

1934 Supplement  
To  
**Mason's Minnesota Statutes**  
1927

(1927 to 1934)  
(Superseding Mason's 1931 Supplement)

Containing the text of the acts of the 1929, 1931, 1933 and 1933-34 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state, federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota



Edited by

WILLIAM H. MASON, Editor-in-Chief  
W. H. MASON, JR. }  
R. O. MASON } Assistant Editors  
J. S. O'BRIEN }

CITER- DIGEST CO.  
SAINT PAUL, MINNESOTA.  
1934

county in which the accident occurred. (Act Mar. 26, 1931, c. 88, §5.)

**2740-6. Inconsistent acts repealed.**—All prior acts or parts of prior acts inconsistent with the provisions of this act are hereby repealed. (Act Mar. 26, 1931, c. 88, §6.)

**2740-7. Violation—penalties.**—Any person who violates any section of this act shall be guilty of a

misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than ten dollars nor more than fifty dollars, or imprisonment not exceeding thirty days, or both. (Act Mar. 26, 1931, c. 88, §7.)

**2740-8. Effective July 1, 1931.**—This act shall take effect and be in force from and after July 1st, 1931. (Act Mar. 26, 1931, c. 88, §8.)

## CHAPTER 14

### Education

**2741. Public schools—Tuition free—Age of pupils.**

Children of an orphanage have legal right to attend school without payment of tuition. Op. Atty. Gen., Apr. 17, 1933.

**2742. School districts.**

Laws 1933, c. 356, relating to taxation of agricultural lands, is not applicable to special school districts. Op. Atty. Gen., July 17, 1933.

**2744. Petition.**

Op. Atty. Gen., June 16, 1932; note under §2753.

**2745. Notice of hearing.**

Op. Atty. Gen., June 16, 1932; note under §2753.

**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. 174 M347, 219NW289.

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

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. 174M380, 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 annexed 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. Stat., 1927, §2747]. (R. L. '05, §1286; '07, c. 88; '09, c. 13; '11, c. 264; G. S. '13, §2677; '13, c. 435, §1; '23, c. 304; 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, 228NW168.

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.

Op. Atty. Gen., June 16, 1932; note under §2753.

In the absence of special act, a parcel of land within a village may be detached from a school district having boundary coterminous with the village and attached to an adjoining school district without detaching the land from the village. Op. Atty. Gen., Aug. 27, 1931.

Lands added in enlarging school districts are not subject to taxation for bonds given to fund floating indebtedness of original district. Op. Atty. Gen., June 29, 1933.

**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.)

**2750. Districts in two or more counties.**

Where school district contains land in two counties, county board of both counties must concur in dissolution. Op. Atty. Gen., June 16, 1932.

**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. (R. L. '05, §1288; G. S. '13, §2685; 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.

Notice contemplated is one set forth in §2745. Op. Atty. Gen., June 16, 1932.

Consolidated school district which is also joint district, may dissolve and become part of unorganized territory in county. Op. Atty. Gen., June 16, 1932.

**2755. Certain districts to receive aid as consolidated districts.**

Board has no power to revoke rights and privileges of consolidated school district. Op. Atty. Gen., June 21, 1933.

School districts granted rights and privileges of consolidated district under this section is a consolidated school district within meaning of Laws 1933, c. 356. Op. Atty. Gen., July 5, 1933.

**2757. Liability of consolidated school districts.**

Bonded indebtedness of individual common school districts consolidated into one district is not transferred to whole territory. Op. Atty. Gen., Jan. 17, 1933.

**2764. Schools to receive amount expended for transportation of children.**

School district is under no obligation to transport high school pupils who have completed the four-year high school course for the purpose of taking further and additional study. Op. Atty. Gen., Aug. 24, 1931.

**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 days' 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. ('23, c. 316, §1; Apr. 20, 1931, c. 249.)

There is no constitutional specification of the qualifications of electors to vote upon matters other than the election of elective officers and this act is not invalid. Op. Atty. Gen., Sept. 1, 1931.

This section as amended by Laws 1931, c. 249, is not unconstitutional by reason of the fact that it limits the right to vote on the dissolution of a consolidated school district to resident free-holders. Op. Atty. Gen., Sept. 1, 1931.

**2767. Voters of district to vote on question of dissolution.**

School boards in unobligated districts without taxable real estate may be dissolved. Laws 1933, c. 240.

**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.)

Act Apr. 13, 1933, c. 227, provides that bonds of dissolved school districts in counties having 23 or 29 townships and assessed valuation of \$4,000,000 to \$5,000,000, shall be an obligation of unorganized territory. Unconstitutional as special legislation. 180M44, 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 territory is attached. (Act Feb. 13, 1929, c. 15, §2.)

**2768-3. Dissolution of school districts.—**Whenever all of the taxable lands within any school district in this state, however organized, have been acquired and are under the control of the state of Minnesota or the United States, and no school has been held therein for more than six months and such district has on hand sufficient money to pay and discharge all of its legal liabilities and obligations, such district may be dissolved by resolution adopted by the school board thereof, without notice, and its school property may be sold and disposed of by such board, without notice, to the state of Minnesota or the United States as such board may determine; a certified copy of the resolution of dissolution adopted by such board shall be filed with the county auditor of the county wherein such district is located; provided, however, that no such dissolution shall become effective unless all of the obligations or liabilities of such district shall have been paid and discharged and the remaining funds thereupon shall be paid to the county treasurer and the same placed to the credit of the unorganized district. If there is no unorganized district within such county, such funds shall be proratably distributed by the county treasurer to the school districts within such county adjoining such dissolved district. (Act Apr. 13, 1933, c. 240, §1.)

**2768-4. To include statement of obligations in certificate.—**The school board shall attach to such certified copy of resolution dissolving such district a statement setting forth all of the obligations or liabilities and property of such district before such resolution was adopted, the disposition made of such property and receipts from the creditors of such school district showing that all such obligations or liabilities have been paid. (Act Apr. 13, 1933, c. 240, §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.

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. Consolidation of school districts in certain counties—submission to voters.—**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.

Provided that nothing in this act shall be construed to apply to counties affected by Section 271, Laws of Minnesota, 1919, or acts amendatory thereto. (Act Feb. 7, 1929, c. 9, §1; Feb. 26, 1931, c. 31, §1; Feb. 15, 1933, c. 30.)

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 pub-

lished 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; 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.)

**2780-18. Consolidated school district may build sidewalks in certain cases.**—That the governing board of any consolidated school district which now or hereafter includes within its limits two villages, may appropriate and expend moneys to build or assist in building a sidewalk or sidewalks for the use of pupils and the general public, connecting with sidewalks in said villages and leading to the school house. (Act Mar. 3, 1933, c. 50, §1.)

**2780-19. Village council may appropriate money therefor.**—That the village council of any such village may likewise appropriate money for the same purpose or to assist the school district. (Act Mar. 3, 1933, c. 50, §2.)

**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 Stat., §2747]. (R. L. '05, §1301; G. S. '13, §2704; '15, c. 113, §1; 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: Pro-

vided 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. (R. L. '05, §1305; G. S. '13, §2710; '25, c. 147, §1; Apr. 25, 1931, c. 390.)

In school districts where the annual meeting had been held on first Monday in September, such meeting changed to third Tuesday in July. Laws 1933, c. 84.

Salary of chairman and treasurer of common school district may be determined at annual meeting without specifying such action will be taken in notice of meeting but opposite is true as to increasing compensation of clerk. Op. Atty. Gen., Aug. 2, 1933.

**2793-1. Annual school meetings.**—In any school district in this state whether organized under a general or a special law, where the annual meeting is required by law to be held on the first Monday of September in each year, the time of such annual meeting is hereby changed to the third Tuesday of July in each year commencing with the third Tuesday of July, 1933. (Act Mar. 16, 1933, c. 84.)

**2794. Special school meetings.**

Op. Atty. Gen., Apr. 13, 1932; note under §1962. 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.

Annual meeting having failed to fix salaries of school board members, such members may not be paid compensation in previous year but there may be special meeting for purpose of fixing salaries. Op. Atty. Gen., Sept. 12, 1933.

**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.

Laws 1931, c. 188 [Mason's 1931 Supp., §2803-1], confers upon school boards of common school districts, duty to publish official proceedings. Op. Atty. Gen., Mar. 30, 1932.

Proceedings of school district cannot be published in newspaper outside of district if there is a newspaper published in the district. Op. Atty. Gen., Jan. 21, 1933.

**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.)

This section authorizes the calling of a special election to rescind authority previously given for an issue of bonds to the state. Independent School Dist. No. 68 of Faribault County v. R., 185M261, 240NW649.

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 so do. Op. Atty. Gen., June 10, 1931.

School electors may transfer accumulated building fund to the general fund when need for special fund no longer exists. Op. Atty. Gen., Feb. 1, 1933.

Where motion to move school house was passed, and immediately following motion to reconsider prevailed, question of moving school house could be again voted on at same meeting. Op. Atty. Gen., Mar. 15, 1933.

Where officer was elected at annual school election by viva voce and not by ballot as required by law, another officer could be elected to fill the office at next annual election without necessity of institution of removal proceedings of de facto officer. Op. Atty. Gen., Aug. 21, 1933.

(4). Where lease of land on which school building stands is cancelled, the school board cannot move the building to another location without calling a special election. Op. Atty. Gen., Oct. 2, 1931.

#### 2799. Candidates for school district offices.

Where ballot at school district election contained two names and only two were to be elected, and another name was written or pasted on, and there was no cross mark, the ballot could only be counted in favor of the person whose name was written or pasted on. Adams v. M., 184M602, 239NW594. See Dun. Dig. 2952, 8679.

Where ballots at school district election contained two names and only two are to be elected, ballots cast should be counted for the two names though no cross marks appeared. Adams v. M., 184M602, 239NW594. See Dun. Dig. 8679.

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.

One whose name has been filed as candidate by others may withdraw his name. Op. Atty. Gen., June 5, 1933.

#### 2800. Additional powers of meetings in common school districts.

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

**2802-1. Powers and compensation of school boards in certain districts.**—In each common school district in the state now or hereafter containing ten or more townships and four or less schools the school board shall consist of five trustees to be elected in the manner and for the terms hereinafter provided, and to hold office until their successors are elected and qualify. The annual meeting of each such district for the election of trustees shall be held at the time and in the manner provided by law for independent districts. At the annual meeting of each such common school district to be held in July, 1927, there shall be elected five trustees, to take office on August 1, 1927, two to hold office for one year, two to hold office for two years, and one to hold office for three years from said date, and thereafter at each annual meeting one or two trustees, as the case may be, shall be elected to succeed those whose terms will expire on August 1, next following such meeting and to serve for three years; provided, that all trustees now serving upon the board of any such district shall hold office until the expiration of the terms for which they were heretofore elected, as hereinafter provided, and no new trustees shall be elected to fill the places held by such present trustees except as hereinafter provided. The term for which each trustee is elected shall be designated on the ballot. The board of any such district as now constituted shall continue to serve and to act as such board until August 1, 1927, and until a new board is constituted as herein provided. If any trustee now in office has heretofore been elected for a term expiring after August 1, 1927, he shall be entitled to serve out such term, and shall be deemed to be a member of the new board, and shall hold one of the regular places thereon hereinbefore provided for which the term expires at the same time as the term of such present trustee, or if there be no such place on the board, he shall hold, until the expiration of the term for which he was elected, one of the regular places on the board of which the term expires on August 1 next following the term for which he was elected; provided, that the term for which he was elected shall not be extended, and at the annual meeting next preceding the expiration of such term a successor shall be elected to take office upon the expiration of such term and to serve out the remainder of the regular term of the place on the new board held by such

present trustee. ('25, c. 10, §1; Apr. 21, 1933, c. 391, §1.)

#### 2802-4a. Powers of boards of certain common school districts—employment of superintendent.

The school board in a common school district containing ten or more townships and four or less schools shall have and exercise all powers and responsibilities, and be subject to the same laws and regulations as school boards in independent districts except as herein defined. The board shall have power to employ a superintendent of schools for a term of not to exceed three years, and to fix his compensation. ('27, c. 84, §6, as added by Act Apr. 21, 1933, c. 391, §2.)

#### 2802-4b. Same—compensation of clerk and treasurer.

The clerk and treasurer of the school board in a common school district containing 10 or more townships and four or less schools shall receive such compensation as may be fixed by the board at the annual organization meeting in August, but not to exceed \$100.00 per year. ('27, c. 84, §7, as added by act Apr. 21, 1933, c. 391, §3.)

#### 2802-15. Same—Conduct of elections.

Fact that polls were open late did not invalidate election. Op. Atty. Gen., Aug. 2, 1933.

#### 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 edu-

cation 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; 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 purposes, for the construction of schoolhouses, 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; 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.)

School district held entitled to set-off against warrants the amount of tax funds embezzled by bank's officers and school treasurer. First Nat. Bank of Windom v. C., 184M635, 238NW634.

Warrants of a school district are nonnegotiable, and defense of set-off available against payee is available against an assignee. First Nat. Bank of Windom v. C., 184M635, 238NW634.

**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 organ-

ization 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 received 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; 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.)

This statute confers upon common school district boards, duty of school boards of independent districts to publish official proceeds as provided in §2797. Op. Atty. Gen., Mar. 30, 1932.

**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, 214NW258.

Offices of treasurer of district and county commissioner are incompatible. 157M263, 196NW467.

A member of a board of education of a school district may sell textbooks to the pupils providing the district does not undertake in any way to furnish such textbooks. Op. Atty. Gen., Aug. 1, 1931.

Directors selected by electors of a common school district to supervise the building of a new school house have no right to vote with the members of the school board on questions having to do with the erection of the building, and are not entitled to any compensation. Op. Atty. Gen., Aug. 18, 1931.

Office of member of school board leaving to reside elsewhere is automatically vacated. Op. Atty. Gen., Feb. 24, 1933.

Offices of town assessor and member of school board in same town are not incompatible. Op. Atty. Gen., Mar. 6, 1933.

School district may maintain replevin against clerk or treasurer who has failed of re-election and refuses to turn over books and records. Op. Atty. Gen., Aug. 22, 1933.

Clerk, although irregularly elected, is officer de facto empowered to perform all duties until ousted by court proceedings. Op. Atty. Gen., Sept. 27, 1933.

**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.

Official bond covering term of officer and "until successor is elected and qualified" extends only for a reasonable time after expiration of term. American Surety Co. v. Independent School Dist., (CCA8), 53F(2d) 178. Certiorari denied 52SCR200. See Dun. Dig. 8021.

**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 districts 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 to 2807-14. [Repealed].**

Repealed by Act Mar. 27, 1933, c. 117.

**2807-15. Annual election of school board in certain districts.**—That in any independent school district, however organized, 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, and the government of which independent school district is not provided for in the charter of such city, the annual election of members of the board of education of such school district shall be held on the first Tuesday after the first Monday in April, except that if said date occurs within 20 days after the date when this act shall become applicable to any school district, then the school

district election in said district for said year only shall be held on the third Tuesday in May and in succeeding years shall be held on the first Tuesday after the first Monday in April, which elections shall be held in the manner now prescribed by law, except as hereinafter provided. The members of said board of education shall be so elected for the terms and in the manner prescribed by law. (Act Mar. 27, 1933, c. 117, §1.)

**2807-16. May be held on same date as general election.**—Whenever the date for holding such election shall coincide with the date of a general municipal election in any such city, the members of said board of education 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 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 board or other governing body. The polls shall be open for voting for members of such school board during the times that the polls are open for the election of city officers and no longer. Separate boxes shall be provided at each voting place in which shall be deposited the ballots cast for members of such school board. The judges and clerks of election appointed to receive and count the ballots cast at such election for officers of such city shall act as 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 Mar. 27, 1933, c. 117, §2.)

**2807-17. Elections validated.**—That any election of members of the board of education or governing body of any such school district heretofore held in any such school district and the tenure of all members elected thereat for the terms of office for which they were elected, are hereby declared in all respects legal and valid. (Act Mar. 27, 1933, c. 117, §3.)

**2807-18. Law repealed.**—Laws 1931, chapter 359 [2807-8 to 2807-14] is hereby repealed. (Act Mar. 27, 1933, c. 117, §4.)

Sec. 5 of Act Mar. 27, 1933, cited, provides that the act shall take effect from its passage.

**2807-19. Independent school districts not to draw orders without funds.**—That from and after January 1, 1934, no independent school district which in the year 1932 had a population exceeding 20,000 and an assessed valuation (exclusive of moneys and credits) of more than \$2,750 per capita of population shall draw any order or warrant on any fund until there is sufficient money in such fund to pay the same, together with all orders previously issued against said fund. (Act Apr. 10, 1933, c. 210, §1.)

**2807-20. Population to be determined by special census.**—That in determining the application of this law to any school district, the population thereof shall be determined by any special census taken pursuant to the provisions of Laws 1921, Chapter 417, since the year 1930 and prior to the enactment of this statute; and if no such special census has been taken, the population shall be determined by the last Federal census; if the report of the Director of the Census does not show the population of such school district, its population shall be considered as being that used by the county auditor of the county in which such school district is located as a basis for determining the per capita limitations of the levies of such school district for the years 1931, and 1932. The val-

uation of such school district shall, for the purpose of this Act, be the valuation of the property therein, exclusive of moneys and credits, used by the county auditor of such county as a basis for spreading the 1932 taxes of said district. (Act Apr. 10, 1933, c. 210, §2.)

**2807-21. Not to create additional indebtedness.**—Whenever from and after January 1, 1934, the expenses and obligations incurred, chargeable to any particular fund of such district in any calendar year, are sufficient to absorb 85% of the entire amount of the tax levy for such fund payable in that year, including such amount as may remain in the fund from the levy of the prior year or years, no officer or board of such school district shall have power, and no power shall exist, to create any additional indebtedness (save as the remaining 15% of said tax levy is collected) which shall be a charge against that particular fund or shall be in any manner a valid claim against such district; but such additional indebtedness attempted to be created shall be a personal claim against the officer or members of the board voting for or attempting to create the same. (Act Apr. 10, 1933, c. 210, §3.)

**2807-22. May issue and sell tax levy certificates.**—At any time after January 1, following the making of an annual tax levy the governing body of such school district may, for the purpose of meeting the obligations of the ensuing year, by resolution issue and sell as many certificates of indebtedness as may be needed in anticipation of the collection of taxes so levied for any fund named in such tax levy for the purpose of raising money for such fund. No certificate shall be issued and outstanding for any separate fund exceeding 65% of the amount named in the tax levy for that fund as spread by the county auditor, and in no event exceeding the uncollected portion of said levy. No certificate shall be issued to become due and payable later than December 31 of the year succeeding the year in which said tax levy, certified to the county auditor as aforesaid, was made. Such certificates shall not be sold for less than par and accrued interest and shall not bear a greater rate of interest than six per cent per annum. Each certificate shall state upon its face for which funds proceeds of the certificate shall be used, the total amount of the certificate so issued under such fund, and the whole amount embraced in the tax levy for that particular purpose. They shall be numbered consecutively and be in denominations of \$25 or multiple thereof and may have interest coupons attached, and shall be otherwise of such terms and form and be made payable at such place as will best aid in their negotiation. The proceeds of the tax assessed and collected as aforesaid on account of said fund, and the full faith and credit of such school district shall be irrevocably pledged for the redemption of the certificates so issued. Such certificates shall be paid from the moneys derived from the levy for the year against which such certificates were issued, or if there be not sufficient for such purpose, from other funds of the district. The money derived from the sale of said certificates shall be credited to such fund or funds for the calendar year immediately succeeding the making of such levy and shall not be used or spent except during such succeeding year. No certificates for any year shall be issued until all certificates for prior years have been paid, nor shall any certificate be extended; provided that money derived from the sale of the certificates for any one year may, if necessary, be used to redeem unpaid certificates issued in a prior year. The certificates of indebtedness issued hereunder shall be legally negotiable the same as any other commercial paper or bills of exchange. (Act Apr. 10, 1933, c. 210, §4.)

**2807-23. Certificates may be held by school treasurer.**—In the event the school board of any such district is unable to sell such certificates of indebtedness in the manner prescribed, it may issue such certifi-

cates of indebtedness to the district treasurer, or his order, and deposit the same with him. Certificates so issued shall be held by the treasurer until they may be sold and shall bear interest at six per cent per annum. The district may thereupon, so long as such certificates are on deposit with the treasurer, issue warrants upon the funds against which such certificates were issued, the total principal amount of such warrants not to exceed the total principal amount of the certificates so held by the treasurer. Such warrants shall bear interest at six per cent per annum from and after the date they are presented to the treasurer and stamped "Not paid for want of funds, but protected by certificates of indebtedness now held by me." Such certificates may be sold by the school board and the proceeds of such sale shall be used to take up such warrants in the order presented for payment. Interest upon such warrants shall stop upon the date they are called by the treasurer for payment. Such certificates of indebtedness so held by the treasurer shall be paid at the same time and in the same manner as if they had been issued to a purchaser thereof. All warrants attempted to be issued and all obligations or indebtedness attempted to be incurred under authority of this section, in excess of the principal amount of the certificates of indebtedness so held by such treasurer shall be void. (Act Apr. 10, 1933, c. 210, §5.)

**2807-24. To be on cash basis after January 1, 1934.**—From and after January 1st, 1934, such district shall be deemed for all purposes to be on a cash basis and shall thereafter remain on a cash basis. All taxes levied in 1933 shall be considered as the tax revenues for the year 1934, and thereafter in any such school district taxes shall be levied as now provided by law, but for the succeeding year. (Act Apr. 10, 1933, c. 210, §6.)

**2807-25. May issue bonds to take up indebtedness.**—If any such school district prior to January 1, 1933, has incurred by proper authority a valid indebtedness, excluding bonds, in excess of its cash on hand not specifically set aside for the retirement of bonds and interest thereon, such school district may for the purpose only of paying and discharging such valid indebtedness and interest thereon, issue its bonds in the manner now provided by law, except that such bonds may be issued on a vote of the school board thereof, without a vote of the electors; provided that if any moneys received from taxes levied in 1932 and payable in 1933 for any purposes other than payments on bonds and bond interest have been used prior to the issuance of bonds authorized by this Act for the retirement of indebtedness existing on January 1, 1933, or interest thereon, such bond issue may include the amount of such payments for the purpose of reimbursing the funds from which such moneys were paid; provided further that the purchaser of such bonds shall not be charged with notice of invalidity of any indebtedness funded by such bonds, and bonds issued hereunder in the total amount of such indebtedness as determined by resolution of the school board of said district, in the hands of any purchaser, shall be valid obligations of the school district notwithstanding any claims of invalidity of any such indebtedness funded thereby; provided further that any expenditures prior to the date of this Act for any of the following purposes in said district are hereby legalized and validated as against any claim that such district had not the power to incur the obligation or had not proceeded in the proper manner to exercise such power, viz.; architects' commissions and salaries of building inspectors; salary paid to school attorney; hospital bills and bills for medical and dental services to students and employees injured in connection with school activities; medical, dental and optical supplies for school doctor, dentist or nurse; liability and property damage, insurance premiums on cars, busses and trucks owned by the school district; indemnity insurance premiums for school dentists and doctors; pre-

miums on surety bonds for officers and employees of the district; athletic and physical training supplies; expenses of operating students' savings system; recreational activities and facilities. (Act Apr. 10, 1933, c. 210, §7.)

**2807-26. Annual tax levy.**—The school board of any such district issuing bonds pursuant to the authority of this Act shall, at the time of the issuance thereof, by resolution provided for a levy for such year until the principal and interest of said bonds are paid in full of a direct annual tax in an amount sufficient to pay the principal and interest thereon when and as such principal and interest become due. Such tax levies shall be within the per capita limitations provided by law upon the tax levies of said district, and the county auditor at the time of spreading the annual tax levy of said district shall adjust the same so that the total levy, including any levy for said bonds, whether issued to the state or a private purchaser, shall be within the per capita limitations provided by law plus any levies which may be authorized in excess of such limitation by Laws 1921, Chapter 417, for bonded indebtedness and interest thereon. (Act Apr. 10, 1933, c. 210, §8.)

**2807-27. Disposition of bonds.**—Such bonds may be issued and sold to the State of Minnesota pursuant to existing laws at the time of the issuance thereof (except as herein modified) or to private purchasers, or to both, or exchanged for outstanding orders at par with accrued interest. (Act Apr. 10, 1933, c. 210, §9.)

**2807-28. School Board to prepare budget.**—The school board of such district shall, each year prior to the making of the tax levy for the ensuing year, prepare a budget of the expenditures of such district during the year in which such taxes will be collected, itemizing the purposes for which such moneys will be expended, and the amount of obligations that will be incurred for each such purpose. If at any time during such year it appears that such district is incurring obligations at a rate or upon a scale which would make it probable, if such rate or scale be continued, after allowing for variations in seasonal requirements, that the total expenditures for said year would exceed the moneys to be received therein, after allowance for probable tax delinquencies, the District Court, in an action brought by any taxpayer, may require such district to limit its expenditures to a rate and scale which will assure that the total obligations incurred in such year will not exceed the moneys available therein. (Act Apr. 10, 1933, c. 210, §10.)

**2807-29. Contracts in violation to be null and void.**—Each contract attempted to be entered into, or indebtedness or pecuniary liability attempted to be incurred in violation of the provisions of this Act, shall be null and void in regard to any obligation thereby sought to be imposed upon the school district, and no claim therefor shall be allowed by the school board of said district; nor shall the clerk of such district or any other officer issue or execute, nor shall the district treasurer pay any warrant or certificate of indebtedness issued on account thereof. Each member of the school board and each other district officer participating in or authorizing any violation of this Act shall be individually liable to the district or to any other person for any damage that is caused thereby. Every member of the school district present at a meeting thereof when any action is taken with reference to paying money or incurring indebtedness or entering into any contract in violation of the provisions of this Act shall be deemed to have participated in and authorized the same unless he shall have caused his dissent therefrom to be entered upon the minutes of the meeting. (Act Apr. 10, 1933, c. 210, §11.)

**2807-30. Not to change on account of changing population.**—When a school district has once come under the provisions of this Act, it shall continue under its provisions notwithstanding any subsequent

change in assessed valuation or population. (Act Apr. 10, 1933, c. 210, §12.)

**2807-31.—May be postponed for one year in certain cases.**—The funding of the indebtedness of the school district is necessary to the functioning of this law and if any such school district shall find it impossible to sell the bonds herein provided for, prior to January 1, 1934, the operation of this Act shall be postponed for one year. In that event the indebtedness authorized to be funded hereunder shall be the valid indebtedness, excluding bonds, in excess of cash on hand not specifically set aside for the retirement of bonds and interest thereon, incurred prior to January 1, 1934; and the provisions of Sections 1, 3, 4, 5, 6, 10 and 11 shall not take effect until after January 1st, 1935. (Act Apr. 10, 1933, c. 210, §13.)

**2807-32. Provisions separable.**—If any provision hereof is found unconstitutional, such determination shall not affect the validity of the remaining provisions not clearly dependent thereon. (Act Apr. 10, 1933, c. 210, §14.)

**2807-33. To be on cash basis.**—That from and after January 1, 1934, no independent school district which in the year 1932 had a population exceeding 7,500 and less than 12,500 and an assessed valuation (exclusive of moneys and credits) of more than \$2,750 per capita of population and which accepts the provisions hereof in the manner hereinafter provided, shall draw any order or warrant on any fund until there is sufficient money in such fund to pay the same, together with all orders previously issued against said fund. (Act Apr. 22, 1933, c. 438, §1.)

**2807-34. Special census to determine.**—That in determining the application of this law to any such school district, the population thereof shall be determined by any special census taken pursuant to the provisions of Laws 1921, Chapter 417, since the year 1930 and prior to the enactment of this statute; if no such special census has been taken, the population shall be determined by the last Federal census; if the report of the Director of the Census does not show the population of such school district, its population shall be considered as being that used by the county auditor of the county in which such school district is located as a basis for determining the per capita limitations of the levies of such school district for the year 1932. The valuation of such school district shall, for the purpose of this act, be the valuation of the property therein, exclusive of moneys and credits, used by the county auditor of such county as a basis for spreading the 1932 taxes of said district. Provided that nothing in this section shall preclude any such school district from hereafter taking a special census for the purpose of determining the amount of taxes that may be levied in any such district. (Act Apr. 22, 1933, c. 438, §2.)

**2807-35. Shall not incur indebtedness.**—Whenever from and after January 1, 1934, the expenses and obligations incurred, chargeable to any particular fund of such district in any calendar year, are sufficient to absorb 85% of the entire amount of the tax levy for such fund payable in that year, including such amount as may remain in the fund from the levy of the prior year or years, no officer or board of such school district shall have power, and no power shall exist, to create any additional indebtedness (save as the remaining 15% of said tax levy is collected) which shall be a charge against that particular fund or shall be in any manner a valid claim against such district, but such additional indebtedness attempted to be created shall be a personal claim against the officer or members of the board voting for or attempting to create the same. (Act Apr. 22, 1933, c. 438, §3.)

**2807-36. May issue certificates of indebtedness.**—At any time after January 1, following the making of an annual tax levy the governing body of any such school district may, for the purpose of meeting the obligations of the ensuing year, by resolution issue

and sell as many certificates of indebtedness as may be needed in anticipation of the collection of taxes so levied for any fund named in said tax levy for the purpose of raising money for any such fund. All certificates of indebtedness issued under the provisions of this Act shall be negotiable and shall be payable to order of the payee and shall have a definite due date. No certificate shall be issued for any of said separate funds exceeding 65% of the amount named in said tax levy for said fund as spread by the county auditor, and in no event exceeding the uncollected portion of said levy. No certificate shall be issued to become due and payable later than December 31 of the year succeeding the year in which said tax levy, certified to the county auditor as aforesaid was made. Such certificate shall not be sold for less than par and accrued interest and shall not bear a greater rate of interest than six per cent per annum. Each certificate shall state upon its face for which funds proceeds of the certificate shall be used, the total amount of the certificates so issued against such fund, and the whole amount embraced in said tax levy for that particular purpose. They shall be numbered consecutively and be in denominations of \$25; or any multiple thereof, and may have interest coupons attached, and shall be otherwise of such terms and form and be made payable at such place as will best aid in their negotiations. Provided that if any such school district shall be unable for any reason to sell its certificates of indebtedness in sufficient amount to provide the necessary cash to meet its obligations, it may proceed by one of the following methods:

(1) Issuing its certificates of indebtedness in any denomination, but within the limitations as to total amounts herein contained, payable to the order of the creditor of such district in payment of the debt, claim or account of such creditor after the same has been allowed by the school board; or

(2) Issuing its negotiable certificates of indebtedness within the limitations herein contained, to the district treasurer, payable to his order, and depositing the same with him. Certificates so issued shall be held by the treasurer until they may be sold and shall bear interest at six per cent per annum. The district may thereupon, so long as such certificates are on deposit with the treasurer, issue warrants upon the funds against which such certificates were issued, the total principal amount of such warrants not to exceed the total principal amount of the certificates so held by the treasurer. Such warrants shall bear interest at six per cent per annum from and after the date they are presented to the treasurer and stamped "Not paid for want of funds, but protected by certificates of indebtedness now held by me." Such certificates may be sold by the school board and the proceeds of such sale shall be used to take up such warrants in the order presented for payment. Interest upon such warrants shall stop upon the date they are called by the treasurer for payment. Such certificates of indebtedness so held by the treasurer shall be paid at the same time and in the same manner as if they had been issued to a purchaser thereof. All warrants attempted to be issued and all obligations or indebtedness attempted to be incurred under authority of this subsection, in excess of the principal amount of the certificates of indebtedness so held by such treasurer shall be void. (Act Apr. 22, 1933, c. 438, §4.)

**2807-37. Certificates to be paid from tax levy.**—The proceeds of the tax assessed and collected as aforesaid on account of said fund, and the faith and credit of such school district shall be irrevocably pledged for the redemption of the certificates so issued. Such certificates shall be paid from the moneys derived from the levy for the year against which such certificates were issued, or if there be not sufficient for such purpose, from other funds of the district. The money derived from the sale of said certificates shall be credited to such fund or funds for the calendar year immediately succeeding the making of such levy and

shall not be used or spent except during such succeeding year. No certificates for any year shall be issued until all certificates for prior years have been paid, nor shall any certificate be extended; provided that money derived from the sale of the certificates for any one year may if necessary, be used to redeem unpaid certificates issued in a prior year. (Act Apr. 22, 1933, c. 438, §5.)

**2807-38.** Shall be on cash basis from January 1, 1934.—From and after January 1st, 1934, such district shall be deemed for all purposes to be on a cash basis and shall thereafter remain on a cash basis. All taxes levied in 1933 shall be considered as the tax revenues for the year 1934, and thereafter in any such school district taxes shall be levied as now provided by law, but for the succeeding year. (Act Apr. 22, 1933, c. 438, §6.)

**2807-39.** May issue bonds to retire floating indebtedness.—If any such school district prior to January 1, 1933, has incurred by proper authority a valid indebtedness, of whatsoever character, excluding bonds, in excess of its cash on hand (not specifically set aside for the retirement of bonds and interest thereon), such school district may for the purpose only of paying and discharging such valid indebtedness, of whatsoever character, (except bonds and interest accrued thereon) issue its bonds in the manner now provided by law, except that such bonds may be issued on a vote of the school board thereof without a vote of the electors; provided that if any moneys received from taxes levied in 1932 and payable in 1933, for any purposes other than payments on bonds and bond interest have been used prior to the issuance of bonds authorized by this act for the retirement of indebtedness existing on January 1, 1933, and interest thereon, such bond issue may include the amount of such payments for the purpose of reimbursing the funds from which such moneys were paid; provided further that the purchaser of such bonds shall not be charged with notice of invalidity of any indebtedness funded by such bonds, and bonds issued hereunder in the total amount of such indebtedness as determined by resolution of the school board of said district, in the hands of any purchaser, shall be valid obligations of the school district notwithstanding any claims of invalidity of any such indebtedness funded thereby. (Act Apr. 22, 1933, c. 438, §7.)

**2807-40.** Tax levy to pay bonds.—The school board of any such district issuing bonds pursuant to the authority of this Act shall at the time of the issuance thereof by resolution provide for the levy of an annual and irrevocable tax to be levied each year until the principal and interest of said bonds are paid in full, in an amount sufficient to pay and discharge the principal and interest thereon at maturity. Such tax levies shall be within the per capita limitations now provided by law upon the tax levies of said district, and the county auditor at the time of spreading the annual county auditor at the time of spreading the annual tax levy of said district shall adjust the same so that the total levy, including any levy for said bonds, whether issued to the state or a private purchaser, shall be within the per capita limitations provided by law, plus any levies which may be authorized in excess of such limitations by the provisions of this Act. (Act Apr. 22, 1933, c. 438, §8.)

**2807-41.** Same.—If any school district subject to this Act shall at the time of the adoption hereof have bonds outstanding, such bonds, or any bonds issued to refund the same, shall be retired by levies within the now existing per capita limitations applicable to the levies of such district, except that during the years 1933, 1934, 1935 and 1936 levies of \$75,000.00 each year may be made in excess of existing per capita limitations for the retirement of such bonded indebtedness. (Act Apr. 22, 1933, c. 438, §9.)

**2807-42.** Sale of bonds.—Such bonds may be issued and sold to the State of Minnesota pursuant to existing laws at the time of the issuance thereof, except

as herein modified, or to private purchasers, or to both, or exchanged for outstanding orders at par with accrued interest, provided such outstanding orders represent indebtedness authorized to be funded by such bonds. Such bonds may be issued bearing such rates of interest as may best lend to their negotiation, sale or exchange, not, however, exceeding six per cent per annum. If such bonds be exchanged to holders of warrants, it shall not be necessary to publish notice of the sale or exchange of such bonds which are so exchanged. (Act Apr. 22, 1933, c. 438, §10.)

**2807-43.** Shall prepare budgets.—The school board of such district shall, each year prior to the making of the tax levy for the ensuing year, prepare a budget of the expenditures of such district during the year in which such taxes will be collected, itemizing the purposes for which such moneys will be expended, and the amount of obligations that will be incurred for each such purpose during each quarter of such year. The clerk of such school district shall prepare and present at the first meeting of the board in each month a statement showing all expenditures made and obligations or indebtedness incurred for the preceding month and for the preceding portion of the fiscal year, the amount allotted by the budget for such month and the preceding portion of the fiscal year, the amount allotted by the budget for the remainder of the year, and the probable expenditures for the remainder of the fiscal year. If at any time during such year it appears that such district is incurring obligations at a rate or upon a scale which would make it probable, if such rate or scale of expenditure were to be continued, that the total expenditures for said year would exceed the available revenues for such year, after proper allowance for probable tax delinquencies, such statement required to be presented and kept by the clerk shall be conclusive evidence of the fact that such school district is exceeding the limit of obligations, and thereupon the power of such school district to incur further obligations or expenditures shall be limited and restricted to the extent necessary which will make certain that the said budget shall not be exceeded in such year. (Act Apr. 22, 1933, c. 438, §11.)

**2807-44.** Contracts void.—Each contract attempted to be entered into, or indebtedness or pecuniary liability attempted to be incurred in violation of the provisions of this Act, shall be null and void in regard to any obligation thereby sought to be imposed upon the school district, and no claim therefor shall be allowed by the school board of said district; nor shall the clerk of such district or any other officer or employee issue or execute, nor shall the district treasurer pay, any warrant or certificate of indebtedness issued on account thereof. Each member of the school board and each other district officer or employee participating in or authorizing any violation of this Act shall be individually liable to the district or to any other person for any damage that is caused thereby. Every member of the school board present at a meeting of the board when any action is taken with reference to paying money or incurring indebtedness or entering into any contract, shall be deemed to have participated in and authorized the same, unless he shall have caused his dissent therefrom to be entered upon the minutes of the meeting. (Act Apr. 22, 1933, c. 438, §12.)

**2807-45.** Who may accept provisions of act.—Any school district in the class specified in Section 1 of this act may accept the provisions hereof in either of the following ways:

(a) By adopting a resolution of the school board of such district accepting the provisions of this act, such resolution to be adopted by majority vote of the members of such board.

(b) By majority vote of the electors of said school district voting on the question at an election called for that purpose.

If 25 or more of the electors of such school district petition the school board thereof to call a special election for the purpose of accepting the provisions of this Act, the school board shall call such a special election for that purpose, to be held not more than 30 days from the date of the presentation of such petition. The question to be submitted shall be: "Shall Independent School District No. . . . . accept the provisions of Laws 1933, Chapter. . . . ., and go upon a cash basis?"

In either event the district must accept the provisions of this act prior to January 1, 1935. If such district shall not have accepted the provisions of this Act and shall not have sold the bonds herein provided for (if the sale of such bonds be necessary to the operation of this Act) prior to January 1, 1934, but shall have adopted the provisions of this Act and sold such bonds prior to January 1, 1935, the operation of this Act shall be postponed for one year. In that event the indebtedness authorized to be funded hereunder shall be the valid indebtedness, excluding bonds in excess of the cash on hand (not specifically set aside for the retirement of bonds and interest thereon) incurred prior to January 1, 1934, and the provisions of this act regulating the affairs of such district shall not go into effect until after January 1, 1935, provided that the levies in excess of the per capita limitations authorized by Section 9 hereof shall only be made in the years therein specifically set forth. (Act Apr. 22, 1933, c. 438, §13.)

**2807-46. Provisions separable.**—If any section, subsection, provision, clause or phrase hereof be found unconstitutional, such determination shall not affect the validity of the remaining provisions not clearly dependent thereon. Provided that if the funding of the indebtedness of such district existing on January 1, 1933, be necessary to the functioning of this law, and if any such school district shall find it impossible to sell the bonds herein provided for, for the purpose of funding such indebtedness prior to January 1, 1935, this Act shall not take effect therein. (Act Apr. 22, 1933, c. 438, §14.)

**2810. Clerk in special districts.**

Op. Atty. Gen., Apr. 28, 1932.  
Board of education of South St. Paul must accept the city recorder as the secretary thereof, and may not select one of its own choice. Op. Atty. Gen., Aug. 29, 1931.

**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.

Appointment to fill vacancy should be until next annual election at which time it will be filled for balance of unexpired term. Op. Atty. Gen., Mar. 1, 1933.

Where the leading two candidates for office of director of independent school district receive equal number of votes, result was a vacancy at expiration of term of present member. Op. Atty. Gen., July 24, 1933.

Where three candidates ran to fill vacancies on board and two tied for second place, tie vote had effect of creating vacancy at expiration of term of office of incumbent. Op. Atty. Gen., Aug. 2, 1933.

**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.

Where there is a tie vote in election for school officer and thereafter board failed to fill vacancy for a period of ten days and a special election was called and another tie vote resulted, board may make an appointment to fill the vacancy. Op. Atty. Gen., Sept. 29, 1931.

Treasurer who had not filed bond had no power to vote to elect chairman of board to fill vacancy. Op. Atty. Gen., Oct. 12, 1933.

Only qualified member of school board could not proceed to appoint chairman to fill vacancy. Id.

**2813. Acceptance of office.**

American Surety Co. v. Independent School Dist., (CC A8) 53P(2d)178; note under §2807. Certiorari denied 52SCR200.

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, 214NW258.

Chairman of board who failed to qualify by taking oath did not gain right to hold office by reason of acting as chairman for 13 months. Op. Atty. Gen., Oct. 12, 1933.

**2814. Quorum of school board.**—A majority of the School Board shall constitute a quorum, but no contract shall be made or authorized except at a meeting of the Board of which all members have had legal notice; provided, however, that where a husband and wife, brother and sister, or two brothers, and/or sisters, constitute a quorum, no contract employing a teacher shall be made or authorized except upon the unanimous vote of the School Board. (R. L. '05, §1318; G. S. '13, §2744; Apr. 13, 1933, c. 238.)

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

There was no legal notice where member of board was called on phone but was out of town and had no actual notice of meeting at which architect was employed. Op. Atty. Gen., Nov. 23, 1931.

Where board of education advertised for bids for painting, and accepted bid, there was contract, and board could not thereafter reject accepted bid. Op. Atty. Gen., May 19, 1932.

Special meeting of school board having 6 members cannot be held where only three members are present, though others were notified. Op. Atty. Gen., Feb. 24, 1933.

Where three members of school board vote for election of teacher and three against, motion fails to carry. Op. Atty. Gen., Feb. 24, 1933.

Laws 1933, c. 238, amending this section, is not retroactive. Op. Atty. Gen., July 6, 1933.

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

\* \* \* \*

9. Defray the necessary expenses of the board, including two dollars per day for attending one meeting of the school boards of the county in each year, when called by the county superintendent, and five cents per mile in going to and returning from such meeting, and pay for such record books, stationery and other incidental matters as may be proper. (As amended Mar. 23, 1933, c. 105.)

\* \* \* \*

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.

Member of school board joining with other members in paying out money without legal authority is personally liable to school district, but if district receives and appropriates property, member has right to offset value. Johnson v. I., 249NW177. See Dun. Dig. 8676.

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 public 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. 23, 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., Mar. 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., Apr. 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., Apr. 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., Apr. 20, 1931.

Where electors of independent school district authorized sale of small school building, the school board, on discovering 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., Apr. 29, 1931.

Neither a school board nor the district is liable for injuries inflicted in the operation of its busses, and school funds may not be used to pay premium on indemnity bond. Op. Atty. Gen., Aug. 12, 1931.

A school district may employ a dentist to make examination of the teeth of pupils and to recommend dental work, but it is not legal for the district to divide or pay for the doing of the work itself. Op. Atty. Gen., Sept. 11, 1931.

Where a balance remains in a building fund which resulted from a tax levy made for the particular buildings completed, it may be transferred to the general operating fund of the district. Op. Atty. Gen., Sept. 30, 1931.

A school board has authority to lease land for a gasoline filling station. Op. Atty. Gen., Dec. 21, 1931.

A school district may obtain title to a school house site by adverse possession. Op. Atty. Gen., Dec. 23, 1931.

School board did not have authority to purchase a mortgage, and the assignment may be rescinded. Op. Atty. Gen., Dec. 23, 1931.

The pendency of a petition to divide a school district does not as a matter of law prevent district from proceeding with the erection of a permanent school house. Op. Atty. Gen., Dec. 23, 1931.

Where a school house burns, board when duly authorized by electors may legally expend school funds for erection of a temporary building. Op. Atty. Gen., Dec. 23, 1931.

School district may not use its funds to purchase class pins and class colors for pupils. Op. Atty. Gen., Apr. 4, 1932.

School district may not use school district funds to provide pupils hot lunches. Op. Atty. Gen., Apr. 11, 1932.

Mankato school board has power to sell abandoned school building several blocks removed from site of new building without vote of district. Op. Atty. Gen., Mar. 7, 1933.

School board may not expend moneys to send members to conventions to secure general information. Op. Atty. Gen., Aug. 29, 1933.

(1). If a school board expends money in the purchase of real estate without authority from the voters, an individual member of the board who participates therein is liable to the district for the money so expended. *Tritchler v. B.*, 185M414, 241NW578. See Dun. Dig. 7998, 8676.

School board on cancellation of lease of property on which it has a school house may not wreck the building and sell the same to the highest bidder without a vote of the electors of the district. Op. Atty. Gen., Oct. 2, 1931.

School board has authority to rent school house site which is no longer used for school purposes, without authorization of voters, but has no authority to sell without authorization of voters. Op. Atty. Gen., May 9, 1933.

School board has authority to improve school grounds and expend \$3,000 without vote of district where there is sufficient money on hand and no bond issue is necessary. Op. Atty. Gen., June 26, 1933.

School board may refuse to change site of school voted for after lapse of years during which time voters defeated issue of bonds for the purpose. Op. Atty. Gen., Aug. 24, 1933.

(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.*, 183M522, 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.*, 183M522, 237NW177.

School board of consolidated district may establish policy relative to employment of unmarried teachers to exclusion of married teachers. *Backie v. C.*, 186M38, 242NW389.

Qualified teacher employed subject to rules of board against marriage was not entitled to teach against

board's wishes where she married prior to commencement of term. *Backie v. C.*, 186M38, 242NW389.

School board of consolidated district may make rules and regulations governing selection and removal of teachers. *Backie v. C.*, 186M38, 242NW389. See Dun. Dig. 8686.

(6). If school board had authority to hire men to do work about buildings, expenditures were legal, though work was timed by board to afford relief to workers. Op. Atty. Gen., June 26, 1933.

(9). Amended. Laws 1933, c. 105.

(10). School board is authorized to pay fee for accrediting high school to association of colleges and schools extending over the northern part of the United States. Op. Atty. Gen., June 30, 1933.

(11). School district may employ attorney to defend superintendent of high school in action for damages for refusing to give student passing marks. Op. Atty. Gen., June 29, 1932.

Expenses of election contest of board members are not payable by school district. Op. Atty. Gen., Aug. 22, 1933.

#### 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, provided 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.)

\* \* \* \*

Op. Atty. Gen., Apr. 20, 1931; note under §2815. 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 nonresident is entitled to payment for transporting his child from the point where he crosses the district line. Op. Atty. Gen., Feb. 14, 1929.

A person who owns an undivided interest in a quarter section of land in a district of which he is not a resident is entitled to school privileges and need not pay any tuition if his interest is equivalent to eighty acres. Op. Atty. Gen., Sept. 16, 1931.

School board did not have authority to purchase a mortgage, and the assignment may be rescinded. Op. Atty. Gen., Dec. 23, 1931.

This statute confers no right upon a nonresident to transportation for children to high school in another district. Op. Atty. Gen., Jan. 2, 1932.

(4). Common school district discontinuing high school could use any money on hand to pay for transportation of pupils to adjoining city without calling a special meeting to vote an increased levy. Op. Atty. Gen., Aug. 10, 1932.

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, 225NW292.

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.

It is not legal to purchase through a special athletic fund from business men who are on the school board. Op. Atty. Gen., Sept. 30, 1931.

The school board of an independent district may make a regulation compelling members of a graduating class to wear a cap and gown at graduation exercises, and exclude any pupil from such exercises who refused to wear the same, but could not prevent his graduation. Op. Atty. Gen., Mar. 12, 1932.

**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., Apr. 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.

A school board which makes arrangements for the education of pupils of the district in an adjoining district after school house is destroyed may terminate such arrangement in its discretion. Op. Atty. Gen., Dec. 23, 1931.

Common school district could transport pupils to independent school district which has high school though separated from such district by two common school districts. Op. Atty. Gen., Sept. 7, 1933.

**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.)

Statute does not authorize school district to transport without charge non-resident pupils who present themselves within district on regular transportation route. Op. Atty. Gen., Aug. 10, 1932.

**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.)

**2823. Children may attend school in adjoining district in certain cases.**

School boards are without authority to send transportation busses outside their districts and pay expenses incident thereto. Op. Atty. Gen., Oct. 10, 1933.

**2823-3. Tuition.**—That any tuition charged by the district so attended shall be paid by the school district in which such person resides; provided, however, that such tuition shall not be more than such district charges non-resident pupils residing in such state if any such tuition is charged, and if no tuition is charged for non-resident pupils of said state, then such tuition shall not exceed the sum of \$10.00 per month. Provided further, that the person so attending high school in another state shall continue to be treated as a pupil of the district of his residence in apportionment of the current school fund and the payment of state aid. Provided further that the resident district may be reimbursed from state funds for the tuition paid in accredited high school of another state where the pupil has the scholastic qualifications to be entitled to non-resident high school aid in Minnesota, but such reimbursement shall not exceed the rate of tuition paid for non-residents in Minnesota, or the actual amount of tuition paid by the district should the rate be less than the Minnesota rate. Such reimbursement shall be made only when properly certified on forms provided by the Commissioner of Education. ('27, c. 135, §2; Apr. 1, 1933, c. 144.)

**2824. Additional powers of boards in independent districts.**

(4). Attorney general cannot express an opinion as to whether facts constitute cause for removal. Op. Atty. Gen., Feb. 15, 1933.

Before removing an officer, board should call a meeting for that purpose and clerk should give written notice to offending member. Op. Atty. Gen., Feb. 15, 1933.

**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. (R. L. '05, §1327; '07, c. 445, §2; G. S. '13, §2760; 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. 171M376, 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.

Fact that two members of school board failed to require treasurer to present with his annual reports warrants claimed to have been paid as vouchers held not to estop district or prevent it from asserting the right to set-off of a deposit in an insolvent bank to such warrants. First Nat. Bank of Windom v. C., 184M635, 240NW662. See Dun. Dig. 3211.

School district warrants or orders become due when presented to the district treasurer for payment. First Nat. Bank of Windom v. C., 184M635, 240NW662. See Dun. Dig. 8674b.

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., Mar. 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.

This section as amended is applicable to school orders outstanding at the time it became effective. Op. Atty. Gen., Oct. 5, 1931.

Op. Atty. Gen., Apr. 13, 1933; note under §2836.

School treasurer having reasonable grounds for believing warrants are drawn in payment of improper charges may withhold payment pending investigation. Op. Atty. Gen., June 30, 1933.

Outstanding teachers' warrants are not payable out of current special fund for teachers' wages. Op. Atty. Gen., Aug. 22, 1933.

School board cannot set up special fund for payment of bus driver's wages. *Id.*

It is permissible for school treasurer to leave money in hands of county treasurer with his consent and thus obtain advantage of collateral posted with county. Op. Atty. Gen., Aug. 23, 1933.

New treasurer should accept books and assets of district without any accounting from old treasurer for money lost by reason of bank failure. Op. Atty. Gen., Sept. 30, 1933.

#### 2834. Treasurers' bonds.

174M286, 219NW163; note under §2833.

(2d)178; note under §2807. Certiorari denied 52SCR200. Surety Co. v. Independent School Dist., (CCA8), 53F 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.

Chairman of school board may be compelled by mandamus to endorse name on bond of treasurer, if in proper form. Op. Atty. Gen., Feb. 14, 1933.

Amount of bond shall be equal to estimated amount treasurer will have under his control at any one time. Op. Atty. Gen., Aug. 23, 1933.

Limitations commenced to run as against principal and sureties on school treasurer's bond from time of expiration of term of office during which closing of bank occurred. Op. Atty. Gen., Sept. 30, 1933.

**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. ('07, c. 133, §1; '09, c. 332, §1; G. S. '13, §2763; '27, c. 118; Mar. 21, 1929, c. 76.)

175M346, 221NW424.

174M286, 219NW163; note under §2833.

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

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, 227NW550.

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., 182M381, 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., 182M381, 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., 182M381, 234NW594.

Closing of bank was a default and no demand was necessary. School Dist. No. 75 v. F., 182M381, 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.

A special high school fund containing monies belonging to high school activities under jurisdiction of board of education are not secured by collateral securities given by depository to the school district treasurer as security for "school district money." Op. Atty. Gen., Apr. 13, 1933.

Collateral placed to secure deposits of school district in national bank is not security for an account entitled "Bemidji High School" wherein income from athletics and other activities is deposited. Op. Atty. Gen., Apr. 13, 1933.

A school district may invest its funds in liberty loan bonds. Op. Atty. Gen., May 3, 1933.

Collateral is to be approved by school board. Op. Atty. Gen., Aug. 23, 1933.

In absence of designation of depository, school board cannot control keeping of school funds. Id.

**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 or 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, 233NW802. 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.)

**2840. Duties of chairman—Compensation.**

Salary of chairman may be determined at annual meeting without notice specifying that such action will be taken. Op. Atty. Gen., Aug. 2, 1933.

**2842. Compensation of clerks of common districts.**

Upon proper notice, voters at annual meeting may fix compensation of clerk both for past year and following year. Op. Atty. Gen., July 31, 1933.

Clerk's compensation cannot be increased at annual meeting unless notice of meeting specifies that such action will be taken. Op. Atty. Gen., Aug. 2, 1933.

**2843. Compensation of treasurers of common districts.**

Voters at annual meeting have no authority to fix treasurer's salaries for succeeding year. Op. Atty. Gen., July 31, 1933.

Salary of treasurer may be determined at annual meeting without notice of meeting specifying that such action will be taken. Op. Atty. Gen., Aug. 2, 1933.

Electors could not, at school meeting, legally vote to pay treasurer salary for past years during which he had served without compensation. Op. Atty. Gen., Aug. 21, 1933.

**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 1,400 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 auditor 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. (R. L. '05, §1334; G. S. '13, §2771; Apr. 11, 1929, c. 151.)

City recorder of South St. Paul is entitled to compensation for services rendered as clerk of board of education. Op. Atty. Gen., Apr. 26, 1931.

Treasurer of independent school district is not entitled to mileage incurred while making bank deposits though there are no banks in the district, and it is necessary that he journey outside of the district to a bank designated by the board as depository. Op. Atty. Gen., Apr. 8, 1933.

Treasurer of school district is not entitled to mileage. Op. Atty. Gen., Apr. 8, 1933.

**2846. Contracts in districts.**

Laws 1913, c. 244, relating to advertisement for bids before letting contracts, does not apply to the school district in Mankato established by Special Laws 1878, c. 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, 220NW606.

A member of a school board in making contracts for district where bids are not required, if he participates in payment of more money than the subject matter is reasonably worth, is liable. *Tritchler v. B.*, 185M414, 241NW578.

A member of a school board who votes to make a contract for the district in violation of a statute requiring an advertised call for bids therefore and who participates in the expenditure of money pursuant to such contract, is legally liable to the district for the resulting loss, which is determined by deducting the reasonable cost from the amount actually expended. *Tritchler v. B.*, 185M414, 241NW578. See *Dun. Dig.* 7998, 8676.

Does not apply to personal services such as those of architects in furnishing preliminary sketches, plans and specifications for a school building and superintendence during construction. *Krohnberg v. P.*, 187M73, 244NW329. See *Dun. Dig.* 2287a.

Does not apply to engineer laying out plans for heating, plumbing and other mechanical equipment. *Krohnberg v. P.*, 187M73, 244NW329.

Superintendent of construction is personal representative of school district and not within statute. *Krohnberg v. P.*, 187M73, 244NW329.

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.

It is not legal to have either exterior or interior of a building painted costing in excess of \$500 without calling for bids. *Op. Atty. Gen.*, Sept. 30, 1932.

It is legal to repair lockers which are patented with parts from original dealers at cost in excess of \$500 without calling for bids, if such repairs can only be had from dealer who furnished original lockers. *Id.*

It is not legal to install new light fixtures in one building or replace old with new costing in excess of \$500 without calling for bids. *Id.*

It is not legal to purchase school furniture or permanent equipment in one order from one dealer in excess of \$500 without calling for bids. *Id.*

It is not legal to purchase school supplies, janitor or athletic supplies in one order from one dealer in excess of \$500 without calling for bids. *Id.*

A school district may purchase copyrighted text or library books in one order from one dealer in excess of \$500 without calling for bids. *Id.*

It is not legal to repair or construct projects on school grounds, such as sidewalks, improving athletic field, etc., costing in excess of \$500 without calling for bids. *Id.*

Where outside concerns can underbid local dealers, it is not legal to place orders through local dealers if equipment or supplies exceed sum of \$500 without calling for bids. *Id.*

It is not legal to break up invoices or bills into two or more to evade requirement of calling for bids. *Id.*

It is legal to have a school building repaired at a cost exceeding \$500 without calling for bids only where building has been injured and public interest would suffer by delay. *Id.*

#### 2847. How let, etc.

*Tritchler v. B.*, 185M414, 241NW578; note under §2846. Where two or three identical bids are submitted, school board may divide contract for coal equally among bidders in absence of collusion between bidders. *Op. Atty. Gen.*, Sept. 15, 1932.

#### 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.

#### 2853. Compensation of officers of school boards.

Act Apr. 10, 1933, c. 166, §§4, 10, provide that in counties having 76 to 80 congressional townships and assessed valuation of \$3,000,000 to \$5,000,000, the treasurer of unorganized school district shall receive \$100 per annum, and clerk of such district \$80 per annum and not over \$600 per annum for clerk hire, all fees and revenue to be paid into the county treasury.

"Schools" means schools where instruction is given, and not buildings kept for possible future use. *County Board of Education v. F.*, 186M554, 244NW56.

Not unconstitutional as special legislation. *County Board of Education v. F.*, 186M554, 244NW56.

A deputy sheriff cannot serve as clerk of a school board and receive pay for both positions. *Op. Atty. Gen.*, July 30, 1931.

#### 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.

#### 2863. Dissolution of common or independent districts—Petition or resolution—Effect.

Conditions mentioned in proviso must be co-existent before county board may automatically dissolve district. *Op. Atty. Gen.*, June 2, 1932.

**2866. Outstanding obligations of dissolved districts.**—All incurred and outstanding obligations of any district so discontinued and vacated shall be and remain a charge upon the property formerly within said district to the same effect as if said district had not been discontinued, and the county auditor shall each year levy against all of the taxable property within the limits of said former school district a sufficient levy, not to exceed the maximum provided by law, for the cancellation and liquidation of such outstanding indebtedness, such levy to be made year after year until said entire indebtedness is cancelled and extinguished. And the amount levied by the county board of education upon all taxable property in unorganized territory shall be levied upon the property within the limits of said former school district in addition to the amount so levied by said auditor and in the same proportion that it is levied upon the taxable property in said county outside of organized school districts; provided, that in any county of this state now or hereafter having an assessed valuation of more than \$200,000,000, exclusive of money and credits, and an area of over 5,000 square miles, the county board of education by unanimous vote, with the written opinion of the county attorney, that such claim is a legal outstanding obligation of the territory formerly included in any dissolved school district, may audit, allow and pay any such incurred outstanding obligations of any dissolved school district within its territory except outstanding bonded indebtedness of such dissolved school district out of the funds of said county board of education, in the same manner as though said indebtedness had been originally incurred by said county board of education. ('21, c. 328, §18; '25, c. 287, §1; Feb. 15, 1933, c. 29, §1.)

Where school districts were dissolved and made part of unorganized territory of county, county board of education could not use money received from March apportionment of personal property tax money toward payment of obligations of dissolved districts. *Op. Atty. Gen.*, Apr. 6, 1932.

**2866-½. Application.**—This act shall not apply to or authorize the payment of any claim or claims that may be involved in any action now pending in any court of this state. (Act Feb. 15, 1933, c. 29, §2.)

Sec. 3 provides that the act shall take effect on its passage.

**2867. Unorganized territory may issue bonds—purposes—terms—interest—sale—notice—hearing.**—The board of education of any unorganized territory in the state is hereby authorized and fully empowered by unanimous vote of such board to issue and sell bonds of such unorganized territory for the purpose of providing school sites and school buildings, for paying any judgment lawfully rendered against them or for refunding outstanding bonds or floating indebtedness, in such amounts and at such periods as the board may decide; said bonds to be payable in such amounts and at such times, not exceeding twenty years, as the board may determine, with interest thereon not to exceed six per cent (6%) per annum,

which bonds shall be signed by the chairman and the treasurer of said board and countersigned by the clerk thereof; provided that the total bonded indebtedness of such unorganized territory shall at no time exceed seven and one-half per cent (7½%) of its assessed valuation. Any bonds issued hereunder shall be sold conformably to the provisions of Section 1856, General Statutes 1913. Provided that in any county of this state now or hereafter having unorganized territory with an assessed valuation of all taxable real and personal property, including money and credits of more than \$3,000,000, and having at any time an area of more than 3,500 square miles, the board of education of such unorganized territory shall have authority, and is hereby empowered, by the unanimous vote of such board, to issue and sell the bonds of such unorganized territory as above provided, for the purpose of proving school sites and school buildings, funding or refunding any floating indebtedness or bonds now or hereafter existing as authorized by the provisions of this section, not exceeding twelve and one-half per cent (12½%) of the assessed valuation of said unorganized territory, and not exceeding \$350,000 in the aggregate of such bonds, the sale of said bonds to be conformable to the provisions of Section 1943, Mason's Minnesota Statutes for 1927, or by contracting with the United States Government for the purchase of said bonds without calling for bids therefor. Provided that no bonds shall be authorized or sold under the provisions of this Act, unless notice shall have first been given to the electors of such unorganized school district setting forth the proposal to issue such bonds, the amount thereof, the rate of interest, the maturity dates thereof, and the purpose for which the proceeds of such bonds will be used; and also a description of the project or projects to be undertaken and completed, the estimated cost of each and the estimated total cost, which notice shall be in writing, and signed by the members of the County Board of Education, and addressed to the electors of such district, and shall specify the date, time, and place of meeting of the County Board of Education when such proposal shall be considered, and shall be posted in three conspicuous places in each township of said district, and published in one issue of three legal newspapers of general circulation in said district. Said notice shall require any electors having objections, to appear and show cause, if any, why such bonds should not be authorized and sold. The County Board of Education at the time and place mentioned in said notice shall hear all objections and thereafter shall decide whether such bonds shall be authorized and sold. ('21, c. 328, §19; Apr. 21, 1933, c. 431, §1; Jan. 5, 1934, Ex. Ses., c. 45, §1.)

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

**2867-1. Repeal—popular vote—federal aid projects.**—All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed in so far, and only in so far, as necessary to give effect to this Act; providing, however, that nothing in this Act shall be construed to permit the issuance and sale of bonds for any purpose whatsoever without a prior vote of the electors except upon the projects for which application has been made in writing to the Public Works Administration or to any other agency of the United States Government, and which application shall have been filed with such agency on or before January 1, 1934. (Act Apr. 21, 1933, c. 431, §2; June 5, 1934, Ex. Ses., c. 45, §2.)

**2870-2. County Board of Education 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 ter-

ritory, which said refunding bonds shall be chargeable against the territory that was chargeable with the payment of the bonds so refunded. The power to issue such bonds shall remain in said county board of education notwithstanding said dissolved territory or a part thereof shall have again become organized territory. 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 in not more than 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; Mar. 16, 1933, c. 80.)

#### CONDUCT OF SCHOOLS

##### 2871. General control of schools.

Teacher of common school district who gives entertainment to secure money to purchase chair, dictionary or books for school, need not turn money over to school board, in absence of specific agreement. Op. Atty. Gen., Jan. 4, 1933.

**2883-1. Leif Erickson 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.)

**2883-3. School safety patrols authorized.**—In the exercise of authorized control and supervision over pupils attending schools and other educational institutions, both public and private, in this state, the governing board or other directing authority of any such school or institution is empowered to authorize the organization and supervision of school safety patrols for the purpose of influencing and encouraging other pupils to refrain from crossing public highways at points other than regular crossings, and for the purpose of directing pupils when and where to cross highways. (Act Feb. 11, 1933, c. 23, §1.)

**2883-4. Who may be appointed.**—Unless the parents or guardian of a pupil shall object in writing to the school authorities to the appointment of a child or ward on such a school safety patrol, it shall be lawful for any pupil over ten years of age, to be appointed and designated as a member thereof. (Act Feb. 11, 1933, c. 23, §2.)

**2883-5. Liability not to attach.**—No liability shall attach either to the school, educational institution, governing board, directing authority, or any individual director, trustee, superintendent, principal, teacher or other school authority by virtue of the organization, maintenance or operation of such a school safety patrol because of injuries sustained by any pupil, whether a member of the patrol or otherwise by reason of the operation and maintenance thereof. (Act Feb. 11, 1933, c. 23, §3.)

**2883-6. Instruction as to effect of alcohol on human system.**—That the State Department of Education be authorized and directed to prepare a course of instruction relating to the effects of alcohol upon the human system, upon character, and upon society. Such course of instruction shall be used in all public schools of the State. (Act Jan. 5, 1934, Ex. Ses., c. 43, §1.)

**2883-7. Same—effective date.**—This act shall be in force from and after August 1, 1934. (Act Jan. 5, 1934, Ex. Ses., c. 43, §2.)

#### TEACHERS—EXAMINATIONS AND CERTIFICATES

##### 2900. [Repealed].

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

Board of education has authority to require teachers to submit to skin tests. Op. Atty. Gen., May 19, 1933.

**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 Certificate 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.)

The commissioner of education is not authorized to issue a certificate to teach in Minnesota to any person trained in another state unless that person is the holder of a diploma or a degree evidencing a completion of at least a two-year course in elementary education. Op. Atty. Gen., July 29, 1931.

**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.)

A degree of a professional college such as college of law, college of medicine, college of engineering, or college of dentistry may not be accepted for high school standard general certificate. Op. Atty. Gen., May 26, 1933.

**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 training 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 Gen-

eral 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 Stats. §§2935-1 to 2935-14). 177M422, 227NW 351.

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.

Teacher's contracts in common school districts may be executed by signatures of two trustees. Op. Atty. Gen., May 16, 1932.

Where chairman of board of special or independent school district refuses to sign teachers' contracts, member of board cannot authorize some other member to sign as chairman, but only remedy is mandamus. Op. Atty. Gen., May 16, 1932.

Cousin of deceased wife of member of school board cannot be employed without unanimous vote of full board. Op. Atty. Gen., May 16, 1933.

Applicant for position as teacher who is first cousin of deceased wife of member of school board may be employed without unanimous vote of full board where such member has remarried. Op. Atty. Gen., July 17, 1933.

If chairman refuses to perform ministerial duty to sign contract, teachers may bring mandamus and also recover any damages sustained. Op. Atty. Gen., July 29, 1933.

#### **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. [Repealed].**

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., 183M522, 237 NW177.

#### **2927. [Repealed].**

Qualified teacher employed subject to rules of board against marriage was not entitled to teach against board's wishes where she married prior to commencement of term. Backie v. C., 186M38, 242NW389.

School board of consolidated district may establish policy relative to employment of unmarried teachers to exclusion of married teachers. Backie v. C., 186M38, 242 NW389.

School board of consolidated district may make rules and regulations governing selection and removal of teachers. Backie v. C., 186M38, 242NW389. See Dun. Dig. 8686.

#### **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 provisions of Mason's Stats., §2903, requiring teacher to have written contract, does not apply to teacher entitled to benefit of this act. 178M422, 227NW 351.

Act applied to teacher notified prior to passage of act of reappointment for ensuing year. 178M422, 227NW351. Oral hygienist, a graduate dental nurse, is not a teacher within act. Op. Atty. Gen., Mar. 10, 1933.

Act does not deprive school board in cities of first class of power to fix teachers' salaries. Op. Atty. Gen., Sept. 6, 1933.

**2935-4. Probationary period—Discharge or demotion.**

Written contracts are not necessary with teachers who are reemployed after teaching three-year probationary period, but school boards may require such contracts. Op. Atty. Gen., June 2, 1933.

**TEACHERS' RETIREMENT FUND**

**2936-2950. [Repealed].**

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

Member of state teachers' insurance and retirement fund, who was eligible for retirement on August 1, 1931, may be retired by the board as constituted by Laws 1913, c. 406, and receive the annuity provided for by the old law. Op. Atty. Gen., Sept. 14, 1931.

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 renacts the subject matter of the former laws.

Members of teachers' retirement fund created by Laws 1915, c. 199, who have ceased to teach in schools to which act applied and who are retired prior to enactment of Laws 1931, c. 406, and before drawing annuities resume teaching in cities of first class may not transfer accounts to new fund and thereafter withdraw interest on the old fund. Op. Atty. Gen., June 8, 1933.

Where voluntary member of fund retired in June, 1922, on basis of 22 years' service and thereafter in that year received annuity payment after he had entered into a contract to teach in public schools for ensuing year but continued to make payments into fund and completing maximum of 25 years, his estate on his death was entitled to 1/2 of amount actually paid in by him less the amount of the annuity payment, which must have been paid through mistake. Op. Atty. Gen., July 1, 1933.

**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.)

A teacher who had qualified herself for annuity before August 1, 1931, under the old act, has a vested right to retirement under old law and should be granted retirement under new law. Op. Atty. Gen., May 16, 1933.

**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 investment 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 annual 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. Stats., 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.)

Op. Atty. Gen., June 8, 1933; note under §2945.

**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 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 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. Stats., 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 super-

intendents 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 therefor 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, reads 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, 233NW834. See Dun. Dig. 6525, 6728, 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, 233NW834. See Dun. Dig. 6524, 6768, 8656.

## VOCATIONAL EDUCATION

**2983. State board of vocational education.**

The State Board of Education may accept and expend donations offered for purposes in harmony with the statutes. Op. Atty. Gen., Sept. 16, 1931.

State department of education has authority to lend money for living expenses to selected individual person eligible for reeducation and to charge interest thereon. Op. Atty. Gen., July 7, 1933.

## JUNIOR COLLEGES

**2992-1. Junior college deportments, etc.**

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

**2992-4. Same—Tuition.**

Board may determine rate of tuition, or may decide to charge no tuition, but same rate must be charged residents and non-residents. Op. Atty. Gen., June 22, 1932.

## SCHOOL FUNDS

**2993. Commissioner of education to apportion current school funds.**

Students enrolled in high school teacher training schools are to be counted as scholars in the apportionment of the current school fund. Op. Atty. Gen., July 25, 1931.

**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. (R. L. '05, 1398; G. S. '13, §2896; '19, c. 412, 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. (R. L. '05, §1399; G. S. '13, §2897; '19, c. 412, §2; Apr. 24, 1931, c. 312, §2.)

At time of apportionment county auditor should notify each school district of the amount apportioned to it, but has some discretion as to the time and manner of making the payment. Op. Atty. Gen., Oct. 6, 1931.

**2997-1. School district warrants where school funds deposited in closed banks.**

Treasurer is required to endorse warrants "not paid for want of funds" when money is in bank closed under order for national banking holiday. Op. Atty. Gen., May 23, 1933.

**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 reso-

lution 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).

## SCHOOL TAXES

**3013. Common school districts may levy 30 mill tax.**

Rate of taxation of agricultural lands for school maintenance in independent districts. Laws 1933, c. 356.

Levy made by a school district within county was duly made, even though record thereof made by school board lacked formality. State v. Keyes, 246NW547. See Dun. Dig. 8656b.

**3014-6. Limitation of tax rate in certain school districts.**—The rate of taxation of agricultural lands for school maintenance in any independent school district of the state shall not exceed the average rate for school maintenance on similar lands in common school districts of the same county; provided, that the provisions of this Act shall not apply to consolidated school districts, nor to an independent district which does not contain within its limits an incorporated city or village, provided, further, that this Act shall not apply to independent school districts where forty (40) per cent or more of the assessed valuation of such taxable lands in such district consists of agricultural lands. (Act Apr. 21, 1933, c. 356, §1; Dec. 31, 1933, Ex. Sess., c. 37; Jan. 9, 1934, Ex. Sess., c. 66.)

The title and enacting part of Act Jan. 9, 1934, purports to amend "Laws of 1933, chapter 356, section 1, as amended by Special Session Laws 1933, chapter —"

School districts granted rights and privileges of consolidated school districts are exempted from operation of this act. Op. Atty. Gen., July 5, 1933.

Average rate for school maintenance on similar lands in common school districts of same county is rate on such lands for same year for which agriculture lands of an independent district are taxed. Op. Atty. Gen., July 17, 1933.

This act is constitutional. Id.

Act is not applicable to special school districts. Id.

"Agricultural lands" means lands used for agricultural purpose and which, before passage of act, were assessed at 33 1/3% of their true and full value. Id.

Act is not applicable to 1932 taxes. Op. Atty. Gen., Aug. 1, 1933.

Where half of tract in school district is within limits of incorporated city, that which lies within city is taxable for school maintenance at rate not to exceed average rate for school maintenance on similar lands in common school districts in same county. Op. Atty. Gen., Oct. 4, 1933.

## 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 compensation of employes 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. ('21, c. 397, §3; 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**

**3022. State aid to schools.**

Moneys received under Laws 1931, c. 410, may be used for any lawful school purpose, such as the payment of judgments against the district. Op. Atty. Gen., Oct. 9, 1931.

**3026. Classification and definitions—\* \* \* \* \***

(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.)

\* \* \* \* \*  
Graded elementary schools may employ 4 teachers, some of whom do part time work as high school teachers. Op. Atty. Gen., June 30, 1933.

**3027. Purposes of special state aid.**

Supplemental aid may not be paid to a district for educational facilities furnished to pupils who are non-residents of the state. Op. Atty. Gen., Oct. 12, 1931.

**3028. State aid for equalizing educational opportunities.—\* \* \* \* \***

(4) For the tuition of non-resident high school pupils, the state shall pay to the school district furnishing such high school instruction at the rate of seven dollars (\$7.00) per school month, or major fraction thereof, for each such non-resident pupil, for not to exceed ten (10) months in any school year, provided, (1) that high school instruction shall mean instruction for pupils who have completed the eight years of the elementary course; (2) that such tuition shall be paid by the state only in so far as any pupil's residence district does not give high school instruction, but this provision shall not apply to non-resident high school pupils residing in unorganized territory and ten or more township school districts; and (3) that the state apportionment for any such non-resident high school pupils shall be paid to the school district in which such non-resident pupils attend a high school. Provided, that in all cases where such non-resident pupil is a resident of a state aided rural district, the amount provided by the provisions of this act shall by the Disbursing Board be deducted from the aid otherwise going to such rural district in all cases where such aided rural school does not levy at least four (4) mills or more upon the property of such district for school purposes. (As amended Apr. 13, 1933, c. 224.)

\* \* \* \* \*  
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.

**3030. Additional state aid to certain schools.**

Students enrolled in high school teacher training departments are to be counted as pupils in computing the supplemental aid to which a district may be entitled under this section. Op. Atty. Gen., July 25, 1931.

**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.

**3032. Teacher training in high schools.**

Students enrolled in high school teacher training departments are to be counted as pupils in computing the supplemental aid to which a district may be entitled under §3030. Op. Atty. Gen., July 25, 1931.

**3034. Payment of state aid.**

Special fund for payment of teachers' salaries for current year may be set up by unorganized district and al-

lotment for state aid, or any part thereof, may be placed in such fund. Op. Atty. Gen., Sept. 5, 1933.

**3036-1. Additional state aid for certain schools—Amount.**

Where an appropriation is insufficient to pay in full the aid authorized by this section and §3036-17, the same rate of pro-rating should be applied to the amounts due under both acts. Op. Atty. Gen., Aug. 28, 1931.

**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. 182M565, 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 be-

ginning 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.)

Where an appropriation is insufficient to pay in full the aid authorized by §3036-1 and this section the same rate of pro-rating should be applied to the amounts due under both acts. Op. Atty. Gen., Aug. 28, 1931.

**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 purpose 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.

Act Apr. 22, 1933, c. 405, makes an appropriation for aid to school districts to cover deficiencies in revenue for the years 1931 and 1932 arising from exemption of property from taxation. It is omitted as temporary.

Moneys received under this act may be used for any lawful school purpose, such as the payment of judgment against the district. Op. Atty. Gen., Oct. 9, 1931.

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.

**3069. Tuition in State Teachers Colleges.**—There shall be a charge for tuition to students, in State Teachers' Colleges. The Board shall fix rates of tuition for pupils in the model schools and the Board shall fix rates of tuition for students in State Teachers' Colleges within the minimums and maximums, following, to-wit:

Not less than \$5.00 nor more than \$15.00 during each of the first six quarters.

Not less than \$10.00 nor more than \$20.00 for each quarter thereafter.

A session in the summer school is to be regarded as a quarter within the meaning of this Act.

Non-resident students at the time of matriculating shall pay an additional tuition fee of \$5.00 per quarter. (R. L. '05, §1438; G. S. '13, §2969; Apr. 17, 1933, c. 294, §1.)

**3069-1. Same—effective date.**—This act shall take effect on September 1, 1933. (Act Apr. 17, 1933, c. 294, §2.)

**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 pupil shall in writing notify the teacher or principal or other person in charge of such pupil that he objects to such physical or medial 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. ('23, c. 323, §1; 1931, c. 225, §1.)

COMPULSORY EDUCATION

**3080. Children must attend school—When excused.**

School board need not regard a certificate of illness signed either by a medical doctor, a chiropractor, or an osteopath, as sufficient evidence as to a child's bodily condition as regards excusing a pupil from attendance. Op. Atty. Gen., Feb. 4, 1932.

**3086. School census.**

In taking census, minors are to be counted at place of residence of parents. Op. Atty. Gen., June 10, 1933.

Whether adults including students and temporary employees should be counted in census in place where they are not living is a question of fact dependent upon intention to return. Id.

Wife leaving husband and going to another district should be counted in taking census of district at which husband resides. Id.

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 government 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; 177M446, 225NW292; 177M454, 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, 220NW 951.

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., 183M222, 236NW217. See Dun. Dig. 8694.

The board may construct a dormitory without legislative authority. Fanning v. U., 183M222, 236NW217.

The Constitution vests the government of the University of Minnesota in the Board of Regents following State v. Chase, 175M259, 220NW951; 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., 183M222, 226NW217. 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., 183M222, 236NW217. See Dun. Dig. 8694.

Rentals from buildings on University campus belonging 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., 183M 222, 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., 183M222, 236NW217. See Dun. Dig. 8694.

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

Governor has authority to fill vacancies in board of regents which are not filled by the legislature prior to close of legislative session. Op. Atty. Gen., Mar. 30, 1933. 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., 183M222, 236NW217. See Dun. Dig. 8694.

**3112. Officers—Meetings—Bonds.**

The attempt to create the elective office of president of Board of Regents was unauthorized and without effect, and chancellor of University need not give a bond. Op. Atty. Gen., Dec. 21, 1931.

**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 extension work between the colleges in the several state 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 ac-

cordance with the terms and conditions expressed in the Act of Congress aforesaid. (Act Apr. 9, 1929, c. 140.)

### 3139-1. [Repealed].

Repealed by Act Mar. 30, 1933, c. 128, §1.

**3139-2. University building fund transferred to general revenue fund.**—All moneys now in the University building fund and all moneys that may be coming into said fund by virtue of levies heretofore made are hereby appropriated from said fund and credited to the general revenue fund, except as to outstanding certificates of indebtedness that may have been issued pursuant to the terms of said act and except as to outstanding contracts and obligations. (Act Mar. 30, 1933, c. 128, §2.)

Sec. 3 of Act Mar. 30, 1933, cited, provides that the act shall take effect from its passage.

## 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.

A pauper is one who is in need of any or all of the commonly recognized necessities of life, such as food, shelter, clothing, medical or surgical attention, etc., and who is unable to provide the same for himself. Op. Atty. Gen., Nov. 17, 1931.

A pauper who has no blood relatives, or only relatives unable or who refuse to provide support, becomes entitled to public relief. Op. Atty. Gen., Nov. 17, 1931.

Primary duty of supporting pauper rests upon blood relatives in the order stated. Op. Atty. Gen., Nov. 17, 1931.

The duty of providing relief for all poor people entitled thereto under the law is positive, and the exhaustion of the moneys in the poor fund does not excuse a municipality from its obligation to provide necessary relief. Op. Atty. Gen., Nov. 17, 1931.

Neither §3157 nor §3171 impose limitations on liability of county to town for poor relief expended by town under §3195. Op. Atty. Gen., May 2, 1932.

Where indigent children are committed to state public school at Owatonna but are placed on waiting list, parents, and, if they cannot pay, village of their legal settlement, are liable for support of children. Op. Atty. Gen., June 14, 1932.

Commitment of indigent children to custody of state under general guardianship did not release father and mother from obligation to support them. Op. Atty. Gen., June 14, 1932.

Maternal grandparent is not financially responsible for support of an illegitimate child. Op. Atty. Gen., Aug. 9, 1932.

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

175M39, 220NW156.

A county with county system for care of the poor paying burial expenses of a pauper not resident in the county may not recover funeral expenses from relatives. Op. Atty. Gen., Dec. 18, 1931.

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

In suit 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., 183 M230, 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., 183M230, 236NW211. See Dun. Dig., 7429.

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

Fact that husband has been sentenced to jail for violation of a city or village ordinance does not affect in any way the responsibility of the city or county for poor relief of the wife. Op. Atty. Gen., Sept. 10, 1931.

The responsibility of a city to care for its poor does not cease when the moneys in the poor fund available for such purpose have been exhausted. Op. Atty. Gen., Feb. 8, 1932.

Neither a village nor a township may make persons who rent or furnish an abode to paupers liable for poor relief subsequently furnished by village or township. Op. Atty. Gen., Feb. 11, 1932.

It is duty of municipality, charged with support of its poor, to properly provide for them. Op. Atty. Gen., Apr. 29, 1932.

County board may not make payments to building and loan association on mortgage created by party applying for poor relief. Op. Atty. Gen., July 6, 1932.

Town in which transient pauper is when he becomes a pauper must provide for him, and such town may not transfer him to the state from which he came. Op. Atty. Gen., Feb. 7, 1933.

A showing that applicant for relief has none of the relatives named in sec. 3157, or that they are not of sufficient ability or refuse or fail to support her is a prerequisite to obtaining municipal relief. Op. Atty. Gen., Apr. 8, 1933.

Duty of administering poor relief falls upon villages as well as other municipalities and village council has no discretion. Op. Atty. Gen. July 15, 1933.

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

175M39, 220NW156.

Counties may not accept conveyances of real estate from indigent persons conditioned upon county supporting such persons for remainder of their lives. Op. Atty. Gen., June 17, 1933.