high school teachers. (As amended Apr. 15, 1929, c. 190, §1.)

(4) A high school department shall be a school giving instruction in high school subjects beyond the eight-year elementary course. Such high school department shall employ two or more qualified high school teachers to give instruction in such high school subjects, one of whom may be the superintendent of the high school department and the elementary school associated therewith. (As amended Apr. 15, 1929, c. 190, §2.)

(5) A junior high school shall be a school having a separate organization and employing a principal and two or more teachers giving instruction in the seventh, eighth and ninth years of the twelve-year public school course. (As amended Apr. 15, 1929, c. 190, §3.)

(6) A senior high school shall be a school having a separate organization and employing a principal and two or more high school teachers giving instruction in the tenth, eleventh and twelfth years of the twelve-year public school course. It shall be located in a school district which maintains a junior high school and which employs a superintendent for the entire system of public schools in such school district. (As amended Apr. 15, 1929, c. 190, §4.)

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#### §3028. State aid for equalizing, etc.

State is liable for tuition of high school pupils residing in county district organized under Laws 1929, c. 9, where they attend high school in another county, though the former maintains a high school. Op. Atty. Gen., Dec. 9, 1929.

Student living on the Ft. Snelling reservation and attending high school in St. Paul may not be included for state tuition aid under this section. Op. Atty. Gen., Feb. 10, 1930.

#### §3031. State aid for special classes in school.

A school district which has closed its school and provided for the instruction of its pupils in an adjoining district is not entitled to special aid provided for by this section. Op. Atty. Gen., April 24, 1930.

§3036-10. **Special school aid in certain school districts.**—Whenever in any school district the state since January 1, 1924, has acquired or may hereafter acquire title to real property by foreclosure of rural credits mortgages or in entire or partial discharge of any such mortgage, such school district shall be entitled to receive from the state, in addition to all other state aid, such an amount annually as would be produced by a tax at the rate for local school purposes for the last preceding year upon the valuation of such property in said district so held by the state as fixed by the last assessment thereof. (Act Apr. 20, 1929, c. 265, §1.)

Unconstitutional because of attempt to divert interest received from rural credit loans to the aid of school districts. 235NW380. See Dun. Dig. 8848.

County cannot make an appropriation to pay the expenses of an association in maintaining an action to determine the validity of this act. Op. Atty. Gen., Jan. 4, 1930.

§3036-11. **County Auditor to certify.**—The county auditor of any county or counties in which any school district entitled to aid hereunder is situated shall, on or before June 1, 1929, and on or before May 1, of each year thereafter, certify to the state board of education a statement of the facts entitling such district to aid hereunder. Such certificate in addition to any other information required by such board shall contain a statement of the following facts:

(a) A list of the lands in such district to which the state has acquired title as hereinbefore set forth with the date title was so acquired.

(b) The valuation of each tract of such land according to the last assessed valuation thereof.

(c) The rate of the last annual tax levy in mills for local school purposes in said district. (Act Apr. 20, 1929, c. 265, §2.)

§3036-12. **Department of Rural Credits to check information.**—Upon the request of the state board of education the information called for in such certificate shall be checked and certified by the department of rural credits. (Act Apr. 20, 1929, c. 265, §3.)

§3036-13. **State Board of Education to determine aid.**—On or before July 15, 1929, and on or before July 1 of each year thereafter, the state board of education shall determine whether or not such school district is entitled to aid under the provisions of this act and the amount thereof and shall certify

to the department of rural credit such determination. Said department shall thereupon as soon as practicable cause said amount to be paid to the school district out of the Rural Credit Expense Fund in the same manner as other expenses of said department are paid, and so much of said fund as may be necessary is hereby appropriated for the purposes of this act, not exceeding \$40,000 annually. In the event that the total amount due to school districts hereunder in any fiscal year as certified by the state board of education shall exceed the amount available therefor, such amount available shall be pro-rated among such school districts. (Act Apr. 20, 1929, c. 265, §4.)

**§3036-14. Payments to begin July 1, 1929.**—The first payments of aid hereunder shall be made during the fiscal year beginning July 1, 1929. All lands, title to which was acquired by the state in the manner hereinbefore provided prior to January 7, 1929, and upon which the 1928 taxes shall not have been paid shall be included in calculating the amount of aid to which such district is entitled hereunder for the fiscal year beginning July 1, 1929. In subsequent years lands, title to which was acquired by the state prior to the first Monday of January preceding the beginning of such fiscal year, and upon which taxes for the preceding year shall not have been paid shall be included in such calculation. (Act Apr. 20, 1929, c. 265, §5.)

**§3036-15. When title is acquired.**—For the purposes of this act in the event of foreclosure of mortgages by the state title is acquired upon the expiration of the period allowed by law for redemption by the mortgagor or any lien claimant who has served notice of intention to redeem as provided by law. (Act Apr. 20, 1929, c. 265, §6.)

**§3036-16. Payment to discharge taxes against lands.**—Payment of aid hereunder shall discharge to that extent any taxes which may have been levied against such land for local school purposes for such district for the year ending on December 31 preceding the beginning of the fiscal year for which such aid is paid, and no land upon which the local school taxes for such year have been paid shall be included in calculating the aid to which any such school district shall be entitled hereunder. (Act Apr. 20, 1929, c. 265, §7.)

Laws 1931, c. 38, validates payments of state aid to independent school districts of ten or more townships, where such district would have been entitled to such payment if it had been a common school district.

**§3036-17. Certain school districts to receive state aid.**—Any county school district organized under Laws 1929, chapter 9, in which the full value of all property which is exempt from local taxation because taxes thereon are paid into the state treasury under the provisions of the gross earnings tax laws exceeds the taxable value of all other non-exempt real and personal property, exclusive of moneys and credits, shall be entitled to receive any aid under Laws 1921, addition to all other state aid or relief, such an amount annually as would be produced

by computing a tax of one-fourth of the current tax rate for county school district purposes upon the full value of such property which is exempt from local taxation because of the provisions of the gross earnings tax laws. Provided, that no county school district receiving relief hereunder shall be entitled to receive any aid under Laws 1921, chapter 271 [§§3036-1 to 3036-3]. Provided further, that the amount which any county school district shall receive under this act shall not exceed \$15.00 per pupil enrolled therein. (Act Apr. 13, 1931, c. 143, §1.)

**§3036-18. Must apply to department of education.**—Any such county school district desiring to take advantage of this act shall apply in writing therefor to the Department of Education, and such application shall contain the following facts:

(a) The valuation of the property in said county school district not subject to local taxation because the same is subject to taxation under the gross earnings tax law. Railroad valuation shall cover all railroad property located in said county school district except rolling stock, main tracks, and fills or bridges supporting the same.

(b) The value of all real and personal property, exclusive of moneys and credits, within any such county school district, subject to local taxation.

(c) The rate of taxation in mills for county school district purposes for the current and next preceding year.

(d) The total amount spent for all school purposes by any such county school district for the last preceding year, and an estimate of the expenses for the county school district purposes for the current year.

The information called for in paragraph (a) shall be ascertained and certified, upon the request of any such county school district, by the railroad and warehouse commission; and the information called for in paragraphs (b) and (c) shall be certified by the county auditor of the county in which such county school district is situated; and the information called for in paragraph (d) shall be certified by the clerk of the county school district. (Act Apr. 13, 1931, c. 143, §2.)

**§3036-19. Department of education to fix amount.**—The Department of Education shall immediately consider said matter and determine whether or not any such school district is entitled to aid under the provisions of this act, and if it finds that any such school district is entitled to such aid, it shall determine the amount to which such county school district is entitled within the limitations of this act, and shall certify said amount to the State Auditor, who shall draw a warrant upon the State Treasurer in favor of any such county school district for the amount to which it is so entitled and deliver the same to said county school district, taking proper voucher or receipt therefor. (Act Apr. 13, 1931, c. 143, §3.)

Act Apr. 25, 1931, c. 410, makes an appropriation for aid to school districts to cover deficiencies in revenue for the years 1928, 1929 and

1930 arising from exemption of property from taxation. It is omitted as temporary.

### TRAINING OF TEACHERS

#### §3058. [Repealed].

Repealed by Act Apr. 26, 1929, c. 388, §14, ante, §2900-14.

#### §3064. State Teachers Colleges.

Act appropriating money for erecting, equipping and furnishing certain buildings at State Teachers' College at Moorhead. Laws 1931, c. 3.

**§3073. Physical education in public schools.**—There shall be established and provided in all the public schools of this state, physical and health education, training and instruction of pupils of both sexes and every pupil attending any such school, in so far as he or she is physically fit and able to do so, shall take the course or courses therein as provided by this act. Suitable modified courses shall be provided for students physically or mentally unable or unfit to take the course or courses prescribed for normal pupils. Provided that nothing in this act shall be held or construed to require any pupil to undergo a physical or medical examination or treatment if the parent or legal guardian of the person of such such pupil shall in writing notify the teacher or principal or other person in charge of such pupil that he objects to such physical or medical examination or treatment; provided that high school students in the junior and senior years need not take said course unless required by the local school authorities. (As amended Apr. 20, 1931, c. 225, §1.)

### ACTIONS AND JUDGMENTS

#### §3098. Actions against districts.

School district is not liable at common law for injuries to a pupil which result from the negligent operation of a bus used in the transportation of pupils at public expense. 173M5, 216NW533.

This section does not authorize suit against the school district to recover damages for personal injury caused by the negligence of its officers or its agents in the performance of its governmental functions. 177M446, 225NW292.

School district in maintaining school building exercises governmental function, and is not liable in damages for its negligence in failing to disinfect its school building with result that teacher became infected with tuberculosis, following 49M106, 51NW814; 173M5, 216NW533; 225NW292. 225NW449.

### UNIVERSITY

#### §3110. Board of regents of university.

The board of regents, in the management of the University is constitutionally independent of all other executive authority, and Laws 1925, c. 426, is unconstitutional insofar as it attempts to subject the control of University finances to the commission of administration and finance, in view of Laws 1851, c. 3, 175M259, 220NW951.

Board of Regents of the University may appropriate net earnings of the dormitory and pledge rentals and earnings to the payment of money advanced for dormitory construction and undertake that they shall be so applied, and may evidence its pledge by bonds. Fanning v. U., 236NW217. See Dun. Dig., 8694.

The board may construct a dormitory without legislative authority. Fanning v. U., 236NW217.

The Constitution vests the government of the University of Minnesota in the Board of Regents, following State v. Chase, 175 Minn. 259,

220 N. W. 951; and in the exercise of its granted powers of government, so long as it keeps within the limits of its grant, it is not subject to legislative or executive interference or judicial control at the suit of a taxpayer. Fanning v. U., 236NW217. See Dun. Dig. 8694.

In the construction of a dormitory, the Board of Regents of the University may use earnings from its University press for work done outside of that done for the university, the earnings being incidental to its use for University purposes. Fanning v. U., 236NW217. See Dun. Dig. 8694.

Rentals from buildings on University campus belong to the University without an appropriation by the Legislature, and are subject to use in the construction of a dormitory, or may be used for other purposes as determined by the Board of Regents. Fanning v. U., 236NW217. See Dun. Dig. 8694.

In the exercise of its power of government the Board of Regents may construct a dormitory upon the University campus without legislative authority. Fanning v. U., 236NW217. See Dun. Dig. 8694.

Offices of city attorney and member of Board of Regents of state university are not incompatible. Op. Atty. Gen., April 27, 1931.

#### Laws 1927, c. 442, §2.

The proceeds of rentals from buildings on the campus, not used for University purposes, assigned in a proviso of an appropriation bill to the maintenance and improvement of the campus, may be used in the construction of a dormitory. Fanning v. U., 236NW217. See Dun. Dig. 8694.

**§3132-2. University may receive agricultural aid.**—Whereas the Congress of the United States has passed an act approved by the President, May 22, 1928, entitled "An act to provide for the further development of agricultural extension work between the agricultural colleges in the several states receiving the benefits of the act, entitled 'an act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts,' approved July 2, 1862, and all acts supplementary thereto and the U. S. Department of Agriculture," and

Whereas it is provided in Section 1 of the Act aforesaid that the grants of moneys authorized by this Act shall be paid annually "to each state which shall by action of its Legislature assent to the provisions of this Act," therefore

Be It Resolved by the House of Representatives, the Senate concurring, of the Legislature of the State of Minnesota that assent be and is hereby given to the provisions and requirements of said Act, and that the University of Minnesota be and it is hereby authorized and empowered to receive the grants of money appropriated under said Act, and to organize and conduct agricultural extension work which shall be carried on in connection with the College of Agriculture of the University of Minnesota in accordance with the terms and conditions expressed in the Act of Congress aforesaid. (Act Apr. 9, 1929, c. 140.)

**§3139-1. Tax levy for university building fund.**—To provide the necessary funds for acquiring land and erecting buildings in accordance with a comprehensive building plan for the University of Minnesota, there is hereby levied on the taxable property of the state for the year 1929 and each of the succeeding nine years, a tax sufficient to produce three hundred thousand dollars for each of

said years and the state auditor is hereby directed to levy and collect such tax with and as other taxes for state purposes are levied and collected. The proceeds of such taxes shall be credited to a fund to be known as the "University Building Fund" and the moneys which shall from time to time be paid into said fund are hereby appropriated to the University of Minnesota for the purposes above specified, and for the payment of any certificates of indebtedness issued and sold hereunder together with interest thereon; provided that three hundred thousand dollars out of the funds herein provided for said comprehensive building plan for the university for the year 1929 be and the same is hereby made available immediately for the completion of any building therein now under construction where the total contracts therefor, heretofore executed, will not complete the same as originally planned. To provide the necessary funds immediately and in anticipation of tax collections for the completion of such building now under construction, the board of regents is hereby authorized and empowered to issue and sell at par, as funds are needed for that purpose, certificates in indebtedness to be known and classed as "Minnesota Educational Building Certificates of Indebtedness," bearing interest, payable semi-annually, at a rate not exceeding 5% per annum, in such form and upon such

conditions and terms as said board of regents may determine, in an aggregate amount not exceeding three hundred thousand dollars. The proceeds from the sale of such certificates of indebtedness shall be paid into said University Building Fund. The principal and interest of any certificates so issued shall be paid from the University Building Fund when and as the taxes levied hereunder are collected; the interest as it becomes due, and the principal at the rate of fifty thousand dollars per year beginning with the year 1933; provided that, except as herein otherwise provided, the Physical Education Building at Morris, the Physical Education Building at Crookston, the addition to Institute Hall at Duluth, the new building for dentistry at the University and the Nurses' building at the University be erected first in the order named. (Act Apr. 25, 1929, c. 354, §1.)

#### RELIGIOUS EDUCATIONAL CORPORATIONS

##### §3156. Manner of calling special meetings.

###### Local and special legislation.

Laws 1913, c. 445, providing that the voters of the district at their annual town meeting may fix the salaries of their school officers in ten-town school districts having less than thirty schools and a high school, is constitutional. 175M316, 221NW231.

Laws 1921, c. 77, are set forth, ante, as §§ 2802-16 to 2802-25.

## CHAPTER 15

# RELIEF OF THE POOR

### GENERAL PROVISIONS

#### §3157. Support of poor.

174M227, 218NW882.

175M39, 220NW156.

In an action by one sister against another to enforce contribution for the support of their mother evidence held to show that the relief given was not voluntary but that the mother was a "poor person," and that plaintiff was entitled to recover. 172M362, 215NW512.

On separation of village from town under §§ 1126 to 1128, village becomes liable for support of pauper within its boundaries. Op. Atty. Gen., Nov. 23, 1929.

A grandfather of an indigent child is liable for its support in the school for feeble minded where there are no nearer relatives able to give such support. Op. Atty. Gen., July 16, 1930.

Fact that maternal grandmother has money and would be able to support children does not negative a finding of dependency on the part of children and the right of mother to a pension. Op. Atty. Gen., Oct. 30, 1930.

Woman cannot be compelled to support a pauper husband whom she has ordered from her house. Op. Atty. Gen., Dec. 4, 1930.

A person may be eligible to receive poor relief notwithstanding that he owns property, if the property is insufficient for his support. Op. Atty. Gen., May 5, 1931.

A city which supplied poor relief could receive a conveyance of land owned by the poor person and convey good title, notwithstanding that the property was taken subject to encumbrances and subject to trust impressed thereon for the payment of the otherwise unsecured debts of the poor person. Op. Atty. Gen., May 5, 1931.

#### §3158. Failure to support—Recovery for.

175M39, 220NW156.

#### §3159. Liability of county, town, etc.

In suit against the town of a pauper's settlement for emergency hospitalization rendered the pauper, it was error to receive in evidence a letter written by the pauper months after the aid was furnished, stating he was then employed at good wages. Warren Hospital Ass'n v. M., 236NW211. See Dun. Dig., 3229, 7434.

In suit against town of a pauper settlement for emergency hospitalization, it was error to instruct that jury must find that the person furnished aid continued to be a pauper up to the time of suit. Warren Hospital Ass'n v. M., 236NW211. See Dun. Dig. 7429.

County board may pay for groceries furnished by grocer without prior authority. Op. Atty. Gen., Dec. 20, 1930.

#### §3159-1. Liability of estate of poor person.

175M39, 220NW156.

**§3159-3. Powers of governing body of town, city or village.**—In addition to all other powers now or hereafter by law conferred upon the governing body of any town, city or village, authority is hereby given to receive and accept for their town, city or village real or personal property, encumbered or unencumbered by gift, devise, conveyance or otherwise, from any person whose care, support, treatment or maintenance in whole or in part, under the laws relating to poor relief, is or may be chargeable to, furnished