

1944 Supplement
To
Mason's Minnesota Statutes, 1927
and
Mason's 1940 Supplement

Containing the text of the acts of the 1941 and 1943 Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with Law Review Articles and digest of all common law decisions.

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quires county superintendent of schools to submit to county auditor enrollment in the public schools in each district. It also provides that the funds received from county be kept in general fund of school district, and that act apply to taxes for the years 1943 and 1944.

Notes of Decisions

Under Laws 1911, chapter 148, as amended by Laws 1913, chapter 445, (G.S.1913, §2722 and §2723), proceedings to be published include a statement of all propositions submitted by motion or resolution, or otherwise, to the board, including number of votes for or against all reports made to school board, and its action thereon, and an abstract of all claims allowed, giving name of claimant and amount and general purpose of claim, in com-

mon school districts containing ten or more townships. Op. Atty. Gen., (314B-21), Nov. 17, 1939.

Under Laws 1911, ch. 148, as amended by Laws 1913, ch. 445, closed or vacant school houses are not to be counted in determining full number of schools as a basis for salaries of school board members. Op. Atty. Gen., (768d-1), Dec. 21, 1939.

Under Laws 1917, c. 387, §3, an independent consolidated school district could not elect a school board of 4 directors and also a clerk and treasurer, but should instead elect 6 members of school board and thereafter elect a chairman, a clerk and a treasurer. Op. Atty. Gen. (768B), Nov. 14, 1940.

Laws 1941, ch. 363, §5, merely makes ineffective amendment of Laws 1921, ch. 357 after the year 1942. Op. Atty. Gen. (519m), Nov. 20, 1942.

CHAPTER 14A

Minnesota School Laws

ANALYSIS

Article I.—State Department of Education, 3156-1(1) to 3156-1(35).

Article II.—Administration and Supervision, 3156-2(1) to 3156-2(15).

Article III.—School Districts; Organization; Consolidation; Dissolution, 3156-3(1) to 3156-3(32).

Article IV.—School Districts; Ten or More Townships; County Units; Unorganized Territory, 3156-4(1) to 3156-4(57).

Article V.—Districts; Meetings and Elections, 3156-5(1) to 3156-5(13).

Article VI.—School Boards, Powers and Duties, 3156-6(1) to 3156-6(32).

Article VII.—Actions and Penalties, 3156-7(1) to 3156-7(16).

Article VIII.—School Taxes; School Funds, 3156-8(1) to 3156-8(14).

Article IX.—State and Federal School Aid, 3156-9(1) to 3156-9(36).

Article X.—Teachers, 3156-10(1) to 3156-10(32).

Article XI.—Classification and Conduct of Schools, 3156-11(1) to 3156-11(25).

Article XII.—Admission and Attendance, 3156-12(1) to 3156-12(14).

Article XIII.—Existing Statutes, 3156-13(1).

Article XIV.—Repeals, 3156-14(1).

ARTICLE I

STATE DEPARTMENT OF EDUCATION

ANALYSIS

- 3156-1(1). Creation.
- 3156-1(2). Oath of Office.
- 3156-1(3). Contracts to be in Writing.
- 3156-1(4). Power and Duties—Rules and Regulations.
- 3156-1(5). Offices—Commissioner of Education—Employees.
- 3156-1(6). Commissioner of Education—Duties—Term.
- 3156-1(7). Administration of Laws.
- 3156-1(8). Certain Officer's and Employee's Bonds.
- 3156-1(9). Supervisor of Physical and Health Education.
- 3156-1(10). Travel Expenses.
- 3156-1(11). Duties of State Board of Education.
- 3156-1(12). Forms—Blanks—Record Books.
- 3156-1(13). Reports and Financial Statements.
- 3156-1(14). Modification and Unification of Laws—Biennial Education Budget.
- 3156-1(15). Application of Article.
- 3156-1(16). Conflicting Powers—Presumption.
- 3156-1(17). Opinion of Attorney General on Certain Questions.
- 3156-1(18). Circulating Libraries—Traveling Libraries.
- 3156-1(19). Advice and Instruction to Managers of Public Libraries.
- 3156-1(20). Statistics of Free Public Libraries.
- 3156-1(21). State Teachers' Employment Bureau.
- 3156-1(22). Same—Enrollment—Fee.
- 3156-1(23). Same—Information Regarding Fitness and Vacancies.
- 3156-1(24). Same—Director of Bureau.
- 3156-1(25). Incorporated Colleges or Seminaries—Duties of Trustees—Visitation and Examination.
- 3156-1(26). Commissioner of Education—Meetings with School Officials.
- 3156-1(27). Teachers' Institutes.
- 3156-1(28). Same—Attendance.
- 3156-1(29). Same—Certificate of Attendance—Full Pay.
- 3156-1(30). Same—Use of School House or School Room for Meetings.
- 3156-1(31). Same—Expense of Holding.
- 3156-1(32). Division of Vocational Rehabilitation.
- 3156-1(33). Same—Co-operation with Department of Labor and Industry.
- 3156-1(34). Same—Co-operation with U. S. Government.
- 3156-1(35). Same—Reports from Railroad and Warehouse Commission of Person Injured—Exclusive Use.

3156-1(1). Creation.—A state department of education is hereby created, which shall be maintained under the direction of a state board of education composed of five representative citizens of the state.

The members of the state board of education shall be appointed by the governor, by and with the approval of the senate, for a term of five years, and shall hold office until their successors are qualified. All vacancies in the said board shall be filled for unexpired terms by appointments by the governor. The members of said board shall receive as compensation for their services the sum of \$10.00 per day for each day actually spent in the performance of their duties, and in addition thereto they shall be reimbursed in manner according to law for all necessary expenses incurred in the performance of their duties as members of the board. One member shall be chosen annually by the members of the board as president, but no member of the board shall serve as president longer than two years during a term in office. The board shall hold an annual meeting at the state capitol on the first Tuesday in the month of August, and in addition to the annual meeting the board shall hold quarterly meetings, and may hold special meetings, on such dates and at such places as the board shall designate. Provided: that no member of the board shall hold any other office elective or appointive under the state "except a notary public," or be employed in any state institution. (Act Apr. 10, 1941, c. 169, Art. I, §1.)

[120.01]

Reenactment of §2958.

3156-1(2). Oath of office.—Before entering upon the duties of his office each member of the state board of education shall take an oath of office which shall be filed with the secretary of state. (Act Apr. 10, 1941, c. 169, Art. I, §2.)

[120.02]

Reenactment of §2959.

3156-1(3). Contracts to be in writing.—All contracts made by the said board shall be in writing and

shall be signed by its president and attested by its secretary. (Act Apr. 10, 1941, c. 169, Art. I, §3.)

[120.03]

Reenactment of §2959.

3156-1(4). Powers and duties—Rules and regulations.—The state board of education is authorized to make complete organization of the department of education, and to adopt all necessary rules, not in conflict with the provisions of law, for the conduct of its affairs; and shall have authority to define the duties of appointees and employes to the end that the educational and business activities of the department of education shall be conducted under reasonable and effective regulations which shall promote the best

to carry out conclusively, the provisions of this article. (Act Apr. 10, 1941, c. 169, Art. I, §6.)

[120.06]

Reenactment of §2962.

3156-1(7). Administration of laws.—The state board of education shall administer all laws relating to the state commissioner of education, libraries, and other public educational institutions, except such laws as may relate to the state university, and to the state teachers colleges. (Act Apr. 10, 1941, c. 169, Art. I, §7.)

[120.07]

Reenactment of §2963.

may, if they so desire, call a special election to decide which high school area they desire to join; and provided, further, that if such pupils are not transported to the nearest high school, the aid shall be limited to the amount which would be paid if they were transported to such high school. The state board of education shall formulate such rules and regulations as may be necessary for establishing such high school areas and for transporting nonresident pupils. The state board of education may appoint local advisory committees to assist in establishing such high school areas and in carrying out the rules and regulations pertaining to such areas and the transportation of nonresident pupils; but such rules and regulations shall not prevent or deny to any parent the right to transport, or to provide for the transportation of his children at his own expense, to the high school of any district willing to receive them. Any school district dissatisfied with the areas recommended by the advisory committee or established by the state board of education shall have the right of a hearing before the advisory committee and the state board of education. (As amended Apr. 14, 1943, c. 454, §1.)

Subdivision 4. The state board of education shall formulate such rules and regulations as may be necessary to the end that there shall be no competition between school districts for the enrollment of students.

Subdivision 5. The state board 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 it may deem of public value. With the co-operation of the public examiner it shall establish and carry into effect a uniform system of accounting by public school officers, and it shall have authority to supervise and examine the accounts and other records of all public schools.

Subdivision 6. Authorized representatives of the state board of education shall visit the elementary and secondary schools and junior colleges and report their findings and recommendations.

Subdivision 7. The state board of education shall exercise general supervision over public schools and public educational agencies in the state, shall classify and standardize public elementary and secondary schools and prepare for them outlines and suggestive courses of study. The board shall establish rules relating to examinations, reports, acceptances of schools, and courses of study and other proceedings in connection with elementary and secondary schools applying for special state aid.

Subdivision 8. In order to insure satisfactory completion of subjects in the elementary field the state board of education may require that examinations be given in any elementary school, such examinations to be designated or prepared under the direction of the state board of education. The purchase and distribution of examinations as provided herein shall be in accordance with Section 12 of this article.

Subdivision 9. Upon the request of any superintendent of any public or private school teaching high school courses in the state, the state board of education shall designate or prepare uniform forms for state examinations in each high school subject during the month of May of each year; provided that such request shall be in writing and delivered to the commissioner of education before January first of such year. The purchase and distribution of examinations as provided herein shall be in accordance with Section 12 of this article.

Subdivision 10. Under such rules as may be prescribed by the state board of education the county superintendent of schools shall conduct the state board of education examinations in the schools of his county other than high and graded. For this purpose he shall hold the same relation to the state board of education as the superintendent or principal of a district maintaining a graded elementary or high school. He may

designate the points at which such examinations are to be held. He may also appoint assistants for grading the papers of such examinations, and such assistants shall be paid by the county at the rate of \$3.00 per day, but the number of assistants shall not exceed one for each twenty schools, or major fraction thereof in the county, nor shall the amount of money expended for this purpose exceed \$100.00 in any one year. The superintendent of schools of the county in which the examinations are given may extend the privileges of such examination to any school in his county in which there is maintained the standards of length of term and course of study prescribed for the public schools of like grade in such county.

Subdivision 11. The state board of education is hereby authorized to enter into contracts with the United States Department of the Interior for the education of Indians in Minnesota, to receive grants of money from the federal government, and to disburse the same in accordance with terms of the contract and such rules and standards as the state board of education may establish.

Subdivision 12. The public evening schools established under the provisions of Section 14, Article IX, and the general conduct thereof shall be under the direction and control of the state board of education, and it is hereby authorized and directed to make such investigations as may be necessary to advance the purposes of said Section 14 and to carry out its provisions.

Subdivision 13. The state board of education shall prescribe rules for school sites, and for the mechanical equipment, erection, enlargement and change of school buildings. All plans and specifications for the erection, enlargement and change of school buildings shall first be submitted to the state department of education for approval before the contract is let, and no new school buildings shall be erected or any building enlarged or changed until the plans and specifications have been submitted to and have been approved by the state department of education. The state board of education shall include in such rules those made from time to time by the state board of health, relative to sanitary standards for toilets, water supply and disposal of sewage in public school buildings. In all other respects the authority to make rules for public school buildings shall be vested in the state board of education which board shall have power to prepare and furnish to local school boards plans and specifications for school buildings of two classrooms or less. Under such rules and procedure as the state board of education shall prescribe, the state department of education may condemn school buildings and sites which are unfit or unsafe for use as such.

Subdivision 14. The commissioner of education shall supervise the administration of Section 9 of this article and Section 13 of Article XI, under such rules and regulations as may be established by the state board of education, which board shall prescribe the necessary course or courses in physical and health education, training and instruction, and make such rules and regulations, and prepare or cause to be prepared, published and distributed any such manual or manuals of instruction, or course or courses of study, or other matter as the state board of education may deem necessary or suitable to carry out the provisions thereof. (Act Apr. 10, 1941, c. 169, Art. I, §11; Apr. 14, 1943, c. 454, §1.)

[120.11]

Reenactment of Mason's St. 2823-3a; 2827; 2828; 2962-2; 2962-3; 2962-4; 2963; 2990; 2991; 2991-1; 2991-2; 3036-20; 3042; 3047-1; 3075; Gen. Stats. 1913, §§2891, 2892.

Board has authority to rule that high school students in their senior year may be graduated without completing that year when they have entered armed forces of the United States. Op. Atty. Gen. (160D). Feb. 19, 1942.

A program of social hygiene concerned primarily with instruction in social hygiene and with class room work on social hygiene is a responsibility of the department of education and not the department of health, and duties of school nurses should not involve instruction of pupils except perhaps to a very limited extent. Op. Atty. Gen. (170b), July 7, 1943.

Subd. 3.

Where a common school district has provided school bus transportation service for its "non-resident" high school pupils, "family transportation" of one's own children to such high school cannot be charged to the district. *Perszyk v. School Dist. No. 32, 212M513, 4NW(2d) 321. See Dun. Dig. 8675.*

Laws 1941, c. 523, §6, relating to board and room or transportation of pupils to state schools of agriculture, compels a school district not maintaining a high school to provide for free transportation of pupils wishing to attend a state school of agriculture where district provides for free transportation of pupils to high school within its own area. *Op. Atty. Gen. (168), July 11, 1941.*

Where division of territory between two school districts resulted in dividing line leaving part of pupils in one high school district and part in another, district must make equal provision for transportation for all of its pupils to high school and if it pays for transportation to one high school it must pay for transportation of other pupils to their respective high school and pupils in one high school area may not be compelled to attend in another area, and if transportation is paid for district is entitled to some state aid. *Op. Atty. Gen. (166A-6), Oct. 9, 1941.*

Subd. 4.

Repeated Act Apr. 28, 1941, c. 523, §2.

Subd. 11.

Clerk of school board of Cass County cannot be paid a salary in excess of that allowed by Laws 1941, c. 295, §9, by reason of grants to state of federal money for Indian education. *Op. Atty. Gen. (768d-4), Nov. 21, 1941.*

A contract between United States and director of public institutions for hospitalization of Indians suffering from tuberculosis did not contemplate furnishing of education, that being a matter for department of education. *Op. Atty. Gen. (240S), Feb. 6, 1942.*

Subd. 13.

If a rental agreement entered into by the school district at Hastings and the Hastings Gas Company for gas burner equipment was not a subterfuge to take the place of an installment purchase, it was legal and proper, and there was no necessity of advertising for bids where the annual rental was less than \$500.00. *Op. Atty. Gen. (707a-12), July 10, 1941.*

Laws 1943, S. F. No. 574, relating to practice of architecture, does not prohibit state board of education from furnishing to local school boards plans and specifications for school buildings of two classrooms or less. *Op. Atty. Gen. (622j), March 20, 1943.*

3156-1(12). Forms—Blanks—Record books.—The state board of education shall prepare or designate standard forms for school registers, uniform blanks for all reports required by this title, uniform record books for district treasurers and clerks, and any other blanks necessary for school business. Said uniform forms may be purchased through the department of education, subject to its approval, and provided that the requests therefor shall conform to the rules and regulations established by the department of education. The purchase of said forms on behalf of said districts by the department of education shall be made through the department of administration, division of printing, and subject to all the rules and regulations provided by statute for the purchase of such forms for the state of Minnesota. The purchase of said uniform forms may also be made by the school districts directly from vendors. (Act Apr. 10, 1941, c. 169, Art. I, 12.)

[120.12]

Reenactment of §2962-5.

State board of education may furnish clerks' and treasurers' record books to local school districts with or without making a charge therefor. *Op. Atty. Gen. (397), July 10, 1941.*

Obligation of county to furnish certain records for common school districts. *Op. Atty. Gen. (179d), July 13, 1942.*

3156-1(13). Reports and financial statements.—

Subdivision 1. On December 1 of each even-numbered year, the state board of education shall make a report to the governor, which shall cover the biennial period ending June 30 preceding; the said report shall contain a copy of all rules of said board in force during the biennial period, the name and salary of each officer or employee in the department of education, a summary of the financial affairs of said department including summaries of receipts and disbursements, and such other matters as it may seem advisable to include in such report, or as shall be required by the governor.

Subdivision 2. On January 1 of each odd-numbered year or as soon thereafter as possible, but not later than February 1, the state board of education

shall prepare and submit to the Legislature, through the governor, a report containing:

1. An abstract of the reports of the several county superintendents showing such facts and giving such information as the state commissioner of education may require relative to public schools, including enrollment, attendance, and classification of pupils in public schools.

2. A statement of the conditions of public schools and of public and other institutions of learning reporting to the state department of education.

3. The amount of money received and expended each year for public schools and public education, specifying the amount received from each source and the amount expended for each purpose.

4. The number and kind of public schools of each class receiving state aid, and the estimated amount of aid for the ensuing two years, together with such facts relating to these schools as will show their progress and work. (Act Apr. 10, 1941, c. 169, Art. I, §13.)

[120.13]

(1).

Reenactment of §2964.

(2).

Reenactment of §2962-2.

3156-1(14). Modification and unification of laws—Biennial education budget.—The state board of education shall recommend to the governor and legislature such modification and unification of laws relating to the state system of education as shall make those laws more readily understood and more effective in execution; and the state board of education shall prepare a biennial education budget which shall be submitted to the governor and legislature, according to the provisions of law, such budget to contain a complete statement of finances pertaining to the maintenance of the department of education and to the distribution of state aid to public schools. (Act Apr. 10, 1941, c. 169, Art. I, §14.)

[120.14]

Reenactment of §2965.

3156-1(15). Application of article.—Nothing in this article shall be held to apply to the university of Minnesota, or to the state teachers colleges, or to the powers, functions and duties vested by law in the board of regents of the university, or in the state teachers college board. (Act Apr. 10, 1941, c. 169, Art. I, §15.)

[120.15]

Reenactment of §2968.

3156-1(16). Conflicting powers—Presumption.—In case of any apparent conflict between powers, duties and functions conferred by law upon any educational officer, or person, or board, or commission named in Sections 7 and 11 (1) and those conferred by this article on the state board of education, it shall be conclusively presumed that such powers, duties and functions belong to the state board of education to be exercised by it under the law and rules of the board. (Act Apr. 10, 1941, c. 169, Art. I, §16.)

[120.16]

Reenactment of §2966.

3156-1(17). Opinion of Attorney General on certain questions.—If any difference of opinion arises between school officers as to their powers or duties, or if there is any doubt as to the proper construction of any part of the state school laws administered by the state board of education, the commissioner of education, at the request of any such officer shall submit such question to the attorney general, who shall give his written opinion thereon to such commissioner of education, and such opinion shall be binding until annulled or overruled by a court. (Act Apr. 10, 1941, c. 169, Art. I, §17.)

[120.17]

Reenactment of §2848.

3156-1(18). Circulating libraries—Traveling libraries.—The state department of education may purchase collections of books, to be the property of the

state, and used as a state circulating library, from which any town, village, or community may borrow, under prescribed regulations. It may also loan books to individuals residing in areas where other public library service is not available. It shall divide such books into groups to be known as traveling libraries, catalogue and prepare them for circulation, and make rules for the conduct of this business, such as shall insure the care, preservation, and safe return of all books loaned. Suitable rooms shall be provided in the capitol for its use. (Act Apr. 10, 1941, c. 169, Art. I, §18.)

[120.18]

Reenactment of §5658.

3156-1(19). Advice and instruction to managers of public libraries.—The state department of education shall give advice and instruction to the managers of any public library, and to the trustees or agents of any village, town, or community entitled to borrow from the collections of books, upon any matter pertaining to the organization, maintenance, or administration of libraries. It shall assist, by counsel and encouragement, in the formation of libraries where no library exists and may send its members to aid in organizing the same, or in improving those already established. (Act Apr. 10, 1941, c. 169, Art. I, §19.)

[120.19]

Reenactment of §5659.

3156-1(20). Statistics of free public libraries.—The state department of education shall keep statistics of the free public libraries of the state, and a record of the work done and the books loaned by it, and report the same to the legislature at each regular session thereof, together with a statement of its expenditures, relating to such work, the use made of the traveling libraries, and such other matter as it deems proper. (Act Apr. 10, 1941, c. 169, Art. I, §20.)

[120.20]

Reenactment of §5660.

3156-1(21). State Teachers' Employment Bureau.—There is hereby established a bureau for the purpose of securing employment for teachers in the public schools in this state, to be known as the state teachers' employment bureau, and to be maintained in connection with the department of education, under the direction of the state board of education. (Act Apr. 10, 1941, c. 169, Art. I, §21.)

[120.21]

Reenactment of §2954.

3156-1(22). Same—Enrollment—Fee.—Any person having a certificate to teach in this state, or who has completed a course of study as required for the issuance of a certificate, or who may be found entitled to receive such certificate, and who is deemed to be a fit and capable person for teaching, shall be entitled to enroll with said teachers' employment bureau upon complying with the regulations referred to in Sections 21 to 24, and upon the payment of such fee as may be determined by the board of education, which fee shall not exceed \$5.00 per year and shall entitle the person so enrolled to the privileges and services of said bureau. (Act Apr. 10, 1941, c. 169, Art. I, §22.)

[120.22]

Reenactment of §2955.

3156-1(23). Same—Information regarding fitness and vacancies.—It shall be the purpose of the state teachers' employment bureau to furnish to boards, superintendents, principals, or other proper authorities of public schools, upon request, information regarding teachers, and to furnish teachers enrolled with the bureau, information relative to vacancies in positions in public schools; but no person connected with the state teachers' employment bureau shall be held responsible for nor be understood to vouch for the fitness or success of any teacher who may secure a position in a public school through the said bureau, nor shall the payment and acceptance of the enrollment fee be construed as a guaranty for securing through

the bureau employment to teach. (Act Apr. 10, 1941, c. 169, Art. I, §23.)

[120.23]

Reenactment of §2956.

3156-1(24). Same—Director of Bureau.—The commissioner of education shall nominate and the state board of education shall appoint a director of the state teachers' employment bureau, who shall perform his duties under the general supervision of the commissioner of education, and who shall be furnished necessary office rooms in the state capitol. The state board of education may appoint such clerical and other assistants as may be required to carry out the purposes of Sections 21 to 24, but the expense therefor shall not exceed the money available therefor. The state board of education shall make the necessary rules and regulations for conducting this bureau. The commissioner of education shall designate one employee of this bureau who shall collect and receipt for all fees provided for in Section 22 and report and pay the fees to the state treasurer as provided by law. (Act Apr. 10, 1941, c. 169, Art. I, §24.)

[120.24]

Reenactment of §2957.

3156-1(25). Incorporated colleges or seminaries—Duties of trustees—Visitation and examination.—The trustees of any incorporated college or seminary, in addition to their other powers, may prescribe its course of study and discipline, grant such literary honors and degrees as are usually granted by similar institutions, and give suitable diplomas in evidence thereof. They may make all rules, ordinances, and by-laws necessary and proper to carry into effect its powers. They may require the treasurer and other officers and agents to give bonds. Every such college shall be subject to visitation and examination by the state commissioner of education. They shall annually, on or before January 1, report to the state commissioner of education the name of each trustee, officer, and student, the amount of stock subscribed, donated, and bequeathed, and the amount actually paid in. (Act Apr. 10, 1941, c. 169, Art. I, §25.)

[120.25]

Reenactment of §7899.

3156-1(26).—Commissioner of education—Meetings with school officials.—For the purpose of considering matters affecting the interests of public education, the commissioner of education or his representative shall, upon notice meet with the several school board members, county and city superintendent, school principals, and teachers at such times and places in the state as he shall deem most convenient and beneficial. (Act Apr. 10, 1941, c. 169, Art. I, §26.)

[120.26]

Reenactment of §2962-2.

County superintendent is entitled to reimbursement for traveling expenses, but the law does not require that he shall be a member of county superintendent association or pay dues. Op. Atty. Gen. (399F), Mar. 12, 1942.

3156-1(27). Teachers' institutes.—The state commissioner of education shall provide for teachers' institutes in the several counties of the state for the professional instruction and training of teachers. He shall designate the county or counties for which such institutes are to be held, and the times and places of holding the same. The state board of education shall have authority to employ institute instructors and lecturers for the purposes of conducting such institutes. Each institute shall continue for not to exceed one week. In the discretion of the commissioner and in co-operation with the county superintendent of schools, institute instructors may visit schools in the county for not to exceed four days in connection with any institute. (Act Apr. 10, 1941, c. 169, Art. I, §27.)

[120.27]

Reenactment of §3063-1.

3156-1(28). Same—Attendance.—The superintendent of each county for which such institute is designated shall give notice thereof to the teachers

of the ungraded elementary schools of his county, and may require their attendance. He shall make all necessary arrangements and shall attend and take part in the work of such institute. (Act Apr. 10, 1941, c. 169, Art. I, §28.)

[120.28]

Reenactment of §3063-2.

3156-1(29). Same—Certificate of attendance—Full pay.—It shall be the duty of every teacher in an ungraded elementary school in the county to attend such institute during the entire duration, unless excused by the county superintendent for cause. Every teacher who has been in attendance at such institute shall receive from the county superintendent a certificate indicating the days attended, which, when presented to the clerk of the school district in which the teacher is employed, shall entitle the teacher to full pay for the time school has been closed on account of actual attendance at such institute. (Act Apr. 10, 1941, c. 169, Art. I, §29.)

[120.29]

Reenactment of §3063-3.

3156-1(30). Same—Use of school house or school room for meetings.—The school board in any district in which an institute is designated to be held shall allow the free use of any schoolhouse or schoolroom for that purpose, upon ten days' notice of selection from the county superintendent; provided, that such use shall not interfere with the sessions of school. (Act Apr. 10, 1941, c. 169, Art. I, §30.)

[120.30]

Reenactment of §3063-4.

3156-1(31). Same—Expense of holding.—The board of county commissioners of any county for which an institute is designated shall allow bills for the personal expenses of the county superintendent in holding institutes, when held elsewhere than at the county seat, but not to exceed the sum of \$50.00 in any one year. The board may also appropriate out of the county revenue fund a reasonable sum for expense of the institute to be expended under direction of the county superintendent, who shall file with the county auditor within a month an itemized statement of the disbursement thereof. (Act Apr. 10, 1941, c. 169, Art. I, §31.)

[120.31]

Reenactment of §3063-5.

3156-1(32). Division of vocational rehabilitation.—There is hereby established under the direction and control of the state board for vocational education in the state department of education, a division of vocational rehabilitation for the training and instruction of persons whose capacity to earn a living has in any way been destroyed or impaired through industrial accident or otherwise; provided, that at the time when the accident or disability was incurred they were residents or citizens of the state of Minnesota. The state board for vocational education shall, in its regular reports to the legislature, describe in detail the work of the division, and may from time to time issue bulletins containing information relative thereto. The employees of the division shall be appointed by the state board of education functioning as the state board for vocational education. (Act Apr. 10, 1941, c. 169, Art. I, §32.)

[120.32]

Reenactment of §§2983, 2984.

Where a boy losing a leg in an accident was a resident and citizen of Minnesota at the time, his subsequent removal to another state did not change his status during year he was acquiring a residence in other state and expense of training in that state could be paid. Op. Atty. Gen. (170H), Sept. 23, 1941.

Division may expend funds for vocational training of disabled adults who have resided in Minnesota one year or more but whose disability was incurred elsewhere, provided disabled adult was resident of state at time disability was incurred. Op. Atty. Gen. (170H), Jan. 5, 1942.

Training is not limited to resident injured in industrial accident, but "or otherwise" extends it to residents injured in any manner. Id.

State law does not require residence for any specified period of time as a prerequisite to training, and residence for length of time may not be added by administrative regulations. Id.

In the discretion of proper authority it would seem that money could be expended for vocational rehabilitation of persons disabled by disease. Op. Atty. Gen. (170h), Oct. 16, 1942.

3156-1(33). Same—Co-operation with department of labor and industry.—The state board for vocational education and the department of labor and industry, or any agency which may succeed it in the administration or supervision of the Workmen's Compensation act, shall formulate a plan of co-operation with reference to the work of the division of vocational rehabilitation. Such plan shall be effective only when approved by the governor. (Act Apr. 10, 1941, c. 169, Art. I, §33.)

[120.33]

Reenactment of §2985.

Contract for vocational rehabilitation between division and training agency must be approved by commissioner of administration and attorney general. Op. Atty. Gen. (170h), July 29, 1943.

State Board for Vocational Education and Director of Social Welfare should unite in approval of plan for administration of money appropriated by Congress for vocational rehabilitation of person disabled in industry or otherwise and their return to civil employment, but administration of aid to non-institutionalized blind is under Director of Social Welfare, and all other administration is under the State Board for Vocational Education. Op. Atty. Gen. (170h), Sept. 15, 1943.

3156-1(34). Same—Co-operation with U. S. government.—The division of vocational rehabilitation shall aid persons who are incapacitated as described in Section 32 herein, in obtaining such education, training and employment as will tend to restore their capacity to earn a livelihood. The division of vocational rehabilitation may co-operate with the United States government, and as part of such co-operation may extend the benefits of Sections 32 to 34 to any civil employee of the United States disabled while in the performance of his duty, without regard to the residence or citizenship of such employee, if in the judgment of the board the benefits offered by the federal government are sufficient to compensate for the cost. The division of vocational rehabilitation may, of its own accord, establish, or maintain, or in co-operation with local boards of education, assist in establishing or maintaining, such courses as it may deem expedient, and otherwise may act in such manner as it may deem necessary to accomplish the purposes of Sections 32 to 34. (Act Apr. 10, 1941, c. 169, Art. I, §34.)

[120.34]

Reenactment of §2986.

Physically disabled may be provided with counsel and assistance in carrying on vocational and educational activities which will contribute to employability in a chosen field even though no funds are being expended for their training, and this may be extended to disabled residents under sixteen years of age. Op. Atty. Gen. (170H), Jan. 5, 1942.

State and federal funds may be expended for vocational training of disabled persons who qualify physically and mentally, and on the basis of residence, and are sixteen years of age and over, subject to qualification that federal authorities may control expenditure of funds advanced by them. Id.

State has no authority to pay one-half the cost of corrective surgery or treatment of physical ailments. Op. Atty. Gen. (170h), July 22, 1943.

3156-1(35). Same—Reports from Railroad and Warehouse commission of persons injured—Exclusive use.—The employees of the division of vocational rehabilitation shall have the right to receive from the Railroad and Warehouse commission, under Mason's Minnesota Statutes of 1927, Section 4704, the names and addresses of persons injured. No information obtained from such reports, nor any copy of the same shall be open to the public, nor shall any of the contents thereof be disclosed in any manner by any official or clerk or other employe of the state having access thereto, but the same may be used solely to enable the division to offer the benefits of vocational rehabilitation to the persons injured.

Any disclosure so prohibited is hereby declared to be a misdemeanor and punishable as such. (Act Apr. 10, 1941, c. 169, Art. I, §35.)

[120.35]

Reenactment of §§2987, 2988.

ARTICLE II.

ADMINISTRATION AND SUPERVISION

ANALYSIS

- 3156-2(1). County Superintendents—Additional Duties.
- 3156-2(2). Same—Record of Facts Concerning Teachers Certificates.
- 3156-2(3). Same—Meeting of District Officers for Educational Interests.
- 3156-2(4). Same—Blanks and Circulars.
- 3156-2(5). Same—Reports.
- 3156-2(6). Same—Abstract of Number of Pupils in Each District for Apportionment of School Funds.
- 3156-2(7). Same—Warrant for Salary of County Superintendent, Filing Reports of Proof.
- 3156-2(8). Same—Deputy Superintendent.
- 3156-2(9). Same—Salaries.
- 3156-2(10). Same—Incidental Expenses.
- 3156-2(11). Same—Fund Allowed for Clerk Hire.
- 3156-2(12). Same—Exceptions.
- 3156-2(13). Same—Duties of Retiring Superintendent.
- 3156-2(14). Same—Expenses Incurred.
- 3156-2(15). District Superintendents—Duties.

3156-2(1). County superintendents—Additional duties.—In addition to their other duties, county superintendents shall visit and instruct each school in their counties, except those under the immediate charge of a city or district superintendent, at least once in each term. They shall instruct its teachers; organize and conduct such teachers' institutes as they shall deem expedient; encourage teachers' associations; advise teachers and school boards in regard to the best methods of instruction, the most approved plans for building, improving, and ventilating school houses, or ornamenting school grounds, and of adapting them to the convenience and health exercise of the pupils; stimulate school officers to the prompt and proper discharge of their duties; receive and file all reports required to be made to them; and make a report to the state commissioner of education, containing an abstract of such reports, a written statement of the condition and prospects of the schools under their charge, and such other matters as they may deem proper, or as may be called for by the state commissioner of education. (Act Apr. 10, 1941, c. 169, Art II, §1.)

[121.01]

Reenactment of §2973.

County superintendent of schools should not be employed also as teacher in a district school. Op. Atty. Gen. (399), Oct. 20, 1942.

3156-2(2). Same—Record of facts concerning teachers certificates.—County superintendents shall record in their office in a book provided by the board of county commissioners for such purpose, all material facts concerning teachers' certificates presented for recording purposes and shall certify to each holder of such certificate that such recording has been made. (Act Apr. 10, 1941, c. 169, Art. II, §2.)

[121.02]

Reenactment of §2902.

3156-2(3). Same—Meeting of district officers for educational interests.—The county superintendent may call meetings of the district officers of his county at such times and places as may be convenient, to remain in session for one day, for consultation and advice in regard to school statistics, methods of organization of schools, and other matters relating to the educational interests of the public schools. (Act Apr. 10, 1941, c. 169, Art. II, §3.)

[121.03]

Reenactment of §2974.

3156-2(4). Same—Blanks and circulars.—The county superintendent shall forward to teachers and clerks all blanks and circulars furnished him for their use, and shall be guided generally by the rules prescribed by the state board of education. (Act Apr. 10, 1941, c. 169, Art. II, §4.)

[121.04]

Reenactment of §2976.

3156-2(5). Same—Reports.—The county superintendent shall make such reports as may be required by the state commissioner of education. These reports shall be made on or before dates fixed by the state board of education and shall include tabulated extracts from the reports of the teachers and clerks, and such other matters as may be called for in the blanks. When the clerk of a common school district has failed to render his report at such time as may be specified by the state board of education, the county superintendent shall be empowered to employ help to compile such report, the expense to be paid by the local school board from district funds which amounts may be deducted from the annual salary of said clerk. (Act Apr. 10, 1941, c. 169, Art. II, §5.)

[121.05]

Reenactment of §2977.

3156-2(6). Same—Abstract of number of pupils in each district for apportionment of school funds.—On or before the first Monday in October of each year the county superintendent of schools shall file with the county auditor an abstract of the number of pupils in each district entitled to be counted for apportionment of school funds, and on or before December 15, he shall file with the county auditor an abstract of the number of children in each district entitled to be counted in the distribution of the income tax school fund. (Act Apr. 10, 1941, c. 169, Art. II, §6.)

[121.06]

Reenactment of §2978.

3156-2(7). Same—Warrant for salary of county superintendent, filing reports of proof.—No warrant shall be drawn for the payment of the salary of the county superintendent for the months of October and December of any year until the reports specified in Sections 5 and 6 shall have been filed, and proof made of the filing of such superintendent's reports to the commissioner of education. (Act Apr. 10, 1941, c. 169, Art. II, §7.)

[121.07]

Reenactment of §2979.

3156-2(8). Same—Deputy superintendent.—Any superintendent physically unable to visit his schools may appoint a deputy superintendent for not more than 60 days in any year, to be paid by such county superintendent. (Act Apr. 10, 1941, c. 169, Art. II, §8.)

[121.08]

Reenactment of §2980.

3156-2(9). Same—Salaries.—Salaries of county superintendents, except as hereinafter provided, shall be fixed by the board of county commissioners, and shall not be less than a sum equal to \$18.00 or \$16.00, as herein provided, for each organized public school in the county, to be reckoned, pro rata for the year from the time when a new school, organized in any district, begins. It shall be fixed at not less than \$18.00 for each public school in the county, until the salary, reckoned on that basis, reaches (\$1,000), and in counties where the salary, reckoned at \$18.00 per school, shall exceed (\$1,000), it shall be reckoned on the basis of not less than \$16.00 for each public school in the county, until the salary reaches \$2,400 but in no county shall the salary, reckoned on the basis of \$16.00 for each school, be less than \$1,600. Provided: that when one or more school districts are hereafter discontinued in any county as a result of consolidation or when school in any school building is or has been discontinued in any county as a result of consolidation and the children usually attendant thereat are transported to another school in the same or adjoining district by the school authorities, then thereafter the salary of the county superintendent shall be reckoned, and an assistant or assistant superintendent, if any, shall be appointed, on the basis of the number of schools before such consolidation, or discontinuance, was made. In any county, except as otherwise provided in this Act, the salary of the county superin-

tendent may be fixed by the county board at such sum higher than \$2,400 as the county board shall determine: provided, that in any county containing not less than 7,000 and not more than 14,000 inhabitants, and containing not less than 16 and not more than 30 full and fractional congressional townships, and containing not more than five incorporated cities, villages or boroughs, and having a taxable value for the year 1935, exclusive of money and credits, of not less than \$1,500,000 and not more than \$4,000,000, and having a total amount of delinquent taxes on January 1, 1936, of not more than \$735,000, to the salary of the county superintendent of schools shall not exceed \$1,500 per annum.

The provisions of this section shall apply to all counties in this state excepting (1) those having a population of 150,000 or more, in which the salary of the county superintendent and the appointment and salary of his assistant shall remain as now fixed by law referring to such counties, and (2) other counties where the salary of county superintendent is now fixed by special law in which last-named counties, the salary of the county superintendent shall be fixed by such special law, but all other provisions of this act shall apply to such last-named counties.

The term "school" as used in this act shall be understood to mean a school building in which a public school is held. (Act Apr. 10, 1941, c. 169, Art. II, §9 as amended Act Apr. 26, 1941, c. 471, §1.)

[121.09]

Reenactment of §958.

Act Apr. 26, 1941, c. 471, §2 provides that this act shall not apply in any county where the salary of the county superintendent is now fixed by any law of limited application.

Salaries of county superintendents. Laws 1921, c. 133, §19 as amended by Laws 1923, c. 419 amended. Laws 1943, c. 423.

Laws 1933, c. 76, as amended by Laws 1935, cc. 70 and 278, as amended by Laws 1939, c. 286. Amended. Laws 1941, c. 208.

Laws 1933, c. 143. Amended. Laws 1943, c. 52.

Act Apr. 10, 1941, c. 206, provides that in counties having 19 to 22 organized townships, 39,000 to 41,000 population, and 24 to 25 congressional townships, the salary of the clerk of county superintendent of schools shall be \$650 to \$1,500 per annum.

Act Apr. 18, 1941, c. 310, fixes salaries of superintendents of schools in certain counties having populations of between 32,000 and 35,500, at \$2,500 per annum.

Act Apr. 18, 1941, c. 311, §7, authorizes salaries for superintendents of schools of from \$1,800 to \$2,200, in certain counties having populations of from 20,000 to 22,500.

Laws 1941, c. 311. Repealed. Laws 1943, c. 15, §12.

Act Apr. 21, 1941, c. 337, §3, amends Laws 1937, c. 491, §11, and fixes salaries of superintendents of schools at \$2,520 per annum, and fees and clerk hire as now prescribed by law, in certain counties having 44 or 45 congressional townships.

Laws 1943, c. 15, §8, provides that in counties with 46 to 49 full or fractional congressional townships, and population of 20,000 to 27,500, that county superintendent of schools shall receive a salary of \$1,800 to \$2,000 annually. Repealing c. 311, Laws of 1941.

Laws 1943, c. 52, amends Laws 1933, c. 143, to provide that the salary of any superintendent of schools in county containing 60 to 80 congressional townships, and 45,000 to 75,000 population, shall be fixed in accordance with Laws of 1941, c. 169, as amended by the Laws of 1941, c. 471.

Laws 1943, c. 139, provides that in all counties having not less than 35 nor more than 55 full and fractional congressional townships and an assessed valuation of not more than \$2,000,000, and a population of 5,000 to 7,000, the county superintendent of schools shall receive a salary of \$1,350 per annum, in addition to fees.

Laws 1943, c. 219, provides that in counties having population of 60,000 to 75,000 and 35 to 49 congressional townships, county board shall fix by resolution salary of superintendent of schools at not more than \$4,000 per year.

Laws 1943, c. 255, authorizes board of county commissioners in counties having 30 to 35 full or fractional congressional townships, a population of 11,000 to 12,000, a valuation of \$1,000,000 to \$2,000,000, to fix the salary of the superintendent of schools at not less than \$1,320 and more than \$1,600, annually.

Laws 1943, c. 256, provides that the superintendent of schools in counties having 23 to 25 congressional townships, a population of 26,500 to 28,500, shall receive a salary of \$2,500, annually.

Laws 1943, c. 303, provides that in counties having an assessed value of \$1,000,000 to \$1,500,000, a population of 8,000 to 10,000, 15 to 17 full or fractional congressional townships, and a land area of 350,000 to 400,000 acres, the

board of county commissioners may fix the salary of the county superintendent of schools at \$1,500 to \$1,700, annually.

Hennepin County. Laws 1943, c. 423, amending Laws 1921, c. 133, as amended by Laws 1923, c. 419.

Laws 1943, c. 531, amends Laws 1943, c. 411, to read as follows: Counties containing not less than 19 nor more than 21 organized townships, and having a population of not less than 35,000 nor more than 42,000 inhabitants, according to the last federal census, and having an assessed valuation of not less than \$32,000,000 and not more than \$45,000,000.

Notes of Decisions

Before salary of county superintendent can be adjusted under Laws 1941, c. 471, amending this section, an affirmative action of the board of county commissioners must be had. Op. Atty. Gen. (399h), May 20, 1941.

"Organized school" means each school building and a single district in a city containing three buildings should be counted as three schools. Op. Atty. Gen. (399h), June 11, 1941.

Pennington County comes within provisions placing a maximum of \$1,500 for salary of county superintendent. Op. Atty. Gen. (399H), Sept. 20, 1941.

Monies and credits are to be included in determining classification of counties for salary purposes where assessed valuation is a factor in such determination. Op. Atty. Gen. (104a-9), Dec. 31, 1942.

Construing Laws 1943, c. 411, and Laws 1943, c. 531, together, officers of Mower County were not entitled to increased salaries between the approval dates of the two acts, in view of Laws 1941, c. 492, §31. Op. Atty. Gen. (104a-9), June 7, 1943.

3156-2(10). Same—Incidental expenses.—The board of county commissioners of each county shall pay itemized and verified bills for postage used in official correspondence and in forwarding official documents; express, telegraph and telephone charges in official business; necessary bills for printing notices, circulars, examination questions, annual reports required in the proper grading of schools; and necessary and proper expenditures in connection with county graduation exercises, or such reports and classification records as may be required by the commissioner of education, together with necessary stationery in the examination of pupils and for official correspondence; also the local expense in connection with teachers' institutes. (Act Apr. 10, 1941, c. 169, Art. II, §10.)

[121.10]

Reenactment of §959.

Obligation of county to furnish certain records for common school districts. Op. Atty. Gen. (179d), July 13, 1942.

What constitutes "reports and classification records" for which county rather than school district should pay, is a question of fact. Op. Atty. Gen. (125a-48), Jan. 13, 1943.

Section does not apply to independent school districts. Op. Atty. Gen. (179d), May 27, 1943.

3156-2 (11). Same—Clerical assistants in certain counties.—In counties containing not less than 20 nor more than 44 schools the county superintendent may be allowed annually, such sum for clerk hire as the board of county commissioners shall determine, not exceeding the sum of \$300.00. In counties containing not less than 45 nor more than 74 schools the county superintendent may be allowed annually, such sum for clerk hire as the board of county commissioners shall determine, not exceeding the sum of \$750.00. In counties containing not less than 75 nor more than 124 schools the county superintendent may be allowed annually such sum for clerk hire as the board of county commissioners may determine, not exceeding the sum of \$850.00. In counties having 125 schools, but less than 240, the county superintendent may be allowed annually such sum for clerk hire as the board of county commissioners shall determine, not exceeding the sum of \$900.00, and shall appoint one assistant, and in counties having 240 schools or more, he shall appoint two assistants, and the assistant or assistants shall give their entire time to their duties as such assistant superintendents and shall serve during the pleasure of the superintendent. The salaries of assistants appointed to serve for full time shall be fixed by the board of county commissioners. Assistants so appointed to serve for full time shall have had at least 18 months' experience in public schools, and be the holders of teachers' certificates equiva-

lent to diplomas from a Minnesota state teachers' college, except that in counties having two assistants, it shall be sufficient if one of them possesses the teaching experience and the certificate herein referred to. Any assistant at the time of his appointment may or may not be a resident of the county for which he is appointed. In each case the assistant county superintendent shall assist the superintendent in the performance of his general duties, as directed, and report to him. Clerk hire shall be paid to the persons actually rendering such clerical services, out of the county treasury, upon the orders of the county auditor accompanied by a certificate of the county superintendent that the service has been rendered, and no allowance for such clerk hire shall be made or received in any case except for services actually rendered. (Act Apr. 10, 1943, c. 169, Art. II, §11; Apr. 20, 1943, c. 513, §1.)

[121.11]

Laws 1943, c. 513, §2, provides that the act shall not affect salaries fixed by other laws.

Reenactment of §960.
Editorial note.—Section 960, Mason's St., from which this section is derived, was repealed by Act Apr. 10, 1941, c. 169, XIV, §1, (3156-14(1)).

Such section 960, was previously amended by Act Feb. 25, 1941, c. 22, §1, to read as follows: In counties containing not less than 45 nor more than 74 schools the county superintendent may be allowed annually, such sum for clerk hire as the county board shall determine, not exceeding the sum of \$500.00. In counties containing not less than 75 nor more than 124 schools the county superintendent may be allowed annually such sum for clerk hire as the county board may determine not exceeding the sum of \$600.00. In counties having 125 schools, but less than 240, the county superintendent may be allowed annually such sum for clerk hire as the county board shall determine, and shall appoint one assistant, and in counties having 240 schools or more, he shall appoint two assistants, and the assistant or assistants shall give their entire time to their duties as such assistant superintendents, and shall serve during the pleasure of the superintendent. The salaries of assistants appointed to serve for full time shall be fixed by the county board. Assistants so appointed to serve for full time shall have had at least 18 months' experience in public schools, and be the holders of teachers' certificates equivalent to diplomas from a Minnesota normal school, except that in counties having two assistants, it shall be sufficient if one of them possesses the teaching experience and the certificate herein referred to. Any assistant at the time of his appointment may or may not be a resident of the county for which he is appointed. In each case the assistant county superintendent shall assist the superintendent in the performance of his general duties, as directed, and report to him. Clerk hire shall be paid to the persons actually rendering such clerical services, out of the county treasury, upon the order of the county auditor accompanied by a certificate of the county superintendent that the service has been rendered, and no allowance for such clerk hire shall be made or received in any case except for services actually rendered.

Laws 1941, c. 169, repealed Laws 1941, c. 22. Op. Atty. Gen. (160g), Dec. 13, 1942.

Section amends Laws 1939, c. 319, in counties where applicable. Op. Atty. Gen. (399c), Jan. 21, 1943.

County superintendent of schools in Yellow Medicine County was not entitled to an increase in clerk hire. Op. Atty. Gen. (399c), Feb. 9, 1943.

3156-2(12). Same—Exceptions.—Section 11 [3156-2(11)] shall not apply to any county now operating under a special law, nor to any county where the provisions for county superintendent's clerk hire or assistant county superintendent is fixed on a classification other than the number of schools. (Act Apr. 10, 1941, c. 169, Art. II, §12.)

[121.12]

Reenactment of §960-1.

3156-2(13). Same—Duties of retiring superintendent.—Every county superintendent on retiring from office shall deliver to the auditor of his county, for his successor, the records of his office, a list of the clerks of all school districts of the county, with their postoffice addresses, and of all persons under contract to teach in the ungraded elementary schools of the county, together with all blanks, registers, copies of laws, and other state or county property in his possession; and no auditor shall make full payment of salary to any such county superintendent un-

til he has complied with the requirements of this section. (Act Apr. 10, 1941, c. 169, Art. II, §13.)

[121.13]

Reenactment of §961.

3156-2(14). Same—Expenses incurred.—The board of county commissioners of each county of the state shall audit and, if found correct, allow duly itemized and verified claims of the county superintendent of schools for actual and necessary traveling expenses, incurred by him or his assistants in the discharge of their official duties. If the county superintendent of schools or his assistant uses his own automobile or other conveyance owned by him in the performance of his official duties, the board of county commissioners shall likewise allow him therefor not to exceed five cents per mile necessarily traveled in such automobile or other conveyance in the performance of his official duties. (Act Apr. 10, 1941, c. 169, Art. II, §14.)

[121.14]

Reenactment of §962.

Resolution of county board to discontinue payment of any mileage to county superintendent is arbitrary, unreasonable and not according to law. Op. Atty. Gen. (399f), June 5, 1941.

County board may reimburse superintendent of schools for his expenses in traveling on school business, after it has determined that they were actual and necessary traveling expenses in discharge of official duty. Op. Atty. Gen. (399f), March 13, 1943.

3156-2(15). District superintendents—Duties.—All districts maintaining a classified high school shall employ a superintendent who shall be ex-officio a member of the school board but not entitled to vote therein. The superintendent in such districts shall visit the schools of the district, and exercise a general supervision over them, and report their condition to the board, with proper recommendations, when he deems it advisable, or when requested by the board. He shall make recommendations to the board concerning the employment and dismissal of teachers. He shall superintend the grading of the schools and examinations for promotions, and shall perform such other duties as the board shall prescribe. He shall make, either directly to the commissioner of education, or through the county superintendent, such reports as shall be required. (Act Apr. 10, 1941, c. 169, Art. II, §15.)

[121.15]

Reenactment of §2841.

School board could employ superintendent at an annual salary of \$2,950 (his salary to include \$2,700 regular salary and \$250 for summer recreational work) though recreational activities are on city-owned property and neither playground nor swimming pool over which he has charge in summer had anything to do with the school itself. Op. Atty. Gen. (768k), May 21, 1943.

ARTICLE III SCHOOL DISTRICTS; ORGANIZATION; CONSOLIDATION; DISSOLUTION

ANALYSIS

- 3156-3(1). School Districts—Definitions—Public Corporations.
 3156-3(2). Same—Organization.
 3156-3(3). Same—Districts Composed of Adjoining Territory.
 3156-3(4). Same—Plats.
 3156-3(5). Petition for School District.
 3156-3(6). Same—Requisites.
 3156-3(7). Same—Time and Place of Hearing—Notice.
 3156-3(8). Same—Hearing—Notice—Adjournment.
 3156-3(9). Change of Boundaries of Districts—Annexation of Territory.
 3156-3(10). Same—Organization of New District—One Schoolhouse in Old District.
 3156-3(11). Same—Actions—Judgments—Obligations of Old District.
 3156-3(12). Same—Enlargement of Boundaries—Hearing—Notice—Posting.
 3156-3(13). Same—Rehearing.
 3156-3(14). Same—Two or More Counties Affected—Proceedings.
 3156-3(15). Same—Annexation of Unoccupied Territory—Freeholder's Petition.
 3156-3(16). Same—Union of School Districts in Unincorporated Villages or Fourth Class Cities.
 3156-3(17). Same—Funds and Obligations Apportioned.

- 3156-3(18). Consolidated School Districts—"School District" Defined.
 3156-3(19). Same—Organization.
 3156-3(20). Same—Elections—Petition.
 3156-3(21). Same—Notice of Meeting or Election—Ballot.
 3156-3(22). Same—Orders of County Superintendent.
 3156-3(23). Same—Districts to be Independent Districts—School Board.
 3156-3(24). Same—Rights and Privileges Granted to Districts Having Required Area.
 3156-3(25). Same—Districts Divided—Funds—Property—Obligations.
 3156-3(26). Same—Liabilities of Included Districts.
 3156-3(27). Same—Indebtedness of Old School Districts.
 3156-3(28). Dissolution of Old School Districts.
 3156-3(29). Same—Sale of Land—Obligations and Liabilities.
 3156-3(30). Change of Common or Special District to Independent District.
 3156-3(31). Change of Independent District to Common District.
 3156-3(32). Review of Proceedings.

3156-3(1). School districts—Definitions—Public corporations.—For school purposes the state is divided into common school districts, special school districts, independent school districts, consolidated school districts, ten-or-more-township school districts, county school districts, and unorganized territories, each of which shall be a public corporation. All school districts shall be numbered consecutively in each county, and each shall be known as school district No. of county. A district, when situated in two or more counties, shall be known as joint school district No. of county and No. of county. Special school districts shall be known by the names or numbers given them at their organization.

Subdivision 1. A common school district is a district organized as such, with a board of three members, in which the electors determine the length of the school term and amount of the tax levy.

Subdivision 2. A special school district is a district established by a charter granted by the Legislature. In such districts the number of board members and the powers and duties are prescribed by the charter. Unless otherwise provided the board of such district has the powers of a board in an independent district.

Subdivision 3. An independent school district is a district organized as such, having a board of six members, which board is vested with the authority to determine the length of school term and the tax levy.

Subdivision 4. A consolidated school district is a school district organized as such, having power of independent district, containing at least twelve sections of land, and is entitled to receive reimbursement aid for the transportation or board of pupils.

Subdivision 5. A joint school district may be any one of the above lying in two or more counties.

Subdivision 6. A county school district is a district comprising the entire area of the county with a board of five members which has the power to levy taxes.

Subdivision 7. A ten-or-more-township district is a common school district containing ten or more townships and operating under the provisions of one or more specific acts of the Legislature.

Subdivision 8. Unorganized territory comprises portions of a county which have not been included in organized districts, in which the schools are administered by a county board of education for unorganized territory, consisting of the county superintendent of schools, chairman of board of county commissioners, and county treasurer, each acting as ex-officio member of the board, which board is vested with the authority to levy taxes. (Act Apr. 10, 1941, c. 169, Art. III, §1.)

[122.01]

Reenactment of §2742.

When United States takes land within school district and right to tax the land ceases, rights of residents of district in respect to schools are not affected by fact that United States owns land. Op. Atty. Gen. (169g), Sept. 7, 1943.

Subd. 3.

General law relating to use of schools for other than school purposes applies to board of education in West St. Paul. Op. Atty. Gen. (622a), Oct. 19, 1942.

3156-3(2). Same—Organization.—Every school district which for one year shall have exercised the powers and franchises of a school district shall be deemed legally organized. (Act Apr. 10, 1941, c. 169, Art. III, §2.)

[122.02]

Reenactment of §2792.

3156-3(3). Same—Districts composed of adjoining territory.—All districts shall be composed of adjoining territory and any part of a district not so situated and not containing a schoolhouse used as such, shall be by the board of county commissioners, upon notice as in other cases, attached to a proper district. (Act Apr. 10, 1941, c. 169, Art. III, §3.)

[122.03]

Reenactment of §2790.

3156-3(4). Same—Plats.—The county auditor shall keep in his office books containing a correct plat and description of each school district, whether wholly or partly in his county, and of the unorganized territory. The county auditor shall submit on or before December 31 of each year to the state department of education a description and plats showing changes made in school district boundaries during the calendar year. (Act Apr. 10, 1941, c. 169, Art. III, §4.)

[122.04]

Reenactment of §2791.

3156-3(5). Petition for school district.—A majority of the freeholders, qualified to vote at school meetings, or elections, residing in an incorporated village wherein there is no schoolhouse, or upon any territory not less than four sections in extent, and in which reside not less than twenty children of school age, whether or not such territory be in whole or in part included in any existing common, independent, or special school district, may petition the board of county commissioners of the proper county to make such territory a school district, common or independent. (Act Apr. 10, 1941, c. 169, Art. III, §5.)

[122.05]

Reenactment of §2743.

3156-3(6). Same—Requisites.—The petitions shall contain:

(1) A correct description of the territory to be included in such proposed district.

(2) The number of persons residing therein.

(3) The names and ages of all children of school age residing therein, and the existing district in which each such child lives.

(4) The districts in which such territory lies, and the number of such children in each such district.

(5) The reasons for the formation of the proposed district.

Such petitions shall be acknowledged by the petitioners and submitted to the county superintendent, and if he shall approve the same he shall indorse his approval in writing upon said petition, stating his reasons therefor; and if he shall disapprove of same he shall indorse thereon in writing his reasons for such disapproval. (Act Apr. 10, 1941, c. 169, Art. III, §6.)

[122.06]

Reenactment of §2744.

3156-3(7). Same—Time and place of hearing—Notice.—Upon the presentation of such petition, the board of county commissioners shall appoint a time and place for hearing thereon, and shall cause two weeks' published notice thereof to be given in the county and ten days' posted notice in each district affected. Such notice shall also be served on the clerk of each district, by mail, at least ten days before the time set for hearing, and the county auditor's certificate shall be proof of the mailing. (Act Apr. 10, 1941, c. 169, Art. III, §7.)

[122.07]

Reenactment of §2745.

3156-3(8). Same—Hearing—Notice—Adjournment.—At the hearing the board shall receive any evidence and consider any arguments for and against

such proposed organization and shall make an order either granting, or denying the petition; and, if the petition be granted, the order shall particularly describe the district, state its name or number, shall be signed by the chairman, and attested and filed with the auditor, who shall mail to the clerk of each district affected a copy thereof, and shall cause ten days' posted notice to be given of a meeting to organize such district. The board may adjourn the hearing from time to time, and, upon the recommendation or with the written approval of the county superintendent, enlarge or change the boundaries proposed in the petition. (Act Apr. 10, 1941, c. 169, Art. III, §8.)

[122.08]

Reenactment of §2746.

3156-3(9). Change of boundaries of districts—Annexation of territory.—Upon petition of the majority of the freeholders of each district affected, qualified to vote at school meetings, and elections, and otherwise proceeding in the manner prescribed for the formation of districts, the boundaries of any existing district may be changed or two or more districts united, or one or more districts annexed to an existing district. (Act Apr. 10, 1941, c. 169, Art. III, §9.)

[122.09]

Reenactment of §2748 in part.

An act relating to the change of boundaries of independent school districts having a population of more than 2300 and less than 2800 and an assessed valuation of taxable property exclusive of moneys and credits of more than \$6,500,000, more than 70 per cent of which consists of iron ore. Laws 1943, c. 511, §1, 2.

Boundaries of Duluth school district may not be changed by consolidation proceedings. Op. Atty. Gen. (166c-9), Dec. 12, 1941; Dec. 24, 1941.

3156-3(10). Same—Organization of new district—One schoolhouse in old district—Liabilities.—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 schoolhouse used for school purposes and without at least four sections of land if not a consolidated district and not less than 24 sections if a consolidated district. No change of districts shall in any way affect the liabilities of the territory so changed upon any bonded indebtedness; but any such real estate shall be taxed for such outstanding liability and interest, as if no change had been made. (Act Apr. 10, 1941, c. 169, Art. III, §10.)

[122.10]

Reenactment of §2748 in part.

Where land was added to a city and into a different school district and thereafter owner improved it, valuation for tax purposes must include increase valuation arising from improvement. Op. Atty. Gen. (159a-4), Apr. 24, 1941.

3156-3(11). Same—Actions—Judgments—Obligations of old district.—If, in case of the union or annexation or change of boundaries of districts, under the provision of any law, an action is brought by or against the new or remaining district upon any cause existing in favor of or against any discontinued district, any money collected in behalf of the discontinued district shall be placed in the treasury of the new district, but any 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, however, that if there are any debts or obligations chargeable against the discontinued district, any funds collected in behalf of the discontinued district shall be applied on such debts or obligations. (Act Apr. 10, 1941, c. 169, Art. III, §11.)

[122.11]

Reenactment of §2748 in part.

3156-3(12). Same—Enlargement of boundaries—Hearing—Notice—Posting.—When any incorporated borough, village or city of 7,000 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 7,000 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 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 district 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 a 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 said districts, at least ten days before the time appointed for such hearing. The posting of such copy of notice shall be proved by the affidavit of the person posting the same, which 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 or detaching contiguous territory to or from any of such districts, in such manner as in their judgment the best interest 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 board of county commissioners of all such counties affected. (Act Apr. 10, 1941, c. 169, Art. III, §12.)

[122.12]

Reenactment of §2748 in part.

3156-3(13). Same—Rehearing.—When the boundaries of any district have been changed by order of the board of county commissioners, if there shall be filed with the auditor a petition to such board for rehearing, signed by not less than five freeholders, legal voters in said district, the auditor shall present the same to the board at its next meeting. The board shall thereupon set a time and place of rehearing, and shall cause notice thereof to be served on the clerks of the districts affected by such change, and posted as in case of the original petition. The hearing may be adjourned from time to time, and the board shall make such order in the premises as it shall deem just. (Act Apr. 10, 1941, c. 169, Art. III, §13.)

[122.13]

Reenactment of §2788.

3156-3(14). Same—Two or more counties affected—Proceedings.—When the territory affected by the change of boundaries of school districts lies in two

or more counties, proceedings as in the formation of new districts or change of boundaries shall be had in each county affected, and no order in such proceedings shall be valid unless concurred in by the county boards of all such counties. (Act Apr. 10, 1941, c. 169, Art. III, §14.)

[122.14]

Reenactment of §2750.
Proceedings for change of boundaries must be had before county board of each county, though change affects only a small parcel of land in one county. Op. Atty. Gen. (166c-6), Sept. 30, 1943.

3156-3(15). Same—Annexation of unoccupied territory—Freeholder's petition.—When any freeholder shall present to the board of county commissioners 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, annexed to such adjoining district, and his reasons for asking such change, the board, upon notice and hearing as in the case of the formation of a new district, 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 the case of the formation of a new district; provided, that if the land or any part thereof, sought to be annexed and the adjoining district lie in different counties, such annexation shall not be effective until such petition has been presented to the board of county commissioners of each county and each such board has made its order granting the same, in the manner herein provided. (Act Apr. 10, 1941, c. 169, Art. III, §15.)

[122.15]

Reenactment of §2789.
Notice required is the same as in case of formation of a new district. Op. Atty. Gen. (166C-9), Mar. 5, 1942.
Land separated from another school district by more than quarter section of land cannot be attached. Op. Atty. Gen. (166c), Feb. 15, 1943.
When petition of landowner to have his land separated from one district and attached to another fails to state reason, board lacks right to proceed. Op. Atty. Gen. (166c-6), Sept. 30, 1943.

3156-3(16). Same—Union of school districts in unincorporated villages or fourth class cities.—When an incorporated village or a city of the fourth class contains two or more school districts of any kind situated wholly or in part within the corporate limits of such village or city, when only one of such districts maintains a state high school, such districts may be united to form one district in the manner hereinafter provided.

Subdivision 1. Whenever a petition signed and acknowledged by at least 25 per cent of the legal voters of each school district affected shall be presented to the state commissioner of education requesting that the said district be united to form one district, and requesting the said state commissioner to call an election within each affected district, to vote upon the union of such districts, the state commissioner of education shall make proper inquiry as to the advisability of such proposed union and if he shall deem it for the best interest of education therein and of the territory affected, he shall order an election to determine the question of such proposed union to be held within each of the districts affected. Notice of such election shall be given by posted and published notice as required by law for the consolidation of school districts. Such elections shall be conducted in the same manner as are annual school elections in independent districts. The vote shall be by ballots which shall read: "For Union of School Districts" or "Against Union of School Districts."

Subdivision 2. The officers of such election shall certify and make return of the result of the election to the state commissioner of education. If a majority of the legal votes cast at such election in each school district shall be in favor of such union, such districts shall be united and the state commissioner

of education, within ten days after the result of such certification and return, shall make an order to give effect to such vote and declare the union, specifying the number of such new district, and transmit a copy thereof to the auditor of each county in which any part of any district affected lies and to the clerk of each district affected.

Subdivision 3. After the formation of any school district so united according to the provisions of this section, any person aggrieved may appeal from said order to the commissioner declaring such union to the district court of the county as now provided by law in connection with the formation of other school districts.

Subdivision 4. Nothing in this section shall be construed to transfer the liability of existing indebtedness from the district or territory against which it was originally incurred.

Subdivision 5. A district formed under the provisions of this section shall not be entitled to state aid as a consolidated district unless it conforms in all respects to the legal requirements for consolidated school districts. (Act Apr. 10, 1941, c. 169, Art. III, §16.)

[122.16]

Reenactment of §§2776, 2777, 2778, 2779, 2780.

3156-3(17). Same—Funds and obligations apportioned.—

Subdivision 1. When the boundaries of any school districts are changed, by formation of new districts, union of districts, annexation, enlargement or otherwise, the board of county commissioners shall make a division of all money, funds, credits, and property belonging to such districts and shall make an award of such money, funds, credits, and property to the district or districts affected by such change. The board of county commissioners shall also apportion outstanding obligations other than bonded indebtedness as they may deem just and equitable.

Subdivision 2. When the board of county commissioners has, by resolution, made a division of the money, funds, credits, and property belonging to such districts, the auditor of the county shall be required to make a division of all the money, funds, credits, and property evidenced by the records in his office pursuant to and as required by said resolution. (Act Apr. 10, 1941, c. 169, Art. III, §17.)

[122.17]

Reenactment of §§2774 and 2775.

3156-3(18). Consolidated school districts.—"School district" defined.—For purposes of consolidation under the provisions of Sections 18 to 27, inclusive, the words "school district" shall mean school districts however organized as well as unorganized territory.

Consolidation of districts or parts of districts may be effected by consolidation of (a) two or more school districts, or (b) one or more school districts and parts of one or more school districts, or (c) parts of two or more school districts. (Act Apr. 10, 1941, c. 169, Art. III, §18.)

[122.18]

Reenactment of §2754.

Effect of consolidation of district on distribution of state aid for current year. Op. Atty. Gen. (168), Apr. 30, 1941.

3156-3(19). Same—Approval of plat by State Commissioner of Education.—A consolidated district established after June 30, 1941, must contain not less than 24 sections of land; provided, that in any county containing more than 500,000 inhabitants, a consolidated district may contain not less than 12 sections of land, provided there is located within such consolidated district a village containing not less than 6,000 nor more than 7,000 inhabitants according to the 1940 federal census. Before any steps are taken to organize a consolidated school district, the superintendent of the county in which the major portion of territory is situated, from which it is proposed to form a consolidated school district, shall cause a plat

to be made showing the size and boundaries of the proposed district, the location of schoolhouses in the several districts, the location of other adjoining school districts and of schoolhouses therein, and the assessed valuation of property in the proposed district, together with such other information as may be required, and submit the same to the state commissioner of education, who shall approve, modify or reject the plan so proposed, and certify his conclusions to the county superintendent of schools. (Act Apr. 10, 1943, c. 169, Art. III, §19; Apr. 13, 1943, c. 422, §1.)

[122.19]

Reenactment of §2754.

3156-3(20). Same—Election—Petition.—After approval by the commissioner of education of the plan for the formation of a consolidated school district, an election on consolidation shall be held upon presentation to the county superintendent of a petition asking for the formation of a consolidated school district in accordance with the plans approved by the commissioner of education, signed and acknowledged by at least 25 per cent of the resident freeholders of each school district and each portion of a district affected, who are qualified to vote at school meetings or elections, and who have been such freeholders for at least 30 days immediately preceding the signing and acknowledging of the petition. (Act Apr. 10, 1941, c. 169, Art. III, §20.)

[122.20]

Reenactment of §2756 in part.

3156-3(21). Same—Notice of meeting or election—Ballot—Appeal.—The county superintendent shall, upon receipt of such petition, within ten days, cause ten days' posted notice to be given in each district or portion of district affected, and one week's published notice, if there be a newspaper published in such district, of an election or special meeting to be held within the proposed district, at a time and place specified in such notice, to vote upon the question of consolidation. The county superintendent shall act as temporary chairman and shall preside at such meeting until the electors shall have elected a chairman and clerk. At such meeting the electors shall elect from their number a chairman and clerk who shall be the officers of the meeting. The chairman shall appoint two tellers, and the meeting or election shall be conducted as are annual meetings or elections. The vote at such election or meeting shall be by ballot, which shall read "For Consolidation" or "Against Consolidation." The officers at such meeting or election shall, within ten days thereafter, certify the result of the vote to the superintendent of the county in which a majority of residents of such new district reside and deliver to him for safekeeping all marked ballots in a sealed container. Provided, however, that in the case of consolidation of one or more rural districts or parts of districts with a school district in which there is maintained a state high or graded elementary school, election on consolidation shall be effected by a vote of the rural school districts or portions of districts only, in the manner provided by this section, and by the approval of such consolidation by the school board of the district in which is maintained a state graded or high school.

Upon the submission of a plat and its approval by the state commissioner of education, any portion of an unorganized territory of a county may be consolidated with an existing district in which is maintained a state graded elementary or high school, by a vote of the board of education for unorganized territory in the county in which is located such unorganized territory and by the approval of such consolidation by the school board of the district in which is maintained a state graded elementary or high school.

After the formation of any consolidated school district, appeal may be taken as now provided by law in

connection with the formation of other school districts. (Act Apr. 10, 1941, c. 169, Art. III, §21.)

[122.21]

Reenactment of §2756 in part; §2757 in part; §2758 in part; §2759.

3156-3(22). Same—Orders of county superintendent.—If a majority of the votes cast be for consolidation, the county superintendent within ten days thereafter shall make proper orders to give effect to such vote, and shall thereafter transmit a copy thereof to the auditor of each county in which any part of any district affected lies, and to the clerk of each district affected, and also to the state commissioner of education. The order shall specify the number assigned to such district. (Act Apr. 10, 1941, c. 169, Art. III, §22.)

[122.22]

Reenactment of §2757 in part.

3156-3(23). Same—Districts to be independent districts—School board.—When consolidation is effected by a vote of two or more districts or parts of districts, the new district shall thereby become an independent district with the powers, duties and privileges now conferred by law upon independent districts. The county superintendent of schools shall cause a ten days' posted notice and one week's published notice, if there be a newspaper published in such district, to be given of a meeting to elect officers of the newly formed consolidated district. The new board shall be elected in the same manner as now provided when a common district changes to an independent district. Provided, however, that when such consolidation is with a district maintaining a graded elementary or high school, the school board of the latter shall continue to govern the consolidated district until the next annual school election, when the successors to the members whose terms then expire shall be elected by the legally qualified voters of the consolidated school district. Within ten days after election and qualification of members of the school board in the consolidated school district, the officers of the several districts dissolved by the forming of the consolidated school district shall turn over to the proper officers of the newly elected school board, or to the proper officers of the school board in the district maintaining the state graded elementary or high school, all records, funds, credits, buildings, property and other effects of their several districts. (Act Apr. 10, 1941, c. 169, Art. III, §23.)

[122.23]

Reenactment of §2757 in part; §2758 in part; §2760 and Laws 1917, c. 387, §3.

On consolidation of school district, property of dissolved districts is turned over to consolidated district, and that district may sell school houses and sites, including school houses on sites reverting back to former owners, in absence of agreement that school houses should remain on site. Op. Atty. Gen. (6221-8), May 16, 1941.

A consolidated school district has the powers of an independent school district, and where there is a tie vote for the office of a director, a vacancy results which is to be filled by appointment by the board. Op. Atty. Gen. (768m), June 3, 1943.

3156-3(24). Same—Rights and privileges granted to districts having required area.—Any existing school district having the required area may be granted the rights and privileges of a consolidated school district upon formal application to the commissioner of education pursuant to resolutions adopted by a vote of not less than two-thirds of the full school board, accompanied by a plat prepared by the county superintendent of schools of the county in which the school is located. Provided that this article shall not affect the rights or status of any consolidated school district now organized. (Act Apr. 10, 1941, c. 169, Art. III, §24.)

[122.24]

Reenactment of §2755 and Laws 1917, c. 387, §1.

3156-3(25). Same—Districts divided—Funds—Property—Obligations.—When a portion of a district is included in a consolidation, the board of county

commissioners shall make a division of all the money, funds, credits, property, and obligations of such districts divided by consolidation as in the case of change of boundaries as provided in Section 17 of this article. (Act Apr. 10, 1941, c. 169, Art. III, §25.)

[122.25]

Reenactment of Laws 1917, c. 387, §2.

3156-3(26). Same—Liabilities of included districts.—Nothing in Sections 18 to 27 shall be construed to transfer the liability of existing bonded indebtedness from the district or territory against which it was originally incurred. Provided, however, that

(1) When a district or part of a district consolidates with a district which has incurred a bonded debt for the construction of buildings and purchase of equipment, such new territory shall become liable for its proportionate share of such indebtedness upon a majority vote of the electors of such new territory voting upon the question at a special election called at the request of 25 per cent of the resident freeholders of such new territory. The result of such election shall be filed with the county auditor.

(2) When a school district or part of a school district not located in an incorporated city or village shall become a part of a consolidated district and is bonded for the erection of a school building, the proceeds from the sale of said building and site, if sold, shall be applied on the payment of said bonds.

(3) The voters of a consolidated district, may, after its formation, by a majority vote take over and assume liability for the payment of the bonded debt of each district or part of a district entering into the consolidation except the bonded debt of any district containing in whole or in part an incorporated city or village. The clerk of the consolidated district shall, in case such bond assumption vote carries, give proper notice thereof to the auditor of each county in which any part of such consolidated district is situated. (Act Apr. 10, 1941, c. 169, Art. III, §26.)

[122.26]

Reenactment of §2757 and Laws 1917, c. 387, §4.

3156-3(27). Same—Indebtedness of old school districts.—When any school district or part of a school district has been included in a consolidated school district, the bonded and floating indebtedness of such old school district existing at the time of the going into effect of such consolidation shall be paid in the manner following:

Subdivision 1. Each year the county auditor shall extend a tax against the territory chargeable with the payment of any outstanding bond for an amount sufficient to pay the interest or installment of principal due upon such bond in the year following. Such tax when so collected shall be turned over by the county treasurer to the treasurer of the consolidated school district, who shall keep the same in a separate fund and use the money so received for the payment of such interest or installment of principal. In case, either because all of said taxes so levied are not paid or for any other reason, the amount so raised by such tax levy shall not be sufficient to pay such interest or installment of principal, then the amount so remaining unpaid for such year shall be included in the levy to be made the following year.

Subdivision 2. The county auditor shall also levy a sufficient tax against the territory which was included in the old school district at the time of the consolidation to pay the outstanding liability of such old district, excepting bonded indebtedness, as such outstanding liability may be represented by school district orders duly issued prior to such consolidation. The money collected from such tax levy shall be by the county treasurer paid over to the treasurer of the consolidated school district who shall keep the same in a separate fund and therefrom pay such outstanding school district orders with interest thereon. In case the money so collected shall not be sufficient to pay all of such outstanding orders with interest

thereon, then the county auditor shall the following year levy a tax sufficient to pay such residuum so unpaid, and so continue from year to year until full payment has been made.

Subdivision 3. In case any such old school district included in a consolidated school district has outstanding obligations not represented by bonds or school district orders, the claims against such old school district may be presented to the board of the consolidated district, and if found correct may be allowed by said board and school district orders issued therefor against the territory included in such old school district to be so designated, and money to pay the same shall be provided by tax levy, and the county auditor, county treasurer and consolidated district treasurer shall take the same procedure and perform the same duties and acts as in subdivision 2 hereof provided.

Subdivision 4. The school board of a consolidated district in which was included any school district having a bonded indebtedness may refund such bonded indebtedness by a three-fourths vote of the members of such school board and issue refunding bonds therefor which shall be chargeable against the territory that was chargeable with the payment of the bonds so proposed to be refunded. Such refunding bonds shall not run for a period shorter than five years nor longer than twenty years. The first refunding bond shall be due six years from the date of its issuance and shall be for not less than one-tenth of the 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 due date of the bond to be paid the preceding year. The county auditor shall extend a tax against all the territory chargeable in the first instance with the payment of the old bonds 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 50 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 50 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 canceled bonds so taken up. The state board of investment may invest the funds under its control in refunding bonds so issued under the provisions of this subdivision.

Subdivision 5. When any person has a claim against a school district which has been included in a consolidated district, which claim is not represented by a bond or school district order, and which claim the consolidated district school board will not allow and issue a school district order therefor as provided in subdivision 3 hereof, such person may institute action in the proper court, against the territory included in such old school district at the time of the consolidation, by serving a summons and complaint upon the consolidated district school board, which board shall defend such action in behalf of the territory affected. In case judgment is secured by any such person on any such claim, then upon filing a certified copy of such judgment with the county auditor, such county auditor shall proceed by tax levy substantially as provided in subdivision 2 hereof and the money so received from such tax levy shall be paid by the county treasurer in payment of such judgment.

Subdivision 6. Such money so received by the county treasurer and by the treasurer of the consolidated district shall be considered as county and school district money so received by them respectively, and such treasurers and their bondsmen shall be liable for the proper care and distribution thereof to the same extent as they are liable for other county and school

district funds that may be received by them. (Act Apr. 10, 1941, c. 169, Art. III, §27.)

[122.27]

Reenactment of §§2781, 2782.

3156-3(28). Dissolution of old 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 board of county commissioners on its own motion; or such district, or any other district, may be dissolved by the board of county commissioners on a petition signed by a majority of the resident freeholders 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. (Act Apr. 10, 1941, c. 169, Art. III, §28.)

[122.28]

Reenactment of §2753.

School district is not dissolved by condemnation of practically all of its territory by the United States for the construction of an ordinance plant, but dissolution may be had under this section, dissolution order providing for disposition of records. Op. Atty. Gen. (166e), Apr. 23, 1942.

3156-3(29). Same—Sale of land—Obligations and liabilities.—Subdivision 1. When 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.

Subdivision 2. 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.

Subdivision 3. 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. 10, 1941, c. 169, Art. III, §29.)

[122.29]

Reenactment of §§2768-3 and 2768-4.

School district is not dissolved by condemnation of practically all of its territory by the United States for the construction of an ordinance plant, but dissolution may be had under this section, dissolution order providing for disposition of records. Op. Atty. Gen. (166e), Apr. 23, 1942.

3156-3(30). Change of common or special district to independent district.—Any common or special district may be changed to an independent district as hereinafter provided.

Subdivision 1. To effect such change, ten days' posted notice of a meeting shall be given, signed by six or more resident freeholders, stating the object of the meeting, and notifying the voters of said district to assemble upon a specified day, at a place in said district named in said notice, then and there to vote by ballot upon the question of organization as an independent district.

Subdivision 2. At the time and place mentioned in said notice, the electors assembled shall appoint a chairman, assistant chairman, and clerk, who shall be the judges of such election. The voting shall be by ballot, and those favoring such change shall write upon their ballots, "Independent district—Yes," and those against, "Independent district—No."

Subdivision 3. If a majority of votes cast be in favor of the change, the clerk shall forthwith give notice thereof to the county auditor, and, within twenty days thereafter, shall call a meeting to elect officers, upon ten days' posted notice, and the same proceedings shall thereafter be had as in the organization of other independent districts; and the officers of the common or special district shall act as officers of the new district until the qualification of officers and organization of the new board. (Act Apr. 10, 1941, c. 169, Art. III, §30.)

[122.30]

Reenactment of §§2783 to 2786.

Brownsville school district created by special laws 1872, c. 97, may be changed into independent school district by following procedure under this section. Op. Atty. Gen. (166d-9), July 15, 1942.

3156-3(31). Change of independent district to common district.—Any independent district may change its organization to that of a common school district by a vote, by ballot, of two-thirds of the electors voting upon the question at any annual or special meeting; notice having been given that such question would be submitted at such meeting. In case of such affirmative vote, the meeting shall elect the proper officers in the same manner as in the organization of a common school district, and the chairman, treasurer, and clerk of the independent district shall be the chairman, treasurer, and clerk, respectively, and shall constitute the board of the common district until their successors shall qualify, and the common district shall in all things be the successor of the independent district. (Act Apr. 10, 1941, c. 169, Art. III, §31.)

[122.31]

Reenactment of §2787.

3156-3(32). Review of proceedings.—Any school district officer or any other person aggrieved by any order of the board of county commissioners made pursuant to the provisions of this article, may appeal from such order to the district court of the county upon the following grounds:

- (1) That the board of county commissioners had no jurisdiction to act;
- (2) That it has exceeded its jurisdiction;
- (3) That its action is against the best interest of the territory affected.

Such appeal shall be taken by serving upon the county auditor within 30 days from the making of the order a notice of appeal, specifying the grounds thereof. The appellant shall also execute and deliver to the auditor a bond to the county in the sum of \$100.00, to be approved by the county auditor, conditioned for the payment of all costs taxed against the appellant on such appeal. Such further proceedings shall be had upon such appeal as upon other appeals from the board of county commissioners. (Act Apr. 10, 1941, c. 169, Art. III, §32.)

[122.32]

Reenactment of §2747.

Where county board on vote of electors dissolved a school district and attached territory to another district, when appealed, school board of dissolved district had no authority to appeal or employ an attorney to appeal, and district to which territory was attached was not liable for such attorney's fees. Op. Atty. Gen. (166b-2), Feb. 10, 1943.

ARTICLE IV

SCHOOL DISTRICTS; TEN OR MORE TOWNSHIPS;
COUNTY UNITS; UNORGANIZED TERRITORY

ANALYSIS

- 3156-4(1). School Districts Containing Ten or More Townships—Election of Trustees and Members of School Board.
- 3156-4(2). Same—Number of Directors—Annual Meetings for Election.
- 3156-4(3). Same—Vacancies in School Board.
- 3156-4(4). Same—Organization.
- 3156-4(5). Same—Schools as Mentioned in Sections 2 and 3 Defined.
- 3156-4(6). Same—Tax Limitations.
- 3156-4(7). Same—Operation under Old Laws.
- 3156-4(8). Same—Powers of Common School Districts.
- 3156-4(9). Common School Districts of Ten or More Townships and More than 30 Schools—Election of Board Members.
- 3156-4(10). Same—Annual and Special Meetings of Board.
- 3156-4(11). Same—District Divided into Precincts for Special Voting Purposes—Boundaries.
- 3156-4(12). Same—Notice of Special Election.
- 3156-4(13). Election Judges and Clerks—Ballot—Duties of School Board.
- 3156-4(14). Propositions Submitted at Election—Subdivisions—Trustees.
- 3156-4(15). School Districts Containing Ten or More Townships—Laws Applicable—Exceptions.
- 3156-4(16). Same—Powers of School Board—Laws and Regulations.
- 3156-4(17). Same—Compensation of Board Members.
- 3156-4(18). Same—Additional Compensation for Traveling Expenses.
- 3156-4(19). Same—Tax Levy for Salaries and Expenses of Board Members.
- 3156-4(20). Same—Publication of Proceedings.
- 3156-4(21). Same—Term "Proceedings" What Included.
- 3156-4(22). Same—Annual Examination of Records.
- 3156-4(23). County Having Less Than Seven School Districts—Consolidation.
- 3156-4(24). Same—School Board of County District—Election—Term.
- 3156-4(25). Same—County Commissioner District to Constitute an Election District.
- 3156-4(26). Same—Annual Organization Meeting.
- 3156-4(27). Same—Powers and Duties of County District Board Members.
- 3156-4(28). Same—Compensation of Officers and Clerks of Board.
- 3156-4(29). Same—Office of County Superintendent of Schools Transferred to Superintendent of County District upon Completion of Organization Proceedings.
- 3156-4(30). Same—Attorney for County District—Compensation.
- 3156-4(31). Counties Having Less Than 10,000 Inhabitants—Bonded Indebtedness—Payment.
- 3156-4(32). Same—Indemnity Insurance of Officers and Employees Operating Motor Vehicles, etc.
- 3156-4(33). Unorganized Territory—County Board of Education.
- 3156-4(34). Same—Members.
- 3156-4(35). Same—Vacancies.
- 3156-4(36). Same—Time and Place of Meetings.
- 3156-4(37). Same—Educational Facilities for Children.
- 3156-4(38). Same—Special School Tax Levy.
- 3156-4(39). Same—Powers and Duties of County Board of Education.
- 3156-4(40). Same—Duties of Clerk—Reports—Publication.
- 3156-4(41). Same—Compensation of Officers and Clerks of County Board of Education.
- 3156-4(42). Same—Dissolution of District—Laws Governing.
- 3156-4(43). Same—Petition—Automatic Dissolution.
- 3156-4(44). Same—Hearing of Petition.
- 3156-4(45). Same—Actions at Law.
- 3156-4(46). Same—Jurisdiction of Vacated School Districts.
- 3156-4(47). Same—Obligations of Discontinued or Vacated School Districts—Tax Levy.
- 3156-4(48). Same—Organization into a Common or Independent School District.
- 3156-4(49). Same—Annexation of Territory to Adjoining District—Obligations.
- 3156-4(50). Same—Resolution for Annexation of Territory—Liability of Indebtedness.
- 3156-4(51). Same—Property—Indebtedness to Become Lien.
- 3156-4(52). Same—Bonds.
- 3156-4(53). Same—Interest on Bonds—Sinking Fund.
- 3156-4(54). Same—Refunding Bonds.
- 3156-4(55). Same—New Counties Created—Division of Money, Credits and Property.
- 3156-4(56). Same—Board of Apportionment—Failure of County Boards of Education to Meet.
- 3156-4(57). Same—Procedure.

3156-4(1). School districts containing ten or more townships—Election of trustees and members of school board.—In all common school districts in Minnesota embracing or containing ten or more townships,

the trustees and members of the school board shall be elected as follows: In all such districts existing on April 14, 1909, the trustees and members of the school board shall continue to hold their respective offices as follows: the chairman until July 1 following the next biennial general state election; the treasurer until one year from such date, and the clerk until two years from such date. If these terms of office or either of them so existing on April 14, 1909, shall expire prior to July 1 following the next biennial general state election, and one year from said date, and two years from said date, as above stated, then and in that event the expiration of such terms shall constitute a vacancy, and such vacancy shall be filled as provided in Sections 3 and 4 of Article 6. At the first meeting of each newly created or organized district hereafter created or organized, containing ten or more townships, the chairman shall be elected to hold office until July 1 following the next biennial general state election, the treasurer until one year from said date, and the clerk until two years from said date. At the first biennial general state election held, after the passage of this section, in common school districts embracing or containing ten or more townships, and at the first biennial general state election held after the organization of each new district embracing or containing ten or more townships, and in each biennial general state election thereafter, there shall be elected two members of said board, such members being elected to fill the offices expiring respectively July 1 after such election and one year from July 1 after such election, the term of office of one to commence July 1 in the year following his election, and that of the other July 1 in the second year following his election. The office to which each is so elected and the time of the commencement of the term of each, with the length of term, shall be stated on the ballot. For the purpose of carrying into effect this section, and so as to enable the electors in each of such districts embracing or containing ten or more townships to elect officers at such biennial general state election, the general election laws of this state, including the primary election law, shall so far as possible, be applicable hereto, and the candidates for these offices shall file for nomination and be chosen and nominated and their names placed upon the ballot, under and pursuant to the provisions of said general election law and the primary election law in this state, and such general election law and primary election law shall be made applicable hereto, and carried out by the officers and persons having the performance and enforcement thereof, except that a separate ballot box shall be used and voters need not register. The votes shall be returned and canvassed and the persons elected notified in the same manner as in the election of county officers. (Act Apr. 10, 1941, c. 169, Art. IV, §1.)

[123.01]

Reenactment of §2802.

3156-4(2). Same—Number of directors—Annual meetings for election.—In each common school district in the state, now or hereafter, containing ten or more townships and less than ten schools, the school board shall consist of five directors to be elected in the manner and for the term hereafter provided, and to hold office until their successors are elected and qualify.

The annual meeting of each such district for the election of directors, and the transaction of other lawful business, shall be held at the time and in the manner provided by law for independent districts. At the annual meeting to be held in July, 1937, there shall be elected two directors to fill the offices of directors whose terms expire on August 1, 1937. At the annual meeting held in July, 1938 two directors shall be elected to fill offices of directors whose terms expire on August 1, 1938. All annual meetings thereafter shall be held on the last Tuesday in June. At the annual meeting held in June, 1939, one director shall be elected to fill the office of the director whose

term expires on July 1, 1939. Each such director as above set forth shall be elected for a three-year term. And annually thereafter at each annual meeting, one or two directors, as the case may be, shall be elected to succeed those whose terms are expiring on July 1 next following such meeting, and to serve for three years. Provided: that directors now holding office shall hold office until the expiration of the terms for which they were heretofore elected, but not longer than until July 1 of the year in which their terms expire. (Act Apr. 10, 1941, c. 169, Art. IV, §2.)

[123.02]

Reenactment of §2802-4c.

3156-4(3). Same—Vacancies in school board.—Any vacancy in the school board shall be filled by the board at any legal meeting thereof until such vacancy can be filled by election at the next annual meeting, at which time a director shall be elected to fill the vacancy for the unexpired portion of the legal term. In case the board shall fail to fill such vacancy within fifteen days after the vacancy, on petition of fifteen freeholders of the district and ten days' posted notice thereof, a special meeting of the voters of the district shall be held at which time the vacancy shall be filled for a term to expire at the next regular annual meeting. (Act Apr. 10, 1941, c. 169, Art. IV, §3.)

[123.03]

Reenactment of §2802-4d.

3156-4(4). Same—Organization.—On the first Saturday in July, or as soon thereafter as practicable, each year, the board shall meet and organize, by choosing a chairman, clerk and treasurer who shall hold office for one year and until their successors are elected and qualify. (Act Apr. 10, 1941, c. 169, Art. IV, §4.)

[123.04]

Reenactment of §2802-4e.

3156-4(5). Same—Schools as mentioned in Sections 2 and 8 defined.—Schools, as mentioned in Sections 2 to 8 shall mean school buildings wherein classes are regularly maintained. (Act Apr. 10, 1941, c. 169, Art. IV, §5.)

[123.05]

Reenactment of §2802-4f.

3156-4(6). Same—Tax limitations.—Common school districts having ten or more townships and less than ten schools, shall have the same tax limitations as those of independent school districts. (Act Apr. 10, 1941, c. 169, Art. IV, §6.)

[123.06]

Reenactment of §2802-4g.

3156-4(7). Same—Operation under old laws.—Any common school district of ten or more townships and less than ten schools, operating under Laws 1927, Chapter 84, during the years 1927 to 1933, and which school district continued to operate pursuant to and under Laws 1927, Chapter 84, after said laws were amended by Laws 1933, Chapter 391, shall continue to operate and exist as herein set forth. (Act Apr. 10, 1941, c. 169, Art. IV, §7.)

[123.07]

Reenactment of §2802-4h.

3156-4(8). Same—Powers of common school districts.—Except as herein provided, a common school district having ten or more townships and less than ten schools shall have and exercise all powers and be subject to the same laws as common school districts of ten or more townships. (Act Apr. 10, 1940, c. 169, Art. IV, §8.)

[123.08]

Reenactment of §2802-4i.

3156-4(9). Common school districts of ten or more townships and more than 30 schools—Election of board members.—In each common school district containing ten or more townships, and more than 30 schools upon the passage of Sections 9 to 15 herein, or hereafter coming into that class, each person heretofore elected a trustee thereof shall hold his office

for the duration of the term for which he was elected and until the first Monday in January next following, unless sooner vacated according to law. Vacancies shall be filled by the remaining members of the school board by appointment until the first Monday in January following the next biennial election. If such remaining members fail to appoint within ten days after the vacancy occurs, such vacancy may be filled, after five days' notice to them, by mail, by appointment by the governor. At each biennial election there shall be elected successors of the board members whose terms end prior to the next biennial election, as well as members or officers to fill vacancies for unexpired terms; and the terms of members so elected shall commence on the expiration of the terms of their predecessors and, except when elected to fill unexpired terms, shall be for four years and until their successors are elected and qualified. Provided; when any such term commences in January in the even-numbered year it shall be for three years; provided, further, that in districts not having officers holding over as elected officers of common school districts containing ten or more townships, there shall be elected at the first biennial election a chairman and a treasurer to hold for two years and a clerk to hold for four years. All general provisions of law for the nomination and election of county officers shall apply to the nomination and election of school officers hereunder, and such school officers shall be nominated and elected without party designation. (Act Apr. 10, 1941, c. 169, Art. IV, §9.)

[123.09]

Reenactment of §2802-5.

This section governs filling of a vacancy on Grand Rapids school board. Op. Atty. Gen. (161A-25), Sept. 2, 1941.

Board member may withdraw resignation prior to action by board. Op. Atty. Gen. (161B-22), Sept. 2, 1941.

3156-4(10). Same—Annual and special meetings of board.—Annual and special meetings of such school districts shall be called and held in the manner and at the time provided by law for such meetings of common school districts containing ten or more townships, in the village or townships having the largest school attendance during the preceding school year; provided, proposed bond issues and all other matters required or desired to be submitted to vote by ballot shall be so submitted at a general biennial election or at a special election held in each precinct, as hereinafter set forth. The office and meeting place of the board shall be in the same village or township; provided that the board may in their discretion hold special meetings in any other township when the business to be transacted relates exclusively to affairs of such townships and the convenient vicinity. The board may be authorized by the voters at the annual or any special meeting, generally or specifically, to designate the sites for schoolhouses, provide for building or otherwise placing schoolhouses thereon, or change any such sites. The board may, in their discretion or shall, on petition of 25 voters of the district, filed with the clerk within ten days after their action on any such specific proposition, submit their said action to the voters for approval at a special meeting to be held at a convenient point in the township or village where the site or schoolhouse exists or is proposed; and in such event the vote of a majority of those voting at this meeting shall be sufficient to ratify the action of the board—or, if the board so determines or if 100 or more voters of the district so petition within such ten days, the matter shall be in like manner submitted and disposed of at a special election and voted on in the precincts as in Section 11 hereof provided. When any proposed bond issue or other matter is to be submitted at a general election, the board shall certify the fact to the county auditor, who shall cause all such matters to be so submitted to the voters of the district on a separate ballot, and further proceedings shall be taken in like manner to similar county-wide

propositions. The result shall be certified by the auditor to the school board.

The proceedings of the board, shall be published in accordance with Article VI, Section 8, Subdivision 6, the letting of the contract therefor to be at their first meeting annually. Except that, if the board determine that the best interests of the districts would be served thereby, the publication may be in two or more newspapers of the district, provided in such event the total cost of such publication shall not exceed 75 cents per folio of the matter published. (Act Apr. 10, 1941, c. 169, Art. IV, §10.) [123.10]

Reenactment of §2802-6.

School district with ten township districts with more than 30 schools are not affected as to procedure and time followed in the past. Op. Atty. Gen. (187b-3), Apr. 30, 1941.

This section applies to common school districts, including the Grand Rapids district. Op. Atty. Gen. (277E), Sept. 2, 1941.

3156-4(11). Same—District divided into precincts for special voting purposes—Boundaries.—At least 30 days before first submitting any proposition to be voted upon by ballot, otherwise than at the general biennial election, the trustees of school board of any such school district shall, by resolution in writing, divide the district into precincts, for the purpose of voting upon bond issues and all other matters so required or desired to be submitted for vote by ballot; and may thereafter from time to time change the boundaries of such precincts, consolidate two or more or establish new ones, as the convenience of the voters shall require; provided, so far as practicable, the precinct boundaries shall follow the lines of general election precincts in the districts, and no change of boundaries shall be made within 30 days prior to any election. Such resolution shall describe the precincts, giving the boundaries thereof, fix a polling place in each at some school building or other place deemed most convenient to the voters, and shall be filed in the office of the clerk of the district. A copy thereof shall be filed in the office of the county auditor, and like copies shall be posted at the polling places in each district affected, at least ten days before the next school election held thereafter. (Act Apr. 10, 1941, c. 169, Art. IV, §11.) [123.11]

Reenactment of §2802-7.

3156-4(12). Same—Notice of special election.—Notices of such special election shall be given by publication and by posting in each precinct substantially in the manner now provided by law for notices of special meetings of common school districts, but need not specifically designate the polling places, otherwise designated, as hereinbefore provided, in each precinct. (Act Apr. 10, 1941, c. 169, Art. IV, §12.) [123.12]

Reenactment of §2802-8.

3156-4(13). Election judges and clerks—Ballot—Duties of school board.—At least ten days before any special election the school board shall, by resolution filed with the clerk thereof, appoint from the resident electors a moderator or judge of election and two clerks for each precinct. The clerk of said school board shall immediately notify in writing each person so appointed of his appointment, and such persons, if present at the hour set for opening of the polls, shall qualify, open the polls and conduct such election substantially in the same manner as elections for county officers; provided, unless otherwise designated by the voters at any such election or at an annual school meeting, the school board may fix the hours for opening and closing the polls in any such precinct elections, but the polls shall in each case be open for at least one hour. If any of the appointed officers are absent or fail to act at the hour set for opening the polls, the electors present may choose any elector then present to fill the vacancy, who shall qualify and act. Upon the closing of the

polls the election officers acting in each precinct shall forthwith count the votes and certify the result thereof to the clerk of the district, placing the certificate, poll list, ballots and all other records of the election in an envelope, securely sealed, and shall mail or deliver the same forthwith to the clerk of the district. The ballots shall be separately enclosed and sealed, within the envelopes, shall be preserved for one year, and shall not be opened or examined except in case of a contest or by the order of a court of record. The school board shall canvass said votes and returns, and declare and record the result thereof, and take such further proceedings as are required or authorized thereby. (Act Apr. 10, 1914, c. 169, Art. IV, §13.) [123.13]

Reenactment of §2802-9.

3156-4(14). Propositions submitted at election—Subdivisions—Trustees.—On petition of at least 10 per cent of the number of voters at the last preceding general election, the trustees shall within 60 days cause to be submitted at a general or special election, but not oftener than once in four years, the proposition "shall the number of trustees be increased to five?" If so required in the petition, there shall also be submitted at the same time the proposition, "Shall such change take effect at once?" If said first proposition carries the trustees shall, within 30 days, by resolution filed with their clerk and with the county auditor, divide the district into three groups of precincts, to be known and numbered as subdivisions, of as compact shape and as nearly equal population as may be, which may be changed from time to time, but not oftener than quadrennially. Each village shall be placed as an entirety in one subdivision, unless reasonable equality of population of subdivisions would thereby be prevented. The terms of the trustees last elected shall not be shortened, but each shall be treated as the member for the subdivision of his residence; or, if two or more reside in the same subdivision, they shall determine by lot or as hereinafter provided which shall be the subdivision trustee, and which shall be trustee or trustees at large. At the next ensuing primary and general elections, vacancies shall be filled, if any, and there shall be chosen trustees at large or for subdivisions to succeed those whose terms are about to expire, and also two additional trustees, at large or for subdivisions, so that there will be a trustee for each subdivision and two trustees at large. The designation of holdover trustees, as aforesaid, and the fixing of the terms of two or four years for the additional trustees first elected, shall be such that thereafter one trustee at large and not over two subdivision trustees shall be elected at each biennial election, aside from filling vacancies; and when necessary to this end, the additional trustees receiving the larger vote shall hold for the longer term. Provided; if the voters have determined that said change shall take effect at once, said two additional trustees first chosen shall be elected at a special election to be called and held within 90 days after the creation of said subdivisions, and the candidates shall be nominated under General Statutes 1913, Sections 371 to 374 inclusive, and elected for terms ending on the first Monday in January following the next general election—or one ending then and one two years thereafter—so as to put in operation the plan aforesaid. In all cases the nomination and election of each trustee, whether at large or from a subdivision, shall be open to participation by all the voters of the district. Each subdivision trustee shall during his term reside in the subdivision for which he is elected. Upon a five-member board's being duly constituted, the district shall be known as a "general school district," the offices of the chairman, clerk and treasurer, as such, shall become vacant, and the board shall choose at their first meeting annually from among their number a chairman, and from among or without their number, a clerk and a treas-

urer, and may also choose a business manager who may be the same person as the chairman, clerk or superintendent. The appointive officers shall have the functions and powers now or hereafter vested in such or like officers by law, and such others as may lawfully be delegated to them by the board—except that, unless elected as such, they shall not be members of the board. Each member of the board as such shall receive as compensation the sum of \$5.00 for each day's attendance at board or committee meetings, together with his actual traveling expenses which may include not to exceed 5 cents per mile for use of his own automobile in going to and from such meetings; and the appointive officers such compensation and expenses as shall be determined by the board by contract or otherwise. Provided; unless specifically authorized by the voters, by ballot, the aggregate annual compensation of the board and such appointive officers, including the superintendent, shall not exceed the lawful and reasonable compensation of the trustees of a three-member board of a like district, and of the superintendent thereof. (Act Apr. 10, 1941, c. 169, Art. IV, §14.)

[123.14]

Reenactment of §2802-10.

3156-4(15). School districts containing ten or more townships—Laws applicable—Exceptions.—All laws applicable to school districts containing ten or more townships shall continue to apply to like general school districts, except as far as inconsistent herewith and except as hereafter repealed or amended. (Act Apr. 10, 1941, c. 169, Art. IV, §15.)

[123.15]

Reenactment of §2802-11.

3156-4(16). Same—Powers of school board—Laws and regulations.—The school board in a common district containing ten or more townships shall have and exercise all powers, and be subject to the same laws and regulations as school boards in independent and consolidated school districts. (Act Apr. 10, 1941, c. 169, Art. IV, §16.)

[123.16]

Reenactment of §2803.

School sinking fund can be used only for payment of outstanding indebtedness, but the building fund can be transferred to another fund by action of the board. Op. Atty. Gen. (159a-17), Dec. 1, 1943.

3156-4(17). Same—Compensation of board members.—In all common school districts composed of ten or more townships each member of the school board in such districts shall receive as annual compensation for his services as a member of such board the amounts herein stated, to-wit:

\$200.00 a year where such district contains 30 public schools; \$400.00 a year where such district contains 31 public schools but less than 61; \$600.00 a year where such district contains 61 public schools but less than 91; \$800.00 a year where such district contains 91 public schools or more; provided, that in such common districts containing less than 30 public schools and in which is maintained a high school, the annual compensation of the members of the school board shall be fixed at the annual school meeting. (Act Apr. 10, 1941, c. 169, Art. IV, §17.)

[123.17]

Reenactment of Gen. Stat. 1913, §2719.

3156-4(18). Same—Additional compensation for traveling expenses.—In addition to their salaries the members of the school board in such school districts shall be paid their actual and necessary traveling expenses incurred and paid by each of them in the conduct of his official duties, including the visitation of schools. Such expenses shall be paid upon duly itemized and verified vouchers approved by the board and filed with the clerk and made a part of the official records of the school board; provided, that the traveling expenses incurred by the members of the school board in any such district in any year shall be limited

to the following amounts, as hereinafter provided: \$150.00 where the number of schools in such district does not exceed 30; \$300.00 where the number of schools does not exceed 60; \$450.00 where the number of schools does not exceed 90; \$500.00 where the number of schools is in excess of 90. Such salaries and expenses shall be paid monthly by the treasurer of such school district on the order of the clerk, countersigned by the chairman. (Act Apr. 10, 1941, c. 169, Art. IV, §18.)

[123.18]

Reenactment of Gen. Stat. 1913, §2720.

3156-4(19). Same—Tax levy for salaries and expenses of board members.—A levy shall be made in such common school districts to pay the salaries and expenses of the members of the school board in the same manner as is now provided by law for making levy for the support of public schools in common school districts composed of ten or more townships. (Act Apr. 10, 1941, c. 169, Art. IV, §19.)

[123.19]

Reenactment of Gen. Stat. 1913, §2821.

3156-4(20). Same—Publication of proceedings.—In all school districts embracing or containing ten or more townships, the school board shall publish in a legal newspaper in the district, or if there be no such newspaper published in the school district, in a legal newspaper published in the county, to be designated by said board annually, the proceedings of such board within 30 days after such proceedings are had. (Act Apr. 10, 1941, c. 169, Art. IV, §20.)

[123.20]

Reenactment of Gen. Stat. 1913, §2822.

3156-4(21). Same—Term "proceedings"—What included.—The term "proceedings" as used in Section 20 herein shall include a statement of all propositions submitted by motion or resolution, or otherwise, to such board, including the number of votes for or against all reports made to such board, and its action thereon, and an abstract of all claims allowed, giving name of claimant and amount and general purpose of the claim. (Act Apr. 10, 1941, c. 169, Art. IV, §21.)

[123.21]

Reenactment of Gen. Stat. 1913, §2723.

3156-4(22). Same—Annual examination of records.—The state public examiner shall, at least once in each year, make examination of the books and records of all ten or more township districts and the school district shall pay the costs and expenses of making such examination. (Act Apr. 10, 1941, c. 169, Art. IV, §22.)

[123.22]

Reenactment of Gen. Stat. 1913, §2724.

The term "school districts of ten or more townships" does not include unorganized territory of a county where such unorganized territory contains the equivalent of ten or more townships; and the inclusion of land in one of the thirteen state forests does not remove such land from the unorganized territory. Op. Atty. Gen. (168b), July 10, 1941.

3156-4(23). County having less than seven school districts—Consolidation.—Any county having less than seven organized school districts may consolidate such districts into one county district which shall be designated as thecounty 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 10 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 30 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 1 next following, at which time all records, money, 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 Sections 23 to 30 herein shall be construed to apply to counties affected by Laws 1919, Chapter 271, or acts amendatory thereto relating to a ten-mill county school levy. (Act Apr. 10, 1941, c. 169, Art. IV, §23.)

[123.23]

Reenactment of §2780-8.

On consolidation of school district, property of dissolved district is turned over to consolidated district, and that district may sell school houses and sites, including school houses on sites reverting back to former owners, in absence of agreement that school houses should remain on site. Op. Atty. Gen. (6221-8), May 16, 1941.

3156-4(24). Same—School board of county district—Election—Term.—The school board of any such county district shall consist of five members, to be elected at the same time and in the same manner as board members in a ten or more townships district, but for a term of four years. The board of county commissioners shall appoint the members of such board on or before March 1 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 1 following the next general election and one member on each August 1 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. After April 29, 1935, the members of such school board shall be elected and their terms of office shall be as hereinafter provided:

The term of office of the member of such school board to commence on August 1, 1937, shall expire on the Sunday preceding the first Monday in January, 1941. Such member shall be elected for such term under the provisions of law now existing. Thereafter the term of such office shall be four years, and the election for such office shall be held at the first general election of county officers immediately preceding the year 1941.

The term of office of the member of such school board to commence on August 1, 1938, shall expire on Sunday preceding the first Monday in January, 1941. Such member shall be elected for such term

under the provisions of law now existing. Thereafter the term of such office shall be for four years, and the election for such office shall be held at the first general election for county officers immediately preceding 1941.

The term of office of the member of such school board to commence on August 1, 1939, shall expire on the Sunday preceding the first Monday in January, 1943. Such member shall be elected for such term under the provisions of law now existing. Thereafter the term of such office shall be for four years, and the election for such office shall be held at the first general election for county officers immediately preceding 1943.

The term of office of the member of such school board to commence on August 1, 1940, shall expire on the Sunday preceding the first Monday in January, 1943. Such member shall be elected for such term under the provisions of law now existing. Thereafter the term of such office shall be for four years, and the election for such office shall be held at the first general election for county officers immediately preceding 1943.

The term of office of the member of such school board to commence on August 1, 1941, shall expire on the Sunday preceding the first Monday in January, 1945. Such member shall be elected for such term under the provisions of law now existing. Thereafter the term of such office shall be for four years, and the election for such office shall be held at the first general election for county officers immediately preceding 1945. (Act Apr. 10, 1941, c. 169, Art. IV, §24.)

[123.24]

Reenactment of §§2780-9; 2780-21; 2780-22.

3156-4(25). Same—County commissioner district to constitute an election district.—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. (Act Apr. 10, 1941, c. 169, Art. IV, §25.)

[123.25]

Reenactment of §2780-12.

3156-4(26). Same—Annual organization meeting.—School boards in such districts shall meet and organize annually on the first Tuesday after the first Monday in January, or as soon thereafter as practicable, but not later than ten days after such date. It shall organize in the same manner as the board of an independent school district. (Act Apr. 10, 1941, c. 169, Art. IV, §26.)

[123.26]

Reenactment of §2780-23.

3156-4(27). Same—Powers and duties of county district board members.—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 schoolhouses, leasing schoolrooms, transporting said children to the nearest school, boarding said children within convenient distance of school at the expense of said board or otherwise and to provide necessary supplies, texts and library books.

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

When not otherwise provided in Sections 23 to 30, herein, the school board of any such county district shall have and shall exercise all of 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 Laws 1921, Chapter 467. (Act Apr. 10, 1941, c. 169, Art. IV, §27.)

[123.27]

Reenactment of §2780-10.

It is duty of district to provide for education of children only when they actually reside in district and is under no duty to anticipate that non-resident children will be moved into district and become resident in connection with establishment of timber operation and is not required to furnish a teacher, furniture, and supplies for proposed temporary building offered by persons engaged in timber operations to commence in the future. Op. Atty. Gen. (169b), Oct. 28, 1942.

3156-4(28). Same—Compensation of officers and clerks of board.—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 \$144.00 in any one year, and shall receive 5 cents per mile in going to and from his place of residence to the place of meeting by the usual route of travel.

The chairman, clerk and treasurer of the county district shall receive such additional compensation as may be fixed by the board of education, provided, however, the chairman shall not receive more than \$300.00, 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 a county having an assessed valuation of less than five million dollars which shall be in lieu of any allowance for office clerk hire. (Act Apr. 10, 1941, c. 169, Art. IV, §28.)

[123.28]

Reenactment of §2780-13.

3156-4(29). Same—Office of county superintendent of schools transferred to superintendent of county district upon completion of organization proceedings.—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 1 next following, and the functions and duties of the county superintendent of schools shall be performed by the superintendent of the county district. (Act Apr. 10, 1941, c. 169, Art. IV, §29.)

[123.29]

Reenactment of §2780-14.

3156-4(30). Same—Attorney for county district—Compensation.—When 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 Apr. 10, 1941, c. 169, Art. IV, §30.)

[123.30]

Reenactment of §2780-15.

3156-4(31). Counties having less than 10,000 inhabitants—Bonded indebtedness—Payment.—Any county organized under the Laws 1929, Chapter 9, having a population of less than 10,000 inhabitants, may by unanimous vote of the county board of education pay bonded indebtedness incurred prior to July 1, 1929, of any or all of the school districts which were in existence prior to the organization of said county school district, out of any funds that may be on hand with the school treasurer, in an amount the total of which shall not exceed \$10,000. (Act Apr. 1, 1941, c. 169, Art. IV, §31.)

[123.31]

Reenactment of §2780-17a.

3156-4(32). Same—Indemnity insurance of officers and employes operating motor vehicles, etc.—The county board of education in any county in this state organized under Laws 1929, Chapter 9, having a population of less than 10,000 inhabitants, shall have authority to indemnify the officers or employes of such county school districts against liability arising out of the operation of motor vehicles, or other equipment, by such officers or employes while in the performance of their duties as public officers or employes, and

to pay the premiums on indemnity insurance policies out of funds of such county school districts.

Subdivision 1. The county board of education may also, at the expense of such county school districts defend any such officer or employe in the name and in behalf of such officer or employe in any suit brought against him to enforce a claim, whether legitimate or otherwise, arising out of the operation of any motor vehicle, or other equipment, by him, while in the performance of his official duties. It may compromise and/or settle any such claim or suit, and pay out of the funds of such county school district the amount of such settlement or compromise, or the amount of any judgment rendered against any such officer or employe based upon any such claim, without first requiring such officer or employe to settle and/or pay any such claim or judgment.

Subdivision 2. The county board of education may at its discretion pay the premiums on said indemnity insurance policies referred to in this section, insuring such officers or employes against liability for injury to persons or property as provided in this section and such payment of such insurance premiums out of the funds of such county school districts shall in no way impose any liability whatsoever upon the governing body thereof. (Act Apr. 10, 1941, c. 169, Art. IV, §32.)

[123.32]

Reenactment of §2780-17b and §2780-17c.

Grand Rapids school district was not organized under Laws 1929, c. 9, which applies only to Lake County. Op. Atty. Gen. (159B-4), Sept. 2, 1941.

3156-4(33). Unorganized territory—County board of education.—The power of providing for the education of children of school age residing in any unorganized territory within the state of Minnesota shall be vested in the county board of education for unorganized territory of the county where such unorganized territory is situated. (Act Apr. 10, 1941, c. 169, Art. IV, §33.)

[123.33]

Reenactment of §2850.

3156-4(34). Same—Members.—The chairman of the board of county commissioners, the county superintendent of schools, and the county treasurer shall, ex officio, compose the county board of education for unorganized territory in each county within the state. The chairman of the county board of commissioners shall be the chairman of the county board of education for unorganized territory; the county treasurer shall be treasurer of said board; the county superintendent of schools shall be the clerk of said board of education. (Act Apr. 10, 1941, c. 169, Art. IV, §34.)

[123.34]

Reenactment of §§2851, 2852.

3156-4(35). Same—Vacancies.—Should a vacancy occur in said board of education, or should any member thereof refuse or be incapacitated to serve upon said board, the board of county commissioners shall fill such vacancy as provided in Mason's Minnesota Statutes of 1927, Section 659. (Act Apr. 10, 1941, c. 169, Art. IV, §35.)

[123.35]

Reenactment of §2780-1.

3156-4(36). Same—Time and place of meetings.—The county board of education for unorganized territory shall meet once each month at the county seat at a time to be fixed by the board, for the purpose of transacting the business of said board, consider petitions, reports from teachers, audit and pay bills, etc. The board may also hold special meetings as may be deemed necessary. (Act Apr. 10, 1941, c. 169, Art. IV, §36.)

[123.36]

Reenactment of §2854.

3156-4(37). Same—Educational facilities for children.—It shall be the duty of the county board of education for unorganized territory to furnish school

facilities to every child of school age residing in any part of said unorganized territory, either by building schoolhouses, leasing school rooms, transporting said children to the nearest school, boarding said children within convenient distance from a school at the expense of said board, or otherwise, and to provide necessary supplies, text and library books.

The county board of education for unorganized territory may also employ such clerical and stenographic and supervisory help as may be needed who shall perform such other services as the board may direct. (Act Apr. 10, 1941, c. 169, Art. IV, §37.) [123.37]

Reenactment of §2852 in part and §2857.

3156-4(38). Same—Special school tax levy.—The said board of education for unorganized territory shall, annually, on the third Saturday of July, make a levy on all property situated in unorganized territory of the county for the purpose of providing schools, teachers, transportation of pupils, board of pupils, textbooks, apparatus, school supplies, etc., for the education of children residing within such territory. This tax levy shall be known as the special unorganized school levy and it shall be so spread on the tax lists by the county auditor. (Act Apr. 10, 1941, c. 169, Art. IV, §38.) [123.38]

Reenactment of §2856.

3156-4(39). Same—Powers and duties of county board of education.—When not otherwise provided in Sections 33 to 57, the powers and duties of the county board of education for unorganized territory shall be the same as those of school boards and annual elections of independent and consolidated school districts. (Act Apr. 10, 1941, c. 169, Art. IV, §39.) [123.39]

Reenactment of §2858.

Act Apr. 28, 1941, c. 541, provides for appointment of chairman of county board of education for unorganized territory in certain counties having populations of over 20,000, and between 70 and 80 congressional townships. Under Laws 1941, c. 541, relating to county board of education for unorganized territory in counties of a class in which Cass County falls, a chairman of board should be elected at November, 1942, general election to hold office for a four year term commencing on first Monday in January, 1943. Op. Atty. Gen. (768C), Feb. 27, 1942.

County board of education for unorganized territory has power to sell schoolhouse site and execute deed of conveyance thereof, but only upon vote of all electors in unorganized territory, and not merely residents of territory formerly covered by disorganized common school district. Op. Atty. Gen. (6221-8), Feb. 2, 1943.

Powers of board of education for unorganized territory to sell property without a vote of the people are the same as those of school boards at annual meetings of independent districts. Op. Atty. Gen. (6221-8), March 20, 1943.

3156-4(40). Same—Duties of clerk—Reports—Publication.—It shall be the duty of the county superintendent as clerk of the county board of education for unorganized territory to make reports similar to those made by the clerk of organized districts.

Annually on the first Friday after the first Monday in July, the clerk of such board shall make a full and accurate statement of the receipts and disbursements of such board for the preceding school year, which shall contain a full and correct description of each item, from whom and on what account received, to whom paid and on what account expended, together with an accurate statement of the finances of said county board of education at the end of such year, including all debts and liabilities and the assets to discharge the same, and within 30 days thereafter the said county board of education for unorganized territory shall cause the same to be published once in a legal newspaper published in the county, which paper, in counties having over 100,000 population, shall be a daily paper. (Act Apr. 10, 1941, c. 169, Art. IV, §40.) [123.40]

Reenactment of §2855.

3156-4(41). Same—Compensation of officers and clerks of county board of education.—For their serv-

ices performed under the provisions of Sections 33 to 57 the chairman of said board of education shall be paid \$3.00 per day for the time actually employed by him as such chairman, and 5 cents per mile for distance actually traveled by him in performance of his said duties not exceeding the total sum of \$400.00 in any one year for such mileage and per diem; the treasurer of said board shall be paid 1 per cent and the clerk 1 per cent of the cash disbursements for the year, but the compensation to be paid to the treasurer and clerk in counties having less than 55 schools in its unorganized territory shall not exceed for each officer in any one year the total sum of \$800.00, but only after all reports required by law have been made in conformity thereto; provided, that this section shall not apply to counties having a population of more than 200,000. (Act Apr. 10, 1941, c. 169, Art. IV, §41.) [123.41]

Reenactment of §2853.

3156-4(42). Same—Dissolution of district—laws governing.—Whenever a school district is dissolved and such dissolved district is not annexed to an existing district and there is no unorganized territory in the county, the board of county commissioners may by such dissolution create unorganized territory to be governed by the laws relating to such territory. (Act Apr. 10, 1941, c. 169, Art. IV, §42.) [123.42]

Reenactment of §2753 in part.

3156-4(43). Same—Petition—Automatic dissolution.—Any common or independent school district in any county may be dissolved, annulled and discontinued by the county board of commissioners and its school shall be cared for in accordance with the laws governing unorganized territory. A petition requesting the taking of such action shall be presented to said county board of commissioners and shall contain a correct description of the territory included in said district, the number of persons residing therein, the total assessed valuation of all property within said district, and requests that such district be dissolved, annulled and discontinued. Such petition shall be signed by a majority of the freeholders qualified to vote for school officers in said district and before being presented to the county board it shall be approved by the county superintendent of schools if such petition meets with his approval. Provided, however, that in case the majority of the freeholders in any common school district are not citizens and not qualified to vote and in case the number of children of school age residing in the district become fewer than ten, said school district may be automatically dissolved by resolution of the board of county commissioners and shall become a part of the unorganized territory of said county; and the assets and liabilities of such district shall be assumed by the county board of education for unorganized territory in the same manner as now provided for by law in the dissolution of school districts. (Act Apr. 10, 1941, c. 169, Art. IV, §43.) [123.43]

Reenactment of §2863.

3156-4(44). Same—Hearing of petition.—Upon the presentation of such petition approved as provided for in Section 43 herein, the county board shall designate a time for hearing the same and notice thereof shall be given in the manner provided by law for notice in the case of the formation of the school district. (Act Apr. 10, 1941, c. 169, Art. IV, §44.) [123.44]

Reenactment of §2864.

3156-4(45). Same—Actions at law.—At such hearing the board shall act in a manner similar to the action provided by law for the formation of districts, and any person aggrieved may appeal in like manner. (Act Apr. 10, 1941, c. 169, Art. IV, §45.) [123.45]

Reenactment of §2865a.

3156-4(46). Same—Jurisdiction of vacated school districts.—If said petition is granted by the board of county commissioners, then said school district shall from that time cease to exist and all of the territory thereof and the schools previously conducted by it shall then come under the jurisdiction of the county board of education for unorganized territory of said county and shall thereafter be managed by said county board of education in the same manner as if said district had never been organized. And it shall be the duty of the officers of said vacated school district to forthwith deliver to the county auditor of said county all of the books and records of said school district, and to the county treasurer all of the money and school funds in its possession, and said county treasurer shall forthwith credit all such money and school funds to the account of the county board of education for unorganized territory of such county. The county treasurer shall hereafter credit to the account of said county board of education for unorganized territory all money and school funds thereafter collected from any previous tax levy made by said school district, except such money and school funds as are derived from taxes levied for the purpose of paying the bonds or interest on the bonds of any such school district. (Act Apr. 10, 1941, c. 169, Art. IV, §46.)

[123.46]

Reenactment of §2865a.

3156-4(47). Same—Obligations of discontinued or vacated school districts.—Tax levy.—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 60 mills, 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 for unorganized territory 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 the county board of education for unorganized territory 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 for unorganized territory, in the same manner as though said indebtedness had been originally incurred by said county board of education for unorganized territory. (Act Apr. 10, 1941, c. 169, Art. IV, §47.)

[123.47]

Reenactment of §2866.

Editorial note.—Section 2866, Mason's St., from which this section is derived, was repealed by Act Apr. 10, 1941, c. 169, Art. XIV, §1, (3156-14(1)).

Such section 2866, was subsequently amended by Act Apr. 21, c. 342, §1, to read as follows: 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. Provided that whenever a new district is created and organized out of unorganized school territory, the new district so created shall have power by resolution of its governing body to assume all obligations which remain a charge upon the territory comprising such new district, and to refund the

same, and upon such assumption or refundment thereof, and the filing of proof thereof with the county auditor, the levy herein required shall be discontinued. 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 \$300,000,000, 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.

3156-4(48). Same—Organization into a common or independent school district.—When in the opinion of the county board of education for unorganized territory, it shall appear that any territory enjoying the privileges of unorganized territory should be organized into a common or an independent school district, the said board shall notify the board of county commissioners, which shall cause notice of hearing thereon to be given and otherwise proceed as provided by law for organization of common or independent school districts. (Act Apr. 10, 1941, c. 169, Art. IV, §48.)

[123.48]

Reenactment of §2859.

Notice of appeal by a resident stays all proceedings and takes away all authority of new district and newly formed board. Op. Atty. Gen. (166d-9), Mar. 31, 1941.

3156-4(49). Same—Annexation of territory to adjoining district—Obligations.—When any organized school district has heretofore been dissolved, and the territory thereof has become unorganized territory, the school board of any school district adjoining such unorganized territory may have the same annexed to such district, and the indebtedness created by such organized school district before the same became dissolved assumed by the school district annexing such territory in the manner hereinafter provided. (Act Apr. 10, 1941, c. 169, Art. IV, §49.)

[123.49]

Reenactment of §2768-5.

3156-4(50). Same—Resolution for annexation of territory—Liability of indebtedness.—When the school board of such existing school district shall adopt a resolution with the consent and approval of the county board of education for unorganized territory proposing to annex such unorganized school district territory, the clerk of the school board adopting such resolution shall within 60 days thereafter in the manner provided by law cause notice to be given of a special election within such existing school district upon the proposition of annexing the territory of such dissolved school district and assuming the indebtedness of such unorganized school district before the same became unorganized, and if a majority of the electors at such special election shall vote in favor of such annexation of such unorganized territory, such unorganized territory shall thereafter become a part of such existing school district, and all the taxable property within the unorganized school district and such existing school district shall be liable for the indebtedness of both of said school districts. (Act Apr. 10, 1941, c. 169, Art. IV, §50.)

[123.50]

Reenactment of §2768-6.

3156-4(51). Same—Property—Transfer—Indebtedness to become lien.—After such annexation, the governing body of the existing school district shall have control of all of the school property within the territory of such unorganized school district, and the county board of education for unorganized territory shall by appropriate action transfer and convey to the school board all of the school property

used for or in connection with school purposes in the territory of such unorganized school district to such existing school board. Such county board of education for unorganized territory shall also by appropriate action transfer all existing funds available for school purposes in the territory of such unorganized school district at the time of such annexation, and thereupon the money so transferred shall become a part of the funds of the school district annexing such territory. After such annexation the school board of such existing school district shall have the power and authority provided for by law for the issuance of bonds or other evidences of indebtedness to fund or refund any existing indebtedness of the territory so annexed, and such obligations when so issued shall become a lien upon all of the property in the unorganized as well as the existing district so annexing such unorganized territory. (Act Apr. 10, 1941, c. 169, Art. IV, §51.)

[123.51]

Reenactment of §2768-7.

3156-4(52). Same—Bonds.—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, and teacherages, 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 20 years, as the board may determine, with interest thereon not to exceed six per cent 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 of its assessed valuation. Any bonds issued hereunder shall be sold conformable to the provisions of Mason's Minnesota Statutes of 1927, Section 1943. 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 \$2,250,000, and having at any time an area of more than 3,500 square miles, and in any county in this state having a population according to the 1930 federal census of not more than 16,000 nor less than 15,000, and having not more than 77 nor less than 75 full and fractional congressional townships, and having not more than 2,105 nor less than 2,103 square miles in land area, the board of education of such unorganized territory shall have authority, and is 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 providing 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 15 per cent 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 Mason's Minnesota Statutes of 1927, Section 1943, 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 Sections 33 to 57 herein, 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 for un-

organized territory and addressed to the electors of such district; and shall specify the date, time, and place of meeting of the county board of education for unorganized territory when such proposal shall be considered, 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 for unorganized territory 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. (Act Apr. 10, 1941, c. 169, Art. IV, §52.)

[123.52]

Reenactment of §2867.

Editorial note.—Section 2867, Mason's St., from which this section is derived, was repealed by Act 10, 1941, c. 169, Art. XIV, §1, (3156-14(1)).

Such section 2867, was subsequently amended by Act Apr. 21, 1941, c. 325, §1, to read as follows: The county board of education for unorganized territory in any county 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, and teacherages, 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 conformable 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 \$1,500,000, 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, not exceeding \$350,000 in the aggregate of such bonds; and in any county in this state having a population according to the 1930 federal census of not more than 16,000 nor less than 15,000, and having not more than 77 nor less than 75 full and fractional congressional townships, and having not more than 2,105 nor less than 2,103 square miles in land area, 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 providing 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 fifteen per cent (15%) of the assessed valuation of said unorganized territory, and not exceeding \$350,000 in the aggregate of such bonds. Provided that the sale of said bonds 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, and 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 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 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.

3156-4(53). Same—Interest on bonds—Sinking fund.—Every county board of education for unorganized territory issuing bonds under the authority of Sections 33 to 57, herein, is hereby required annually to levy taxes upon all the taxable property in such unorganized territory sufficient to pay the in-

terest on such bonds and to provide a sinking fund for the payment of the principal of such bonds at maturity. (Act Apr. 10, 1941, c. 169, Art. IV, §53.) [123.53]

Reenactment of §2868.

3156-4(54). Same—Refunding bonds.—The county board of education for unorganized territory, by unanimous vote of the members thereof, may issue bonds for the purpose of refunding any bonds issued by an organized school district which has been dissolved and its territory reverted to unorganized territory, which said refunding bonds shall be chargeable against the territory that was chargeable with the payment of the bonds so refunded. The power to issue such bonds shall remain in said county board of education for unorganized territory 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 20 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-fifteenth 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 50 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 50 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 section. (Act Apr. 10, 1941, c. 169, Art. IV, §54.)

[123.54]

Reenactment of §2870-2.

3156-4(55). Same—New counties created—Division of money, credits and property.—Whenever a new county or counties have been or may hereafter be created and organized out of territory embraced within the boundaries of one or more organized counties and in which there is unorganized school territory, acting under the provisions of Sections 33 to 57, herein, and lying partly within the old and new counties, or wholly within the new county, the county boards of education for unorganized territory of the old and new counties shall meet upon the written request of the county superintendent of either county at such time and place as shall be designated in said request, which said request shall be served upon each member of each county board of education for unorganized territory of the counties affected at least five days before the time of such meeting and make a division of all the money, funds and credits belonging to such unorganized school territory as the same existed prior to the division of the county or counties, and in making such division, the said board shall take into consideration the indebtedness of said unorganized school territory and shall make such division as they deem just and equitable, and all such money, funds, credits, and property shall be divided and apportioned to the respective unorganized territory in the old and in the new county in proportion to assessed valuation of taxable property in such unorganized territory, respectively, in such old and new county, at the last assess-

ment thereof. (Act Apr. 10, 1941, c. 169, Art. IV, §55.)

[123.55]

Reenactment of §2860.

3156-4(56). Same—Board of apportionment—Failure of county boards of education to meet.—In cases provided by Section 55 of this article and in case the county boards of education for unorganized territory of the old and new counties shall fail to meet pursuant to the notice provided in Section 55 of this article, the county superintendents of the old and new county or counties and the state commissioner of education, or his deputy, shall constitute a board of apportionment, and, upon the written application of the county board of education for unorganized territory of either county affected, shall make a division of all the money, funds, credits and property as provided in Section 55 of this article, which apportionment shall be in writing and verified by the state commissioner of education or his deputy, and by at least one of the county superintendents of the counties affected, and filed in the office of the secretary of state and shall be final and conclusive. Within five days after the filing of said apportionment the secretary of state, if apportionment is made as provided in this section, or the superintendent of schools of each county if such apportionment is made as provided by Section 55 of this article, shall transmit to the treasurers of the counties affected by said apportionment a certified copy of such apportionment and application, if any. (Act Apr. 10, 1941, c. 169, Art. IV, §56.)

[123.56]

Reenactment of §2861.

3156-4(57). Same—Procedure.—The county boards of education for unorganized territory and the county officials of the old and new counties shall forthwith after such division and apportionment proceed to fulfill and carry out the terms thereof, determined as provided in Sections 55 and 56 herein. (Act Apr. 10, 1941, c. 169, Art. IV, §57.)

[123.57]

Reenactment of §2862.

ARTICLE V

SCHOOL DISTRICTS, MEETINGS AND ELECTIONS

ANALYSIS

- 3156-5(1). Annual Meeting of All Common School Districts.
- 3156-5(2). Election—Time—Notice—Voting.
- 3156-5(3). Time of Annual Meeting to be Changed in Certain Instances.
- 3156-5(4). Election of School Officers.
- 3156-5(5). Candidates.
- 3156-5(6). Same—Nominations.
- 3156-5(7). Special Meetings—Notice.
- 3156-5(8). Special Election—Questions to be Voted Upon.
- 3156-5(9). Annual Meeting or Election—Powers.
- 3156-5(10). Term of Office—Appropriations.
- 3156-5(11). Application of Section—Definitions—Special Elections—Ballots.
- 3156-5(12). Division Into Precincts for Purpose of Election—Time—Notice—Judges—Manner of Voting—Polls—Special Elections—Application of Laws.
- 3156-5(13). Acceptance—Oath—Vacancies.

3156-5(1). Annual meeting of all common school districts.—The annual meeting of all common school districts shall be held on the last Tuesday in June, at 8:00 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, or the organization as an independent district. The annual school meeting of any common school district may, in its discretion, authorize and direct the district clerk to mail a notice of annual and special school meetings to the electors of the district, at least five days before the

date of the meeting; provided, that the failure or neglect of the clerk to mail such notice shall not affect or invalidate the said meeting or the business transacted thereat. At the annual meeting in a common school district five legal voters shall constitute a quorum. The chairman and clerk of the school board shall officiate in their respective capacities at all meetings of the electors of the district. In the event of the absence of the chairman or clerk, the voters shall elect a chairman or clerk pro tem. The voters shall have the power at an annual meeting to repeal and modify their proceedings in accordance with the powers therein conferred and may adjourn from time to time. The polls at all school meetings shall be open at least one hour. (Act Apr. 10, 1941, c. 169, Art. V, §1.)

[124.01]

Reenactment of §2793 in part; §2795; §2798 in part.

3156-5(2). Election—Time—Notice—Voting.—The annual election in all independent school districts shall be held on the third Tuesday in May at eight o'clock p. m., unless a different hour has been fixed by the school board and set forth in the posted notice, provided that in any independent district which does not maintain a graded elementary or high school the annual election shall be held on the last Tuesday in June.

Subdivision 1. Ten days' posted notice shall be given by the clerk, specifying the items to be submitted to a vote of the electors, but failure of the clerk to give such notice shall not prevent the annual election of school officers at the hour and day specified above. The polls shall be open at least one hour and may be open for a longer period, not to exceed 12 hours, if so designated in the posted notice; provided, that if the polls are open for more than one hour the school board may pay the election officials not to exceed fifty cents per hour for the time actually served by them in the performance of their duties as election officials. The voting at any annual or special election shall be by ballot and the clerk shall prepare ballots and necessary stationery. Each proposition or question submitted shall be stated separately in the notice and on the ballots. The school board shall choose three election judges, who shall also act as clerks of election and shall canvass the ballots cast and thereafter submit the same to the school board which shall meet immediately following the time of the close of the polls.

Subdivision 2. In any independent school district which maintains two or more schools, the school board may, and upon a majority vote of the electors shall, provide for more than one polling place. Where more than one polling place is provided, the annual school election shall be conducted as follows:

(a) Ten days' posted notice shall be given by the clerk, specifying the matters to be voted upon at such annual election and setting forth the polling places established by the board and describing the voting precincts. The clerk shall prepare, or cause to be prepared, ballots, and shall arrange for voting booths at such places as the school board shall previously have determined.

(b) The school board shall, at least 30 days before the date of the annual election, determine the number of voting precincts and the polling places where such voting shall be conducted and the hours the polls will be open. It shall choose, or cause to be chosen, three election judges for each polling place, which judges shall also act as clerks of election, and shall canvass the ballots cast, and thereafter submit the same to the school board which board shall be in session at the time and shall receive such ballots.

(c) The school board may pay such judges an amount not to exceed fifty cents per hour for the time actually served by them in the performance of their duties as judges of election.

(d) The polls shall be open for at least one hour; and may be open for a longer period, not to exceed 12 hours, if so designated in the posted notice.

At the first election of a newly organized independent school district, six directors shall be elected, two to hold until July 1 following the next annual election, and two to hold until the expiration of one year, and two until the expiration of two years, from said July 1; the time which each director shall hold being designated on the ballot. (Act Apr. 10, 1941, c. 169, Art. V, §2.)

[124.02]

Reenactment of §§2793, 2806.

Annual election in Duluth in even numbered years. Op. Atty. Gen. (187a-6), Feb. 25, 1942.

Section applies to a district containing one organized city and one organized village. Op. Atty. Gen. (187b-3), Apr. 22, 1942.

In independent School District No. 8 of Olmsted County which includes territory embraced in City of Rochester and some lands outside of city, notice of annual election should be posted in three places in district irrespective of boundaries of city and disregarding precincts and wards. Op. Atty. Gen. (187a-7), Feb. 24, 1943.

Failure to elect directors at annual meeting results in vacancies to be filled by appointment. Op. Atty. Gen. (768c), June 1, 1943.

A consolidated school district has the powers of an independent school district, and where there is a tie vote for the office of a director, a vacancy results which is to be filled by appointment by the board. Op. Atty. Gen. (768m), June 3, 1943.

3156-5(3). Time of annual meeting to be changed in certain instances.—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 last Tuesday of June in each year. (Act Apr. 10, 1941, c. 169, Art. V, §3.)

[124.03]

Reenactment of §2793-1.

This section fixes date of school election in Anoka special district. Op. Atty. Gen. (187b-4), May 5, 1941.

3156-5(4). Election of school officers.—

Subdivision 1. Unless otherwise provided by law, the election of officers in all special school districts shall be held at the same time and in the same manner as provided for annual elections in independent districts, and the school board of the special district shall in such case have the same powers and duties with respect to the election as the school board of an independent district.

Subdivision 2. 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 manner as the election of city officers in the city, and the judges of the city election shall act as judges of the school district election. (Act Apr. 10, 1941, c. 169, Art. V, §4.)

[124.04]

Reenactment of §2807-1.

3156-5(5). Candidates.—

Subdivision 1. Any person desiring to be a candidate for a school district office at the annual meeting or election of such district shall file with the clerk of such district an application to be placed on the ballot for such office, or any five voters of the district may file such application for or on behalf of any qualified voter in the district that they desire shall be such candidate. Such application shall be filed not more than 30 nor less than 12 days before the annual school district meeting. The clerk of the district in his notice of annual meeting or election shall state the names of the candidates for whom applications have been filed, failure to do so, however, shall not affect the validity of the election thereafter held.

Subdivision 2. The clerk shall prepare at the expense of the district, necessary ballots for the elec-

tion of officers, placing thereon the names of the proposed candidates for such office, and with a blank space after such names, and such ballots shall be substantially prepared as are ballots for general elections, such ballots shall be marked and signed as official ballots, and which said ballots so prepared by the clerk of the said district shall be used to the exclusion of all other ballots at such annual school meeting or election in the election of officers of said district; provided that nothing in this section shall apply to or affect school districts employing but one teacher. (Act Apr. 10, 1941, c. 169, Art. V, §5.)

[124.05]

Reenactment of §2799.

One engaged in business under trade name "Daily Reminder" could not file as a candidate under name of "Steve (Daily Reminder) Nicholas", unless he is able to show that he is commonly known by that name. Op. Atty. Gen. (184e), May 12, 1941.

Unofficial ballots used at a school district election whether properly marked or not should not be counted. Op. Atty. Gen. (28c-7), June 4, 1941.

Owner and proprietor of a liquor store eligible to vote is eligible to hold office of school district director. Op. Atty. Gen. (768h), June 4, 1942.

Petition of candidate mailed on last date for filing and received several days later was illegal but election of candidate must be recognized if he received majority of votes cast. Op. Atty. Gen. (187a), June 7, 1943.

3156-5(6). Same—Nominations.—At the annual meeting of common school districts employing only one teacher, nomination of candidates for school district offices may be made from the floor by any qualified voter. (Act Apr. 10, 1941, c. 169, Art. V, §6.)

[124.06]

3156-5(7). Special meetings—Notice.—Upon written request of five freeholders and voters of a common school district, specifying the business to be acted upon, or upon the adoption of a proper resolution, so specifying, by the school board, or upon a request so specifying, signed by a majority of the members of the school board, the clerk shall call a special meeting of such district upon ten days' posted notice and one week's published notice, if there be a newspaper printed in such district, and shall specify in such notice the business named in such request or resolution and the time and place of the meeting. If there be no clerk in the district, or if he fails for three days after receiving such request or resolution to give notice of such meeting, it may be called by like notice by five freeholders and voters of the district. No business except that named in the notice shall be transacted at such meeting.

In case it shall be made to appear by affidavit that there are not five voters who are freeholders in any school district, or that there is not a legal school board therein, the county superintendent of schools of the county in which such district is located, shall, if in his opinion there is need for such school meeting, call such meeting by giving notice thereof as provided in this section. (Act Apr. 10, 1941, c. 169, Art. V, §7.)

[124.07]

Reenactment of §2794 in part.

Where it was voted at special meeting to discontinue school and transport pupils to adjoining district, vote carrying by one which board considered to be cast by one not qualified to vote, board could call another special meeting on same question. Op. Atty. Gen. (622j-1), Apr. 16, 1942.

If an illegal vote is cast by one who has not resided in district the required time and judges of election honor it, there is then nothing that can be done about the matter. Id.

Notice of meeting relating to sale of schoolhouse and site held sufficient. Op. Atty. Gen. (622i-8), Feb. 15, 1943.

3156-5(8). Special election—Questions to be voted upon.—The school board of an independent district may, and upon petition of ten or more voters of the district, shall by resolution call a special election to vote on any matter requiring approval of the voters of the district, including issuance of bonds, designation and purchase of sites, erection of buildings, and establishment of joint recreation programs. The election shall be called by the clerk upon ten days' posted notice and one week's published notice if there be a

newspaper published in such district. The notice shall include a copy of the resolution and shall specify the time and place of the election, and no questions shall be submitted to the voters at the election except those named in the notice. Such special election shall be held in the same manner as provided for annual election. (Act Apr. 10, 1941, c. 169, Art. V, §8.)

[124.08]

Reenactment of §2794 in part.

Whether a special district should reorganize into an independent district. Op. Atty. Gen. (187b-4), July 23, 1943.

3156-5(9). Annual meeting or election—Powers.—The annual meeting or election shall have the following powers:

Subdivision 1. To elect by ballot officers of the district. In all elections or vote by ballot, the clerk shall record the names of all voters participating therein, and the chairman shall appoint as tellers two disinterested electors, who with the assistance of the clerk, shall supervise the balloting and canvass the votes.

Subdivision 2. To designate a site for a schoolhouse, and provide for building or otherwise placing a schoolhouse thereon, when proper notice has been given; but a site on which a schoolhouse 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.

Subdivision 3. To authorize the issuance of bonds as provided by Mason's Minnesota Statutes of 1927, Chapter 10. (Act Apr. 10, 1941, c. 169, Art. V, §9.)

[124.09]

Reenactment of §2798.

Board and not annual meeting are to fix opening day of school, and if school board fixes opening day as September 1st, and that happens to be a holiday, labor day, it must be counted as a part of the school week. Op. Atty. Gen. (160c), Dec. 15, 1941.

3156-5(10). Term of office—Appropriations.—At the first meeting of each common school district embracing or containing less than ten townships, the chairman shall be elected to hold office until July 1 following the next annual meeting; the treasurer until one year from such date, and the clerk until two years from such date.

In addition to the foregoing powers, any common school district, at its annual meeting, or at a special meeting when proper notice has been given, may vote a sufficient fund for the maintenance of its schools and for all other proper purposes, appoint a librarian, and make rules for the use and management of the library, and direct the school board to make designated improvements to school property, and to provide free textbooks for the schools. (Act Apr. 10, 1941, c. 169, Art. V, §10.)

[124.10]

Reenactment of §§2800, 2805.

Construction of teachers tenure law in harmony with the expressed legislative policy does not permit a construction so liberal as entirely to destroy the right of school boards to determine matters of policy in the administration of school affairs. State v. Board of Education of Duluth, 213M550, 7NW(2d)544. See Dun. Dig. 8666.

Electors of a common school district may compel school board to levy a tax sufficient to pay cost of providing tuition for non-resident high school pupils, and board may not use such levy for any other purpose, but it may not compel board to spend full amount so appropriated for that purpose, having no veto or control over board's action in administrative matters. Op. Atty. Gen. (426A-7), Oct. 3, 1941.

3156-5(11). Application of section—Definitions—Special elections—Ballots.—The provisions of this section shall apply to all school districts, however organized, the territorial boundaries of which are coterminous with the territorial boundaries of a city of the fourth class, and are supplementary and additional to all other powers conferred by law on any such school district.

Subdivision 1. By the expression "school board", as used herein, is meant the governing body of such

school district, however designated, and by the word "clerk", the school district's officer who under any title, performs clerical functions.

Subdivision 2. The school board of any such school district, shall have authority by resolution to call special elections of such school district, and to cause to be submitted thereat to its electors any proposition or question provided or permitted by law to be submitted to the electors of a school district at a special school election or meeting, including the proposition or question of issuing the school district's bonds under any applicable law.

Subdivision 3. For the purposes of any such special election, the school district shall consist of election precincts or voting districts as many in number and identical as to boundaries with the election precincts or voting districts into which the city may at the time be divided for the purposes of a general election, and the special election shall be held in such election precincts or voting districts. There shall be one polling place for each voting precinct or election district. The resolution calling any such special election shall name the voting places and provide for election officers in accordance with the provisions of law in that regard applicable to such city or school district, and shall prescribe the time during which the polls shall be kept open, which shall not be less than one hour.

Subdivision 4. The school board shall give notice of any such special election by ten days' posted notice thereof, signed by the clerk, in each of said election precincts or voting districts, and by one week's publication thereof in a newspaper, if a newspaper is published in the school district.

Subdivision 5. The voting at any such special election shall be by ballot, and the clerk shall prepare ballots and necessary stationery. More than one proposition or question may be submitted at the same special election, but each proposition or question submitted shall be stated separately in the notice and on the ballots. The compensation of election officers shall be in conformity with the general election laws, and the school board is empowered to pay all expenses for any such special election out of the district's funds. The general election laws shall govern in the conduct of the election. The returns from each election precinct or voting district shall be made to the school board, and shall by it be canvassed within three days after the holding of the election. In the event of a contest, the provisions of General Statutes 1913, Chapter 529, shall apply and govern. (Act Apr. 10, 1941, c. 169, Art. V, §11.)

[124.11]

Reenactment of §§2801-1 to 2801-4.

3156-5(12). Division into precincts for purpose of election—Time—Notice—Judges—Manner of voting—Polls—Special elections—Application of Laws.—

Subdivision 1. In all independent school districts in this state, having within their boundaries two or more organized villages, the school board shall at least 30 days before the next annual school election, to be held in such districts after April 12, 1915, by resolution in writing divide the district into precincts for the purpose of electing members of the school board, voting on the issue of bonds, and on all other matters specifically submitted for vote by ballot; and may thereafter change the boundaries of such precincts, consolidate two or more, or establish new ones, as the convenience of the voters shall require. Such resolutions shall describe the precincts, giving the boundaries thereof, fix the polling place at some school building in each precinct most convenient and accessible to the majority of voters therein, and shall be filed in the office of the district school clerk, and a copy thereof forthwith filed in the office of the county auditor of the county wherein the district is located.

Subdivision 2. The regular elections in said precincts shall be held at the same time as annual elections in independent districts. The polls shall be

opened and closed at the hours fixed by the school board.

Subdivision 3. Notice of such elections shall be given in each precinct in the same way and for the same length of time as provided by law for annual school elections, stating the time and place, the matters to be voted on; and no proposition, except the election of officers, shall be voted on unless specified in the notice.

Subdivision 4. At least 20 days before the next annual school election of such district, said school board shall, by resolution filed with the clerk of the board, appoint from the resident electors a moderator or judge of election and two clerks from each precinct. The clerk of said school board shall immediately notify in writing each person so appointed, of his appointment, and such person if present at the hour set for opening the polls, shall qualify, open the polls and conduct such elections the same as elections are conducted at annual school elections. If any of such appointed officers are absent or fail to act at the hour set for opening the polls, the electors present may choose any elector then present to fill the vacancy, who shall qualify and act.

Subdivision 5. Each voter shall after marking his ballot, fold the same so as not to disclose any markings thereon, hand the same to the moderator, who shall deposit it in the ballot box. The election officers shall keep a poll list in which they shall write the name of each elector voting, numbering the same in consecutive order. At the time fixed the polls shall be closed, and the officers of election in each precinct shall forthwith count the votes and certify the results of the vote to the clerk of the district, place the certificate, poll list, ballots and all other records of such election, in an envelope, securely seal, and mail or deliver the same forthwith to the clerk of the district. The school board shall canvass the votes and declare the results thereof.

Subdivision 6. Special elections may be called and held in such districts in the same manner as annual elections. Notice of such special elections shall be given in the same way and for the same time as is now provided by law for special elections in independent school districts. The election officers appointed for the regular election shall preside at such subsequent special elections, and vacancies by reason of absence or failure of any such officer to act, may be filled in like manner as at regular elections. Such special elections shall be conducted and the records thereof certified to the school board the same as for regular elections. The school board shall canvass the vote and declare the result thereof within three days after the receipt of such returns from all the various precincts.

Subdivision 7. Except as herein specifically provided, the general laws relating to the holding of annual and special elections, in independent school districts, shall be applied, construed and used by said school boards and by said officers of elections in carrying out the provisions of this section. (Act Apr. 10, 1941, c. 169, Art. V, §12.)

[124.12]

Reenactment of Laws 1915, c. 111, §1, as amended by Laws 1923, c. 433, §1; Laws 1915, c. 111, §§2 to 6.

Section does not apply to a district containing one city and one village. Op. Atty. Gen. (187b-3), Apr. 22, 1942.

3156-5(13). Acceptance—Oath—Vacancies.—A school board member elected at an annual meeting or election shall on or before the first Saturday in July file with the clerk or secretary of the district his acceptance of the office and his official oath. Any person appointed by the school board or elected at a special meeting to fill a vacancy shall file his acceptance of the office and his official oath within ten days after notice of such appointment or election. A person who fails to qualify prior to the time specified shall be deemed to have refused to serve, but such filing may be made at any time before action

to fill the vacancy has been taken. (Act Apr. 10, 1941, c. 169, Art. V, §13.)

[124.13]

Reenactment of §2813.

ARTICLE VI SCHOOL BOARDS, POWERS AND DUTIES

ANALYSIS

- 3156-6(1). School board.
3156-6(2). Officers of board.
3156-6(2a). Same—Time of taking office of Board of Education in certain independent school districts.
3156-6(3). Same—Vacancies.
3156-6(4). Special elections to fill vacancies.
3156-6(5). Majority of members to constitute quorum.
3156-6(6). Powers and duties of school board.
3156-6(6)a. School buses—Purchase on installments.
3156-6(7). Annual expenses—Tax—Powers of common school districts—Supplies.
3156-6(8). Further duties of independent district school boards.
3156-6(9). Consolidated school districts—Transportation of pupils—Schoolhouse sites—Acquisition of land—Sidewalks.
3156-6(10). School sites—Condemnation of lands.
3156-6(11). Public squares—Right of eminent domain.
3156-6(12). School districts within corporate limits of fourth class cities—Public easements in public alleys.
3156-6(13). Agricultural schools.
3156-6(14). Discontinuance of schools—Transportation of pupils to adjoining district.
3156-6(15). Transportation of pupils outside district.
3156-6(16). School bus requirements.
3156-6(17). Safety in transportation of pupils—Insurance.
3156-6(18). Construction of school houses—Repairs—Contracts—Bids.
3156-6(19). Removal of snow on bus routes.
3156-6(20). Heat and light.
3156-6(21). Public accountants—Expenditures for.
3156-6(22). Audit of accounts—Proof.
3156-6(23). Chairman of school board—Powers and duties.
3156-6(24). Compensation of chairman.
3156-6(25). Records—Clerk's duties.
3156-6(26). Clerk's salary.
3156-6(27). Appointment of clerk.
3156-6(28). Duties of treasurer.
3156-6(29). Bond of treasurer.
3156-6(30). Compensation of treasurers of common school districts.
3156-6(31). Compensation of officers in independent and special districts.
3156-6(32). Records to be evidence.

3156-6(1). School board.—The care, management and control of common and independent school districts shall be vested in a board of trustees, to be known as the school board, whose term of office shall be three years and until their successors qualify. The school board of each common school district shall consist of a chairman, a treasurer, and a clerk. The membership of the school board of each independent school district shall consist of six elected members together with such ex-officio member as may be provided for by law. (Act Apr. 10, 1941, c. 169, Art. VI, §1.)

[125.01]

Reenactment of §§2804, 2805, 2806.

Construction of teachers' tenure law in harmony with the expressed legislative policy does not permit a construction so liberal as entirely to destroy the right of school boards to determine matters of policy in the administration of school affairs. *State v. Board of Education of Duluth*, 213M550, 7NW(2d)544. See *Dun. Dig.* 8675.

Notwithstanding a teacher has acquired tenure status, he may be transferred to such classroom, building, or division as the school board may, in good faith, determine, provided he is not thereby demoted. *Id.*

Electors of a common school district may compel school board to levy a tax sufficient to pay cost of providing tuition for non-resident high school pupils, and board may not use such levy for any other purpose, but it may not compel board to spend full amount so appropriated for that purpose, having no veto or control over board's action in administrative matters. *Op. Atty. Gen.* (426A-7), Oct. 3, 1941.

Obligation of county to furnish certain records for common school districts. *Op. Atty. Gen.* (179d); July 13, 1942.

Member of school board not personally present at the meeting cannot vote. *Op. Atty. Gen.* (161a-16), July 24, 1943.

3156-6(2). Officers of board.—Within ten days after the election of the first school board in independent districts, and annually thereafter on the first

Saturday in July, or as soon thereafter as practicable, the board shall meet and organize by choosing a chairman, a clerk, and treasurer, who shall hold their offices for one year, and until their successors are elected and qualify. They may also elect a superintendent who shall be ex-officio a member of the board, but not entitled to vote therein. (Act Apr. 10, 1941, c. 169, Art. VI, §2.)

[125.02]

Reenactment of §2807.

Organization meeting of school board of Duluth should be held on first Saturday in July, or as soon thereafter as practicable. *Op. Atty. Gen.* (161a-19), June 18, 1942.

School board could employ superintendent at an annual salary of \$2,950 (his salary to include \$2,700 regular salary and \$250 for summer recreational work) though recreational activities are on city-owned property and neither playground nor swimming pool over which he has charge in summer had anything to do with the school itself. *Op. Atty. Gen.* (768k), May 21, 1943.

Where at first meeting of board after school election a tie results in attempt to select a president, treasurer, and clerk, former officers hold over. *Op. Atty. Gen.* (768m), May 6, 1943.

3156-6(2a). Same—Time of taking office of Board of Education in certain independent school 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 members of the board of education elected at each annual election shall take office at the first regular meeting of said board of education held in the month following said election, at which time the board of education shall organize by choosing a chairman, a clerk, and a treasurer. (Act Feb. 15, 1943, c. 33, §1.)

3156-6(3). Same—Vacancies.—A vacancy in any school board or board of education elected by the people, shall be filled by the board at any legal meeting thereof until such vacancy can be filled by election at the next annual meeting or election. Such appointment shall be evidenced by a resolution entered in the minutes. All elections to fill vacancies shall be for the unexpired term. (Act Apr. 10, 1941, c. 169, Art. VI, §3.)

[125.03]

Reenactment of §2811.

School board member accepting incompatible office does not vacate his office until his term of office actually commences. *Op. Atty. Gen.* (358f), Dec. 23, 1941.

Failure to elect directors at annual meeting results in vacancies to be filled by appointment. *Op. Atty. Gen.* (768o), June 1, 1943.

Filling vacancy following resignation of member of board. *Op. Atty. Gen.* (768o), June 17, 1943.

3156-6(4). Special elections to fill vacancies.

—If the board shall fail for ten days to fill any vacancy, a special meeting or election may be called for that purpose by ten days' posted notice signed by three qualified voters, freeholders or householders of the district, setting forth the object of the meeting or election. Officers elected at such meeting or election shall hold for the unexpired term, but no such meeting or election shall be held within 30 days before the annual election or annual meeting in districts containing less than ten townships nor within 30 days before the general biennial state election in districts embracing or containing ten or more townships. (Act Apr. 10, 1941, c. 169, Art. VI, §4.)

[125.04]

Reenactment of §2812.

Section 3156-4(9) governs in filling of a vacancy on Grand Rapids school board. *Op. Atty. Gen.* (161A-25), Sept. 2, 1941.

Filling vacancy following resignation of member of board. *Op. Atty. Gen.* (768o), June 17, 1943.

Treasurer of common school district is not a holdover officer, and where no treasurer is elected at annual meeting, a vacancy exists which may be filled at a special election. *Op. Atty. Gen.* (451a-23), Oct. 6, 1943.

3156-6(5). Majority of members to constitute quorum.—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. (Act Apr. 10, 1941, c. 169, Art. VI, §5.)

[125.05]

Reenactment of §2814.

A majority constitutes a quorum and a majority of a quorum is required to make a binding contract. Op. Atty. Gen. (166b-5), June 17, 1941.

Where board authorizes payment of back salaries to a teacher and a warrant is properly issued to teacher, a single member of board may not order bank to refuse to cash warrant. Op. Atty. Gen. (159C-9), Jan. 16, 1942.

3156-6(6). Powers and duties of school board.—

Subdivision 1. The school board shall have the general charge of the business of the district, and of the schoolhouses and of the interests of the schools thereof.

Subdivision 2. When authorized by the voters at a regular meeting or election, or at a special meeting or election called for that purpose, it may acquire necessary sites for schoolhouses, or enlargements or additions to existing schoolhouse sites, by lease, purchase or condemnation under the right of eminent domain; erect, lease or purchase necessary schoolhouses, or additions thereto; erect or purchase garages for district-owned school buses; and sell or exchange schoolhouses or sites and execute deeds of conveyance thereof. In any village or city such site when practicable shall contain at least one block, and, if outside of any city or village, two acres; and when any schoolhouse site shall contain less than such amount, the board may, without a vote of the electors, acquire other land adjacent to or near such site to make, with such site, all or part of such amount.

Subdivision 3. It shall purchase, sell, and exchange school apparatus, furniture, stoves, buses and other equipment as may be deemed necessary by the board for school purposes.

Subdivision 4. It shall provide proper outhouses for the schools, plant shade trees and shrubbery and otherwise improve school sites, procure insurance on school property, and make proper ordinary repairs thereon.

Subdivision 5. When necessary, it shall lease rooms for school purposes.

Subdivision 6. It shall provide for the heating and care of schoolhouses and rooms, and may provide for the heating and care of garages which house school buses.

Subdivision 7. It may authorize the use of any schoolhouses in the district for divine worship, Sunday schools, public meetings, election and such other community purposes, as in its judgment, will not interfere with their use for school purposes; but before permitting such use, the board may require the bond of some responsible party, in the penal sum of \$100.00, conditioned for the proper use of such schoolhouse, the payment of all rent, and the repair of all damage occasioned by such use, and it may charge and collect for the use of the district from the persons using such schoolhouse such reasonable compensation as it may fix.

It may authorize the use of any schoolhouses or buildings in and of the school district for the holding of primaries, elections, registrations and all acts in connection therewith, in such manner as, in its judgment, will not interfere with their use for school purposes. It may impose such reasonable regulations and conditions upon such use as may seem meet and proper.

Subdivision 8. It may make rules and regulations respecting the protection of the property of the district, and prescribe penalties for a breach thereof, to be recovered for the use of the district, as penalties in other cases, before a justice of the peace, and change or repeal such rules.

Subdivision 9. It shall superintend and manage the schools of the district; adopt, modify or repeal rules for their organization; government and instruction, and for the keeping of registers; prescribe text-

books and courses of study; and in common districts visit each school at least once in three months.

Subdivision 10. It shall employ and contract with necessary, qualified teachers and discharge the same for cause.

Subdivision 11. It may provide for the admission to the schools of the district, of nonresident pupils, and those above school age, and fix the rates of tuition for such pupils. In case a person owns 70 acres or more of land and pays the taxes thereon, in a common or an independent school district other than the one in which he resides, then such person or his tenant shall be admitted to all the benefits of the schools of such district, the same as residents therein, and if the owner of less than 70 acres therein he or his tenant shall be admitted to all the benefits of said school the same as residents therein, upon conforming to such reasonable terms for tuition and transportation as the board of education of such school district may have established for nonresidents, except that he shall be entitled to have the amount of school taxes which he pays to the support of said district applied in payment of said tuition and transportation fees. Nothing in this subdivision shall be so construed as to authorize any person who may receive any of the benefits or privileges to vote at any school district meeting of the school district within which he may receive such benefits or privileges, but of which he is not a member. (As amended Apr. 1, 1943, c. 266, §1.)

Subdivision 12. It may by unanimous vote provide for the instruction of any resident pupil in another school district when inadequate room, distance to school, unfavorable road conditions, or other facts or conditions make attendance in his own district unreasonably difficult or impractical, in which case such district shall pay to the district so attended the tuition agreed upon, or charged and may provide transportation; provided, however, that such pupil shall continue to be a pupil of the district of his residence for the payment of apportionment and other state aids.

Subdivision 13. It may establish and organize, alter and discontinue such grades or schools as it may deem advisable, and assign to each school and grade a proper number of pupils; provided that where a board discontinues grades or schools it shall make provision for the instruction of pupils of such grades or schools.

Subdivision 14. Transportation of pupils.—It may provide 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 it may deem advisable, and subject to such rules and regulations as it may adopt. It shall require from every bus driver a bond conditioned upon the faithful discharge of his duties to be approved by the local school board. Every driver shall possess all the qualifications required by the rules of the state board of education. If high school pupils from a district within this state are being transported to a school in another state, the school board of the district from which the pupils are being transported may provide free transportation and tuition for any or all of its elementary pupils to such school in another state and be entitled to state aid as provided by law. (As amended Act Apr. 28, 1941, c. 516, §1; Act Mar. 15, 1943, c. 118, §1.)

Subdivision 15. It may and upon vote of the district shall take charge of and control all school and quasi school activities of the teachers and children of the public schools in that district held in the school buildings or school grounds or under the supervision or direction of the school board, and to that end adopt rules and regulations for the conduct of athletic, oratorical, musical, dramatic and other contests and en-

entertainments in which the schools of its district or any class or pupils therein may participate. All money received on account of such entertainments and contests shall be turned over to the school district treasurer, who shall keep the same in a separate fund to be known as the "school auxiliary fund", to be disbursed for expenses connected with such entertainments or contests, or otherwise by the school board upon properly allowed itemized claims. Where the district has taken charge and control of such funds, the treasurer and his bondsmen and legal depositories shall be subject to the same liability for such funds as for other school funds as provided by law, and such funds shall be considered public funds for the purposes of examination and auditing. Any donations to the school district for specific objects and purposes and other than for the primary purposes of the district, shall be placed in the fund hereinbefore referred to and in like manner disbursed; the request of the donor or donors thereof being complied with in regard to the purpose of such disbursements, if the school board shall consider that the interest of the district will be promoted thereby.

No such school or quasi school entertainment or contest in any district in which the school board shall act under the provision of this subdivision shall be participated in by the teachers or pupils in the public schools of such district, nor shall the school name or any allied name be used in connection therewith, except by consent and direction of the school board.

Subdivision 16. It shall defray the necessary expenses of the board, including record books, stationery and other incidental matters as may be proper.

Subdivision 17. It shall defray the necessary expenses of the board, including \$2.00 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.

Subdivision 18. The school board of any school district of this state may become a member of the county school officer's association of said county, and shall appoint one or all of its members to attend the annual meeting thereof. The amount of the annual membership dues in such association shall not exceed \$2.00, which amount shall be paid as other expenses of the district are paid.

Subdivision 19. The school board of any school district of this state by a two-thirds vote may become a member of the Minnesota school board association and by a similar vote appoint one of its members to attend the annual meeting thereof, and the amount of the annual membership dues in such association and the actual and necessary expense incurred in attending such meeting shall be paid as other expenses of the district are paid.

Subdivision 20. It shall provide for the payment of all just claims against the district in cases provided by law.

Subdivision 21. In all proper cases, it shall prosecute and defend actions by or against the district.

Subdivision 22. The school board of any school district or of unorganized territory may establish and maintain public evening schools as a branch of the public schools, and such evening schools when so maintained shall be available to all persons over 16 years of age who from any cause, are unable to attend the full-time school of such district.

Subdivision 23. Members of the school board of any school district maintaining one or more schools located outside the incorporated limits of any city or village, shall be peace officers, and may suppress disorder and make arrests for any disorderly conduct, or breach of peace, in any schoolhouse or on any school grounds located outside the limits of any city or village in their respective districts, and may command the assistance of all persons. (Act Apr. 10, 1941, c. 169, Art. VI, §6 as amended Act Apr. 28,

1941, c. 516, §1; Mar. 15, 1943, c. 118, §1; Apr. 1, 1943, c. 266, §1.)

[125.06]

Reenactment of §2815, subds. 1 to 7, 9 to 11; §2816; §§2816-1 to 2816-3; §§2817, 2818, 2823-1, 2825, 2827, 2831, 2849-4, 2849-5.

Act Apr. 28, 1941, c. 516, amended subdivision 14, to read as above.

Construction of teachers' tenure law in harmony with the expressed legislative policy does not permit a construction so liberal as entirely to destroy the right of school boards to determine matters of policy in the administration of school affairs. *State v. Board of Education of Duluth*, 213M550, 7NW(2d)544. See *Dun. Dig.* 8675.

Board has no power to build cistern solely for fire protection. *Op. Atty. Gen.* (159b-10), July 25, 1941.

School board may provide lunches for pupils and charge some and furnish others free, but cannot operate for profit or serve the general public. *Op. Atty. Gen.* (159b-11), Nov. 4, 1941.

Board and not annual meeting are to fix opening day of school, and if school board fixes opening day as September 1st, and that happens to be a holiday, labor day, it must be counted as a part of the school week. *Op. Atty. Gen.* (160c), Dec. 15, 1941.

A school district has no power to enter into a contract with a labor union, but there is no legal reason why board of education should not permit union to appear and speak as representative of those employees who are members of it if such employees so desire, nor is there any law forbidding such employees to be members of a union, and a school board may, in its discretion it deems it proper, provide for seniority, hours, wages, dismissals, demotions, transfers and tenure generally by adopting reasonable rules and regulations with reference thereto. *Op. Atty. Gen.* (270d-12), June 11, 1943.

Control of communicable diseases is for department of health rather than department of education, but a school board may employ a physician to perform Dick tests to children if for benefit of all children who have not had scarlet fever. *Op. Atty. Gen.* (159b-9), March 10, 1943.

School district is not liable in damages for negligence of a student who volunteered to cook noonday lunch for the pupils. *Op. Atty. Gen.* (844f-3), March 11, 1943.

Subd. 1. Resolution by a school board providing that a certain system of shorthand should be exclusive system used created no contractual rights in owner of that system, resolution amounting to no more than a statement of policy, and resolution could be reconsidered and rescinded. *Caton v. Board of Education*, 213M165, 6NW(2d)266. See *Dun. Dig.* 8675.

Ordinarily, where no rights of third parties have attached, a municipal body such as a school board has the power to reconsider or rescind any action theretofore taken. *Id.*

A school board has no power to enter into a contract with a labor union. *Op. Atty. Gen.* (270d-12), March 29, 1943.

Board has power of decision that outstanding bonds shall be paid from surplus funds of the district without submitting the question to a vote of the people, and this applies to money in general fund which was to have been used for construction of an addition to a building following vote of electors, which project failed when government cancelled its approval on account of the war. *Op. Atty. Gen.* (159a-18), Aug. 30, 1943.

Subd. 2.

On consolidation of school district, property of dissolved district is turned over to consolidated district, and that district may sell school houses and sites, including school houses on sites reverting back to former owners, in absence of agreement that school houses should remain on site. *Op. Atty. Gen.* (622i-8), May 16, 1941.

School board may enter into agreement with federal government to accept a contribution in connection with the building of schools and obligating district to pay back sum to government over a period of 30 years at 3% interest, and to spend proceeds of a bond issue with title to building to remain in the United States until repayment of contribution, and board could agree with WPA and with private contractors, without enabling vote of electors of district. *Op. Atty. Gen.* (214f), May 29, 1941.

Where lease of a school site is terminated by notice from lessors, district cannot proceed to wreck buildings, salvage lumber and sell the same, without authority of voters at a regular or special meeting called for that purpose, and cannot sell and dispose of doors, windows and flooring, or dismantle building without authority of voters, and members of board are personally liable to district if they do not call a special election in time to remove building pursuant to terms of lease. *Op. Atty. Gen.* (622i-8), June 2, 1941.

Board may permit use by state of school grounds for erection of flag pole but cannot grant an irrevocable easement therefor. *Op. Atty. Gen.* (622A-14), Oct. 23, 1941.

Form of ballot authorizing district to purchase a lot and building to be used as a garage approved. *Op. Atty. Gen.* (622D), Mar. 10, 1942.

Board may not purchase garage located two blocks from school site for purpose of housing school busses

without a vote of electors, though total school property will still be less than one block in area. Op. Atty. Gen. (622D), Mar. 24, 1942.

In advertising a school building for sale, district should sell for as much as possible, and should not take into consideration a smaller bid by a group of young men desiring to purchase building to be used as a clubhouse for social purposes. Op. Atty. Gen. (622i-8), Aug. 31, 1942.

County board of education for unorganized territory has power to sell schoolhouse site and execute deed of conveyance thereof, but only upon vote of all electors in unorganized territory, and not merely residents of territory formerly covered by disorganized common school district. Op. Atty. Gen. (622i-8), Feb. 2, 1943.

Insulation of school building is an addition or improvement which must be authorized by voters. Op. Atty. Gen. (622j-23), Feb. 25, 1943.

Schoolhouse can be sold only when school district has no further use for it. Op. Atty. Gen. (622i-8), March 10, 1943.

Powers of board of education for unorganized territory to sell property without a vote of the people are the same as those of school boards at annual meetings of independent districts. Op. Atty. Gen. (622i-8), March 20, 1943.

Clerk of a school board may not put in a bid for an old school building which is being sold by the district, nor would it be proper for the clerk's partner to put in a bid with the understanding that if accepted the partner would sell $\frac{1}{2}$ of the property to the clerk. Op. Atty. Gen. (90c-8), May 24, 1943.

Majority of those voting is sufficient to authorize sale of school property, and unmarked ballots should not be counted. Id.

School board when authorized by vote of a meeting of the voters of the district may sell property belonging to the district. Op. Atty. Gen. (622i-8), Oct. 22, 1943.

Subd. 3.

School district is not authorized by law to purchase a bus for resale to another district. Op. Atty. Gen. (622d), Sept. 22, 1942.

Purchase by school district of school supplies from seller who employs member of school board is prohibited. Op. Atty. Gen. (90c-4), July 20, 1943.

A contract between school board and a dealer in school supplies who employs a member of the school board is prohibited if member of the board is directly or indirectly interested in the contract, which is a question of fact. Op. Atty. Gen. (90c-4), Aug. 6, 1943.

Subd. 4.

Neither a county nor a school district may become a member of a reciprocal or interinsurance exchange. Op. Atty. Gen. (249b-16), Mar. 28, 1941.

School district may take out insurance in a mutual company, with contingent liability not to exceed twice amount of premium stated in policy, but cannot become a member of a mutual private company and share in the profits. Op. Atty. Gen. (487c-5), Feb. 3, 1943.

Insulation of school building is an addition or improvement which must be authorized by voters. Op. Atty. Gen. (622j-23), Feb. 25, 1943.

School district cannot buy insurance for protection of property of pupils, teachers or employees. Op. Atty. Gen. (159b-4), Mar. 20, 1943.

School district may take insurance in a mutual fire insurance company though policy provides that policyholders are entitled to a pro rata share in the "profits" of the company, if the word "profits" is used to denote a refund of unabsorbed premiums. Op. Atty. Gen. (487c-5), Apr. 19, 1943.

Subd. 6.

A board of education may not elect janitors for more than one year at a time, and cannot make an agreement with a janitorial group which may bind future board, or agree that janitors may accumulate seniority rights with future boards of education. Op. Atty. Gen. (166B-5), Jan. 2, 1942.

Where employees of district have been employed under a contract and district is met by a bargaining committee of a union, board is without power to give an increase in pay which will be retroactive, since it would be a pure gift of public money. Op. Atty. Gen. (159b-14), Oct. 30, 1942.

Retroactive effect may be given to determination of school board granting an increase in salary to employees when the negotiations therefor commenced previous to time of effective date of increase, if negotiations contemplated increase as of that date. Op. Atty. Gen. (161b-4), May 7, 1943.

Subd. 7.

This section applies to a school district created by special act unless such act provides otherwise. Op. Atty. Gen. (622a), Oct. 19, 1942.

Real estate owned by school district may not be leased to others although pupils are transported to another district, and board may not allow post office for a village to be moved into one of the rooms of the building rent free, or allow an individual to fix up one room in a school house for this purpose. Op. Atty. Gen. (622a-6), Aug. 30, 1943.

Unused space or classrooms in public schools may not be used for week-day religious instructions, or rented for the purpose. Op. Atty. Gen. (170f-4), Oct. 19, 1943.

Subd. 9.

Resolution by a school board providing that a certain system of shorthand should be exclusive system used

created no contractual rights in owner of that system, resolution amounting to no more than a statement policy, and resolution could be reconsidered and rescinded. *Caton v. Board of Education*, 213M165, 6NW(2d)266. See Dun. Dig. 8675.

School board of a high school district may not operate defense training program offered for CCC enrollees in a camp located outside of high school districts boundaries but inside high school area. Op. Atty. Gen. (170e), May 6, 1941.

District may not expend school funds for a booth at a farmers' fair. Op. Atty. Gen. (159B-10), Sept. 19, 1941.

Children refusing to give flag salute which is a part of patriotic exercises may be excluded from the school and parents charged with neglecting to provide education. Op. Atty. Gen. (927), Apr. 15, 1942.

Independent school district may maintain summer school at expense of district, but a child may not be compelled to attend. Op. Atty. Gen. (160), May 14, 1942.

A school district maintaining high schools which has been selected as a gliding and soaring school may pay expenses of instructors to a three-day conference course for instructors of gliding and soaring schools, if board considers it for best interest of district. Op. Atty. Gen. (159a-16), Sept. 11, 1942.

Notwithstanding a teacher has acquired tenure status, he may be transferred to such classroom, building, or division as the school board may, in good faith, determine, provided he is not thereby demoted. *State v. Board of Education of Duluth*, 213M550, 7NW(2d)544. See Dun. Dig. 8675.

Subd. 10.

It may be that in an emergency state board of education may issue special certificate to teach to persons who do not have statutory qualifications, but board would act at its peril and might be called upon to show an emergency that would satisfy the court, and whether shortage of teachers due to drafting into other employment in the national defense is such an emergency is a question of fact. Op. Atty. Gen. (172B), Oct. 20, 1941.

School board would not be justified in terminating a teacher's contract during year "for cause" for writing checks on bank in which he had no deposits, in absence of a hearing and proof of knowledge and intent. Op. Atty. Gen. (172D), Feb. 7, 1942.

Teacher subject to epileptic fits may be discharged "for cause". Op. Atty. Gen. (172D), Feb. 20, 1942.

Minneapolis board of education has no authority to furnish and pay two teachers who teach patients at Glen Lake Sanatorium in Hennepin County outside Minneapolis school district. Op. Atty. Gen. (172), May 1, 1942.

Glen Lake school district has authority to furnish instruction to patients at Glen Lake Sanatorium, and Minneapolis school district may pay that district tuition for instruction of residents of Minneapolis who are patients. Op. Atty. Gen. (172), July 24, 1942.

Subd. 11.

Amended. Laws 1943, c. 266. See above text.

Income tax distribution should go to district of which pupils are resident, but district teaching non-residents could receive apportionment where no tuition was actually paid for child, and where parent is paying part of tuition, as where he owns 40 acres in the district, school could not claim apportionment on such student. Op. Atty. Gen. (168d), May 7, 1941.

Supplemental aid cannot be paid for non-resident high school pupils whose tuition is not paid by the state. Id. Non-resident pupils attending special classes for handicapped children. Op. Atty. Gen. (168C), Aug. 12, 1941; note under §3156-9(13).

Non-resident parents owning 80 acres of land have right to present children on bus route within school district and demand that district pay tuition and transportation to another district, where school is closed and pupils are transported to another district. Op. Atty. Gen. (166A-8) (180D), Feb. 10, 1942.

Pupil residing in one district may attend school in adjoining district if parent owns and pays taxes on 80 acres or more in adjoining district and enjoys other privileges of resident of second district. Op. Atty. Gen. (180D), Mar. 4, 1942.

Subdivision does not apply to special school district in Minneapolis. Op. Atty. Gen. (180d), Apr. 15, 1942.

If undivided interest in total acreage is equivalent to a complete ownership of 80 or more acres, owner is entitled to privileges without payment of tuition, and if less than 80 acres he must pay tuition established upon conforming to reasonable terms for tuition and transportation established for nonresidents except that he is entitled to application of amount of school taxes which he pays. Op. Atty. Gen. (180c), March 2, 1943.

It is mandatory on school board when a nonresident qualifies for privilege though schools are overcrowded and wartime regulations are against building if non-resident owned more than 80 acres, but if he owns less than 80 acres he must be treated the same as other non-residents and if they are admitted he is entitled to credit on his tuition. Id.

Rights of a nonresident owning property in district is not vested in sense that legislature may not take it away. Id.

Phrase "pays taxes thereon" requires that owners' taxes should not be delinquent. Id.

Record title is evidence of ownership. Id.

It makes no difference that qualifying interest in real estate is acquired after nonresident has left school district. *Id.*

Right of nonresident renter of land, on which landlord pays taxes, to send his children to school in district wherein he does not reside. *Op. Atty. Gen. (180j), Oct. 12, 1943.*

Word "tenant" applies only to a lessee of land located in school district in which neither the tenant nor owner resides and only such tenant can be admitted to the benefits of schools of the district. *Op. Atty. Gen. (166a-8), Nov. 20, 1943.*

Nonresident of school district who is tenant of owner of land in district has same but not greater rights to educational advantages than resident of district, as affecting bus routes. *Op. Atty. Gen. (166a-8), Nov. 29, 1943.*

Subd. 12.

Non-resident pupils attending special classes for handicapped children. *Op. Atty. Gen. (168C), Aug. 12, 1941; note under §3156-9(13).*

A child of school age, determined to be an actual resident of Minneapolis district, may attend school in the Glen Lake School District, where child is a patient in Glen Lake Sanatorium, and by unanimous consent school board in Minneapolis district may provide for tuition of child in the Glen Lake School District, if that district sees fit to establish instruction in sanatorium. *Op. Atty. Gen. (180), Sept. 22, 1942.*

Subd. 13.

This section as set forth in Laws 1941, c. 169, Art. 6, §6, was superseded by Laws 1941, c. 376, amending Mason's St. §2822. *Op. Atty. Gen. (161B-2), Oct. 1, 1941. See §3156-6(14) and notes thereto.*

Subd. 14.

Amended. Laws 1943, c. 118, §1. See above text. Rental of school busses during war in certain cities of first class. Laws 1943, c. 412.

Where a common school district has provided school bus transportation service for its "non-resident" high school pupils, "family transportation" of one's own children to such high school cannot be charged to the district. *Perszyk v. School Dist. No. 32, 212M513, 4NW(2d) 321.*

District is under no obligation to pay father of high school pupil for transportation to another district until an agreement is reached and until that time father serves as a "volunteer." *Op. Atty. Gen. (166A-6), Oct. 9, 1941.*

Board cannot legally make a deal whereby parents are given an allowance for transportation and children walk to school. *Op. Atty. Gen. (166A-10), Aug. 18, 1941.*

Any school board which provides for transportation of parochial school children acts at its peril. *Op. Atty. Gen. (166A-7), Sept. 26, 1941.*

Where division of territory between two school districts resulted in dividing line leaving part of pupils in one high school district and part in another, district must make equal provision for transportation for all of its pupils to high school and if it pays for transportation to one high school it must pay for transportation of other pupils to their respective high school and pupils in one high school area may not be compelled to attend in another area, and if transportation is paid for district is entitled to some state aid. *Op. Atty. Gen. (166A-6), Oct. 9, 1941.*

School bus may not be leased to agencies of federal government for national defense purposes. *Op. Atty. Gen. (622d), Nov. 26, 1941.*

Board is not required to furnish free transportation, although money is voted therefore at annual meeting, but it cannot use money so voted for other purposes, except by vote of electors at next annual meeting. *Op. Atty. Gen. (159B-13), Feb. 6, 1942.*

School district is not required to furnish transportation to high school pupils, but may do so. *Op. Atty. Gen. (622j-1), Apr. 16, 1942.*

School district in operation of school bus is engaged in a governmental function and is not liable for negligence of driver to persons in another vehicle in a collision. *Op. Atty. Gen. (844f-6), June 15, 1942.*

School district may carry collision insurance on busses. *Id.*

Where common school district transports high school pupils to a consolidated district, including child of parent living in common school district but owning eighty acres of land in other district, common school district and not consolidated school district should provide the free transportation. *Op. Atty. Gen. (166a-8), June 23, 1942.*

If a school district where school was closed entered into contract for transportation of pupils and subsequently decided to open school, district would be liable for breach of contract if any damages were sustained by driver. *Op. Atty. Gen. (172c-1), Aug. 6, 1942.*

Where a district closes its school and sends its pupils to another district, it cannot charge pupils for the transportation, but whether it may require a pupil to walk a half mile to a main county road to take a bus is a question of fact. *Op. Atty. Gen. (166a-10), Sept. 8, 1942.*

There is no authority to make a contract whereby district agrees to pay a part of cost of transportation upon condition that balance of cost be paid by someone else, though transportation of pupils within district is discretionary with board, regardless of vote of electors. *Op. Atty. Gen. (166a), Sept. 17, 1942.*

School board judgment in permitting teachers to ride bus when other means unavailable is no violation of law. *Op. Atty. Gen. (166a-7), Sept. 25, 1942.*

Opinion or rule of commissioner of education that no pupil be obliged to walk over three quarters of a mile is without effect, subject being one for decision of local board of education. *Op. Atty. Gen. (166a-10), Oct. 30, 1942.*

Where crippled child resides 3½ miles from schoolhouse in district and 2½ miles from a schoolhouse in an adjoining district, school district of residence may pay transportation cost of carrying child to school in adjoining district. *Op. Atty. Gen. (169d), Jan. 13, 1943.*

Where home of crippled child is 3½ miles from school house in district and 2½ miles from school house in an adjoining district, and child attends school in adjoining district, home district in its discretion may pay transportation cost of child to and from school. *Op. Atty. Gen. (169d), Feb. 13, 1943.*

School district must pay a salary sufficient to obtain good drivers for busses who will meet standards set up by commissioner of education, and may not expend money for training drivers. *Op. Atty. Gen. (166a-2), March 1, 1943.*

Public school buses may not be used in transporting pupils attending parochial schools, but parochial schools may operate transportation system and public school system could hire the transportation of the public school pupils therein. *Op. Atty. Gen. (166a-7), Sept. 10, 1943.*

District contracting with owner of a motor vehicle for transportation of children, cannot pay for the transportation of pupils of parochial schools. *Op. Atty. Gen. (166a-7), Oct. 7, 1943.*

Validity of appropriations of public funds that inure to the benefit of sectarian schools. 27MinnLawRev311.

It is mandatory that school bus driver furnish bond. *Op. Atty. Gen. (166a-2-b), Nov. 29, 1943.*

Subd. 16.

Expenses for travel of members to meetings of board in district may not be paid. *Op. Atty. Gen. (161a-12), Sept. 11, 1942.*

Subd. 17.

Words "in each year" relate to calendar year. *Op. Atty. Gen. (161a-12), Sept. 8, 1943.*

Subd. 18.

It is not lawful to pay expense of sending more than one member to meeting. *Op. Atty. Gen. (161A-12), Mar. 5, 1942.*

Subd. 20.

School district is not liable in tort in the performance of governmental functions. *Op. Atty. Gen. (844f-3), Oct. 18, 1943.*

Subd. 21.

Litigation expenses should be charged to maintenance and should not be paid from sinking fund. *Op. Atty. Gen. (166b-2), Sept. 29, 1942.*

A school district may create a building fund for construction of a building sometime in the future and place therein any surplus moneys not required for operation of school, but such fund is not a sinking fund which may be invested in war bonds or otherwise. *Op. Atty. Gen. (159a-14, 159b-2), Oct. 30, 1942.*

3156-6(6) a. School buses—Purchase on installments.—In addition to all other powers now or hereafter conferred by law on school boards which are authorized to purchase school buses, such boards shall have the power and authority to purchase the same on the installment payment plan, the installments to be all paid within a period of not to exceed three years from the date of purchase, and the deferred payments to bear a rate of interest of not to exceed four per cent per annum. (Act Apr. 21, 1941, c. 333, §1.)

[125.065]

Interest cannot be more than 4% on balances due on payment of each installment. *Op. Atty. Gen. (622d), Nov. 10, 1941.*

One school district may buy a school bus from another school district on an installment contract. *Op. Atty. Gen. (622d), Aug. 14, 1942.*

3156-6(7). Annual expenses—Tax—Powers of common school districts—Supplies.—

Subdivision 1. The school board of every common school district shall submit to the annual school meeting an estimate of the expenses of the district for the coming year for an eight-month school term and for such further time as it may be decided by the meeting to hold school, and for such other specified purposes as the board may deem proper, and, if such meeting shall fail to vote a sufficient tax to maintain a school for such time, the board shall levy such tax; but no such school board shall expend any money or incur any liability for any purpose beyond the sum appropriated by vote of the district for such purpose, or levied by the board pursuant to

this subdivision, or on hand and applicable thereto.

Subdivision 2. Common school districts, when authorized by a two-thirds majority of all the electors voting at an annual or special meeting, 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.

Subdivision 3. The school board of every common school district which is maintaining or shall maintain an 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 \$2,000,000, none of the powers of independent districts shall be extended or assumed by such districts except the provisions of law relating to courses of study and the hiring of teachers and superintendents.

Subdivision 4. Members of any school board in any common school district in this state employing not more than three teachers are hereby authorized and permitted to contract with, do work for and furnish supplies to such districts when authority therefor is given by the full school board. Provided, that the bills for such claims shall not exceed \$25.00 per annum and that they must be allowed at a board meeting by the unanimous vote of the entire school board. All such bills shall be duly itemized and a full and complete itemized report shall be made at the annual school meeting. (Act Apr. 10, 1941, c. 169, Art. VI, §7.)

[125.07]

Reenactment of §§2803-1, 2825, 2849-1 and Laws 1917, c. 306.

Board has no power to build cistern solely for fire protection. Op. Atty. Gen. (159b-10), July 25, 1941.

Electors of a common school district may compel school board to levy a tax sufficient to pay cost of providing tuition for non-resident high school pupils, and board may not use such levy for any other purpose, but it may not compel board to spend full amount so appropriated for that purpose, having no veto or control over board's action in administrative matters. Op. Atty. Gen. (426A-7), Oct. 3, 1941.

Board is not required to furnish free transportation, although money is voted therefore at annual meeting, but it cannot use money so voted for other purposes, except by vote of electors at next annual meeting. Op. Atty. Gen. (159B-13), Feb. 6, 1942.

School board member has no right to collect mileage in travel to county seat to obtain surplus commodities which are distributed by the United States and state relief agencies to public schools for providing hot lunches, but may be paid expenses of travel and compensation for the trip. Op. Atty. Gen. (161A-12), Mar. 12, 1942.

A school district may create a building fund for construction of a building sometime in the future and place therein any surplus moneys not required for operation of school, but such fund is not a sinking fund which may be invested in war bonds or otherwise. Op. Atty. Gen. (159a-14, 159b-2), Oct. 30, 1942.

Subd. 2.

School board is not obliged to provide teachers with a suitable place to live and a suitable place at which they may obtain their meals, and teachers may be required to abide by their contract notwithstanding that they have no place to obtain suitable board and are denied privilege of cooking an evening meal in home economics room of school. Op. Atty. Gen. (166j), Oct. 28, 1942.

An independent district may not furnish a house as a residence for teachers. Op. Atty. Gen. (622k), May 19, 1943.

There is no authority in the law for purchasing a house for superintendent. Id.

Subd. 3.

A common school district not maintaining a high school has no legal authority for maintaining a kindergarten, and kindergarten pupils should not be included in computing distribution of gross earnings taxes. Op. Atty. Gen. (168), Apr. 9, 1941.

Clerk of a common school district which does not maintain an accredited high school or high school department may not be removed from office because incapacitated by mental illness, but a member or officer of the board of an independent district may be removed under this section for such incapacity. Op. Atty. Gen. (475e), Apr. 5, 1943.

Where a common school district has been operated for several years as a high school, which is accredited, salaries of the clerk, treasurer and superintendent may

be fixed by the board, but no other member of the school board shall receive any pay. Op. Atty. Gen. (768d-1), May 28, 1943.

Subd. 4.

Members of school board may not contract with district for transportation of their own children to high school. Op. Atty. Gen. (90c-7), Apr. 14, 1942.

3156-6(8). Further duties of independent district school boards.—

Subdivision 1. The school board of any independent school district may establish and maintain one or more kindergartens for the instruction of children above four and under six years of age.

Subdivision 2. It may receive, for the benefit of the district, bequests, donations or gifts for any proper purpose, and apply the same to the purpose designated.

Subdivision 3. It may remove, for proper cause, any member or officer of the board, and fill the vacancy; but such removal must be by a concurrent vote of at least four members, at a meeting of whose time, place and object he has been duly notified, with the reasons for such proposed removal, and after an opportunity to be heard in his own defense.

Subdivision 4. It shall make, and, when deemed advisable, change or repeal rules relating to the organization and management of such board and the duties of its officers.

Subdivision 5. It shall provide by levy of tax necessary funds for the conduct of schools, the payment of indebtedness and all proper expenses of the district.

Subdivision 6. It shall cause to be published once, in some newspaper published in such school district, or if there be no newspaper so published therein, then in some newspaper published in the county in which such school district is located, official proceedings of such board; and such publication shall be made as soon as may be, and not later than 30 days after the meeting at which such proceedings were had. Such publication shall be let annually by contract to the lowest bidder, at the first regular meeting of said board after the annual election in such district; provided, that not more than fifty cents per folio shall be paid for such publication. (Act Apr. 10, 1941, c. 169, Art. VI, §8.)

[125.08]

Reenactment of §§2797, 2824 and 2826.

Subd. 1.

A common school district not maintaining a high school has no legal authority for maintaining a kindergarten, and kindergarten pupils should not be included in computing distribution of gross earnings taxes. Op. Atty. Gen. (168), Apr. 9, 1941.

A child of four is a person of "school age" for purpose of instruction in classes for crippled children. Op. Atty. Gen. (168C), Oct. 20, 1941.

Subd. 3.

Clerk of a common school district which does not maintain an accredited high school or high school department may not be removed from office because incapacitated by mental illness, but a member or officer of the board of an independent district may be removed under this section for such incapacity. Op. Atty. Gen. (475e), Apr. 5, 1943.

Chairman of school board of an independent district may not be removed from office merely because he has been convicted of the crime of petty larceny. Id.

Subd. 5.

District may not expend school funds for a booth at a farmers' fair. Op. Atty. Gen. (159B-10), Sept. 19, 1941.

Subd. 6.

This section applies to independent school district. Op. Atty. Gen. (277E), Sept. 2, 1941.

3156-6(9). Consolidated school districts—Transportation of pupils—Schoolhouse sites—Acquisition of land—Sidewalks.—

Subdivision 1. The board in a consolidated school district is authorized to provide for the transportation of pupils, or expend a reasonable amount for room and board of pupils whose attendance at school can more economically and conveniently be provided for by such means; locate and acquire sites of not less than two acres, and erect necessary and suitable buildings thereon, including a suitable dwelling for teachers, when money therefor has been voted by the district. They shall submit to the commissioner

of education a plat of the school grounds, indicating the site of the proposed buildings, plans and specifications for the school building and its equipment, and the equipment of the premises.

Subdivision 2. The school board of any consolidated school district which does not contain within its limits an incorporated city or village may purchase or acquire by condemnation proceedings, as provided by law for acquiring schoolhouse sites, in the name and on behalf of such school district, a suitable tract of land within the limits of said district to be used for the purpose of erecting buildings thereon for use for dwelling purposes by teachers or other employees of said district, and may erect such buildings on said tract or on any other real estate owned by such district. The school board of any such district may also sell, lease or otherwise dispose of such property so built or acquired, when deemed advisable and for the best interest of the district.

Subdivision 3. The governing board of any consolidated school district, which now or hereafter includes within its limits two villages, may appropriate and expend money 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 schoolhouse. The village council of any such village may likewise appropriate money for the same purpose or to assist the school district. (Act Apr. 10, 1941, c. 169, Art. VI, §9.)

[125.09]

Reenactment of §§2761, 2765-1; 2780-18, 2780-19.

Board may transport pupils in emergency and close schools of district, but in absence of an emergency authorization of voters is necessary. Op. Atty. Gen. (161b-2), July 24, 1943.

An independent district may not furnish a house as a residence for teachers. Op. Atty. Gen. (622k), May 19, 1943.

A consolidated district complies with the two-acre requirement if it purchases a dwelling for teachers located on a small lot adjoining the schoolhouse site. Id.

There is no authority in the law for purchasing a house for superintendent. Id.

3156-6(10). School sites—Condemnation of lands.

—In any municipal corporation or school district in this state where the governing body or school board has the right, power and authority to purchase sites for school buildings without authorization by the voters at a regular or special meeting or election called for that purpose, such governing body or school board shall have the right, power and authority to condemn lands under the right of eminent domain for site and grounds for public school buildings, and such power and authority shall be exercised under and pursuant to the terms and provisions of General Statutes of 1913, Chapter 41, and acts amendatory thereof; provided, however, that any such corporation or school district shall have the right, upon the filing of the award of the commissioners provided for in said Chapter 41, and upon giving the notice therein required of the filing of such award, to enter upon and appropriate the lands so condemned, without the giving of any bond, but in case of such entry and appropriation, such corporation or school district shall be bound absolutely to pay all damages awarded, either by said commissioners or by the court upon appeal therefrom, together with all costs and expenses adjudged against it therein, within the time specified in said Chapter 41. In case any such corporation or school district shall appeal from the award of commissioners appointed pursuant to any such condemnation proceedings, such corporation or school district shall not be required to give or file any appeal bond therein. (Act Apr. 10, 1941, c. 169, Art. VI, §10.)

[125.10]

Reenactment of §2819.

3156-6(11). Public squares—Right of eminent domain.—Any school district is hereby authorized and empowered to acquire, for school purposes, under the right of eminent domain, any tract of land dedicated, attempted to be dedicated, or designated as a public

square in any town plat of land within, or partly within, such school district and not within the limits of any incorporated village, borough or city. (Act Apr. 10, 1941, c. 169, Art. VI, §11.)

[125.11]

Reenactment of §2819-1.

3156-6(12). School districts within corporate limits of fourth class cities—Public easements in public alleys.—Any school district of which the greater portion lies within the corporate limits of a city of the fourth class may with the consent of the governing body of said city acquire by condemnation the public easement in any public alley which the school board of such district deems it necessary to use for school purposes. (Act Apr. 10, 1941, c. 169, Art. VI, §12.)

[125.12]

Reenactment of §2819-2.

3156-6(13). Agricultural schools.—The board of education or other governing body of any school district in which instruction in agriculture is afforded, is authorized and empowered to purchase or otherwise acquire by condemnation proceedings as provided for acquiring schoolhouse sites in the name and in behalf of such school district, a suitable tract of land either within or without the limits of such school district, to be used for the purpose of instruction, experimentation and demonstration in agriculture. The provisions of this section shall apply as well to districts organized under special acts as under the general laws, notwithstanding any provisions or restrictions in the laws under which the same are organized. (Act Apr. 10, 1941, c. 169, Art. VI, §13.)

[125.13]

Reenactment of §§2820 and 2821.

3156-6(14). Discontinuance of schools—Transportation of pupils to adjoining district.—

Subdivision 1. The school board of any district, when it deems it advisable may provide for the instruction of its pupils in an adjoining or nearby district, and in such case may discontinue the schools of its own district or any grades in said schools in which case it shall provide for the free tuition and transportation of the pupils of its own district to the school in an adjoining or nearby district. Such free transportation of pupils shall conform to the rules and regulations of the state board of education.

Subdivision 2. The teachers shall keep the registers separately for the pupils from such district discontinuing its schools; and shall return the registers and make separate records to the clerk of such district and to the county superintendent, of the number and names of pupils, with their attendance, and such district shall retain its organization and shall be entitled to public money, including the special state aid granted to ungraded elementary schools, under such rules as may be fixed by the state board of education, except that state apportionment for nonresident pupils enrolled in high school shall go to the districts in which the high school is located. (Act Apr. 10, 1941, c. 169, Art. VI, §14.)

[125.14]

Reenactment of §2822.

Editorial note.—Section 2822, Mason's St., from which this section is derived, was repealed by Act Apr. 10, 1941, c. 169, Art. XIV, §1, (3156-14(1)).

Such section 2822, was subsequently amended by Act Apr. 21, 1941, c. 376, §1, to read as follows: The school board of any district in any emergency or upon authorization by a majority of the voters present at any regular or special school meeting of the district, may provide for the instruction of its pupils in an adjoining district, and in such case may discontinue the schools of its own districts or of any grades or departments in said schools, and provide for the free transportation of the pupils of its own district to the school in an adjoining or nearby district. The teachers shall keep the registers separately for the pupils from such district discontinuing its schools, and shall return the registers and make separate records to the clerk of such district and to the county superintendent, of the number and names of pupils, with their attendance, and such district shall retain its organization and shall be entitled to public money, including the special state aid granted to ungraded elementary schools, under such

rules as may be fixed by the commissioner of education, except that state apportionment for non-resident pupils enrolled in the high school department shall go to the districts in which the high school is located. Such aid shall be paid from the appropriation made for common schools.

Notes of Decisions

All schools that were closed and transporting their pupils prior to April 21, 1941, will remain in that status until voters at a regular or special meeting have voted to make a change, and such change can only take effect at end of any existing agreement with another school district, or with a teacher if a teacher is then under contract, unless a compromise agreement may be reached to terminate existing contract. Op. Atty. Gen. (166a-10), June 4, 1941. But see Op. Atty. Gen., July 30, 1941.

Subdivision 1 of this section should now read as above, as amended by new portion added in Laws 1941, c. 376, which reads as follows: "In any emergency or upon authorization by a majority of the voters present at any regular or special school meeting of the district". Op. Atty. Gen. (166a-10), July 30, 1941.

Board cannot legally make a deal whereby parents are given an allowance for transportation and children walk to school. Op. Atty. Gen. (166A-10), Aug. 18, 1941.

Whether or not a reduction in enrollment of pupils to one or three constitutes an emergency is a question of fact which cannot be decided by attorney general, and safer procedure would be to secure an enabling vote of electors. Op. Atty. Gen., Sept. 26, 1941.

Laws 1941, c. 169, Art. 6, §6(13), and probably this section, were superseded by Laws 1941, c. 376, amending Mason's St., §2822. Op. Atty. Gen. (161B-2), Oct. 1, 1941.

"Emergency" referred to in Laws 1941, c. 376, is a question of fact to be determined, in the first instance, as an administrative matter by school board. Id.

District is required to provide transportation for a pupil whose parents reside temporarily on lakeshore property or in a summer home, and is entitled to include pupil in school census for state aid purposes. Op. Atty. Gen. (166a), Dec. 8, 1941.

In a district in which no school is conducted and transportation by bus is furnished to a certain schoolhouse in another district, question whether tuition should be paid to a pupil instructed in a third district is a matter for determination of voters at a regular or special school meeting, though such pupil is transported by her parent a shorter distance necessitated by physical condition. Op. Atty. Gen. (180D), Jan. 9, 1942.

Non-resident parents owning 80 acres of land have right to present children on bus route within school district and demand that district pay tuition and transportation to another district, where school is closed and pupils are transported to another district. Op. Atty. Gen. (166A-8)(180D), Feb. 10, 1942.

Authority to transport pupils to a parochial school is questionable though no additional expense is involved. Op. Atty. Gen. (166a-7), July 9, 1942.

School board had authority to open a school that had been closed for some years and employ a teacher, but people of district at subsequent annual meeting could reverse such action, with result that district would be liable for breach of teacher's contract. Op. Atty. Gen. (172c-1), Aug. 6, 1942.

If a school district where school was closed entered into contract for transportation of pupils and subsequently decided to open school, district would be liable for breach of contract if any damages were sustained by driver. Op. Atty. Gen. (172c-1), Aug. 6, 1942.

Where a district closes its school and sends its pupils to another district, it cannot charge pupils for the transportation, but whether it may require a pupil to walk a half mile to a main county road to take a bus is a question of fact. Op. Atty. Gen. (166a-10), Sept. 8, 1942.

Section contemplates free transportation, without contributions by parents. Op. Atty. Gen. (166a), Sept. 17, 1942.

Where school board could not obtain a teacher and made arrangements with 3 other districts for instruction of pupils and some of pupils went to another district with which board had no agreement, latter district cannot collect tuition. Op. Atty. Gen. (166a-10), Oct. 19, 1942.

Emergency which would warrant board in closing school and sending pupils to another district without a vote of electors is a question of fact and not of law, and fact that a teacher cannot be obtained might be considered an emergency. Id.

Where crippled child resides 3½ miles from schoolhouse in district and 2½ miles from a schoolhouse in an adjoining district, school district of residence may pay transportation cost of carrying child to school in adjoining district. Op. Atty. Gen. (169d), Jan. 13, 1943.

Where home of crippled child is 3½ miles from schoolhouse in district and 2½ miles from a schoolhouse in an adjoining district, and child attends school in adjoining district, home district in its discretion may pay transportation cost of child to and from school. Op. Atty. Gen. (169d), Feb. 13, 1943.

Board may transport pupils in emergency and close schools of district, but in absence of an emergency authorization of voters is necessary. Op. Atty. Gen. (161b-2), July 24, 1943.

A school district maintaining a sixth year graded school may discontinue teaching its sixth grade and transport pupils to adjoining district without forfeiting state aid. Op. Atty. Gen. (168), Apr. 13, 1943.

Where all of the teachers except the superintendent in the grades and high school of a school district resigned and board closed school and transported pupils to a neighboring district, the superintendent is entitled to the benefit of his contract and is entitled to damages, the difference between what he is able to earn in other employment and the contract salary. Op. Atty. Gen. (172c-1), Apr. 21, 1943.

Subd. 1.

Vote of electors at special meeting to discontinue school and transport pupils to adjoining district was binding upon the board. Op. Atty. Gen. (622j-1), Apr. 16, 1942.

3156-6(15). Transportation of pupils outside district.—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 Apr. 10, 1941, c. 169, Art. VI, §15.)

[125.15]

Reenactment of §2822-1.

A nonresident tenant of land within school district is entitled to transportation by presenting himself within district. Op. Atty. Gen. (166a-8), Nov. 20, 1943.

3156-6(16). School bus requirements.—No school board shall enter into any agreement for the transportation of pupils, or operate any school bus, unless the vehicle or vehicles used for such purpose shall have an emergency exit which shall be in the rear portion of the bus but not on the same side as the regular exit, and the same shall be in usable condition at all times, provided, however, that this section shall not apply to vehicles with seating capacity of seven passengers or less. (Act Apr. 10, 1941, c. 169, Art. VI, §16.)

[125.16]

Reenactment of §2816, subd. 4.

3156-6(17). Safety in transportation of pupils—Insurance.—

Subdivision 1. The school board, of any school district of this state, however organized, is hereby authorized and empowered to provide for the protection of school children in its respective district, being transported for all school purposes or activities in district owned, operated, leased or controlled motor vehicles, against injuries or damages arising out of the operation thereof. If said board deems it advisable, insurance may be procured, and paid for from any funds available provided, however, any insurance contract covering such risk shall contain as a condition precedent, a clause or provision expressly waiving the defense, by the insurer, that the school district is engaged in a governmental function.

Subdivision 2. The payment of any insurance premiums by such school district shall not thereby make the school district liable for any injuries or damages incurred by such transportation. (Act Apr. 10, 1941, c. 169, Art. VI, §17.)

[125.17]

Reenactment of §§2816-8 and 2816-9.

School officers not authorized to buy insurance protection for others than pupils of the school. Op. Atty. Gen. (159B-4), Sept. 12, 1941.

Insurance is for benefit or protection of school children in districts being transported and not for benefit of third persons. Op. Atty. Gen. (844f-6), June 15, 1942.

School districts may not buy insurance for parents, teachers, doctors, nurses or other than school children. Op. Atty. Gen. (159B-4), Jan. 11, 1943.

Subd. 1.

School districts have no authority to contract together and form a voluntary association for the purpose of maintaining an indemnity fund to protect pupils while riding on busses owned, operated or controlled by said school district. Op. Atty. Gen., (159-B-4), July 3, 1941.

3156-6(18). Construction of school houses—Repairs—Contracts—Bids.—

Subdivision 1. No contract for work or labor, or for the purchase of furniture, fixtures, or other property, or for the construction or repair of schoolhouses, the estimated cost or value of which shall

exceed \$500.00 shall be made by the school board of any common or independent school district without first advertising for bids or proposals in some newspaper of the county by two weeks' published notice in the city or village located nearest to the school district in which such contracts are proposed to be let, or some newspaper published in the county seat in such county; provided that advertisements for bids for schoolhouse construction may be published in a trade journal, periodical, or magazine approved by the attorney general. Such notice shall state the time and place of awarding the contract, and contain a brief description of the work to be performed, materials to be furnished, or building to be constructed or repaired.

Subdivision 2. Every such contract shall be awarded to the lowest responsible bidder, shall be duly executed in writing, and the person to whom the same is awarded shall give a sufficient bond to the board for its faithful performance, and otherwise conditioned as required by Mason's Minnesota Statutes of 1927, Sections 9700, 9702, 9703 and 9704. If no satisfactory bid is received, the board may readvertise.

Subdivision 3. Every contract made without compliance with the provisions of this section shall be void; provided, that in case of the destruction of buildings or injury thereto, where the public interests would suffer by delay, contracts for repairs may be made without advertising for bids. (Act Apr. 10, 1941, c. 169, Art. VI, §18.)

[125.18]

Reenactment of §§2846 and 2847.

A contract provision for arbitration of disputes "at the choice of either party" is not self-executing, and may be modified, rescinded, or waived by agreement or acts and conduct of parties and this notwithstanding a further provision that a "decision" of arbitrators "shall be a condition precedent to any right of legal action". Independent School Dist. No. 35 v. A. Hedenberg & Co., 214M82, 7NW(2d)511. See Dun. Dig. §685.

Building contractor's conduct in failing to demand arbitration of dispute for over a year and in proceeding to trial of action for damages without making such demand or asking for a stay to permit arbitration constituted a waiver of its right to arbitration. Id.

Architect's letter to school district discouraging an investigation of a building to determine cause of leak in walls and expressing doubt as to success of legal action against contractor "because a careful visual examination of the mortar suggests an A-1 job" was a mere informal expression of opinion and not a "decision" by the architect as contemplated by the building contract. Id.

A provision of a school gymnasium building contract requiring the contractor to remedy any defects due to faulty materials or workmanship observed within a year after date of substantial completion and to pay for any damage to other work resulting therefrom did not preclude district from asserting a claim for damages, for such faulty materials or workmanship, if it so elects, and this without first procuring architect's decision. Id.

In action by school district against a building contractor for constructing a gymnasium to recover damages for faulty materials and workmanship, substantial performance of contract held properly submitted to jury. Id.

On a building contract, school district can accept a single bid, without any competitive bidders, if proper notice has been given, but in bidding for supplies or equipment, no bid can be accepted unless competitive bids have been submitted. Op. Atty. Gen. (707a-12), May 21, 1941.

Where board did not accept the lowest bidder, and permitted high bidder to change his bid after bids were opened, there was no legal contract. Id.

School board may enter into agreement with federal government to accept a contribution in connection with the building of schools and obligating district to pay back sum to government over a period of 30 years at 3% interest, and to spend proceeds of a bond issue with title to building to remain in the United States until repayment of contribution, and board could agree with WPA and with private contractors, without enabling vote of electors of district. Op. Atty. Gen. (214f), May 29, 1941.

Contract of a teacher employed as substitute for one called into the military service may contain a provision for automatic termination upon reinstatement of regular teacher, otherwise substitute teacher would have all rights granted by continuing contract in law. Op. Atty. Gen. (172c-2), July 18, 1941.

Board has power to compromise claim of architect for work performed under incomplete contract. Op. Atty. Gen. (166B-1), Mar. 6, 1942.

School district operating busses and purchasing gas in 1,000 gallon lots, for which it maintains storage space, may make all purchases from same dealer and need not spread them among several dealers, each purchase being

a separate contract. Op. Atty. Gen. (707A-12), Mar. 27, 1942.

Invitations for bids for coal may be sent to dealers outside the community, and if a school advertised for bids for coal "when and if ordered" and no bids were received because of uncertainty as to the future, it is probable that bids should be advertised for immediate delivery. Op. Atty. Gen. (707a-12), July 23, 1943.

Section has no application to the Minneapolis school district which operates under a special charter of the city. Op. Atty. Gen. (707a-12), Aug. 3, 1943.

Advertisement for bids is necessary on coal purchases involving expenditure of more than \$500. Op. Atty. Gen. (707a-12), Aug. 27, 1943.

Subd. 1.

If a rental agreement entered into by the school district at Hastings and the Hastings Gas Company for gas burner equipment was not a subterfuge to take the place of an installment purchase, it was legal and proper, and there was no necessity of advertising for bids where the annual rental was less than \$500.00. Op. Atty. Gen. (707a-12), July 10, 1941.

Subd. 2.

Where school board advertised for bids for coal and rejected all bids and readvertised for bids and only two firms bid and that in same sum, which was highest bid at former opening, board may accept one of such large bids, and cannot hold lowest bidder at former opening. Op. Atty. Gen. (707a-12), Sept. 21, 1942.

3156-6(19). Removal of snow on bus routes.—The school board of any school district is hereby authorized to enter into contracts with the state, or any political subdivision thereof, or any corporation, partnership, association or individual for the removal of snow from the roads used for regular bus routes transporting school pupils to and from school either within or without the district. (Act Apr. 10, 1941, c. 169, Art. VI, §19.)

[125.19]

Reenactment of §2816-10.

Highway department and school district may contract for removal of snow on regular school bus routes. Op. Atty. Gen. (377a-11), Nov. 15, 1941.

3156-6(20). Heat and light.

Subdivision 1. The governing board of any school district having one or more buildings within a city or village maintaining a municipal central heating plant may contract with such city or village or the water, light, power, and building commission of said city or village or the board having the control of said central heating plant for the furnishing of heat for said buildings for such a term as it may deem for the best interest of the district, not, however, exceeding ten years.

Subdivision 2. Where it is necessary for such city or village to lay mains or pipes to connect said buildings with its heating system, the said district is authorized to advance to such city or village or commission or board all or any part of the cost thereof, upon such terms and conditions as shall be agreed upon. (Act Apr. 10, 1941, c. 169, Art. VI, §20.)

[125.20]

Reenactment of §§2816-4 and 2816-5.

3156-6(21). Public accountants—Expenditures for.

Subdivision 1. For the purposes of this section, "public accountants" are herein defined as any individual or individuals, who for a period of five years prior to the date of such employment have been actively engaged exclusively in the practice of public accounting.

Subdivision 2. **Employment of public accountants by school boards.**—The school board of any independent school district having a population of more than 200 and having an assessed valuation of more than \$100,000, may employ public accountants on a monthly basis or on a yearly basis or for a shorter period of time for the purpose of auditing, examining, and reporting upon the books and records of account of said independent school district. (As amended Act Apr. 20, 1943, c. 514, §1.)

Subdivision 3. All expenditures for the purposes herein set forth shall be within the statutory limits upon levies in such school districts. (Act Apr. 10,

1941, c. 169, Art. VI, §21; as amended Apr. 20, 1943, c. 514, §1.)

[125.21]

Reenactment of §§2816-5a; 2816-6; 2816-7. Section does not deprive voters of district of right to petition for an examination by the public examiner. Op. Atty. Gen. (159a-1), Jan. 15, 1943.

Subd. 2.

Amended. Laws 1943, c. 514. See above text.

3156-6(22). Audit of accounts—Proof.—

Subdivision 1. No account, claim or demand against any school district for any property or services shall be audited or allowed by the board or officer authorized by law to audit and allow the same until it is reduced to writing, in items, and verified by the person claiming the same, or his agent, to the effect that such account, claim, or demand is just and true; that the money therein charged was actually paid for the purposes therein stated; that the property therein charged was actually delivered or used for the purposes therein stated, and was of value therein charged, and that the services therein charged were actually rendered, and either that the same were of the value therein charged, or, if official, for which fees are prescribed by law, then that the fees charged therefor are such as are allowed by law; and in all cases that no part of such account, claim or demand has been paid. But the provisions of this section shall not apply to any claim or demand for salaries of school teachers or employees or payments due bus drivers on contract.

Subdivision 2. The verification required by this section may be made before any officer authorized by law to administer oaths, or before any member of the board to which the account, claim, or demand shall be presented for audit, who may administer the proper oath in such cases. In case any such account, claim, or demand shall be made or presented by an administrator or executor on behalf of the estate of a deceased person, he shall not be required to verify the same, but may prove it otherwise to the satisfaction of the board. (Act Apr. 10, 1941, c. 169, Art. VI, §22.)

[125.22]

Reenactment of §§2849-2 and 2849-3.

3156-6(23). Chairman of school board—Powers and duties.—The chairman, when present, shall preside at all meetings of the board and of the district, except when a moderator has been chosen; shall countersign all orders upon the treasurer for claims allowed by the board; shall represent the district in all actions; and shall perform all the duties usually incumbent on such officer.

In case of absence, inability or refusal of the clerk to draw orders for the payment of money authorized by a vote of the majority of the board to be paid, the orders may be drawn by the chairman, and paid by the treasurer, a statement thereof, with a copy of such orders, being delivered to the clerk by the treasurer, or the office of the clerk may be declared vacant by the chairman and treasurer and filled by appointment. (Act Apr. 10, 1941, c. 169, Art. VI, §23.)

[125.23]

Reenactment of §2840 in part.

In absence of regular chairman, a temporary chairman may be appointed and act at a board meeting, but cannot countersign warrants or exercise powers which statute expressly requires the chairman to exercise. Op. Atty. Gen. (768c), June 22, 1942.

3156-6(24). Compensation of chairman.—The chairman of a common school district may receive as compensation such an amount as may be determined at the regular school meeting of the district, but such compensation shall not exceed \$6.00 in any one year. (Act Apr. 10, 1941, c. 169, Art. VI, §24.)

[125.24]

Reenactment of §2840 in part.

3156-6(25). Records—Clerk's duties.—The clerk shall keep in books provided for that purpose a record of all meetings of the district and the board. He

shall, within three days after the meeting, notify all persons elected upon any school board, or as officers of any district, of their election, and, on or before July 10 in each year, make and transmit to the county superintendent a certified report, showing:

1. The condition and value of school property.
2. The receipts and disbursements in detail, and such other financial matters as may be called for by the state commissioner of education.
3. The length of school term and the enrollment and attendance by grades.
4. The names and postoffice addresses of all trustees and other officers.
5. Such other items of information as may be called for by the state commissioner of education.

He shall enter in his record book copies of all his reports and of the teachers' term reports, as they appear in the registers, and of the proceedings of any meeting as furnished him by the clerk pro tem., and shall keep an itemized account of all the expenses of the district; and in common districts he shall report to the county superintendent the time of commencement of each term at least two weeks in advance. He shall furnish to the county auditor or auditors of the proper county or counties, on or before October 10 of each year, an attested copy of his record, showing the amount of money voted by the district or the board for school purposes; shall draw and sign all orders upon the treasurer for the payment of money for bills allowed by the board for salaries of officers or for teachers' wages, to be countersigned by the chairman. Such orders shall state the consideration, payee, and fund, and the clerk shall take a receipt therefor. Teachers' wages shall have preference in the order in which they become due, and no money applicable for teachers' wages from the current school fund shall be used for any other purpose, nor shall teachers' wages be paid from any fund except that raised or apportioned for that purpose. (Act Apr. 10, 1941, c. 169, Art. VI, §25.)

[125.25]

Reenactment of §2832.

Minutes need not show the vote on every motion unless the board requires they should be so written up. Op. Atty. Gen. (161a-20), May 21, 1943.

3156-6(26). Clerk's salary.—The clerk of each common district shall be paid not to exceed \$6.00 in any one year, unless a greater compensation has been voted at a meeting of the district upon a notice stating that action would be had at such meeting respecting such increase of compensation; provided, that in no case shall the compensation of the clerk as herein provided exceed \$50.00 for any one year. Such payment shall be made by the treasurer only upon a certificate of the county superintendent that such clerk has faithfully performed the duties of his office, including the submission of a satisfactory annual report as required by law. (Act Apr. 10, 1941, c. 169, Art. VI, §26.)

[125.26]

Reenactment of §§2840 and 2842 in part.

3156-6(27). Appointment of clerk.—The board of education in any special school district in the state of Minnesota, at its annual meeting for organization, may, at its option, appoint as its clerk or secretary a person not a member of such board, and may make provision for his compensation in accordance with existing law. (Act Apr. 10, 1941, c. 169, Art. VI, §27.)

[125.27]

Reenactment of §2810.

3156-6(28). Duties of treasurer.—

Subdivision 1. The treasurer shall receive and be responsible for all money 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; provided, that in the event that the chairman has been continuously absent from the

district for a period of 30 days or more the treasurer may pay orders without the signature of the chairman. 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.

Subdivision 2. Within three days preceding the last Tuesday in June he shall file with the clerk a detailed financial statement of the district, showing all receipts and disbursements, and the nature of the same, the money 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 in common school districts 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.

Subdivision 3. 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, nonpayment and indorsement, shall be made by the treasurer. Every such order shall bear interest at the rate of five 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; provided, that the district may enter into agreements with banks to take such orders at any rate of interest lower than the legal rate. The treasurer shall serve a written notice upon the payee or his assignee, personally, or by mail, 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. (Act Apr. 10, 1941, c. 169, Art. VI, §28; Apr. 14, 1943, c. 455, §28.)

[125.28]

Reenactment of §2833.

3156-6(29). Bond of treasurer.—Every school district treasurer shall give bond to the state in a sum equal to twice the amount of money that will probably be in his hands, at any time during any one year of his term, the school board to fix the specific amount of said bond, and said bond to be approved by the board and conditioned for the faithful discharge of his official duties. Provided, however, that if said bond so furnished by the treasurer be that of a surety company authorized to do business in Minnesota, then the amount of such bond shall be equal to the amount of money that will probably be in his hands at any time during any one year of his term, the specific amount of such bond to be fixed by the board. The school board may at any time by a majority vote require the treasurer to give a new or an additional bond, and upon his failure to furnish same within a reasonable time after notice, the board shall declare the office of treasurer vacant. Any bond hereunder, before approval by the school board, shall be approved as to its form by the public examiner, county attorney or an attorney designated by the school board. All such bonds shall be filed with the county auditor and the county auditor shall not deliver any warrants for

tax settlements or state aids until such bond has been filed. (Act Apr. 10, 1941, c. 169, Art. VI, §29.)

[125.29]

Reenactment of §2834.

Treasurers qualifying and filing bonds with district clerk prior to effective date of this act are properly qualified and bonds should remain on file with district clerk, but bonds given after April 10, 1941 should be filed with county auditors. Op. Atty. Gen. (451a-4), June 9, 1941.

In joint school districts having land in more than one county, treasurer may file his bond with county auditor of county in which school house is located; and such county auditor can then certify to auditor of other county that such bond is on file with him. Op. Atty. Gen. (451-A-4), July 2, 1941.

Bond in penal sum of \$3,100, with two personal sureties, each of whom has justified in amount of \$3,100 is a bond for \$3,100 and not \$6,200, notwithstanding that penal sum of bond should have been \$6,200. Op. Atty. Gen. (451A-5), Oct. 17, 1941.

Surety on bond cannot be released from liability under terms of bond, on death of treasurer. Op. Atty. Gen. (451A-4), Jan. 12, 1942.

Bond must be for the term and should not be renewed each year during the term, and in any case until a successor qualifies. Op. Atty. Gen. (451a-4), June 22, 1943.

3156-6(30). Compensation of treasurers of common school districts.—The treasurer of each common school district may receive as compensation such an amount as shall be determined at the regular school meeting of the district, not exceeding, however, \$25.00 per annum, which shall be allowed only after his annual report shall have been so approved by the board. (Act Apr. 10, 1941, c. 169, Art. VI, §30.)

[125.30]

Reenactment of §2843.

3156-6(31). Compensation of officers in independent and special 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 by law. (Act Apr. 10, 1941, c. 169, Art. VI, §31.)

[125.31]

Reenactment of §2844.

Members of Minneapolis school board cannot vote salaries to themselves. Op. Atty. Gen. (161A-6), Aug. 6, 1941.

Compensation may not be paid superintendent in lieu of vacation not taken. Op. Atty. Gen. (768k), Sept. 23, 1942, Sept. 30, 1942.

Where a common school district has been operated for several years as a high school, which is accredited, salaries of the clerk, treasurer and superintendent may be fixed by the board, but no other member of the school board shall receive any pay. Op. Atty. Gen. (768d-1), May 28, 1943.

3156-6(32). Records to be evidence.—The records of all school districts and boards, and all transcripts thereof or any part thereof, certified by the clerk or other officer having custody thereof, shall be prima facie evidence of the facts therein stated, and all records, books and papers of such district or board shall be subject to the inspection of any voter of the district. (Act Apr. 10, 1941, c. 169, Art. VI, §32.)

[125.32]

Reenactment of §2796.

ARTICLE VII ACTIONS AND PENALTIES

ANALYSIS

- 3156-7(1). Actions by districts.
- 3156-7(2). Actions against districts.
- 3156-7(3). Judgment—How paid by treasurer.
- 3156-7(4). Failure to pay judgment—Tax levy.
- 3156-7(5). When execution may issue.
- 3156-7(6). Action when trustees resign—How satisfied.
- 3156-7(7). Excluding or expelling pupils.
- 3156-7(8). Improper classification of pupils.
- 3156-7(9). Refusing to serve on school board.
- 3156-7(10). Clerk of district—Failure to report.
- 3156-7(11). Same—Drawing illegal order.
- 3156-7(12). Same—Neglecting to keep or deliver records.
- 3156-7(13). Failure of auditor to report.
- 3156-7(14). Deduction from salary for failure to report.
- 3156-7(15). Dealing in school supplies.
- 3156-7(16). Failure of officers to report—Notice—Violations of law.

3156-7(1). Actions by districts.—Any school board may prosecute actions in the name of the district in the following cases:

(1) On a contract made with the district, or with the board in its official capacity;

(2) To enforce a liability, or a duty enjoined by law, in its favor or in favor of the district;

(3) To recover a penalty or forfeiture given by law to it or to the district; or

(4) To recover damages for an injury to the rights or property of the district. (Act Apr. 10, 1941, c. 169, Art. VII, §1.)

[126.01]

Reenactment of §3097.

3156-7(2). Actions against districts.—An action may be brought against any school district, either upon a contract made with the district or its board, in its official capacity, and within the scope of its authority, or for an injury to the rights of the plaintiff arising from some act or omission of such board, whether the members of the board making the contract, or guilty of the act or omission complained of, be still in office or not. (Act Apr. 10, 1941, c. 169, Art. VII, §2.)

[126.02]

Reenactment of §3098.

3156-7(3). Judgment—How paid by treasurer.—Except as hereinafter provided, no execution shall issue upon any judgment against a school district for the recovery of money. Unless the same be stayed by appeal, the treasurer shall pay such judgment, upon presentation of a certified copy thereof, if he has sufficient money of the district not otherwise appropriated. If he fails to do so, he shall be personally liable for the amount, unless the collection be afterwards stayed. (Act Apr. 10, 1941, c. 169, Art. VII, §3.)

[126.03]

Reenactment of §3099.

3156-7(4). Failure to pay judgment—Tax levy.—If such judgment is not satisfied, or stayed by appeal, or otherwise, before the next annual meeting of the district, a certified copy thereof may be presented at its annual meeting, whereupon the district shall cause the amount of the judgment, with interest, to be added to the tax of said district. If such tax is not levied and certified to the county auditor on or before October 1 next after presentation as aforesaid, a certified copy thereof may be filed with such auditor at any time before he has extended the tax of such district, with an affidavit showing the amount remaining unpaid thereon, and the fact of such presentation to the district. Thereupon the auditor shall at once levy and extend such amount as a tax upon the property taxable within the district. Provided that by mutual agreement between the district and the judgment creditor the levy may be spread equally over a period of more than one year. (Act Apr. 10, 1941, c. 169, Art. VII, §4.)

[126.04]

Reenactment of §3100.

3156-7(5). When execution may issue.—If the judgment is not paid within 30 days after the time when the proceeds of such levy becomes payable by the county treasurer of the district, execution may be issued thereon, to which any property belonging to the district shall be liable. (Act Apr. 10, 1941, c. 169, Art. VII, §5.)

[126.05]

Reenactment of §3101.

3156-7(6). Action when trustees resign—How satisfied.—

Subdivision 1. In case the trustees of any school district which has contracted an indebtedness shall remove or resign, and none are elected or appointed in their stead, an action to recover such indebtedness may be begun by service of the summons upon the county auditor, and any taxpayer of the district may

defend such action in its behalf, or the auditor may be required by the voters of the district to defend the same upon being indemnified against the costs and expenses of such defense.

Subdivision 2. If judgment is recovered in any such action, the auditor, upon a certified copy thereof being filed with him shall levy and extend upon and against the property taxable within the district an amount sufficient to pay the same, with interest. When such tax, or any part thereof, is collected, the county treasurer shall pay the same to the holder of the judgment until it is satisfied in full. And for this purpose the treasurer may use any money coming into his hands from taxes levied prior to the judgment for the payment of the same indebtedness. (Act Apr. 10, 1941, c. 169, Art. VII, §6.)

[126.06]

Reenactment of §§3102 and 3103.

3156-7(7). Excluding or expelling pupils.—Any member of any public school board or board of education of any district, who, without sufficient cause, or on account of race, color, nationality or social position, shall vote for, or, being present, shall fail to vote against, the exclusion, expulsion or suspension from school privileges of any person entitled to admission to the schools of such district, shall forfeit to the party aggrieved \$50.00 for each such offense, to be recovered in a civil action. (Act Apr. 10, 1941, c. 169, Art. VII, §7.)

[126.07]

Reenactment of §2998.

Attorney General could not say as a matter of fact that members of school board acted without sufficient cause. Op. Atty. Gen. (166a-10), Oct. 28, 1942.

3156-7(8). Improper classification of pupils.—No district shall classify its pupils with reference to race, color, social position or nationality, nor separate its pupils into different schools or departments upon any of such grounds. Any district so classifying or separating any of its pupils, or denying school privileges to any of its pupils upon any such ground, shall forfeit its share in all apportioned school funds for any apportionment period in which such classification, separation or exclusion shall occur or continue. The state commissioner of education, upon notice to the offending district, and upon proof of the violation of the provisions of this section, shall withhold in the semi-annual apportionment the share of such district, and the county auditor shall thereupon exclude such district from his apportionment for such period. (Act Apr. 10, 1941, c. 169, Art. VII, §8.)

[126.08]

Reenactment of §2999.

3156-7(9). Refusing to serve on school board.—Any person accepting an election or appointment upon any school board, and refusing or neglecting to qualify or to serve, or to perform any of the duties of such office, shall forfeit for each offense the sum of \$10.00 to be collected in an action before a justice of the peace, to be prosecuted in the name of the district by any school board member of the district, or by any freeholder thereof. (Act Apr. 10, 1941, c. 169, Art. VII, §9.)

[126.09]

Reenactment of §3000.

3156-7(10). Clerk of district—Failure to report.—Any clerk of a school district who fails to make any report required of him by law shall forfeit not less than \$5.00, nor more than \$50.00, for the use of the district. (Act Apr. 10, 1941, c. 169, Art. VII, §10.)

[126.10]

Reenactment of §3001.

3156-7(11). Same—Drawing illegal order.—Any school district clerk who shall illegally draw an order upon the treasurer, any chairman or other officer who shall attest such order, and any school district treasurer who shall knowingly pay the same, shall each forfeit to the district twice the amount of such order,

to be collected in an action brought in the name of the district by any freeholder thereof. (Act Apr. 10, 1941, c. 169, Art. VII, §11.)

[126.11]

Reenactment of §3002.

3156-7(12). Same—Neglecting to keep or deliver records.—Any school district clerk who shall neglect to keep the books and records of his office in the manner prescribed by law, or shall wilfully refuse to deliver such books and records to his successor in office, shall forfeit to the use of the district the sum of \$10.00 for each offense. (Act Apr. 10, 1941, c. 169, Art. VII, §12.)

[126.12]

Reenactment of §3003.

3156-7(13). Failure of auditor to report.—Any county auditor who shall fail to make to the state commissioner of education any report of apportionment required by law shall forfeit, for the benefit of the school fund of the county, the sum of \$50.00. (Act Apr. 10, 1941, c. 169, Art. VII, §13.)

[126.13]

Reenactment of §3004.

3156-7(14). Deduction from salary for failure to report.—Any county superintendent who shall fail to report to the county auditor the abstract of district clerks' and teachers' reports required by law, or to make his statistical report to the state commissioner of education, shall forfeit to the school fund of the county for each such omission \$50.00 to be deducted from his salary by the board of county commissioners. (Act Apr. 10, 1941, c. 169, Art. VII, §14.)

[126.14]

Reenactment of §3005.

3156-7(15). Dealing in school supplies.—No teacher, nor any state, county, town, city or district school officer, shall be interested directly or indirectly in the sale, proceeds or profits of any book, apparatus or furniture used or to be used in any school with which he is connected. Any person violating any of the provisions of this section shall forfeit not less than \$50.00, nor more than \$200.00, for each such offense. But this section shall not apply to a person who may have an interest in the sale of any book of which he himself is the author. (Act Apr. 10, 1941, c. 169, Art. VII, §15.)

[126.15]

Reenactment of §3006.

Sale of truck by superintendent to school district is illegal. Op. Atty. Gen. (90c-4), May 25, 1943.

3156-7(16). Failure of officers to report—Notice—Violations of law.—Every officer to whom reports are required by law to be made, and for the failure to make which a penalty or fine or forfeiture is provided, shall give immediate written notice of such failure to the delinquent and to the proper county attorney. Such county attorney shall thereupon institute proper proceedings to collect such penalty, fine or forfeiture. Upon complaint of the county superintendent, or whenever it comes to his knowledge that any school officer has violated any provision of law, for which violation a penalty, fine or forfeiture is provided, such attorney shall institute like proceedings. (Act Apr. 10, 1941, c. 169, Art. VII, §16.)

[126.16]

Reenactment of §3007.

ARTICLE VIII SCHOOL TAXES; SCHOOL FUNDS

ANALYSIS

- 3156-8(1). State school tax.
- 3156-8(2). County school tax—District tax.
- 3156-8(3). Certification of tax.
- 3156-8(4). Limitation of tax rate in common, independent and special districts.
- 3156-8(5). Limitation of tax rate on agricultural lands.
- 3156-8(6). Distribution of unexpended school funds where no school maintained—Refunds to state treasurer.

3156-8(7). Depository of funds in common and independent school districts—Authority to select.

3156-8(8). Interest on deposits.

3156-8(9). Treasurer exempt from liability.

3156-8(10). Treasurer of school districts not to be responsible for losses in certain cases.

3156-8(11). Reimbursing treasurer for loss of funds.

3156-8(12). School district warrants—Funds deposited in closed banks.

3156-8(13). School board may accept property in settlement of claims—Title to be held by district.

3156-8(14). Officers not allowed additional compensation.

3156-8(1). State school tax.—There shall be levied annually upon the taxable property of the state a tax of one mill and twenty-three hundredths mills on the dollar, to be known as the state school tax, of which one mill on the dollar shall be placed in the fund known as the current school fund and the remainder of such tax shall be added to the university fund. (Act Apr. 10, 1941, c. 169, Art. VIII, §1.)

[127.01]

Reenactment of §3011.

Laws 1943, c. 665, §5, was enacted as an amendment to §3011, Mason's Minn. Stat. 1927. Section 3011 was expressly repealed by Laws 1941, c. 169. See §3011, Mason's Minn. Stat. 1944.

Laws 1943, c. 665, §5, provides: There shall be levied annually upon the taxable property of the state a tax of one and twenty-three one-hundredths mills on the dollar, to be known as the state school tax, of which one mill on the dollar shall be added to the general school fund, which shall then be known as the current school fund, and the remainder of such tax shall be added to the university fund; provided, however, that for the fiscal years 1944 and 1945 there shall be levied under this section only 23/100ths of one mill on the dollar, which tax shall be added to the University fund.

3156-8(2). County school tax—District tax.—The county auditor shall extend upon the tax lists of the county, in the same manner as district school taxes are extended, a tax of one mill on the dollar of the taxable property in each district, to be known as the county school tax, and be credited to the school district in which the property taxed is situated. (Act Apr. 10, 1941, c. 169, Art. VIII, §2.)

[127.02]

Reenactment of §3012 in part.

3156-8(3). Certification of tax.—The taxes voted by school districts shall be certified by the clerk of the school board to the county auditor on or before October 10 of each year and shall be known as the district school tax. (Act Apr. 10, 1941, c. 169, Art. VIII, §3.)

[127.03]

Reenactment of §§2058, 3012.

3156-8(4). Limitation of tax rate in common, independent and special districts.—In common districts the tax rate shall not exceed ten mills for the purchase of school sites and erection and equipment of schoolhouses; but in such districts in which such ten mill tax will not produce \$600.00, a greater tax may be levied for school sites and buildings, not to exceed 30 mills on the dollar nor \$600.00 in amount. In independent districts no tax in excess of eight mills on the dollar shall be levied for the purposes of school sites and the erection of schoolhouses. In special districts, such amounts may be levied as may be allowed by special law. (Act Apr. 10, 1941, c. 169, Art. VIII, §4.)

[127.04]

Reenactment of §3013.

A school district may create a building fund for construction of a building sometime in the future and place therein any surplus moneys not required for operation of school, but such fund is not a sinking fund which may be invested in war bonds or otherwise. Op. Atty. Gen. (159a-14, 159b-2), Oct. 30, 1942.

3156-8(5). Limitation of tax rate on agricultural lands.—The rate of taxation of agricultural lands for school maintenance in any school district of the state maintaining a graded elementary or high school, and also in unorganized territory, shall not exceed by more than ten per cent the average rate for school maintenance on similar lands in common school districts of the same county, provided such county has

20 or more common school districts; nor shall such rate exceed one-half the rate for school maintenance on non-agricultural lands in the same school district or unorganized territory in counties having less than 20 common school districts; provided, that if the special state aids are not paid in full during any given year, an additional levy equal to the deficiency in such special state aids payable to such school district or unorganized territory may be levied, and such levy shall be uniform on all property subject to taxation in such school district or unorganized territory; and provided, further, that this section shall not apply to any school district receiving gross earnings aid under the provisions of Section 23 of Article IX. (Act Apr. 10, 1941, c. 169, Art. VIII, §5.) [127.05]

Reenactment of §§3014-6 and 3014-7.

Editorial note.—Section 3014-7, Mason's St., from which this section is derived in part was repealed by Act Apr. 10, 1941, c. 169, Art. XIV, §1 (3156-14(1)).

Such section 3014-7, was subsequently amended by Act Apr. 14, 1941, c. 219, §1, to read as follows: In every independent school district within the limits of a city of the first class operating under a home rule charter, which does not fix the amounts which may be expended for school purposes, there may be levied, and the board of education, or other school board therein, is hereby authorized to and may levy annually independently of and in addition to all other sums for school purposes now authorized by law to be levied, the following additional amounts of taxes for the following named school purposes:

(1) An amount equal to six mills on each dollar of the taxable property of the district for the purchase of sites for school houses and to defray the expenses incurred, or to be incurred, in building, rebuilding, remodeling, repairing and furnishing school houses and installing heating, ventilating and plumbing plants in the same and equipping the same with libraries, apparatus and other school furniture.

(2) An amount equal to three-fourths of one mill on each dollar of the taxable property of the district for the support and maintenance of evening and summer schools for elementary and high school grades.

(3) An amount equal to one-half of one mill on each dollar of the taxable property of the district in 1921, 1922 and 1923 for the purpose of paying and discharging existing indebtedness arising from the maintenance and operation of the schools in such district.

(4) An amount equal to one-fourth of one mill on each dollar of the taxable property of the district for educational work among immigrants, candidates for naturalization and removal of illiteracy.

Provided that the total annual levy of taxes for school purposes in any such district, exclusive of the state and county school taxes therein, and exclusive of all levies authorized for the purposes mentioned in paragraphs 1, 2, 3, and 4 hereof, and exclusive of the levies authorized for interest and sinking fund purposes and for teachers retirement fund association purposes, and for the purposes mentioned in Laws 1917, Chapter 166, shall not exceed 20 mills on each dollar of the taxable property of the district, except that when the amount of a 20-mill levy upon each dollar of the taxable property of the district, plus an amount equal to the total income available for current operating expenses estimated that will be received in the fiscal period exclusive of apportionments on the district tax levy, exclusive of anticipated receipts from delinquent taxes, and exclusive of any receipts from federal funds, is not in any year equal to \$100 for each student in kindergarten through junior college, both inclusive, but excluding post-graduate high school and night school students, based on the average number belonging in the previous school year, then there may be levied an amount, which, when added to an amount equal to the estimated income available for current operating expenses, exclusive of apportionments on the district levy, exclusive of anticipated receipts from delinquent taxes, and exclusive of any receipts from federal funds, will equal \$100 for each student in kindergarten through junior college (both inclusive but excluding post-graduate high school and night school students) based on the average number belonging in the previous school year, provided, further, that in addition to the amounts and specific tax levies heretofore authorized, there may be levied in the years 1941 and 1942, collectible in the calendar year 1942 and 1943 respectively, an additional sum in excess of all amounts heretofore authorized, equivalent to \$15.00 for each student in kindergarten through junior college, both inclusive, but excluding post-graduate high school students and night school students, based on the average number belonging in the previous school year. Provided, nevertheless, that no provision hereof shall have any application to any city of the first class having a home rule charter and operating under a so-called commission form of government, wherein the council or other governing body of the municipality, under such charter, is constituted its taxing authority.

Deficiency aid not to be included in amount of school district maintenance levy when determining rate of maintenance levy as basis for supplemental aid. Op. Atty. Gen. (168d), July 15, 1943.

3156-8(6). Distribution of unexpended school funds where no school maintained—Refunds to state treasurer.—

Subdivision 1. The school board of any common school district in this state, wherein the schools of such district have not been maintained for a period of not less than five years, and which district has unexpended funds accumulated from the proceeds of the one mill tax levy provided for in Section 2 of this article, in excess of \$500.00, may, in its discretion, deliver all or any part of such funds to the treasurer of the county in which such district is situated. The funds so delivered to the county treasurer shall be paid by the treasurer to the owners of the real estate situated in such district in the proportion that the amount of the said tax collected from such real estate bears to the amount to be so distributed. It shall be the duty of the auditor of the county in which such district is situated to determine the proportionate share to be paid to each owner of real estate in such district and to furnish the county treasurer with a statement thereof.

Subdivision 2. When the school board of any such district has delivered and turned over to the county treasurer the proceeds of the one mill tax, as provided in this section, then such school board shall refund all or any part of unexpended funds in its treasury received by such district as its proportionate share of the income tax funds provided for by Mason's Supplement 1940, Section 2394-57, to the treasurer of the state of Minnesota, which funds when so refunded shall be placed in the income tax school fund and disbursed in the same manner as other money in said fund is disbursed. (Act Apr. 10, 1941, c. 169, Art. VIII, §6.)

[127.06]

Reenactment of §§2823-4 and 2823-5.

3156-8(7). Depository of funds in common and independent school districts—Authority to select.—The governing board, by whatever name known of the several common, independent and special school districts in this state may in its discretion, select and designate as a depository or depositories for school district money, 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. It 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 or consolidated school districts without the execution of any bond. Provided further that where the bank designated is a member of the federal deposit insurance corporation no bond or collateral shall be required up to the amount covered by such insurance. 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. Thereupon such bank or banks shall become a legal depository or depositories for school district money and thereafter the school district treasurer shall deposit such school district money therein as he shall be required from time to time to deposit by such school district governing board. (Act Apr. 10, 1941, c. 169, Art. VIII, §7.)

[127.07]

Reenactment of §2836.

Bank in which member of school board is interested may be designated as depository by a two-thirds vote of the board. Op. Atty. Gen. (90c-2), July 9, 1942, overruling former opinions.

Notwithstanding protection of F.D.I.C., school funds may not be deposited in a bank not designated as a depository. Op. Atty. Gen. (90c-2), July 9, 1942.

3156-8(8). Interest on deposits.—All interest on money deposited, as hereinbefore provided shall be computed on monthly balances, and become the property of said school district. (Act Apr. 10, 1941, c. 169, Art. VIII, §8.)

[127.08]

Reenactment of §2838.

3156-8(9). Treasurer exempt from liability.—The school district treasurer and the sureties on his bond shall be exempt from liability to the school district by reason of the loss of any funds of such school district deposited in any such bank or banks from the failure, bankruptcy or other acts of such bank or banks to the extent and amount of such funds in such bank or banks at the time of such failure or bankruptcy. (Act Apr. 10, 1941, c. 169, Art. VIII, §9.)

[127.09]

Reenactment of §2837.

3156-8(10). Treasurer of school districts not to be responsible for losses in certain cases.—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 in any one bank, if a common school district, or not exceeding \$3,000 in any one bank, if an independent school district. Provided that where such bank is a member of the federal deposit insurance corporation, the amount which may be deposited may be increased to the amount of insurance coverage provided by this corporation. 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 Apr. 10, 1941, c. 169, Art. VIII, §10.)

[127.10]

Reenactment of §2839-2.

3156-8(11). Reimbursing treasurer for loss of funds.—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 money so paid when a majority of the electors voting thereon at an annual or special meeting vote to do so, providing the notice of such annual or special meeting shall specify that such matter will be considered at such meeting. (Act Apr. 10, 1941, c. 169, Art. VIII, §11.)

[127.11]

Reenactment of §2839-1.

3156-8(12). School district warrants—Funds deposited in closed banks.—Any school district which now has or may hereafter have, any money on deposit in any bank at the time such bank is closed, or hereafter closes, for the purpose of liquidation, may issue its general warrants in payment of any obligation and in the amount that the money so on deposit could have been applied thereto if available, notwithstanding there may not at the time of the issuance thereof be any funds on hand for the payment thereof, or any taxes previously levied and then in process of collection the proceeds of which will be available for the payment of such warrants. Such warrants when issued, may be presented to the treasurer and marked "Not paid for lack of funds" and shall thereafter draw

interest at the rate of six per cent until paid. (Act Apr. 10, 1941, c. 169, Art. VIII, §12.)

[127.12]

Reenactment of §2997-1.

3156-8(13). School board may accept property in settlement of claims—Title to be held by district.—

Subdivision 1. 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 interest 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.

Subdivision 2. Title to lands or interests so acquired shall be held by said district in lieu of its money 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 or 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 or 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. 10, 1941, c. 169, Art. VIII, §13.)

[127.13]

Reenactment of §§2836-1 and 2836-2.

3156-8(14). Officers not allowed additional compensation.—No additional compensation or fees shall be paid to any of the school district officers by reason of any of the provisions of Sections 7, 8 and 9 of this article. (Act Apr. 10, 1941, c. 169, Art. VIII, §14.)

[127.14]

Reenactment of §2839.

ARTICLE IX

STATE AND FEDERAL SCHOOL AID

ANALYSIS

- 3156-9(1). State aid to schools—Creation of special funds.
- 3156-9(2). Apportionment of current school and endowment funds—Distribution—Term required.
- 3156-9(3). Distribution of current school funds.
- 3156-9(4). Payment of school apportionment—Reports.
- 3156-9(5). Distribution of special state aid fund.
- 3156-9(6). Special state aid fund—Purposes.
- 3156-9(7). Consolidated districts—Transportation of pupils—Crippled children—State aid requirements.
- 3156-9(8). State aid fund—Equalizing educational opportunities.
- 3156-9(9). Same—Libraries—Purchase of books.
- 3156-9(10). Same—Classification for aid—Graded—Special departments.
- 3156-9(11). Supplemental aid.
- 3156-9(12). State aid—Stimulation of vocational work—Special classes—Supplemental aid.
- 3156-9(13). Same—Special classes for handicapped children.
- 3156-9(14). Same—Apportionment for evening schools—Payment of salaries.
- 3156-9(15). Same—Teacher training in high schools.
- 3156-9(16). Same—Transfer from current school fund to meet appropriation.
- 3156-9(17). Same—To be prorated.
- 3156-9(18). Same—Manner of paying special state aid.
- 3156-9(19). Same—Unused special state aid funds.
- 3156-9(20). Distribution and use of income tax school fund.

- 3156-9(21). County boards to appropriate money for county educational work.
- 3156-9(22). State aid from gross earnings tax—Application for—State board to determine amounts.
- 3156-9(23). Same—County district—Application—Department of education to fix amount.
- 3156-9(24). Annual appropriation in aid of common schools—How distributed—Not to be used for sites or buildings.
- 3156-9(25). Funds from national forest to be used for school purposes in some cases.
- 3156-9(26). Federal act for promotion of vocational education—Provisions accepted.
- 3156-9(27). Same—State board for vocational education.
- 3156-9(28). Same—Appointment of officials and assistants.
- 3156-9(29). Same—State treasurer appointed custodian of funds.
- 3156-9(30). Same—Appropriations.
- 3156-9(31). Same—Reimbursement of expenditures.
- 3156-9(32). Same—Districts entitled to federal moneys.
- 3156-9(33). Same—Reimbursing institutions for training teachers.
- 3156-9(34). Same—How reimbursements shall be made.
- 3156-9(35). Same—State treasurer to make report of receipts and disbursements.
- 3156-9(36). Federal aid—Acceptance—Disbursement.

3156-9(1). State aid to schools—Creation of special funds.—For the purpose of aid to public schools, there shall be established the following funds:

- (1) The endowment fund, which shall consist of the income from the permanent school fund;
- (2) The current school fund, which shall consist of the amount derived from a state one mill tax;
- (3) The special state aid fund, which shall consist of the sums appropriated by the legislature for special aid to public schools;
- (4) The income tax school fund, which shall consist of the revenues of the state income tax. (Act Apr. 10, 1941, c. 169, Art. IX, §1.)

[128.01]

Reenactment of §3022.

Students beyond the twelfth year (Junior college and teacher training department students) are not to be counted for apportionment. Op. Atty. Gen. (168b), July 13, 1942.

3156-9(2). Apportionment of current school and endowment funds—Distribution—Term required.—The endowment fund shall be apportioned semi-annually by the state board of education, on the first Monday in March and October in each year, to school districts whose schools have been in session at least eight months, in proportion to the number of scholars between the ages of five and 21 years who shall have been in average daily attendance during the preceding year, such number to be determined by dividing the aggregate daily attendance in the school by the total number of days the school was actually in session; provided that apportionment shall not be paid to the district attended for pupils in grades one to eight inclusive, for whom tuition is received by such district. (Act Apr. 10, 1941, c. 169, Art. IX, §2.)

[128.02]

Reenactment of §§2993, 3023.

Non-resident pupils attending special classes for handicapped children. Op. Atty. Gen. (168C), Aug. 12, 1941; note under §3156-9(13).

District is required to provide transportation for a pupil whose parents reside temporarily on lakeshore property or in a summer home, and is entitled to include pupil in school census for state aid purposes. Op. Atty. Gen. (166a), Dec. 8, 1941.

Legislature intended to exclude Saturday, but there would be no harm in an administrative rule permitting days attended on Saturday to be counted in computing average daily attendance for purpose of distributing state aid where both teacher and pupils consent to attend. Op. Atty. Gen. (160C), Jan. 16, 1942.

A graduate of a public high school who enrolls for and takes additional work in courses commonly recognized as high school subjects is to be counted for apportionment and supplemental aid. Op. Atty. Gen. (168d), Jan. 7, 1943.

Personal property of electric light and power companies outside of cities, villages and boroughs should be taxed and proceeds of tax distributed as provided in this section, except that one-half goes to general funds of county. Op. Atty. Gen. (554e), Sept. 28, 1943.

3156-9(3). Distribution of current school fund.—The current school fund shall be apportioned on the same basis and at the same time as the endowment fund except such part as the state auditor on the recommendation of the state board of education shall set

aside from the current school fund each year for distribution with the special state aid fund. (Act Apr. 10, 1941, c. 169, Art. IX, §3.)

[128.03]

Reenactment of §3024.

3156-9(4). Payment of school apportionment—Reports.—Upon receiving a copy of such apportionments, 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 endowment fund and the current school fund the amount of such apportionments.

Subdivision 1. 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. The auditor shall include in such apportionment all amounts received from special state aid to schools— not theretofore apportioned.

Subdivision 2. The county auditor, on the first Wednesday after such apportionment, shall report to the state commissioner of education the amount apportioned to each district, the sources from which such money was received, the total average daily attendance of pupils in the county entitled to apportionment, and the number of districts sharing in the apportionment. (Act Apr. 10, 1941, c. 169, Art. IX, §4.)

[128.04]

Reenactment of §§2994, 2995, 2997.

Subd. (1).

(Op. Atty. Gen. (554e), Sept. 28, 1943; note under §3156-9(2).)

3156-9(5). Distribution of special state aid fund.—The state board of education shall distribute the special state aid fund, and any other sums which may be appropriated by the state for distribution with the special state aid fund, in such manner and upon such conditions as will enable school districts to perform efficiently the services required by law, and to further the educational interests of the state. To this end the said board shall have power to fix reasonable requirements for receiving and sharing in the state aid, provided that in no case shall teachers' salaries be made a requirement for such aid. Public schools of any district receiving or seeking to receive special state aid shall at all times be open to the inspection of the state board of education, or its duly authorized agents, and the accounts of any such district shall be open to inspection by the public examiner upon request of said state board of education. (Act Apr. 10, 1941, c. 169, Art. IX, §5.)

[128.05]

Reenactment of §3025.

Physical and health examination of school bus drivers required. Op. Atty. Gen. (166a-2), Jan. 14, 1943.

3156-9(6). Special state aid fund—Purposes.—State aid from the special state aid fund and also any other money set apart for use with the special state aid fund shall be for the following named purposes:

- (1) To assist in providing equal educational opportunities for all the school children of the state.
- (2) To assist in establishing certain generally accepted minimum standards for all the public schools of the state.
- (3) To assist school districts whose tax levies for maintenance are exceptionally high.
- (4) To stimulate educational progress by grants of state aid for superior efficiency and high standards

and for desirable educational undertakings not yet generally established.

(5) To provide for the maintenance of teacher training departments in high schools. (Act Apr. 10, 1941, c. 169, Art. IX, §6.)

[128.06]

Reenactment of §3027.

Act Apr. 18, 1941, c. 297, provides for the relief of certain distressed school districts by the creation of the school district relief fund.

Laws 1941, c. 297, §2, amended. Laws 1943, c. 436.

3156-9(7). Consolidated districts — Transportation of pupils—Crippled children—State aid requirements.—

Subdivision 1. To receive state aid for transportation, consolidated districts must contain not less than 12 sections of land, and schools in such districts shall be in session at least eight months in the year and be well organized. They shall have suitable schoolhouses with the necessary rooms and equipment. For transportation or board of resident pupils in consolidated school districts, the state shall reimburse such districts at rates to be determined by the state board of education, provided that no consolidated school district shall receive annually more than an average of \$36.00 per pupil transported or boarded. The board in a consolidated school district shall arrange for the attendance of all pupils living two miles or more from the school, through suitable provision for transportation or for the boarding and rooming of such pupils as may be more economically and conveniently provided for by such means.

All the provisions of law relating to state aid to consolidated school districts shall be equally applicable to the unorganized territory of any county, to county school districts and also to all school districts of ten or more townships.

Subdivision 2. School districts may use their transportation equipment for the transportation of non-resident pupils upon permission from the state board of education; but no special state aid shall be paid for any nonresident pupil transported or boarded illegally or contrary to the standards established by the state board of education. The state department of education shall formulate such rules and regulations as may be necessary to the end that there shall be no competition between school districts for the enrollment of students.

Subdivision 3. For assisting in providing for the school attendance of isolated pupils, 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 children of school age as reside beyond reasonable walking distance from the nearest public school. To this end, the state board may grant to such school districts not to exceed \$50.00 annually for each such pupil transported or boarded.

Subdivision 4. 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 courses of study. To this end, the state board may grant to such school districts not to exceed \$150.00 annually for each such pupil transported or boarded; provided, that the state board may grant such aid to the district of residence when a crippled child is transported to, or boarded at, a special class, and provided that the total expenditure under this subdivision shall not exceed the sum of \$40,000 for any one year. (Act Apr. 10, 1941, c. 169, Art. IX, §7.)

[128.07]

Reenactment of §§2755, 2762, 2823-3, 3028(1), 3028(6).

Where pupils whose parents own 80 acres of land within school district are being provided free transportation by district, but are being recorded to Department

of Education as non-resident high school pupils for which district is entitled to non-resident high school tuition aid, they may not be counted by district for transportation aid, paid for transportation of pupils in consolidated districts. Op. Atty. Gen. (168d), July 18, 1941.

Where division of territory between two school districts resulted in dividing line leaving part of pupils in one high school district and part in another, district must make equal provision for transportation for all of its pupils to high school and if it pays for transportation to one high school it must pay for transportation of other pupils to their respective high school and pupils in one high school area may not be compelled to attend in another area, and if transportation is paid for district is entitled to some state aid. Op. Atty. Gen. (166A-6), Oct. 9, 1941.

Attendance at state school of agriculture does not entitle home district to reimbursement from the state, and if it did, there would be no obligation on part of home district to provide board or transportation. Op. Atty. Gen., Oct. 27, 1941.

Subd. 2.

Where a common school district has provided school bus transportation service for its "non-resident" high school pupils, "family transportation" of one's own children to such high school cannot be charged to the district. *Perszyk v. School Dist. No. 32, 212M513, 4NW(2d) 321.* See Dun. Dig. 8675.

Subd. 4.

Where rural district transports crippled child to special class in St. Paul, rural district may receive aid for transportation and St. Paul may receive aid for education. Op. Atty. Gen. (163), Sept. 22, 1941.

Where crippled child resides 3½ miles from schoolhouse in district and 2½ miles from a schoolhouse in an adjoining district, school district of residence may pay transportation cost of carrying child to school in adjoining district. Op. Atty. Gen. (169d), Jan. 13, 1943.

Where home of crippled child is 3½ miles from schoolhouse in district and 2½ miles from a schoolhouse in an adjoining district, and child attends school in adjoining district, home district in its discretion may pay transportation cost of child to and from school. Op. Atty. Gen. (169d), Feb. 13, 1943.

3156-9(8). Tuition of non-resident high school pupils.—Subdivision 1. 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 \$7.00 per school month, or major fraction thereof, for each such nonresident pupil, for not to exceed ten 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 nonresident high school pupils residing in unorganized territory, in ten or more township school districts, or in county school districts; and (3) that the state apportionment for any such nonresident high school pupils shall be paid to the school district in which such nonresident pupils attend a high school.

Subdivision 2. All of the above provisions shall be applicable to the state schools of agriculture, the aid for each eligible pupil to be paid to the particular school of agriculture attended by that pupil, to be applied upon the tuition and laboratory and equipment fees of such pupil for the six months period of the school year, but in no case to exceed \$7.00 per school month.

Subdivision 3. Any school district in counties with a population in excess of 300,000 inhabitants which furnishes high school instruction to pupils who are nonresidents of such district, may require the districts in which such pupils reside to pay to the district furnishing such instruction an amount for each such pupil which, when added to the amount received from the state for tuition, apportionment and income tax distribution, will make the total equal to the current cost per high school pupil, exclusive of any capital costs, based on the average number belonging, if it shall be agreed upon by the districts concerned and approved by the state department of education. (Act Apr. 10, 1941, c. 169, Art. IX, §8, as amended Act Apr. 21, 1941, c. 328, §1.)

[128.08]

Reenactment of §3028(4).

Nonresident pupils in high school special classes for handicapped children may be included on regular high

school tuition list, as well as list for state aid for handicapped pupils, but state board of education may rule that combined aid should not exceed amount actually expended by district furnishing instruction. Op. Atty. Gen. (180D), Feb. 2, 1942.

Section is not applicable to the University High School. Op. Atty. Gen. (168b), Apr. 23, 1942.

Subd. 3.

School district must pay additional cost for each high school pupil and it may not be paid by parent, and supplemental aid is not to be considered in lieu of income tax and added to tuition and apportionment, and high-school may refuse to admit pupils where district refuses to pay tuition, and the maintenance cost of high school is to be based on actual cost for past year as far as possible. Op. Atty. Gen. (168d), June 19, 1941.

It is mandatory for Ramsey County rural districts sending high school pupils to St. Paul to pay \$30 per pupil over and above what the state tuition and apportionment produce, and St. Paul can legally exclude these rural high school pupils if the common school districts from which they come refuse to meet the \$30 charge. Op. Atty. Gen. (180d), July 8, 1941.

3156-9(9). Same—Libraries—Purchase of books.— Any school district or unorganized territory may receive aid for the purchase of library books not to exceed one-half the amount expended or fifty cents per pupil in average daily attendance during the preceding year for 500 pupils, nor to exceed one-fourth the amount expended or twenty-five cents per additional pupil in average daily attendance during the preceding year in such school district or unorganized territory. (Act Apr. 10, 1941, c. 169, Art. IX, §9.)
[128.09]

Reenactment of §3028, subd. 5.

State may not reimburse a school district for library expenditures, the funds for which have been collected from students in form of English, Literature, or platoon fees. Op. Atty. Gen. (285d), June 1, 1942.

In order for state to pay school district library aid, money must have actually been expended therefor by the school district itself and not by public library board under contract with school district. Op. Atty. Gen. (285d), July 15, 1942.

3156-9(10). Same—Classification for aid—Graded—Special departments.—For the purpose of state aid all public schools shall be classified according to the provisions of Article XI, Section 1.

Subdivision 1. For each graded elementary school of eight school years with a school year of at least nine months, the state shall pay a school district \$400.00 annually.

Subdivision 2. For each graded elementary school of six school years with a school year of at least nine months, the state shall pay a school district \$300.00 annually.

Subdivision 3. For each ungraded elementary school with a school year of at least eight months, the state shall pay a school district \$100.00 for each employed teacher holding an elementary school limited certificate or its equivalent; for each ungraded elementary school with a school year of at least nine months, the state shall pay a school district \$125.00 for each employed teacher holding an elementary school limited certificate or its equivalent; provided that the total of such aid for an ungraded elementary school with a school year of eight months shall in no case exceed \$200.00, and for a school year of nine months \$250.00; and provided, further, that such classification aid, when added to the funds received by a school district as apportionment, together with the equivalent of a five mill tax for maintenance, shall not exceed the total maintenance cost of the schools in such district.

Subdivision 4. For stimulating progress and achievement in ungraded elementary schools, the state board of education shall adopt standards for a superior ungraded school. Such standards shall be based upon the length of the school term, qualification of teachers, regular school attendance and a curriculum adapted to present day needs, including health work. School districts meeting these standards shall receive, in addition to all other state aid, not to exceed \$50.00 for each such school maintained.

Subdivision 5. For each four-year high school with a school year of at least nine months, the state shall pay a school district \$500.00 annually.

Subdivision 6. For each high school department with a school year of at least nine months, the state shall pay a school district \$300.00 annually.

Subdivision 7. For each junior high school with a school year of at least nine months, the state shall pay a school district \$300.00 annually.

Subdivision 8. For each senior high school with a school year of at least nine months, the state shall pay a school district \$300.00 annually.

Subdivision 9. For each six-year high school with a school year of at least nine months, the state shall pay a school district \$600.00 annually. (Act Apr. 10, 1941, c. 169, Art. IX, §10.)
[128.10]

Reenactment of §§3029 and 3031, subd. (2)(a).

3156-9(11). Supplemental aid.—School districts which receive aid under the provisions of this section shall be limited to those whose tax levy for maintenance only is 30 mills or more except in the case of agricultural lands on which the maximum rate of taxation for school maintenance is limited by Section 5, Article VIII. To any school district in which the proceeds of a tax levy of 30 mills or the maximum legal rate on the district's assessed valuation together with all funds received from the state as apportionment or special state aid, except transportation aid, does not equal \$60.00 for each resident pupil in average daily attendance in an elementary school, and \$100.00 for each resident high school pupil and each nonresident high school pupil for whom the state pays tuition, in average daily attendance in a classified high school, the state shall pay as supplemental aid, as soon after August 1 of each year as practicable, an amount which, together with the proceeds of a 30-mill tax or the maximum legal rate and all money received from the state as apportionment or special state aid, except transportation aid, will equal \$60.00 for each resident pupil in average daily attendance in an elementary school and \$100.00 for each resident high school pupil and each nonresident high school pupil, for whom the state pays tuition in average daily attendance in a classified high school. To any school district or unorganized territory in which the proceeds of a tax of 30 mills or the maximum legal rate together with all funds received from the state as apportionment or special state aid, except transportation aid, does not equal \$1,000 per classroom unit, the state board of education may, at its discretion, grant sufficient additional supplemental aid to bring the total funds available for school maintenance equivalent to \$1,000 for each classroom unit. Provided, that (1) the supplemental aid paid under this section, when added to all other funds received from the state as apportionment or special state aid and to the proceeds of a 30 mill tax or the legal maximum tax for maintenance, shall not exceed the total maintenance cost of the schools in any school district nor such maximum figure per classroom unit as may be determined by the state board of education; (2) the term "proceeds" as used in this section shall include all funds collected during the preceding 12 month period ending October 31, from taxes levied for school maintenance up to 30 mills in 1935 and subsequent years; (3) if a school district qualifies for supplemental aid under this section but such district's tax rate for school maintenance during the preceding years was less than 30 mills, the proceeds of the tax for school maintenance in such district shall be based on what a 30 mill tax or the maximum legal rate on agricultural lands would have produced if levied, and shall be in proportion to the actual amount collected under the mill rate levied by such district for such previous years; and (4) any school district receiving aid under the provisions of Section 23 of this article, shall receive, in addition to such aid, supplemental aid which shall not be less per pupil in

average daily attendance than such district has been granted on the average since the year of 1931. (Act Apr. 10, 1941, c. 169, Art. IX, §11.)

[128.11]

Reenactment of §3030.

Laws 1943, c. 306, provide that until March 1, 1947, the monies received from the Federal Government by any school district as its share of the distribution of proceeds from the sale of timber or rental of lands shall not be chargeable against the supplemental aid received by the district under the provisions of Laws of 1941, c. 169, Art. IX, §11.

In case of over payment, full off-set should be made just as quickly as possible and cannot be spread out over one year if the state aid for that year is sufficient to cover off-set. Op. Atty. Gen. (168d), Apr. 8, 1941.

Last clause of this section that supplemental aid which shall not be less per pupil in average daily attendance than such district has been granted on the average since the year 1931, was intended to mean the average supplemental aid between the years 1931 and 1935, or more specifically for the years 1932, 1933, and 1934, and language "has been granted" refers to amount granted before pro-rating. Op. Atty. Gen. (168d), May 7, 1941.

Supplemental aid cannot be paid for non-resident high school pupils whose tuition is not paid by the state. Id.

District should not be denied aid where it attempted to levy a thirty mill tax, but levied less due to a mistake as to taxable valuation of district. Op. Atty. Gen. (168d), June 17, 1941.

Provision for deduction of all money "received" as apportionment or special state aid, except transportation aid, intended that supplemental aid be based upon net receipts during fiscal year ending June 30, all recent legislation working toward putting all school districts on uniform fiscal year ending June 30. Op. Atty. Gen. (168d), July 11, 1941.

A graduate of a public high school who enrolls for and takes additional work in courses commonly recognized as high school subjects is to be counted for apportionment and supplemental aid. Op. Atty. Gen. (168d), Jan. 7, 1943.

Deficiency aid not to be included in amount of school district maintenance levy when determining rate of maintenance levy as basis for supplemental aid. Op. Atty. Gen. (169d), July 15, 1943.

The aid granted is to the school district and not to the school units. Op. Atty. Gen. (168d), Nov. 17, 1943.

On nonagricultural lands levy must be 30 mills or more to entitle district maintaining graded and high schools to supplemental aid. Op. Atty. Gen. (168d), Dec. 7, 1943.

If a district levies for maintenance only 30 mills or more, it qualifies under this section. The levy may be less than 30 mills if the levy is limited by §3156-8(5). Op. Atty. Gen. (168d), Dec. 7, 1943.

On agricultural lands the levy must be the highest rate permitted by §3156-8(5). Op. Atty. Gen. (168d), Dec. 7, 1943.

3156-9(12). State aid—Stimulation of vocational work—Special classes—Supplemental aid.—For established undertakings, state aid shall be granted to school districts on the basis of the number of special teachers employed, enrollment in classes and type of work done, and all under such rules as may be established by the state board of education. In school districts maintaining junior and senior high schools, such state aid shall be granted for either a junior or a senior high school, but not for both.

Subdivision 1. For agriculture, state aid to any school district for each school within the district maintaining such work shall not exceed \$500.00.

Subdivision 2. For general industrial training, state aid to any school district for each school within the district maintaining such work shall not exceed \$400.00.

Subdivision 3. For home training, state aid to any school district for each school within the district maintaining such work shall not exceed \$400.00.

Subdivision 4. For commercial training state aid to any school district for each school within the district maintaining such work shall not exceed \$400.00. (Act Apr. 10, 1941, c. 169, Art. IX, §12.)

[128.12]

Reenactment of §3031(1), subs. a to d.

School board of a high school district may not operate defense training program offered for CCC enrollees in a camp located outside of high school districts boundaries but inside high school area. Op. Atty. Gen. (170e), May 6, 1941.

3156-9(13). State aid for special classes for handicapped children.—Under such rules as the state board of education may establish relative to qualification of

teachers, courses of study, methods of instruction, admission, size of classes, rooms and equipment, supervision, and such other rules and standards as the board may deem necessary, the state shall pay annually to any school district for the education of handicapped children the following amounts:

(a) For deaf children, not to exceed \$250.00 for each such child who is enrolled in a day school and who is a resident of a district maintaining such school; and not to exceed \$400.00 for each child who is a non-resident of the district maintaining such school, and whose resident district does not maintain such school, the additional \$150.00 to be paid for board and room for such non-resident child.

(b) For blind children, not to exceed \$300.00 for each such child who is enrolled in a day school and who is a resident of a district maintaining such school; and not to exceed \$450.00 for each child who is a non-resident of the district maintaining such school, and whose resident district does not maintain such school, the additional \$150.00 to be paid for board and room for such non-resident child.

(c) For subnormal children, not to exceed \$100.00 for each such child.

(d) For children with defective speech, not to exceed \$1,500 for each teacher engaged exclusively in this work.

(e) For crippled children, not to exceed \$250.00 for each such child attending special classes or receiving instruction in the home.

The per pupil allowance shall be paid for each such child who has been in attendance in special classes or receiving instruction in the home for the full nine months, or a proportionate amount for each child for such time as he has been in attendance upon special classes or receiving instruction in the home.

Under such rules as the state board of education may prescribe, a portion of the above funds may be expended for transportation, teachers salaries, special supervision, special instruction, special materials and equipment.

The amount of aid for any special class or for instruction in the home for handicapped children shall in no case exceed the amount expended for such class or instruction during the preceding year.

It shall be the duty of the treasurer of the school district, or of the board of education receiving such aid, to render annually to the state commissioner of education an itemized statement of all expenditures of said school or schools, and such related facts as he may require. (Act Apr. 10, 1941, c. 169, Art. IX, §13; Apr. 19, 1943, c. 498, §1.)

[128.13]

Reenactment of §3131, subs. a to e.

Without considering 1941 amendment, allowance of amount fixed by law, with exception of speech defective, subject to prorating as in case of other special state aid, is the correct procedure. Op. Atty. Gen. (168c), May 6, 1941.

Department of Education is no longer bound to check up on unexpended balances, and so limitation is that amount of aid shall in no case exceed amount expended for such class during preceding year. Op. Atty. Gen. (168c), July 11, 1941.

A district may refuse to admit any non-resident pupils to its special classes for handicapped children. It may accept such pupils without charging tuition. State shall in no case pay any aid for any child whose parents are required to pay additional funds as tuition but parents might bear a portion of the cost of board and room where it is not feasible to provide them with transportation. Any state aid for non-resident handicapped pupils should be paid to district providing for their education, and difference between amount received from state and actual per pupil cost or any portion thereof might be charged against resident district based upon complete agreement between two boards. If tuition is to be charged to district of residence, district furnishing education should report attendance back to district of residence, which should then be permitted to collect any state aid for such children except that special class aid for handicapped children should be paid to district attended. For purposes of special class aid cost of transportation is merely one of expenses involved in providing for education of handicapped children, and if transportation is provided by district attended, costs should be included in computations of total cost of ed-

ucating child and in turn would affect amount of tuition to be charged to home district. Op. Atty. Gen. (168C), Aug. 12, 1941.

Where rural district transports crippled child to special class in St. Paul, rural district may receive aid for transportation and St. Paul may receive aid for education. Op. Atty. Gen. (168), Sept. 22, 1941.

A class for instruction of the blind cannot be established unless there is an "actual attendance" of not less than five, but state aid may be paid for a blind pupil not enrolled in a sight-saving class but whose work is supervised by a qualified sight-saving teacher. Op. Atty. Gen. (168C), Oct. 3, 1941.

There is no fund available for purpose of reimbursing school district for expense incurred by it in transporting a pupil with defective eyesight to a sight-saving class or in reimbursing parents of that pupil for expense incurred by them. Op. Atty. Gen. (166A-6), Oct. 9, 1941.

A child of four is a person of "school age" for purpose of instruction in classes for crippled children. Op. Atty. Gen. (168C), Oct. 20, 1941.

If board of education establishes a rule permitting it, all or part of \$150 may be used for transportation of a non-resident hard of hearing pupil, and, where state aid is insufficient to pay actual cost of transportation or board, contracts may be entered into between school districts, or between district and parents, whereby district may be reimbursed for expenditures in excess of state aid furnished. Op. Atty. Gen. (168C), Jan. 27, 1942.

Nonresident pupils in high school special classes for handicapped children may be included on regular high school tuition list, as well as list for state aid for handicapped pupils, but state board of education may rule that combined aid should not exceed amount actually expended by district furnishing instruction. Op. Atty. Gen. (180D), Feb. 2, 1942.

District can receive state aid even though some of the children in class are nonresident and their parents pay full tuition costs. Op. Atty. Gen. (168c), June 11, 1942.

State board of education is within its province when it makes rules concerning the admission of pupils. Op. Atty. Gen. (168c), June 11, 1942.

District may pay tuition of handicapped child three and one-half years of age if he has sufficient capacity to receive instruction. Op. Atty. Gen. (169d), July 30, 1942.

Public tax money may not be expended for education of home-bound crippled children. Op. Atty. Gen. (169d), Jan. 19, 1943.

No state aid for children instructed in the home in the school year 1942-43. Op. Atty. Gen. (168), May 11, 1943.

Statute authorizes commissioner of education to grant authority upon application of school district in Minneapolis to conduct classes for crippled children at the Elizabeth Kenny Institute. Op. Atty. Gen. (168), Aug. 11, 1943.

(c). Where a special class for subnormal children was established and maintained with ten pupils and four of pupils were found to have an intelligence quotient higher than maximum under rule of board of education, district was nevertheless entitled to reimbursement from state for instruction of six pupils. Op. Atty. Gen. (168), Feb. 3, 1942.

3156-9(14). Same—Apportionment for evening schools—Payment of salaries.—For evening schools for persons over 16 years of age and not in attendance upon regular day schools, the state shall pay to any school district maintaining such schools in accordance with requirements established by the state board of education, from state funds appropriated for that purpose, or such funds combined with federal funds in so far as federal funds are available, one-half the salaries of all teachers who teach in such evening schools. Attendance at evening schools maintained under the rules established by the state board of education shall entitle such district maintaining the same to its pro rata apportionment of state school funds for all pupils not over 21 years of age on the same attendance basis as that provided for day schools, counting each evening session of two or more hours as the equivalent of one day. (Act Apr. 10, 1941, c. 169, Art. IX, §14.)

[128.14]

Reenactment of §§2829, 2830 and 3031, subd. 2(b).

3156-9(15). Same—Teacher training in high schools.—For teacher training in high schools the state board of education is hereby authorized to establish rules and to determine the amounts of state aid to be granted to any school district for the maintenance of this work. For the maintenance of high school teacher training departments the state board of education may grant a total state aid of not to exceed \$60,000, or \$1,500 per department, annually; and provided further, that the allowance of such aid for teacher training departments shall not in any

way reduce the supplemental aid to which the school district concerned shall be entitled under existing law. (Act Apr. 10, 1941, c. 169, Art. IX, §15.)

[128.15]

Reenactment of §3032. See also, §§2823-2a, 2991-2 and 3028-1.

3156-9(16). Same—Transfer from current school fund to meet appropriation.—If the amount appropriated for the payment of said special state aids shall be insufficient in any year to pay the same in full, the state auditor shall transfer from the current school fund an amount sufficient, together with the amount so appropriated for said year, to pay said special state aids in full. Provided, however, that not more than \$500,000 shall be so transferred from the current school fund in any one year. (Act Apr. 10, 1941, c. 169, Art. IX, §16.)

[128.16]

Reenactment of §3036-8.

Under this act and under Laws 1943, c. 655, §7, commissioner of education should pay the tuition for non-resident high school pupils, transportation of crippled children and teachers training department in full. Op. Atty. Gen. (168), July 27, 1943.

Section is still in effect notwithstanding Laws 1943, c. 655, §6. Id.

3156-9(17). Same—To be prorated.—If the amount appropriated and the amount transferred, as provided in Section 16 hereof, shall be insufficient in any year to pay said special state aids in full, the same shall be equally prorated among the school districts entitled to receive such aids, and the prorata amounts so received shall be accepted as payment in full of all obligations of the state to pay said aids for such year; provided, however, that this shall not apply to aids for tuition of nonresident high school pupils, transportation of crippled children or teacher training departments in high schools. (Act Apr. 10, 1941, c. 169, Art. IX, §17.)

[128.17]

Reenactment of §3036-9.

In passing §6 of c. 523 of Laws 1941, the legislature intended that aid for the transportation or board and room of crippled children should continue to be paid in full. Op. Atty. Gen. (168d), July 10, 1941.

Under this act and under Laws 1943, c. 655, §7, commissioner of education should pay the tuition for non-resident high school pupils, transportation of crippled children and teachers training department in full. Op. Atty. Gen. (168), July 27, 1943.

Section is still in effect notwithstanding Laws 1943, c. 655, §6. Id.

3156-9(18). Same—Manner of paying special state aid.—The special state aid fund and all other sums made available by the legislature as special state aid to schools shall be paid in the following manner:

Subdivision 1. On or before October 1 in each year, it shall be the duty of the commissioner of education to deliver to the state auditor a certificate in duplicate for each class of schools in each county of the state entitled to receive state aid under the provisions of this article. Upon the receipt of such certificate, it shall be the duty of the state auditor to draw his warrant upon the state treasurer in favor of the county treasurer for the amount shown by each certificate to be due to the several schools therein enumerated. The state auditor shall transmit such warrants to the county auditor together with a copy of the certificate prepared by the commissioner of education.

Subdivision 2. Upon receipt by the county auditor of such warrants and the certificate, it shall be the duty of the county auditor to credit the several school districts with the amounts stated in said certificate, then charging the county treasurer with the aggregate amount so received, and forthwith deliver to the county treasurer the said warrant or warrants. The funds so credited to the several school districts shall be paid to the treasurers thereof in the same manner now provided by law for the payment of school funds to school district treasurers. (Act Apr. 10, 1941, c. 169, Art. IX, §18.)

[128.18]

Reenactment of §3034.

3156-9(19). Same—Unused special state aid funds.—Any unused available money from the special state aid fund shall be included with the endowment fund for distribution to state apportionment. (Act Apr. 10, 1941, c. 169, Art. IX, §19.) [128.19]

Reenactment of §3035.

3156-9(20). Distribution and use of income tax school fund.—The distribution of the income tax school fund to school districts, and the use of such fund by school districts, shall be in accordance with the provisions of Mason's Supplement 1940, Section 2394-57. (Act Apr. 10, 1941, c. 169, Art. IX, §20.) [128.20]

Distribution of income taxes in cities of the first class is governed by §2394-57a.

Income tax distribution should go to district of which pupils are resident, but district teaching non-residents could receive apportionment where no tuition was actually paid for child, and where parent is paying part of tuition, as where he owns 40 acres in the district, school could not claim apportionment on such student. Op. Atty. Gen. (168d), May 7, 1941.

3156-9(21). County boards to appropriate money for county educational work.—In all cases provided for in this article, wherein state aid is made available for county use, the county board is hereby authorized to make appointments of persons for county service, and to appropriate county funds for the purpose of maintaining such county educational work. (Act Apr. 10, 1941, c. 169, Art. IX, §21.) [128.21]

Reenactment of §3033.

3156-9(22). State aid from gross earnings tax—Application for—State board to determine amounts.—

Subdivision 1. Whenever the properties of any school district in this state are made up, to the extent of at least 20 per cent in value, of property which is exempt from local taxation because taxes thereon are paid into the state treasury under the provisions of the gross earnings tax law, then such district shall be entitled to receive from the state treasury, in addition to all other state aid, not to exceed such an amount annually as would be produced by computing a tax of one-third of the current local rate for school purposes upon the valuation of the property in such district so exempt from local taxation, but in no case shall any state high school, high school department or graded elementary school receive in excess of the amount that would be produced by a 14 mill levy upon the full and true value of all railroad property exempt from local taxes in such district, nor shall any common school district maintaining only one ungraded elementary school of not less than two nor more than four rooms receive in excess of the amount that would be produced by a seven mill levy upon the full and true value of all railroad property exempt from local taxes in such district, provided, however, that in all such districts where the valuation of property so exempt from local taxation is \$4,000,000 or more, then the amount which such district shall receive under the provisions of this section shall be ascertained by computing a tax at one-sixth of the current local rate instead of one-third as in other cases.

Subdivision 2. Provided that the amount which any school district may receive under this section shall not exceed such a sum as added to all other sources of income will produce for each pupil, for maintenance alone, an average of \$100.00 for districts maintaining a high school, a high school department or a graded elementary school and an average of \$75.00 for common school districts maintaining only one ungraded school of not less than two nor more than four rooms.

And provided, further, that no district shall be entitled to aid under this section unless it has a current local school tax levy, for maintenance alone, of at least 35 mills and maintains succeeding levies of at least 40 mills for the same purpose, except common school districts maintaining only one ungraded elementary school of not less than two nor more than

four rooms, having a current local school levy of at least a 20 mill tax for maintenance alone.

Subdivision 3. Any school district desiring to take advantage of the provisions of this section shall apply in writing therefor to the state board of education and such application shall contain among others the following facts:

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

(b) The value of all property within the district subject to local taxation.

(c) The rate of tax levy in mills for school purposes for the current and the next preceding year.

(d) The value of school property in the district including buildings and equipment.

(e) The present indebtedness of the district and whether bonded or otherwise.

(f) The number of pupils attending school at the date of the application and the total enrollment for the preceding year.

(g) The total amount spent for school purposes the last preceding year and an estimate of the expenses for the current year.

The information called for in paragraph (a) shall be ascertained and certified, upon the request of the state board of education 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 or counties in which such school district is located.

Subdivision 4. The state board of education shall immediately consider said matter and determine whether or not said school district is entitled to aid under the provisions of this section, and, if it finds that said district is so entitled, it shall determine the amount to which it is entitled within the limitations of this section, and shall cause the same to be certified to the state auditor, who shall at times and in the manner of making payment of state aid, issue his warrant to the state treasurer for the amount so certified by said board and in favor of said school district. (Act Apr. 10, 1941, c. 169, Art. IX, §22.) [128.22]

Reenactment of §§3036-1 to 3036-3.

A common school district not maintaining a high school has no legal authority for maintaining a kindergarten, and kindergarten pupils should not be included in computing distribution of gross earnings taxes. Op. Atty. Gen. (168), Apr. 9, 1941.

Subd. 2.

In computation of income for maintenance, federal aid for special departments is disregarded. "Income" means income arising from taxation. "For each pupil" means each pupil between the ages of 5 and 21 years, including nonresidents. Op. Atty. Gen. (168), Dec. 4, 1943.

3156-9(23). Same—County district—Application—Department of Education to fix amount.—

Subdivision 1. 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 money and credits, shall be entitled to receive from the state treasury in 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 Section 22 of this article. Provided, further, that the amount which any county school district shall receive under this section shall not exceed \$15.00 per pupil enrolled therein.

Subdivision 2. Any such county school district desiring to take advantage of this section 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 money 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 county school district purposes for the current year.

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

Subdivision 3. The state 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 section, 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 section, 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. 10, 1941, c. 169, Art. IX, §23.)

[128.23]

Reenactment of §§3036-17 to 3036-19.

Editorial note.—Section 3036-17, Mason's St., from which part of this section is derived, was repealed by Act Apr. 10, 1941, c. 169, Art. XIV, §1, (3156-14(1)).

Such section 3036-17, was subsequently amended by Act Apr. 28, 1941, c. 500, §1, to read as follows: 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 from the state treasury in 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 Mason's Minnesota Statutes of 1927, Sections 3036-1 to 3036-3, inclusive. Provided further, that the amount which any county school district shall receive under this act shall not exceed \$22.50 per pupil enrolled therein. Any moneys payable to a county school district hereunder shall not be deducted from other state aid, but shall be in addition thereto, except as herein provided. Provided further, however, that the amount which any county school district shall receive under this act shall not exceed an amount which together with the proceeds of the 30 mill tax and all other funds available for maintenance purposes, except funds received for non-resident pupils, and from tax levies in excess of 30 mills, will produce \$50.00 for each resident kindergarten pupil at least five years of age in average daily attendance, \$75.00 for each resident elementary school pupil in average daily attendance, \$125.00 for each resident high school pupil in average daily attendance plus the cost of transportation or board of resident pupils, subject to rules and regulations of the state board of education.

Notes of Decisions

Amount of aid to be paid under Laws 1941, c. 500, is limited to maximum allowance per pupil enrolled and also maximum allowance per pupil in average daily at-

tendance, both limitations applying so that payment is limited to smaller of the two amounts, and such act applies to aid earned during school year 1940-1941, payable during school year 1941-42. Op. Atty. Gen. (168d), July 15, 1941.

Deficiency aid not to be included in amount of school district maintenance levy when determining rate of maintenance levy as basis for supplemental aid. Op. Atty. Gen. (169d), July 15, 1943.

3156-9(24). Annual appropriation in aid of common schools—How distributed—Not to be used for sites or buildings.—There is annually appropriated from the revenue fund of this state \$50,000 in aid of the common schools of this state, available, on or before April 1, of each year.

Subdivision 1. The amount so appropriated shall be annually divided among and distributed to the several counties of this state for the use and benefit of and in aid of the common schools thereof, and the county treasurer of each county receiving such aid, shall redivide and redistribute the same to and to the use and benefit of the common schools of his county in proportion to the acreage of lands owned by this state in each respective school district situated therein; provided, however, that in calculating the acreage of unsold state lands in any county, lands which have heretofore been or hereafter may be leased by the state for mineral purposes, shall not be included in the calculation; and provided, further, that the amount received by any school district in any year shall not exceed the equivalent of five cents per acre for each and every acre of state-owned lands situated within such school district after excluding such leased lands. Provided, that no school shall receive under the terms of this section, in any one year, an amount in excess of \$15.00 per pupil enrolled.

Subdivision 2. No part of the money hereby appropriated shall be available for or be used for the purchase of any school site or the erection of any school building.

Subdivision 3. It shall be the duty of the state auditor to supply to the several county auditors of this state, plats with checkings thereon indicating the location and the description of all unsold lands situated within the organized townships of his county. (Act Apr. 10, 1941, c. 169, Art. IX, §24.)

[128.24]

Reenactment of §§3021-11 to 3021-14.

Trust fund lands mentioned in act include lands sold on contract, title to which reverts to the state for non-payment of contract price. Op. Atty. Gen. (168), May 27, 1943.

3156-9(25). 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 money, or any part thereof, received by such county from the federal government for and on account of any national forest lands situated therein, into a special fund to be disbursed and paid over to any school district now or hereafter maintaining and operating any school wholly or partly within an area now or hereafter constituting a part of any auxiliary or state forest. Such action shall be taken by said board by resolution duly adopted by it, which resolution shall specify the terms and conditions under which said money shall be so paid over and disbursed to any school district or districts. (Act Apr. 10, 1941, c. 169, Art. IX, §25.)

[128.25]

Reenactment of §2997-2.

Half of funds received from national government must be expended on roads and half for benefit of public schools. Op. Atty. Gen. (159A-10), Mar. 25, 1942.

3156-9(26). Federal act for promotion of vocational education—Provisions accepted.—The provisions of the act of congress of the United States entitled "an act to provide for the promotion of vocational education; to provide co-operation with the states in the promotion of such education in agriculture and in the trades and industries; to provide co-operation with the states in the preparation of teachers of vocational subjects; and to appropriate money and regulate its

expenditures," and approved February 23, 1917, and acts amendatory thereto, be and the same are hereby accepted. and the benefits of all funds appropriated under the provisions of such acts are hereby accepted as provided in such acts. (Act Apr. 10, 1941, c. 169, Art. IX, §26.)

[128.26]

Reenactment of §3041.

Retention of title to equipment for vocational education national defense program is a matter for regulation by the federal government. Op. Atty. Gen. (214f), May 25, 1941.

Course of job instruction training within war industry plant located outside school district, paid for by United States, is not objectionable. Op. Atty. Gen. (170h), Oct. 23, 1942.

3156-9(27). Same—State board for vocational education.—The state board of education as established by Laws 1919, Chapter 334, and acts amendatory thereto, is hereby designated the state board for vocational education as provided in such acts, and is charged with the duty and responsibility of co-operating with the United States office of education or other federal agency in the administration of such acts and is given all power necessary to such co-operation. The state board for vocational education is authorized to make such expenditures as it may deem necessary to carry out the provisions hereof from money available for the purposes of Sections 26 to 35, inclusive, of this article. (Act Apr. 10, 1941, c. 169, Art. IX, §27.)

[128.27]

Reenactment of §3042.

Board has authority to deny assistance to an individual on basis of low academic record or participation in extra-curricular, antisocial activities. Op. Atty. Gen. (170H), Oct. 24, 1941.

3156-9(28). Same—Appointment of officials and assistants.—The state board for vocational education shall have authority to appoint such officials or assistants as may be necessary to administer the federal act and Sections 26 to 35 inclusive, of this article, to fix the salaries of such persons appointed, and to make expenditures from the state funds appropriated for the salaries and necessary expenses of such officials and assistants, or to use a portion of such funds in matching federal funds available for the same purpose. (Act Apr. 10, 1941, c. 169, Art. IX, §28.)

[128.28]

Reenactment of §3040.

3156-9(29). Same—State treasurer appointed custodian of funds.—The state treasurer is appointed custodian of all funds for vocational education, as provided in such acts, and is charged with the duty and responsibility of receiving and providing for the proper custody and proper disbursement of money paid to the state and the appropriations made under the provisions of such acts. (Act Apr. 10, 1941, c. 169, Art. IX, §29.)

[128.29]

Reenactment of §3043.

Fund may not be deposited in a bank in which a local board of education has its account for defense training merely to serve as an assurance to bank that funds are available to reimburse expenditures on defense program. Op. Atty. Gen. (170E), Oct. 24, 1941.

3156-9(30). Same—Appropriations.—There shall be appropriated biennially a sum of not less than the amount to which the state of Minnesota is entitled under Sections 3 and 4 of an act of Congress of the United States, approved February 23, 1917, and acts amendatory thereto, relating to the promotion of vocational education and for appropriations to the states for instruction in agriculture, trade and industrial education, home economics and distributive education, and for the training of teachers of vocational subjects. (Act Apr. 10, 1941, c. 169, Art. IX, §30.)

[128.30]

Reenactment of §3037.

3156-9(31). Same—Rules governing disbursement.—Whenever any school district shall have established a vocational school, department, or classes in accordance with the rules and regulations estab-

lished by the state board for vocational education and the plan for vocational education adopted by that board and approved by the United States office of education or other federal agency to which its functions are assigned, the state board for vocational education shall reimburse such school district for its expenditures for salaries and necessary travel of vocational teachers from federal funds and may supplement such federal funds with such state aid as it may deem desirable under such rules as it may adopt, provided, however, that the total reimbursement from federal and state funds combined shall in no case exceed three-fourths of the salaries and necessary travel expenses of such vocational teachers, and provided, further, that in the event of such funds not being sufficient to make such reimbursement in full, the state board for vocational education shall prorate the respective amounts available to the various districts entitled to receive reimbursement, except that for the program for training of in-school youth for farm work, the state board for vocational education may reimburse each school district from federal and state funds for full salaries and necessary travel expenses of instructors for the cost of such program. All instruction may be given at the place of abode of the pupil, and adults may be given instruction in adjoining or nearby districts.

In like manner the state board for vocational education shall have power to reimburse other governmental agencies for expenditures for salaries and necessary travel expenses of vocational teachers from federal funds available to an amount not to exceed one-half of such salaries and necessary travel expenses, provided such governmental agencies conduct such classes under public supervision or control in accordance with plans approved by said board. (Act Apr. 10, 1941, c. 169, Art. IX, §31; Apr. 22, 1943, c. 572, §1.)

[128.31]

Reenactment of §3038.

School district may issue bonds for "building a farm shop" if it means to equip a shop for giving instruction in repair of farm machinery. Op. Atty. Gen. (40C-2), Aug. 7, 1941.

In case of instruction of public school students in connection with farm labor shortage during the war, a local district shall in no case be reimbursed exceeding three-fourths of salaries and necessary travel expenses of vocational teachers. Op. Atty. Gen. (170h), March 9, 1943.

In St. Paul where the department of education is a department of the city government, reimbursement for instruction under farm youth program is to be paid to the city government. Op. Atty. Gen. (170i), May 11, 1943.

3156-9(32). Same—Districts entitled to federal moneys.—Any school district or any other governmental agency designated by the state board for vocational education which maintains a vocational school, department, or class shall be entitled to federal money under such acts for the salaries and necessary travel expenses of teachers of agriculture, trade and industrial education, home economics, and distributive education by meeting the requirements fixed by the state board for vocational education and approved by the United States office of education or other federal agency to which its functions are assigned. (Act Apr. 10, 1941, c. 169, Art. IX, §32.)

[128.32]

Reenactment of §3044 in part.

School board of a high school district may not operate defense training program offered for CCC enrollees in a camp located outside of high school districts boundaries but inside high school area. Op. Atty. Gen. (170e), May 6, 1941.

3156-9(33). Same—Reimbursing institutions for training teachers.—Teacher training schools and departments shall be entitled to federal money for the preparation of teachers of agriculture, trade and industrial education, home economics and distributive education by meeting the requirements fixed by the state board for vocational education and approved by the United States office of education or other federal agency to which its functions are assigned for the preparation of such teachers. The state board for

vocational education shall reimburse institutions selected by it to train teachers of vocational subjects to an amount of not to exceed one-half of the expenditures made for such training by said institutions, provided that no federal funds may be applied directly or indirectly to the purchase, erection, preservation or repair of any building or buildings, or equipment, or for the purchase or rental of lands or for the support of any religious or privately owned school or college. (Act Apr. 10, 1941, c. 169, Art. IX, §33.)

[128.33]

Reenactment of §§3039 and 3044 in part.

3156-9(34). Same—How reimbursements shall be made.—All disbursements of federal money for the benefit of such teachers training schools or departments shall be made on the requisition of the state board for vocational education by the state treasurer to the legally constituted authorities having custody of the money of such training schools or departments. All disbursements of federal and state money for the benefit of such vocational schools, departments, or classes shall be made on the requisition of the state board for vocational education by the state treasurer to the treasurers legally qualified to receive and disburse the funds for the school districts or governmental agencies establishing and maintaining such schools, departments and classes as herein provided. (Act Apr. 10, 1941, c. 169, Art. IX, §34.)

[128.34]

Reenactment of §3045.

3156-9(35). Same—State treasurer to make report of receipts and disbursements.—The state treasurer as custodian for vocational education funds shall make to the legislature at each biennial session a report of the receipts and disbursements of money received by him under the provisions of federal and state acts relating to vocational education and the state board for vocational education shall make to the Legislature at each biennial session a report of its administration of such acts and the expenditure of money allotted to the state under the provisions of such acts. (Act Apr. 10, 1941, c. 169, Art. IX, §35.)

[128.35]

Reenactment of §3046.

3156-9(36). Federal aid—Acceptance—Disbursement.—

Subdivision 1. In the event that the Congress of the United States enacts legislation providing educational assistance to the states for the purposes of

- (a) General improvement of public elementary and secondary schools,
- (b) Improvement of school library service,
- (c) Improvement of health, welfare, and recreational service in the public schools,
- (d) Improvement of nursery schools and kindergartens,
- (e) Improvement of services for handicapped pupils,
- (f) Improvement of educational and vocational guidance activities,
- (g) Improvement of vocational education,
- (h) Improvement of rehabilitation and placement services,
- (i) Improvement of technical and vocational institutes of secondary grade,
- (j) Stimulation and improvement of part-time, civic, vocational and general adult education and recreational activities conducted by school systems,
- (k) Transportation of pupils,
- (l) Purchase of books and instructional material,
- (m) Provision of scholarships,
- (n) Improvement of teacher preparation,
- (o) Construction of school buildings,
- (p) Facilitating administration in state departments of education,
- (q) Stimulating and facilitating adequate rural library services,
- (r) Making provision for educational research, planning and demonstrations, or for one or any com-

ination of the above purposes, at a time when the legislature is not in session, the governor shall have power to accept the provisions of such act or acts of Congress of the United States, or to accept such parts or provisions as may be separately acceptable, by executive order, upon recommendation of the state board of education and pending further action by the Legislature.

Subdivision 2. Pursuant to such acceptance, the state board of education shall have authority to make and secure approval of plans to carry out the purposes of the provisions accepted.

Subdivision 3. The state treasurer shall be the custodian of all funds received from the United States government on account of such acceptance, and he shall disburse such funds on requisition of the state board of education for purposes consistent with the acts of Congress and in accordance with the provisions of this section and of the order of acceptance. (Act Apr. 10, 1941, c. 169, Art. IX, §36.)

[128.36]

Reenactment of §§3047-2 to 3047-4.

Fund may not be deposited in a bank in which a local board of education has its account for defense training merely to serve as an assurance to bank that funds are available to reimburse expenditures on defense program. Op. Atty. Gen. (170E), Oct. 24, 1941.

Section was intended to take care of any appropriation which might be available in interim between legislative sessions, but if legislature is in session at the time, it should act. Op. Atty. Gen. (168), Feb. 17, 1943.

ARTICLE X TEACHERS

ANALYSIS

- 3156-10(1). General control of schools.
- 3156-10(2). Certification of teachers—Definitions.
- 3156-10(3). Qualified teachers.
- 3156-10(4). Authority to issue certificates.
- 3156-10(4a). Teacher training schools to offer courses in effects of narcotics and alcohol.
- 3156-10(5). Classification of teacher's certificates.
- 3156-10(6). Elementary school certificate.
- 3156-10(7). High school certificate.
- 3156-10(8). Junior college certificates—Qualifications of holders.
- 3156-10(9). Administration and supervision.
- 3156-10(10). Special certificates to vocational, recreation and adult education teachers.
- 3156-10(11). Certification—Applicants trained in other states.
- 3156-10(12). Same—Duration and renewal of certificates.
- 3156-10(13). Same—Fees for teachers' certificates.
- 3156-10(14). Same—Suspension or revocation of certificates.
- 3156-10(15). Same—Outstanding certificates not impaired.
- 3156-10(16). Same—Administrative regulations.
- 3156-10(17). Certificate to be filed.
- 3156-10(18). Hiring of teachers—Qualifications—Contracts—Termination—"Teacher" defined—Cities of first class.
- 3156-10(19). Summer schools—Teachers' contracts.
- 3156-10(20). To keep registers.
- 3156-10(21). Teachers' reports.
- 3156-10(22). Definitions.
- 3156-10(23). Probationary period—Discharge or demotion.
- 3156-10(24). Discharge or demotion.
- 3156-10(25). Same—Grounds.
- 3156-10(26). Same—Hearing of charges against teacher.
- 3156-10(27). Same—Representation by counsel—Examination of witnesses.
- 3156-10(28). Same—Public or private hearings.
- 3156-10(29). Same—Decision on hearing.
- 3156-10(30). Same—Charges expunged from records.
- 3156-10(31). Same—Suspension of teacher pending hearing on charges—Salary.
- 3156-10(32). Services terminated by discontinuance or lack of pupils—Preference.

3156-10(1). General control of schools.—The teacher shall have the general control and government of the school. When more than one teacher is employed in any district, one of the teachers may be designated by the board as principal, and shall have the general control and supervision of the schools of the district, subject to the general supervisory control of the board and other officers. (Act Apr. 10, 1941, c. 169, Art. X, §1.)

[130.01]

Reenactment of §2871.

3156-10(2). Certification of teachers—Definitions.

—The term "teachers" for the purposes of certification shall mean and include any and all persons employed in a public school as members of the instructional and supervisory staff, such as superintendents, principals, supervisors, classroom teachers, and librarians. (Act Apr. 10, 1941, c. 169, Art. X, §2.)

[130.02]

Reenactment of §2900-1.

3156-10(3). Qualified teachers.—A qualified teacher is one holding a valid certificate from the state board of education, as hereinafter provided, to perform the particular service for which he is employed in a public school. (Act Apr. 10, 1941, c. 169, Art. X, §3.)

[130.03]

Reenactment of §2900-2.

A teacher's "qualifications" and his "position" are not coextensive. *State v. Board of Education of Duluth*, 213 M550, 7NW(2d)544. See Dun. Dig. 8686.

It may be that in an emergency state board of education may issue special certificate to teach to persons who do not have statutory qualifications, but board would act at its peril and might be called upon to show an emergency that would satisfy the court, and whether shortage of teachers due to drafting into other employment in the national defense is such an emergency is a question of fact. *Op. Atty. Gen.* (172B), Oct. 20, 1941.

3156-10(4). Authority 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. 10, 1941, c. 169, Art. X, §4.)

[130.04]

Reenactment of §2900-3.

Whether certificate to teach should be denied a student who refuses to salute the flag because of teachings of a sect of which she is a member is a matter for state board of education to determine. *Op. Atty. Gen.* (172b), March 19, 1943.

3156-10(4a). Teacher training schools to offer courses in effects of narcotics and alcohol.—All educational institutions in Minnesota giving teacher training shall offer courses in the effects of narcotics and alcohol upon the human system, upon character, and upon society, and every student attending such institution in preparation for teaching service shall be required to take and to satisfactorily complete such courses. (Act Apr. 23, 1943, c. 584, §1.)

[131.151]

3156-10(5). Classification of teacher's certificates.

—There shall be five classes of teacher certificates:

1. Elementary School Certificate,
2. High School Certificate,
3. Junior College Certificate,
4. Administrative and Supervisory Certificates,
5. Vocational, Recreation, and Adult Education Certificates. (Act Apr. 10, 1941, c. 169, Art. X, §5.)

[130.05]

Reenactment of §2900-4 in part.

Head of a high school department holds a position distinct from that of a teacher whose duties are confined to teaching departmental subjects, and if he has attained tenure rights he cannot be discharged unless his particular position is discontinued, and a teacher in the primary grades holds a position in the school system distinct from that of a teacher in the intermediate or grammar grades, and if she has acquired tenure rights she is entitled to priority to such position over teachers transferred from the upper grades. *State v. Board of Education of Duluth*, 213M550, 7NW(2d)544. See Dun. Dig. 8687.

3156-10(6). Elementary school certificate.—The elementary school certificate shall indicate the division or grades for which the holder has been trained.

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.

Subdivision 1. 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, or in the first three grades of a six year 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.

Subdivision 2. 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.

Subdivision 3. 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.

Subdivision 4. The elementary school special certificate shall qualify any holder thereof to teach kindergarten, primary, 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.

Subdivision 5. An elementary school special certificate, which shall qualify any holder thereof to teach handicapped 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. 10, 1941, c. 169, Art. X, §6.)

[130.06]

Reenactment of §2900-5.

3156-10(7). 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.

Subdivision 1. 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 in any secondary school those academic subjects or related subjects for which adequate training has been received. The holder of a high school standard general certificate shall also 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.

Subdivision 2. 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, and to act as school librarian. 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 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 its course in the special field as to which he applies for a 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 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.

Subdivision 3. 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. (Act Apr. 10, 1941, c. 169, Art. X, §7.)

[130.07]

Reenactment of §2900-6.

3156-10(8). Junior college certificates—Qualifications of holders.—Junior college certificates shall qualify holders to teach in junior college such subjects or in such subject fields as are thereon specified. Junior college certificates shall be based on such training and experience as may be required by the state board of education. (Act Apr. 10, 1941, c. 169, Art. X, §8.)

[130.08]

Reenactment of §2900-4 in part.

3156-10(9). 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 state board of education may, from time to time, prescribe.

A person shall be qualified to be superintendent of schools in any school district 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 state board of education 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 state board of education, 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. 10, 1941, c. 169, Art. X, §9.)

[130.09]

Reenactment of §2900-7.

3156-10(10). Special certificates to vocational, recreation and adult education teachers.—The state board of education shall have authority to issue special certificates to vocational, recreation and adult education teachers who present such qualifications of training and experience as meet the requirements of the United States office of education or the special needs of the several vocational, recreational and adult education fields. (Act Apr. 10, 1941, c. 169, Art. X, §10.)

[130.10]

Reenactment of §2900-6 in part.

3156-10(11). Certification—Applicants trained in other states.—Wherever in Sections 2 to 16, inclusive, of this article, 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. 10, 1941, c. 169, Art. X, §11.)

[130.11]

Reenactment of §2900-8.

3156-10(12). Same—Duration and renewal of certificates.—

Subdivision 1. All certificates, except as herein provided, shall bear the date of issue and shall expire two years from July 1 nearest such date, and may be renewed for periods of not more than five years upon satisfactory evidence produced to the state board of education of successful teaching experience for at least one school year during the period covered by the certificate in grades or subjects for which the certificate is valid. On less than one school year's teaching experience, the certificate may be renewed for a period sufficient to enable the holder to meet the requirements for a regular renewal. Any person who applies for the issuance or renewal of a teachers' certificate and who possesses the training prescribed in Sections 2 to 16, inclusive, of this article, but who has not at any time during the five-year period immediately preceding, been employed in the type of teaching for which the certificate is valid, may be required to furnish evidence of appropriate training in an accredited teacher training institution within such period, but not in excess of 12 weeks' work.

Subdivision 2. 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. 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 no permanent certificate shall be issued to a teacher who holds only an elementary school limited certificate, or a vocational, recreation or adult education certificate.

Subdivision 3. An elementary school limited certificate shall bear the date of issue and shall expire two years from July 1 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. 10, 1941, c. 169, Art. X, §12.)

[130.12]

Reenactment of §2900-9.

3156-10(13). Same—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 \$5.00. For all others, the fee shall be \$1.00 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, or for refunds to applicants who are not entitled to certificates or have forwarded to the department of education money in excess of the fees required by law.

Fees for the renewal or extension of certificates in force on April 26, 1929, shall be as provided in General Statutes of 1923, Section 2932. (Act Apr. 10, 1941, c. 169, Art. X, §13.)

[130.13]

Reenactment of §2900-10.

Department of education can refund fees paid for teachers' certificates where there has been an overpayment or applicant lacks qualifications for certification. Op. Atty. Gen. (454e), Oct. 27, 1941.

Fees collected for teachers' certificates must be deposited in general revenue fund. Op. Atty. Gen. (454e), Aug. 27, 1943.

Fee should not be deposited in state treasury until certificate is issued. Op. Atty. Gen. (454e), Sept. 30, 1943.

Refunds of fee deposited by applicants who are not entitled to teacher's certificate may be refunded as provided in this section. Op. Atty. Gen. (172b), Oct. 20, 1943.

3156-10(14). Same—Suspension or revocation of certificates.—

Subdivision 1. 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 Sections 2 to 16, inclusive, of this article, or in force on April 26, 1929, 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.

Subdivision 2. 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.

Subdivision 3. 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 30 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. 10, 1941, c. 169, Art. X, §14.)

[130.14]

Reenactment of §2900-11.

School board which has teacher under a continuing contract and has not released her should file the complaint, and not school board presently employing teacher. Atty. Gen. (172c-1), Jan. 18, 1943.

Subd. 1.

(b).

"Justifiable cause" implies that circumstances surrounding transaction are to be taken into consideration in determining whether or not conduct or circumstances constitute justification. Op. Atty. Gen. (172c-1), Jan. 18, 1943.

Subd. 2.

Testimony of witnesses may be taken by deposition, but it is not contemplated that affidavits be used. Op. Atty. Gen. (172c-1), Jan. 18, 1943.

Words "wherein he is employed" relate to place where teacher is actually working, not place where teacher first contracted to work. *Id.*

3156-10(15). Same—Outstanding certificates not impaired.—No provision of Sections 2 to 16, inclusive, of this article shall affect or impair the validity of certificates or licenses to teach in force on May 1, 1941, 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 14 of this article, and provided also, that a certificate in force on April 26, 1929, may be exchanged, without fee, at the option of the holder for a certificate which, under said Sections 2 to 16, shall give to the holder the same qualifications and rights which he had under and by virtue of such certificate. (Act Apr. 10, 1941, c. 169, Art. X, §15.)

[130.15]

Reenactment of §2900-12.

3156-10(16). Same—Administrative regulations.—The state board of education shall have power, from time to time, to make and enforce such rules and regulations consistent with Sections 2 to 16 of this article, as may be appropriate for the administration and enforcement thereof. (Act Apr. 10, 1941, c. 169, Art. X, §16.)

[130.16]

Reenactment of §2900-13.

3156-10(17). Certificate to be filed.—No person shall be accounted a qualified teacher within the meaning of the school law, until such person has filed for record with the county or local superintendent of schools where such person intends to teach, a certificate or certified copy thereof authorizing such person to teach school in such county or local school system. (Act Apr. 10, 1941, c. 169, Art. X, §17.) [130.17]

Reenactment of §2901.

3156-10(18). Hiring of teachers—Qualifications—Contracts—Termination—"Teacher" defined—Cities of first class.—A superintendent, principal, supervisor, and classroom teacher and any other professional employee required to hold a certificate from the state department of education shall be deemed to be a "teacher" within the meaning of this section. School boards shall hire teachers at meetings called for that purpose, provided, however, that where a husband and wife, brother and sister, or two brothers or sisters, constitute a quorum, no contract employing a teacher shall be made or authorized except upon the unanimous vote of the school board. No teacher related by blood or marriage, within the fourth degree, computed by the civil law, to a trustee shall be employed except by a unanimous vote of the full board. The employment shall be by written contract, signed by the teacher and, in common districts, by at least two of the trustees; in special and independent districts, by the chairman and clerk. Contracts for teaching or supervision of teaching can be made only with qualified teachers. Such contract shall specify the wages per year, and shall remain in full force and effect, except as modified by mutual consent of the school board and the teacher, until terminated by a majority vote of the full membership of the school board, or by the written resignation of the teacher, before April 1. Such termination shall take effect at the close of the school year in which the contract is terminated in the manner aforesaid. Provided, further, that such contract may be terminated at any time by mutual consent of the school board and the teacher, and provided further, that this section shall not affect the powers of a school board to discharge a teacher for cause under and pursuant to Article VI Section 6, Subdivision 10.

This section shall not apply to any school district in a city of the first class. (Act Apr. 10, 1941, c. 169, Art. X, §18.) [130.18]

Reenactment of §§2814, 2900-2, 2903 and 2903-1/2.

A teacher who is on a years leave of absence still has a continuing contract. Op. Atty. Gen. (172c-5), May 6, 1941.

Motion carried to comply with superintendent's request "that we" terminate his contract at end of term was sufficient expression of intention of school board to terminate contract. Op. Atty. Gen. (768k), May 29, 1941.

Where school board voted before April 1 to discontinue contract of superintendent, and after April 1 motion was passed reinstating him with request that he tender his resignation, no contract exists for the next year. Op. Atty. Gen. (768k), July 25, 1941.

School board may in its discretion upon proper cause shown amend contract already executed and provide for reasonable increases in salary. Op. Atty. Gen. (172c-5), July 28, 1941.

Maternity is not a sufficient cause for termination of a teacher's contract, in absence of a rule or regulation establishing a policy relative to employment of married teachers. Op. Atty. Gen. (172c-3), Sept. 15, 1941.

It is duty of board to hire teachers and duty cannot be delegated to electors. Op. Atty. Gen. (172E), Sept. 18, 1941.

School district is entitled to damages for breach of contract by resigning, but amount of such damages must be fixed by agreement or decision of court and not by arbitrary withholding of part of wages. Op. Atty. Gen. (172C-1), Sept. 29, 1941.

It may be that in an emergency state board of education may issue special certificate to teach to persons who do not have statutory qualifications, but board would act at its peril and might be called upon to show an emergency that would satisfy the court, and whether shortage of teachers due to drafting into other employment in the national defense is such an emergency is a question of fact. Op. Atty. Gen. (172B), Oct. 20, 1941.

Board and superintendent should agree on compensation latter is to receive for continuing in office until successor takes over. Op. Atty. Gen. (768k-1), Nov. 5, 1941.

In absence of agreement rate should be that provided in contract. Id.

School board would not be justified in terminating a teacher's contract during year "for cause" for writing checks on bank in which he had no deposits, in absence of a hearing and proof of knowledge and intent. Op. Atty. Gen. (172D), Feb. 7, 1942.

Teacher subject to epileptic fits may be discharged "for cause". Op. Atty. Gen. (172D), Feb. 20, 1942.

Where contract of teacher fixes a specified term of one year at a specified salary, district has no authority to increase compensation of teacher for that term because of increased cost of living, and may not enter into a new contract made in contemplation of teacher remaining only for remainder of such year, but may enter into a new contract made in contemplation of teacher remaining as a teacher in next ensuing school year, since otherwise there would be a bonus or gratuity not permitted by law. Op. Atty. Gen. (174E), Feb. 20, 1942; Mar. 5, 1942; Mar. 26, 1942.

Superintendent's contract was not terminated by a request to resign at end of school year or accept smaller salary. Op. Atty. Gen. (768k-1), June 23, 1942.

School board is without power to increase salary under contract, but a new written contract may be substituted for the old contract and contain a change in salary. Op. Atty. Gen. (174e), July 3, 1942.

School board of a common school district may legally elect wife of one of school board members as a teacher by a unanimous vote. Op. Atty. Gen. (172a), Aug. 4, 1942.

School board had authority to open a school that had been closed for some years and employ a teacher, but people of district at subsequent annual meeting could reverse such action, with result that district would be liable for breach of teacher's contract. Op. Atty. Gen. (172c-1), Aug. 6, 1942.

Vote of a majority of a board will control in case of a teacher's contract, unless teacher is related to some member of board. Op. Atty. Gen. (172e), Aug. 10, 1942.

A continuous teacher's contract at \$2500.00 per year payable in monthly installments of \$208.33, entered into early in 1937, terminated following notice in March 1942 according to intent of parties as evidence by circumstances, and if construed as terminating on last day of August teacher would be entitled to salary for months of July and August, but board could pay him in advance and terminate his relationship with district, unless they could sooner discharge him for cause. Op. Atty. Gen. (768k-2), Aug. 17, 1942.

Fact that teacher's contract bears date May 10, 1937, whereas meeting authorizing contract was held in March, is of no consequence. Op. Atty. Gen. (768k-2), Aug. 17, 1942.

School board is not obliged to provide teachers with a suitable place to live and a suitable place at which they may obtain their meals, and teachers may be required to abide by their contract notwithstanding that they have no place to obtain suitable board and are denied privilege of cooking an evening meal in home economics room of school. Op. Atty. Gen. (166j), Oct. 28, 1942.

School district may, as a matter of policy, adopt a rule not to employ married women teachers. State v. Board of Education of Duluth, 213M550, 7NW(2d)544. See Dun. Dig. 8686.

Where teacher's contract said nothing about attending summer school, district could not deduct damages from teacher's salary for failure to attend summer school. Op. Atty. Gen. (172-1), Jan. 5, 1943.

Teacher's contract made with teacher employed in another district is good between teacher and newly contracting district. Op. Atty. Gen. (172c-1), Jan. 20, 1943.

Either school board or teacher may give notice of termination of contract to be effective at close of school term if such notice is given before April 1, but notice of termination after that date by either party is ineffective, in absence of mutual consent. Op. Atty. Gen. (172-5), Dec. 21, 1942.

Contract of a teacher may require a deposit with school board as security for any damages that might result from an unauthorized resignation during the term, but such a deposit cannot be forfeited as a penalty. Op. Atty. Gen. (172c-2, 172c-5), Dec. 21, 1942.

School district must employ qualified teachers. Op. Atty. Gen. (622i-8), March 10, 1943.

Form of clause in contract relating to deduction of salary of substitute teacher from salary of contract teacher suggested. Op. Atty. Gen. (172c-5), March 20, 1943.

Contract may contain a clause reducing salary in case of reassignment to another position if enrollment of students is reduced. Op. Atty. Gen. (172c-5), March 24, 1943.

If teacher has contract in force before April 1st which has not been terminated as provided by law, then the contract is in force on April 1st and if a new contract was contemplated before April 1st and it has not been executed by both of the parties signing the same, it is not in force on April 1st, but the old contract remained in force, and the new contract may be substituted for

the old one after April 1st if both parties agree thereto. Op. Atty. Gen. (172c-2), Apr. 13, 1943.

Contract of teacher who substitutes during absence of one who is on military leave must be in writing. Id.

Where all of the teachers except the superintendent in the grades and high school of a school district resigned and board closed school and transported pupils to a neighboring district, the superintendent is entitled to the benefit of his contract and is entitled to damages, the difference between what he is able to earn in other employment and the contract salary. Op. Atty. Gen. (172c-1), Apr. 21, 1943.

A new contract cannot be substituted for an old contract if new contract contains the same terms as the old contract except only an increase in salary. Op. Atty. Gen. (172c-5), May 3, 1943.

Effect of failure of teacher to reach school for several weeks because of the weather. Op. Atty. Gen. (164), May 29, 1943.

A school district cannot terminate contract of teacher on military leave, either with or without cause, since a person in military service is entitled to a hearing and a hearing may not be held while he is in service. Op. Atty. Gen. (172c-2), June 5, 1943.

Teacher who is employed to fill position temporarily when regular teacher is in military service should have a contract stating that it is a temporary employment, and stating the facts giving rise to the vacancy. Id.

Where a teacher was injured while in performance of her duty and insurance company paid part of teacher's compensation, and a substitute teacher was employed and paid less than that agreed for pay of injured teacher, school board may pay the injured teacher the difference between the amount called for in her contract and the amount which they have paid the substitute, if it considers that it is good business to do so. Op. Atty. Gen. (174a), June 5, 1943.

A conscientious objector to military service may be employed by school board if board considers it good business. Op. Atty. Gen. (172), June 14, 1943.

A contract with a teacher involved the rate of compensation and sometimes it involved the duties to be performed by the teacher, and either before contract is executed it should be authorized or after it is executed it should be ratified at a regular meeting of the board. Op. Atty. Gen. (172c-2), June 14, 1943.

Where contract of superintendent specified that number of school months in year was nine but the salary was paid in twelve monthly installments and he resigned March 22, and his resignation was accepted with leave of absence granted from April 1, he is entitled to seven-ninths of his annual salary and not ten-twelfths. Op. Atty. Gen. (768k-1), June 14, 1943.

Increase in salary during the term of written contract. Op. Atty. Gen. (172c-5), Aug. 12, 1943.

Contracts were terminated as of end of school year by action taken on March 31. Op. Atty. Gen. (172c-5), Aug. 25, 1943.

Section applies to contracts between special districts and superintendent. Op. Atty. Gen. (768k-1), Sept. 8, 1943.

A contract running for an indefinite period may be terminated at the end of any school year by notice by either the board or the teacher before April 1, or at any time by mutual consent. Op. Atty. Gen. (172c-5), Sept. 17, 1943.

Existing contract may not be amended by mutual consent so that the teacher, the school district either or both waive or release their right to terminate the contract as of the end of a certain year in the future. Op. Atty. Gen. (172c-5), Sept. 30, 1943.

Inadequacy of salary is not ground for raising salary under teacher's contract, and negotiations previous to making of contract and not included therein are not a part of the contract and not to be considered in the absence of fraud. Op. Atty. Gen. (172c-5), Oct. 19, 1943.

Teachers' contracts may be modified by increasing salaries by mutual consent, if the increase is not merely a gratuity and is justified by changed conditions and it is in the honest discretion of the school board for the best interests of the district. Op. Atty. Gen. (172c-5), Nov. 17, 1943.

3156-10(19). Summer schools—Teachers' contracts.

—In order to encourage further preparation and education of its teachers, the school board of an independent school district may stipulate in a teacher's contract the amount he or she may receive conditioned upon attending summer school. (Act Apr. 10, 1941, c. 169, Art. X, §19.)

[130.19]

Reenactment of §2903-1.

3156-10(20). To keep registers.—Each teacher

shall keep a register, furnished by the clerk, showing the daily attendance of each pupil, and such other matters as may be required in such register. He shall also keep such record of department and scholarship as may be required by the board. The register shall show the names and ages of all pupils, the names and number of days' attendance of all pupils between

the ages of five and eight years, between eight and 15 years, and between 15 and 21 years, and the names of all paying tuition. In districts maintaining ungraded elementary schools only the teacher shall return such register, properly kept, to the clerk within ten days after the close of the school year. (Act Apr. 10, 1941, c. 169, Art. X, §20.)

[130.20]

Reenactment of §2904.

3156-10(21). Teachers' reports.—Each teacher in districts maintaining ungraded elementary schools only, and each superintendent of districts maintaining graded elementary or high schools, shall within ten days after the close of the school term make his report to the county superintendent upon blanks furnished by the superintendent, giving such information as may be called for in the blank, checking with a cross (X) the names of all pupils who are not eligible for apportionment. The superintendent shall receipt for such reports. No order shall be issued for the payment of the wages of any teacher while he is in default in making such reports or in returning his register. In joint districts a report shall be made according to rules established by the state board of education. The teachers, principals and superintendents in districts maintaining graded elementary or high schools shall make such reports as may be required by law or the rules of the state or local board of education under like penalty. (Act Apr. 10, 1941, c. 169, Art. X, §21.)

[130.21]

Reenactment of §2905.

3156-10(22). Definitions.—

Subdivision 1. Unless the language or context clearly indicates that a different meaning is intended, the following words, terms and phrases shall, for the purposes of Sections 22 to 33, be defined as follows:

Subdivision 2. **Who are teachers.**—The term "teacher" shall include every person regularly employed, as a principal, or to give instruction in a classroom, or to superintend or supervise classroom instruction, or as placement teacher and visiting teacher. Persons regularly employed as counselors and school librarians shall be covered by these sections as teachers if certificated as teachers or as school librarians. (As amended Apr. 1, 1943, c. 238.)

Subdivision 3. The term "school board" shall include a majority in membership of any and all boards or official bodies having the care, management or control over public schools.

Subdivision 4. The term "commissioner" shall include any and all instances where a single official has the care, management or control over public schools.

Subdivision 5. The word "demote" shall mean to reduce in rank or to transfer to a lower branch of the service or to a position carrying a lower salary or compensation. (Act Apr. 10, 1941, c. 169, Art. X, §22; Apr. 1, 1943, c. 238.)

[130.22]

Reenactment of §§2935-1, 2935-2, 2935-3.

A teacher's "qualifications" and his "position" are not coextensive. *State v. Board of Education of Duluth*, 213M 550, 7NW(2d)544. See *Dun. Dig.* 8687a.

Subd. 2.

Superintendent of schools employed by board of education of the independent school district of Duluth is not within protection of the Teachers' Tenure Act. *Eelkema v. Bd. of Education of City of Duluth*, 215M590, 11NW(2d)76. See *Dun. Dig.* 8687a.

Distribution of income tax as affecting sources of income for maintenance. Op. Atty. Gen. (5311), July 25, 1941; note under 2394-57(c)(2).

One employed as a teacher in Minneapolis schools from 1911 to 1923, and thereafter as librarian and assistant librarian and as assistant in public information office is not entitled to benefit of teacher's tenure act. Op. Atty. Gen. (172), July 20, 1942.

One who served only as assistant to librarian and as librarian was not entitled to benefit of tenure act. Op. Atty. Gen. (172), July 20, 1942.

A substitute required by rule of board of education to be ready for call every morning between hours 7:15 a.m. and 9:00 a.m. is "regularly employed" and is a teacher after serving more than the probationary period. Op. Atty. Gen. (172), Aug. 4, 1942.

Superintendent and assistant superintendent of schools in the city of Duluth are entitled to benefits of act. Op. Atty. Gen. (172), June 4, 1943.

A school librarian is not a "teacher" unless certified as such. Op. Atty. Gen. (172), July 17, 1943.

Reenactment of this act did not repeal Laws 1939, c. 61, and superintendent of schools of Duluth has no right to continue in his position after termination of contract. Op. Atty. Gen. (172), July 31, 1943.

Teacher who has acted as a substitute teacher for a number of years should be classified as a "substitute teacher", and not a full time teacher though she taught in one school for 184 days in two different years. Op. Atty. Gen. (172), Aug. 23, 1943.

3156-10(23). Probationary period—Discharge or demotion.—All teachers in the public schools in cities of the first class in the state during the first three years of consecutive employment shall be deemed to be in a probationary period of employment during which period any annual contract with any teacher may, or may not, be renewed as the school board or commissioner shall see fit. The school board or commissioner may during such probationary period discharge or demote a teacher for any of the causes as specified in Section 25. A written statement of the cause of such discharge or demotion shall be given to the teacher by the school board or commissioner at least 30 days before such removal or demotion shall become effective, and the teacher so notified shall have no right of appeal therefrom. (Act Apr. 10, 1941, c. 169, Art. X, §23.)

[130.23]

Reenactment of §2935-4.

3156-10(24). Discharge or demotion.—After the completion of such probationary period, without discharge, such teachers as are thereupon re-employed shall continue in service and hold their respective position during good behavior and efficient and competent service and shall not be discharged or demoted except for one or more of the causes as specified in Section 25, and after a hearing as specified and provided in Section 26.

Any probationary teacher shall be deemed to have been re-employed for the ensuing school year, unless the school board or commissioner in charge of such school shall give such teacher notice in writing before April 1st of the termination of such employment. In event of such notice the employment shall terminate at the close of the school sessions of the current school year. Act Apr. 10, 1941; c. 169, Art. X, §24; as amended Apr. 2, 1943, c. 272, §1.)

[130.24]

Reenactment of §2935-5.

Head of a high school department holds a position distinct from that of a teacher whose duties are confined to teaching departmental subjects, and if he has attained tenure rights he cannot be discharged unless his particular position is discontinued, and a teacher in the primary grades holds a position in the school system distinct from that of a teacher in the intermediate or grammar grades, and if she has acquired tenure rights she is entitled to priority to such position over teachers transferred from the upper grades. State v. Board of Education of Duluth, 213M550, 7NW(2d)544. See Dun. Dig. 8687a.

Right of seniority is not granted to teachers by the tenure act, but to be available to them it must be created by contract. Id.

A teacher's "position" under the tenure act is his relative place, rank, or standing in the school system. Id.

Notwithstanding a teacher has acquired tenure status, he may be transferred to such classroom, building, or division as the school board may, in good faith, determine, provided he is not thereby demoted. Id.

The teachers' tenure act was not intended as a guarantee of continuous employment to teachers regardless of the need for their services. Id.

A school board has no power, either openly or by subterfuge, to fix a compulsory retirement age in absence of statutory authority, but this does not mean that board may not take age into consideration as a factor in determining which teacher to discharge when reducing staff. Id. See Dun. Dig. 8688a.

Tenure acquired by a substitute teacher is that of a substitute and not that of a regular teacher. Op. Atty. Gen. (172), May 28, 1943.

3156-10(25). Same—Grounds.—Causes for the discharge or demotion of a teacher either during or after the probationary period shall be:

(1) Immoral character, conduct unbecoming a teacher, or insubordination.

(2) Failure without justifiable cause to teach without first securing the written release of the school board or commissioner having the care, management or control of the school in which the teacher is employed.

(3) Inefficiency in teaching or in the management of a school.

(4) Affliction with active tuberculosis or other communicable disease shall be considered as cause for removal or suspension while the teacher is suffering from such disability.

(5) Discontinuance of position or lack of pupils. (Act Apr. 10, 1941, c. 169, Art. X, §25.)

[130.25]

Reenactment of §2935-6.

Discontinuance of position for lack of pupils having been judicially determined to exist as a ground for discharge of one or more tenure teachers, policy or rules to be followed by board in determining which teacher or teachers are to be discharged is an administrative question, upon which the decision of board is final, absent arbitrariness or capriciousness. State v. Board of Education of Duluth, 213M550, 7NW(2d)544. See Dun. Dig. 8687a.

That a particular policy or set of rules adopted by a school board in determining which of several tenure teachers is to be discharged may be harsh, unwise, inexpedient, or based upon economic rather than on educational considerations does not justify interference therewith by the courts. Id.

Where lack of pupils or discontinuance of position creates a statutory ground for discharging one or more tenure teachers, marriage, economic status, right to retirement benefits, and similar factors may be considered by a school board in determining which teacher to discharge. Id.

Teacher tenure laws cannot be evaded by sham or pretended discontinuance of a position. Id.

Where a nontenure teacher is employed to teach in a special field for which no tenure teachers are available, school board, in good faith, may assign him to classes in both special and academic fields to fill out his schedule, notwithstanding sufficient tenure teachers are available for the academic subjects. Id.

Construction of teachers' tenure law in harmony with the expressed legislative policy does not permit a construction so liberal as entirely to destroy the right of school boards to determine matters of policy in the administration of school affairs. Id.

3156-10(26). Same—Hearing of charges against teacher.—The charge or charges against a teacher shall be in writing and signed by the person making the same, and then filed with the secretary or clerk of the school board or commissioner having charge of the school in which the teacher is employed. Such school board or commissioner before discharging or demoting a teacher shall then accord the teacher against whom such charge or charges have been filed a full hearing and shall give to said teacher at least ten days' notice in writing of the time and place of such hearing; such notice may be served personally or sent by registered mail addressed to such teacher at his or her last known postoffice address; provided that if said charge be made by any person not in connection with said school system said charge may be disregarded by such school board or commissioner. Upon such hearing being held such school board or commissioner shall hear all evidence that may be adduced in support of the charge or charges and for the teacher's defense thereto. Either party shall have the right to have a written record of the hearing at the expense of the board and to have witnesses subpoenaed, and all witnesses so subpoenaed shall be examined under oath. Any member of the school board or any commissioner conducting such a hearing shall have authority to issue subpoenas and to administer oaths to witnesses. (Act Apr. 10, 1941, c. 169, Art. X, §26.)

[130.26]

Reenactment of §2935-7.

That school board decided to review teaching staff and tentatively decided to discharge certain teachers before giving such teachers notice and an opportunity to be heard was not a denial of due process. State v. Board of Education of Duluth, 213M550, 7NW(2d)544. See Dun. Dig. 8687a.

That a school board or other administrative tribunal, in discharging an employe, acts in triple capacity of com-

plainant, prosecutor and judge does not subject its decision to attack for lack of due process of law. *Id.* See *Dun. Dig.* 8675.

3156-10(27). Same—Representation by counsel—Examination of witnesses.—Each party appearing before said school board or commissioner shall have the right to be represented by counsel, and such counsel may examine and cross-examine witnesses and present arguments. (Act Apr. 10, 1941, c. 169, Art. X, §27.)

[130.27]
Reenactment of §2935-8.

3156-10(28). Same—Public or private hearings.—All hearings before said school board or commissioner shall be private or may be public at the decision of the teacher against whom such charge or charges have been filed. (Act Apr. 10, 1941, c. 169, Art. X, §28.)

[130.28]
Reenactment of §2935-9.

3156-10(29). Same—Decision on hearing.—Such hearing must be concluded and a decision in writing, stating the grounds on which it is based, rendered within 25 days after giving of such notice. Where the hearing is before a school board the teacher may be discharged or demoted upon the affirmative vote of a majority of the members of said school board. If the charge or charges, or any of such, are found to be true the school board or commissioner conducting the hearing shall discharge, demote or suspend the teacher, as seems to be for the best interest of the school. Provided, that no teacher shall be discharged for either of the causes specified in Paragraph 3 of Section 25, except during the school year, and then only upon a charge or charges filed at least four months before the close of the school sessions of such school year. (Act Apr. 10, 1941, c. 169, Art. X, §29.)

[130.29]
Reenactment of §2935-10.
In reviewing determination of a school board that a statutory ground for discharging a tenure teacher exists, jurisdiction of courts is limited to questions affecting jurisdiction of school board, regularity of its proceedings, and, as to the merits, whether the determination was arbitrary, oppressive, unreasonable, fraudulent, under an erroneous theory of law, or without any evidence to support it. *State v. Board of Education of Duluth*, 213 M550, 7NW(2d)544. See *Dun. Dig.* 8687a.

3156-10(30). Same—Charges expunged from records.—In all cases where the final decision is in the favor of the teacher the charge or charges shall be physically expunged from the records. (Act Apr. 10, 1941, c. 169, Art. X, §30.)

[130.30]
Reenactment of §2935-11.

3156-10(31). Same—Suspension of teacher pending hearing on charges—Salary.—Upon the filing of a charge or charges against a teacher, the school board or commissioner may suspend the teacher from regular duty. If, upon final decision, the teacher is suspended or removed, the school board or commissioner may in its or his discretion determine the teacher's salary or compensation as of the time of filing the charge or charges. If the final decision is favorable to the teacher there shall be no abatement of salary or compensation. (Act Apr. 10, 1941, c. 169, Art. X, §31.)

[130.31]
Reenactment of §2935-12.

3156-10(32). Services terminated by discontinuance or lack of pupils—Preference given.—Any teacher whose services are terminated on account of discontinuance of position or lack of pupils shall receive first consideration for other positions in the district for which she is qualified. In the event it becomes necessary to discontinue one or more positions, in making such discontinuance, teachers shall be discontinued in any department in the inverse order in which they were employed. (Act Apr. 10, 1941, c. 169, Art. X, §32; Apr. 20, 1943, c. 541, §1.)

[130.32]
Reenactment of §2935-13.

Where a nontenure teacher is employed to teach in a special field for which no tenure teachers are available, school board, in good faith, may assign him to classes in both special and academic fields to fill out his schedule, notwithstanding sufficient tenure teachers are available for the academic subjects. *State v. Board of Education of Duluth*, 213M550, 7NW(2d)544. See *Dun. Dig.* 8687a.
Right of seniority is not granted to teachers by the tenure act, but to be available to them it must be created by contract. *Id.*

ARTICLE XI

CLASSIFICATION AND CONDUCT OF SCHOOLS

ANALYSIS

- 3156-11(1). Classification of public schools for purpose of administration.
3156-11(2). Junior college—How established.
3156-11(3). Same—Discontinuance.
3156-11(4). Same—Department of education to have supervision.
3156-11(5). Same—Use of existing buildings.
3156-11(6). Same—Tuition.
3156-11(7). Same—Transporting and boarding students.
3156-11(8). Special classes—Deaf children.
3156-11(9). Same—Blind children.
3156-11(10). Schools for children with defective speech.
3156-11(11). Special schools for mentally subnormal children.
3156-11(12). Classes for crippled children.
3156-11(13). Physical education in public schools—Training schools for teachers to provide courses.
3156-11(14). Instruction in morals.
3156-11(15). Instruction as to effect of alcohol on human system.
3156-11(16). Requiring teaching Declaration of Independence and Constitution of United States.
3156-11(17). Instruction in English language.
3156-11(18). Patriotic exercises.
3156-11(19). "Minnesota Day"—How observed.
3156-11(20). Columbus Day—Leif Erickson Day—Frances Willard Day.
3156-11(20a). Susan B. Anthony Day.
3156-11(21). Length of school year.
3156-11(22). Conduct of schools on certain holidays.
3156-11(23). United States flag—School boards to provide flags and staffs.
3156-11(24). School safety patrols—Who may be appointed—Liability.
3156-11(25). Secret fraternities in public schools—Directors duties—Rules and regulations—Rushing or soliciting—Penalty.

3156-11(1). Classification of public schools for purpose of administration.—For the purpose of administration all public schools shall be classified under the following heads:

Subdivision 1. (a) graded elementary schools, (b) ungraded elementary schools, (c) four-year high schools, (d) high school departments, (e) junior high schools, (f) senior high schools, (g) six-year high schools, and (h) junior colleges. Schools located in a consolidated school district, shall be classified under one or more of the first seven headings of this section, and shall be entitled to state aid according to such classification.

Subdivision 2. (a) A graded elementary school shall be a school giving instruction in the first six years of the public school course and employing at least three teachers devoting their entire time to elementary school work, or a school giving instruction in the first eight years of the public school course, and employing at least four teachers devoting their entire time to elementary school work. In each such school one teacher may be designated as principal.

(b) An ungraded elementary school shall be a school giving instruction in the elementary course and employing one or more teachers but not having the rank of graded elementary school.

(c) 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.

(d) 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.

(e) 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 12 year public school course. It shall be located in a school district which employs a superintendent for the entire system of public schools in such school district.

(f) 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 10th, 11th, and 12th years of the 12 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.

(g) A six-year high school shall be a school employing a superintendent, a high school principal, and three or more high school teachers giving instruction in years seven to 12 inclusive of the public school course.

(h) A junior college shall be a school organized according to Sections 2 to 7, inclusive, of this article. (Act Apr. 10, 1941, c. 169, Art. XI, §1.)

[131.01]

Reenactment of §§2764 and 3026.

Board has authority to rule that high school students in their senior year may be graduated without completing that year when they have entered armed forces of the United States. Op. Atty. Gen. (160D), Feb. 19, 1942.

Subd. 2.

Election of an "acting superintendent," if qualified, fulfills requirements. Op. Atty. Gen. (168b), Dec. 3, 1941. One person cannot serve both as principal and "acting superintendent." Id.

3156-11(2). Junior college—How established.—

Subdivision 1. The school board of any independent or special school district may make application to the state board of education to establish and maintain a department of junior college work, to consist of not more than two years' work beyond the twelfth year of the public school curriculum. Such application shall contain such data as the state board of education may require.

Subdivision 2. Upon receipt of such application the state board of education shall make a careful survey of the need, ability and facilities of such school district to establish and maintain a junior college.

Subdivision 3. If the state board of education approves such application the school board of such district shall submit the question of the establishment of such junior college to the voters at a general or special election, preceded by notice stating that such proposition is to be there acted upon.

Subdivision 4. If the establishment of a junior college is authorized by a two-thirds vote of the electors voting thereon the school board of such school district shall take the necessary steps to establish and maintain such junior college.

Subdivision 5. Two or more school districts may co-operate in the establishment and maintenance of a junior college under the procedure as indicated for the establishment and maintenance of a junior college in a single district; provided, however, that the application submitted to the state board of education shall include a statement of the procedure adopted by the school boards of the districts concerned for the establishment and maintenance of such junior college and, provided, further, that the proposition as approved by the state board of education, be authorized by a two-thirds vote of the electors in each district voting thereon.

Subdivision 6. Two or more school districts may co-operate in the maintenance of a junior college already established, or established pursuant to Sections 2 to 7 inclusive, of this article, under the procedure as indicated in this section; provided, however, that the proposition may be approved by the school board of the district in which such junior college is located

and need not be referred to the electorate of such district. (Act Apr. 10, 1941, c. 169, Art. XI, §2.) [131.02]

Reenactment of §2992-1.

3156-11(3). Same—Discontinuance.—Any school district maintaining a junior college may discontinue such junior college at the close of any school year by a majority vote of all members of the school board in such district, provided such action is taken before April 1 of that school year. Any school district co-operating with one or more school districts in the maintenance of a junior college may discontinue such co-operative arrangement at the close of any school year by a majority vote of all members of the school board in such district, provided such action is taken before March 1 of that school year. (Act Apr. 10, 1941, c. 169, Art. XI, §3.)

[131.03]

Reenactment of §2992-2.

3156-11(4). Same—Department of education to have supervision.—The state board of education shall have the same supervision, control and powers over any such junior college when established hereunder as it now has over other departments of the public school systems of the state. (Act Apr. 10, 1941, c. 169, Art. XI, §4.)

[131.04]

Reenactment of §2992-3.

3156-11(5). Same—Use of existing buildings.—Any school board in a district maintaining a junior college or co-operating with one or more school boards of other school districts in the maintenance of a junior college shall have authority to make use of any existing buildings or equipment, or may provide any necessary building or buildings, or equipment, for the establishment and maintenance of any such junior college. (Act Apr. 10, 1941, c. 169, Art. XI, §5.)

[131.05]

Reenactment of §2992-4.

3156-11(6). Same—Tuition.—The school board or school boards having control of any such junior college, on or before August 15 in each year, shall determine and fix the rate of tuition, if any, required to be paid by pupils attending such department, which tuition shall be paid by the pupils attending such junior college, or by the school districts in which such pupils are legal residents. (Act Apr. 10, 1941, c. 169, Art. XI, §6.)

[131.06]

Reenactment of §2992-5.

School board has no right to give scholarships in a junior college. Op. Atty. Gen. (180), May 20, 1941.

3156-11(7). Same—Transporting and boarding students.—The school board of any school district may provide transportation for students residing in such district who are attending a junior college. When it is not feasible to transport students to a junior college the school board in any school district may pay for board and room of such students attending a junior college. (Act Apr. 10, 1941, c. 169, Art. XI, §7.)

[131.07]

Reenactment of §2992-6.

3156-11(8). Special classes—Deaf children.—Upon application of any school district, complying with the provisions of this section and Section 13, Article IX, made to the state commissioner of education, he may grant permission to such district to establish and maintain within its limits one or more schools for the instruction of deaf children who are residents of the state. The state commissioner of education may designate any member of his staff as an inspector to visit and note the progress of such schools and classes as provided for in Sections 8 to 12, inclusive, of this article.

Permission to establish such special classes may be granted to districts which have an actual attendance of not less than five deaf children, over four and not

exceeding the maximum school age, who may come under the provisions of this section.

Blind children, defective speech children and mentally subnormal children are not to be admitted to the same class with deaf children but must each have separate classes and separate teachers. (Act Apr. 10, 1941, c. 169, Art. XI, §8.)

[131.08]

Reenactment of §2894.

District can receive state aid even though some of children in class are nonresident and their parents pay full tuition costs. Op. Atty. Gen. (168c), June 11, 1942.

State board of education is within its province when it makes rules concerning the admission of pupils. Op. Atty. Gen. (168c), June 11, 1942.

3156-11(9). Same—Blind children.—Upon application made to the state commissioner of education by any school district, complying with the provisions of this section and Section 13, Article IX, said commissioner may grant permission to such district to establish and maintain within its limits one or more classes for the instruction of blind children who are residents of the state.

Permission to establish such special classes shall be granted to aforesaid districts which have an actual attendance of not less than five blind children of school age, who may come under the provisions of this section, provided, however, that whenever the parents or guardians of eight blind children of school age in any one district shall petition the school board in writing for the establishment of such class and shall actually enroll said children in the school of the district, it shall be mandatory upon such district to establish such special class, subject to approval by the commissioner of education as required herein, and provided, further, that nothing in this section, shall be construed as preventing parents of any such children from sending their children to state school for blind, if they so elect.

For the purpose of this section, any person of sound mind, who by reason of defective sight, cannot profitably or safely be educated in the public school as other children, shall be considered blind, and, after the establishment of such classes by any school district, the compulsory school laws of this state shall be deemed to apply to such children of school age. (Act Apr. 10, 1941, c. 169, Art. XI, §9.)

[131.09]

Reenactment of §2895.

A class for instruction of the blind cannot be established unless there is an "actual attendance" of not less than five, but state aid may be paid for a blind pupil not enrolled in a sight-saving class but whose work is supervised by a qualified sight-saving teacher. Op. Atty. Gen. (168c), Oct. 3, 1941.

3156-11(10). Schools for children with defective speech.—Upon application made to the state commissioner of education, by any school district complying with the provisions of Section 13, Article IX, he may grant permission to such district to establish and maintain within its limits one or more classes for the instruction of children with defective speech who are residents of the state, provided that there shall not be less than five children with defective speech of school age in actual attendance. (Act Apr. 10, 1941, c. 169, Art. XI, §10.)

[131.10]

Reenactment of §§2896 and 2898.

3156-11(11). Special schools for mentally subnormal children.—Upon application made to the state commissioner of education, by any school district complying with the provisions of Section 13, Article IX, he may grant permission to such district to establish and maintain within its limits one or more classes for the instruction of mentally subnormal children who are residents of the state, provided there shall not be less than five mentally subnormal children of school age in actual attendance. (Act Apr. 10, 1941, c. 169, Art. XI, §11.)

[131.11]

Reenactment of §§2897 and 2898.

3156-11(12). Special classes—Crippled children.

—Upon application made to the commissioner of education by any school district, complying with the provisions of this section and Section 13, Article IX, said commissioner may grant permission to such district to establish and maintain within its limits one or more classes for the instruction of crippled children who are residents of the state, providing there shall be not less than five crippled children of school age in each class, and to provide for instruction in the home for crippled children who are not in physical condition to attend such special classes, provided there are not less than five of such children residing in the district. Nurses may be employed in connection with such classes and expenditures for this purpose may be classified as lawfully authorized expenditures for maintaining these classes. Such nurses shall be registered nurses, and shall be subject to such additional examination as the commissioner of education may require.

For the purposes of this section, any child of school age, other than one of defective hearing, speech or sight, and who is of normal mind but is physically impaired in body or limb and so that he or she cannot profitably or safely be educated in the regular classes as other children, shall be considered crippled and required to attend such classes, unless excused because of infectious disease or other conditions making attendance undesirable, or to receive such instruction in the home. (Act Apr. 10, 1941, c. 169, Art. XI, §12; Apr. 1, 1943, c. 251, §1; Apr. 19, 1943, c. 498, §2.)

[131.12]

Reenactment of §2899.

A child of four is a person of "school age" for purpose of instruction in classes for crippled children. Op. Atty. Gen. (168c), Oct. 20, 1941.

Physical impairment includes cardiac cases. Op. Atty. Gen. (168), May 11, 1943.

Whether a child with lower vitality is "impaired in body" is a question of fact, and this applies to cardiac cases. Op. Atty. Gen. (168), July 7, 1943.

Statute authorizes Commissioner of Education to grant authority upon application of school district in Minneapolis to conduct classes for crippled children at the Elizabeth Kenny Institute. Op. Atty. Gen. (168), Aug. 11, 1943.

3156-11(13). Physical education in public schools—Training schools for teachers to provide courses.

Subdivision 1. 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. 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 provided by this section and Article I, Section 11, Subdivision 14. 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 section or in Article I, Section 11, Subdivision 14, 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 medical examination or treatment; provided that high school students in the junior and senior years need not take said course unless required by the local school authorities.

Subdivision 2. All colleges, schools and other educational institutions in this state giving teacher training shall provide a course or courses in physical and health education, training and instruction and every pupil attending any such college, school or educational institution in preparation for teaching service shall take such course or courses. (Act Apr. 10, 1941, c. 169, Art. XI, §13.)

[131.13]

Reenactment of §§3073 and 3074.

A program of social hygiene concerned primarily with instruction in social hygiene and with class room work on social hygiene is a responsibility of the department

of education and not the department of health, and duties of school nurses should not involve instruction of pupils except perhaps to a very limited extent. Op. Atty. Gen. (170b), July 7, 1943.

3156-11(14). Instruction in morals.—The teachers in all public schools shall give instruction in morals, in physiology and hygiene, and in the effects of narcotics and stimulants. (Act Apr. 10, 1941, c. 169, Art. XI, §14.)

[131.14]

Reenactment of §2906.

A program of social hygiene concerned primarily with instruction in social hygiene and with class room work on social hygiene is a responsibility of the department of education, and not the department of health, and duties of school nurses should not involve instruction of pupils except perhaps to a very limited extent. Op. Atty. Gen. (170b), July 7, 1943.

3156-11(15). Instruction as to effect of alcohol on human system.—The state department of education is 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 Apr. 10, 1941, c. 169, Art. XI, §15.)

[131.15]

Reenactment of §2883-6.

Section 3156-10(4a) requires teacher training to include a course of instruction on effects of alcohol upon the human system.

3156-11(16). Requiring teaching Declaration of Independence and Constitution of United States.—In the eighth grade and in the high school grades or all public schools, and in the corresponding grades in all other schools within the state of Minnesota, and in the educational departments of state and municipal institutions, there shall be given regular courses of instruction in the Declaration of Independence and the Constitution of the United States, to the extent to be determined by the state commissioner of education. (Act Apr. 10, 1941, c. 169, Art. XI, §16.)

[131.16]

Reenactment of §2881.

3156-11(17). Instruction in English language.—The books used and the instruction given in public schools shall be in the English language, but any other language may be used by teachers in explaining to pupils who understand such language the meaning of English words; and in high and graded elementary schools other languages may be taught, when made a part of a regular or optional course of study. Instruction may also be given in such languages in elementary grades, not to exceed one hour in each day, by unanimous vote of the school board. (Act Apr. 10, 1941, c. 169, Art. XI, §17.)

[131.17]

Reenactment of §2873.

3156-11(18). Patriotic exercises.—In all of the ungraded, graded elementary and high schools of this state it shall be the duty of the superintendent or teachers in charge of such schools to teach and require the teaching therein, on at least one day out of each week, of subjects and exercises tending and calculated to encourage and inculcate a spirit of patriotism in the pupils and students.

Such exercises shall consist of the singing of patriotic songs, reading from American history and from the biographies of American statesmen and patriots, and such other patriotic exercises as the superintendent or teachers of such schools may determine.

The time to be spent thereon on each of said days shall not exceed one-half hour. (Act Apr. 10, 1941, c. 169, Art. XI, §18.)

[131.18]

Reenactment of §2880.

Salute to flag and pledge of allegiance may be enforced by excluding pupils from school. Op. Atty. Gen. (927), Oct. 7, 1942.

Persons in charge of schools may require pupils to salute the flag and pledge allegiance thereto. Op. Atty. Gen. (927), Dec. 2, 1942.

Child refusing to salute flag may be excluded from attendance, and parent may be prosecuted for not providing instruction after exclusion. Op. Atty. Gen. (927), Dec. 16, 1942.

3156-11(19). "Minnesota Day"—How observed.—May 11, is hereby designated as Minnesota Day and when it does not fall on a school day, the school day nearest such day is designated as Minnesota Day. On that day all the public schools of this state shall give special attention to exercises devoted to matters of interest appertaining to the state of Minnesota and its geography, history, industries and resources. (Act Apr. 10, 1941, c. 169, Art. XI, §19.)

[131.19]

Reenactment of §§2878 and 2879.

3156-11(20). Columbus Day—Leif Erikson Day—Frances Willard Day.—The following days or the school days nearest such days are hereby designated for special observance in the public schools of the state: September 28 as Frances Willard Day, October 9 as Leif Erikson Day, and October 12 as Columbus Day. On such days 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 the respective persons and the principles and ideals they fostered. (Act Apr. 10, 1941, c. 169, Art. XI, §20.)

[131.20]

Reenactment of §§2883-1, 2883-2 and Laws 1921, c. 414.

3156-11(20a). Susan B. Anthony Day.—That the 15th day of February of each year is hereby designated as "Susan B. Anthony Day," and whenever it does not occur on a school day the first preceding school day shall be observed in all public schools as "Susan B. Anthony Day." On such day, the United States flag shall be appropriately displayed on all public buildings, schools or public grounds. Adequate time shall be devoted at all public schools on that day by appropriate exercises to commemorate the life history, ideals and work of Susan B. Anthony. (Act Mar. 23, 1941, c. 107, §1.)

[131.20]

3156-11(21). Length of school year.—The school shall be maintained not less than eight months, but this provision shall not apply to night schools or kindergartens. The school month shall consist of four weeks. Every Saturday shall be a school holiday and all legal holidays shall be counted as a part of the school week. (Act Apr. 10, 1941, c. 169, Art. XI, §21.)

[131.21]

Reenactment of §2872.

Board and not annual meeting are to fix opening day of school, and if school board fixes opening day as September 1st, and that happens to be a holiday, labor day, it must be counted as a part of the school week. Op. Atty. Gen. (160c), Dec. 15, 1941.

School board may, in its discretion, dispense with spring vacation, but may not compel a teacher to teach on Saturday or compel a pupil to attend on Saturday. Op. Atty. Gen. (160C), Jan. 16, 1942.

Independent school district may maintain summer school at expense of district, but a child may not be compelled to attend. Op. Atty. Gen. (160), May 14, 1942.

3156-11(22). Conduct of schools on certain holidays.—The governing body of any school district may in its discretion, contract with any of the teachers thereof for the conduct of schools, and may conduct schools on either, or any, of the following holidays, provided that a clause to this effect is inserted in the teacher's contract: Lincoln's and Washington's birthdays, Election day and Armistice day, provided that on Washington's birthday, Lincoln's birthday and Armistice day at least one hour of the school program be devoted to a patriotic observance of the day. (Act Apr. 10, 1941, c. 169, Art. XI, §22.)

[131.22]

Reenactment of §2872-1.

Board may conduct school on Lincoln's and Washington's birthdays, Election Day and Armistice Day, provided that on Washington's Birthday, Lincoln's Birthday

and Armistice Day at least one hour of school program be devoted to patriotic observance of the day. Op. Atty. Gen. (160C), Jan. 16, 1942.

3156-11(23). United States flag—School boards to provide flags and staffs.—

Subdivision 1. There shall be displayed at every public school in Minnesota, when in session, an appropriate United States flag. Such display shall be upon the school grounds or outside the school building, upon a proper staff, on every legal holiday, occurring during the school term, and at such other times as the respective boards of such school districts may direct and within the principal room of such school building at all other times while the same is in session.

Subdivision 2. It shall be the duty of each school board and board of education to provide such flag for each of the school buildings of their respective districts, together with a suitable staff for the display thereof outside of such school building and proper arrangement for the display thereof within such building, and a suitable receptacle for the safe-keeping of such flag when not in use, as by this section directed at all times. (Act Apr. 10, 1941, c. 169, Art. XI, §23.)

[131.23]

Reenactment of §§2882 and 2883.
Persons in charge of schools may require pupils to salute the flag and pledge allegiance thereto. Op. Atty. Gen. (927), Dec. 2, 1942.

3156-11(24). School safety patrols—Who may be appointed—Liability.—

Subdivision 1. In the exercise of authorized control and supervision over pupils attending schools and other educational institutions, both public and private, 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.

Subdivision 2. 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.

Subdivision 3. 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 Apr. 10, 1941, c. 169, Art. XI, §24.)

[131.24]

Reenactment of §§2883-3, 2883-4 and 2883-5.
No expenditure of funds for equipment of school safety patrol is authorized. Op. Atty. Gen. (159b-10), Apr. 16, 1942.

3156-11(25). Secret fraternities in public schools—Directors duties—Rules and regulations—Rushing or soliciting—Penalty.—

Subdivision 1. It shall be unlawful for any pupil, registered as such, and attending any public elementary, high school, junior college or vocational school, which is partially or wholly maintained by public funds, to join, become a member of, or to solicit any other pupil of any such school to join, or become a member of any secret fraternity or society wholly or partially formed from the membership of pupils attending any such schools or to take part in the organization or formation of any such fraternity or society, except such societies or associations as are sanctioned by the school boards of such schools.

Subdivision 2. The school boards of all such schools shall enforce the provisions of this section and shall have full power and authority to make, adopt and modify all rules and regulations which in their judgment and discretion may be necessary for the proper governing of such schools and enforcing all the provisions of this section.

Subdivision 3. The school boards of such schools shall have full power and authority, pursuant to the adoption of such rules and regulations made and adopted by them, to suspend or dismiss any pupil or pupils of such schools therefrom, or to prevent them, or any of them, from graduating or participating in school honors when, after investigation, in the judgment of such school boards, or a majority of their membership, such pupil or pupils are guilty of violating any of the provisions of this section or who are guilty of violating any rule, rules or regulations adopted by such school boards for the purpose of governing such schools or enforcing this section.

Subdivision 4. It is hereby made a misdemeanor for any person, not a pupil of such schools, to be upon the school grounds, or to enter any school building for the purpose of "rushing" or soliciting, while there, any pupil or pupils, of such schools to join any fraternity, society or association organized outside of said schools. All municipal courts and justice courts in this state shall have jurisdiction of all offenses committed under this subdivision, and all persons found guilty of such offenses shall be fined not less than \$2.00 nor more than \$10.00, to be paid to the city or village treasurer, when such schools are situated inside of the corporate limits of any city or village, and to the county treasurer, when situated outside of the corporate limits of any such city or village, or upon failure to pay such fine, to be imprisoned for not more than ten days. (Act Apr. 10, 1941, c. 169, Art. XI, §25.)

[131.25]

Reenactment of §§2874, 2875, 2876 and 2877.

ARTICLE XII

ADMISSION AND ATTENDANCE

ANALYSIS

- 3156-12(1). Public schools—Tuition free—Age of Pupils.
- 3156-12(2). Children may attend school in adjoining district in certain cases.
- 3156-12(3). Authority to pay high school tuition in adjoining state.
- 3156-12(4). School census—Method of counting—Compensation.
- 3156-12(5). Compulsory attendance—Exceptions.
- 3156-12(6). Same—Duties of school board and teachers.
- 3156-12(7). Same—Duty of county superintendent, principal, teacher, etc.
- 3156-12(8). Same—Duty of Commissioner of Labor.
- 3156-12(9). Truant officers—Duties.
- 3156-12(10). Truant schools—Juvenile court.
- 3156-12(11). Relief of indigent children of school age.
- 3156-12(12). Duty of truant officer and teacher.
- 3156-12(13). Violation of duty by officers, teachers, etc.
- 3156-12(14). Same—Penalty.

3156-12(1). Public schools—Tuition free—Age of pupils.—All schools supported in whole or in part by state school funds shall be styled public schools and admission to and tuition therein shall be free to all persons between the ages of five and 21 years, in the district in which such pupil resides. Provided that the school board of any district may by resolution, exclude all children under six years of age, and may also adopt rules and regulations for the admission of children who become six years of age during the school year after the commencement thereof. (Act Apr. 10, 1941, c. 169, Art. XII, §1.)

[132.01]

Reenactment of §2741.
Public schools in Minneapolis may not charge a fee to students for carrying made-up work or additional credit work in summer school or evening school, and though board can set a standard pupil load, it cannot charge any fees for any work over the standard load. Op. Atty. Gen. (180), Jan. 5, 1942.

Children refusing to give flag salute which is a part of patriotic exercises may be excluded from the school

and parents charged with neglecting to provide education. Op. Atty. Gen. (927), Apr. 15, 1942.

Pupils may not be compelled to pay English, Literature, or platoon fees. Op. Atty. Gen. (285d), June 1, 1942.

District may pay tuition of handicapped child three and one-half years of age if he has sufficient capacity to receive instruction. Op. Atty. Gen. (169d), July 30, 1942.

Residence of parent is not necessarily determinative of question of residence of children. Op. Atty. Gen. (180), Sept. 22, 1942.

Free instruction is not guaranteed to persons over 21 years of age, and whether such persons are entitled to free instruction is a matter for decision of board. Id.

A county is not charged with education of its residents. Id.

Age limit of kindergarten pupils may be determined by regulation adopted by school board. Op. Atty. Gen. (169a), Sept. 26, 1942.

Residence is a question of fact, but a child who actually resides in a locality is entitled to attend school there although his domicile and place of his parents' residence is in another place. Op. Atty. Gen. (169d), Aug. 26, 1943.

3156-12(2). Children may attend school in adjoining district in certain cases.—

Subdivision 1. The child or children of any person in this state not resident within the limits of any incorporated city or village of this state, and residing more than two miles by the nearest traveled road from the schoolhouse in the district where such child or children reside, are hereby authorized to attend school at a school or schoolhouse in an adjoining district nearer to such residence than the said schoolhouse in the said district where such child or children reside, upon such reasonable terms as shall be fixed by the school board of such adjoining district, upon application of the parents or guardian of such child or children, provided that this section shall not apply where transportation is furnished by the home district.

Subdivision 2. The school board of the child's resident district shall pay such tuition to the school board of the adjoining district in which the child is attending. In case the school board of the child's resident district is not satisfied or cannot comply with the terms and conditions fixed and determined by the school board of such adjoining district, and shall apply to the state commissioner of education for that purpose, the state commissioner of education shall give such notice of such application to the clerk of the school board of such adjoining district as shall be determined by such commissioner of education, and shall, after such notice, decide such application and fix such terms and conditions for the attendance of such child or children in such adjoining district as shall be just and reasonable, and thereupon such child or children may attend such school in such adjoining district upon compliance with the terms fixed by such commissioner of education, the same in other respects as if resident in the district where such schoolhouse is situated. Provided, that nothing herein contained shall be construed as repealing, amending or modifying the provisions of Article VI. Section 6, Subdivisions 7, 8, 11, 13 and 14. (Act Apr. 10, 1941, c. 169, Art. XII, §2.)

[132.02]

Reenactment of §2823.

School district sending students who live more than two miles from school house to an adjoining district, after annual school meeting has voted an eight months school, may pay nine months tuition. Op. Atty. Gen. (180a), June 9, 1941.

Neighboring district where child attends school cannot compel district in which pupil resides to pay tuition for several years past before any tuition has been agreed upon and no effort was previously made by district in which child attended school to collect such tuition. Op. Atty. Gen. (180D), Mar. 4, 1942.

If school is closed and transportation furnished for children to a town, there is no authority for furnishing transportation or paying tuition at an adjoining school district. Op. Atty. Gen. (622j-1), Apr. 16, 1942.

Since the Glen Lake School District does not adjoin the Minneapolis School District, provisions of this section do not apply so as to make Minneapolis School District liable for instruction of Minneapolis children in Glen Lake Sanatorium. Op. Atty. Gen. (180), Sept. 22, 1942.

Children may attend school in another district when their school is more than two miles distant from residence and other school is nearer, but have no such right where other school is farther. Op. Atty. Gen. (166a-10), Oct. 8, 1942.

Where children resided more than two miles from schoolhouse and closer to schoolhouse in another district, and parents desired to send them to school in adjoining district, and board signified it was willing to pay tuition for these children in the other district or in the alternative pay parents for transportation of their children to the school in their own district, children are entitled to attend school in adjoining district, which may be compelled to accept them. Op. Atty. Gen. (166a-10), Oct. 21, 1942.

Subd. 2.

Right to attend nearer school in adjoining district begins when tuition rate is established, and before agreement on part of adjoining district to educate child, child can be excluded from school in that district, and parent of child is subject to penalties of compulsory law for failure to send child to school even though he contemplates sending child to school in adjoining district when arrangements have thereafter been made. Op. Atty. Gen. (180d), March 25, 1943.

3156-12(3). Authority to pay high school tuition in adjoining state.—Any person under 21 years of age residing in any school district of this state not maintaining a high school, who has successfully completed the eighth grade, may, with the consent of a majority of the school board of his resident district, expressed at a meeting thereof, attend any high school in an adjoining state willing to admit him, which high school is nearer to his place of residence than any duly established high school in Minnesota, the distances being measured by the usual traveled routes. 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 nonresident pupils residing in such state if any such tuition is charged, and if no tuition is charged for nonresident 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 for the payment of apportionment and other state aids. Provided further that the resident district may be reimbursed from state funds for the tuition paid in an accredited high school of another state where the pupil has the scholastic qualifications to be entitled to nonresident high school aid in Minnesota, but such reimbursement shall not exceed the rate of tuition paid for nonresidents 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 state commissioner of education. (Act Apr. 10, 1941, c. 169, Art. XII, §3.)

[132.03]

Reenactment of §§2823-2 and 2823-3.

3156-12(4). School census—Method of counting—Compensation.—A complete school census shall be taken in every school district annually between August 15 and September 15, of all children under 21 years of age, as of September 1, which census shall show the name and date of birth of each person required to be enumerated and the name and address of his parent, guardian or other person having charge of such child, and such other data as the state board of education may require. The school census shall be taken by the clerk of the school board, or by some other person or persons appointed by the school board. Such person or persons taking such census shall make three copies thereof, shall certify to the school board the correctness of the enumeration and the information therein contained. The clerk shall retain the original in his office, send one copy to the county superintendent, and one copy to the principal teacher, principal or city superintendent of the school district, before the first day of school of each school year, or as soon as said census has been taken. The school board shall fix the compensation for this work. Each child shall be counted in only one district, being that

in which the child resides on September 15, and it shall be the responsibility of the county superintendent of schools to see that each child shall be counted only once. (Act Apr. 10, 1941, c. 169, Art. XII, §4.)

[132.04]

Reenactment of §3086.

3156-12(5). Compulsory attendance—Exceptions.—

Subdivision 1. Every child between eight and 16 years of age shall attend a public school, or a private school, in each year during the entire time the public schools of the district in which the child resides are in session; provided, however, that no child shall be required to attend public school more than ten months during any calendar year.

Subdivision 2. A school, to satisfy the requirements of compulsory attendance, must be one in which all the common branches are taught in the English language, from textbooks written in the English language and taught by teachers whose qualifications are essentially equivalent to the minimum standards for public school teachers of the same grades or subjects. A foreign language may be taught when such language is an elective or a prescribed subject of the curriculum, but not to exceed one hour in each day.

Subdivision 3. Such child may be excused from attendance upon application of his parent, guardian, or other person having control of such child, to any member of the school board, truant officer, principal, or city superintendent, for the whole or any part of such period, by the school board of the district in which the child resides, upon its being shown to the satisfaction of such board:

(a) That such child's bodily or mental condition is such as to prevent his attendance at school or application to study for the period required; or

(b) That such child has already completed the studies ordinarily required in the eighth grade; or

(c) That it is the wish of the parent, guardian or other person having control of such child, that he attend for a period or periods not exceeding in the aggregate three hours in any week, a school for religious instruction, conducted and maintained by some church or association of churches, or any Sunday school association incorporated under the laws of this state, or any auxiliary thereof, such school to be conducted and maintained in a place other than a public school building, and in no event, in whole or in part, at public expense; provided that a child may be absent from school on such days as said child attends upon instruction according to the ordinances of some church.

(d) That there is no public school within reasonable distance of his residence, or that conditions of weather and travel make it impossible for the child to attend; provided, that any child 14 years of age or over, whose help may be required in any permitted occupation in or about the home of his parent or guardian may be excused from attendance between April 1 and November 1 in any year; but this proviso shall not apply to any cities of the first and second class.

The clerk or any authorized officer of the school board shall issue and keep a record of such excuses, under such rules as the board may from time to time establish. (Act Apr. 10, 1941, c. 169, Art. XII, §5.) [132.05]

Reenactment of §3080.

The law in this state imposes upon a father an obligation to support and educate his minor children, so that income of trust created by him to provide for the maintenance and education of such children is taxable income of the father. *Mairs v. Reynolds*, (CCA8), 120F(2d)857. See *Dun. Dig.* 7302, 9570e.

Children refusing to give flag salute which is a part of patriotic exercises may be excluded from the school and parents charged with neglecting to provide education. *Op. Atty. Gen.* (927), Apr. 15, 1942.

Independent school district may maintain summer school at expense of district, but a child may not be compelled to attend. *Op. Atty. Gen.* (160), May 14, 1942.

A child under 16 graduated from grade school in a district having no high school may be required to at-

tend high school in another district if furnished transportation. *Op. Atty. Gen.* (169b), Nov. 16, 1942.

Child refusing to salute flag may be excluded from attendance, and parent may be prosecuted for not providing instruction after exclusion. *Op. Atty. Gen.* (927), Dec. 16, 1942.

Parent is subject to penalties for failure to send child to school even though he contemplates sending child to school in adjoining district when arrangements have thereafter been made. *Op. Atty. Gen.* (180d), March 25, 1943.

Where weather prevents teacher from reaching school for several weeks, and the school board decides to hold school beyond the term for two weeks, parents can be compelled to send their children to school after the regular closing date of school. *Op. Atty. Gen.* (164), May 29, 1943.

Subd. 2.

It is duty of local school officials, through their truant officers, to see that teachers in private schools and private tutors possess qualifications and teach a course substantially equivalent to same grade in public school. *Op. Atty. Gen.* (169b), May 7, 1941.

Subd. 3.

Excusing attendance of a child under sixteen who has finished eighth grade is discretionary with board. *Op. Atty. Gen.* (169b), Feb. 23, 1943.

It is not proper to add the title "religious instruction" upon report cards of high school students and then state grades received by the pupils, since religious instruction cannot be given in a public school or at public expense. *Op. Atty. Gen.* (169c), July 1, 1943.

Subd. 3(c).

Excusing attendance of a child under sixteen who has finished eighth grade is discretionary with board. *Op. Atty. Gen.* (169b), Feb. 23, 1943.

It is not proper to add the title "religious instruction" upon report cards of high school students and then state grades received by the pupils, since religious instruction cannot be given in a public school or at public expense. *Op. Atty. Gen.* (169c), July 1, 1943.

Subd. 3(c).

Religious instruction for which a pupil may be excused from school cannot be given in a school building in which school is being maintained. *Op. Atty. Gen.* (170F-4), Oct. 8, 1941.

School pupils cannot be compelled or required to gather in schoolhouse just before opening of school in the morning and during noon recess to pray, but if they meet voluntarily for prayers, there is no power able to stop them, and school board may not dismiss school at eleven o'clock in the morning or early in the afternoon to permit religious instruction to be given in schoolhouse or any other place, though pupils desiring religious instruction outside school may be excused. *Op. Atty. Gen.* (170F-4), Jan. 5, 1942.

3156-12(6). Same—Duties of school board and teachers.—It shall be the duty of each school board, through its clerk or other authorized agent or employee, to report the names of children between six and 16 years of age, with the excuses, if any, granted in such district, to the superintendent or principal teacher thereof, within the first week of school, and any subsequent excuses granted shall be forthwith reported in the same manner. The superintendent or principal teacher shall provide the teachers in the several schools under his supervision, with the necessary information for the respective grades of school, relating to the list of pupils with excuses granted. On receipt of the list of such pupils of school age and the excuses granted, the superintendent or principal teacher shall report the names of children not excused, who are not attending school with the names and addresses of their parents, to the county superintendent of schools within five days after receiving the clerk's report. The several teachers in a graded elementary or high school shall report to the principal or to the city superintendent, in like manner. (Act Apr. 10, 1941, c. 169, Art. XII, §6.) [132.06]

Reenactment of §3081.

3156-12(7). Same—Duty of county superintendent, principal teacher, etc.—

Subdivision 1. The county superintendent of schools shall forthwith notify the parent, guardian or person in charge to send such child, of whose unexcused absence he has been informed, to school and upon his neglect or refusal to comply with the notification, the county superintendent shall, upon receipt of information of such noncompliance, notify the county attorney of the facts in each case. The principal of a graded elementary school or the superintendent of a

district maintaining a high school, or a city superintendent, shall proceed in like manner as provided in this section respecting the county superintendent of schools. Notification by registered mail shall be considered sufficient notice.

Subdivision 2. It shall be the duty of the principal, teacher or other person in charge of any private school to make reports at such times and containing such information as is herein required, respecting public schools. Such report shall be made to the county superintendent of schools in whose county such private school is located, except that where such private school is located in a city or in a district maintaining a high school, or a graded elementary school, such reports shall be made to the city superintendent of schools or to the superintendent or principal of the high or graded elementary school.

Subdivision 3. The county superintendent, city superintendent, principal of graded elementary school or superintendent of a district maintaining a high school, as the case may be, shall make and file a criminal complaint against the person or persons neglecting or refusing to comply with the provisions of Sections 5 to 8, inclusive, of this article, relating to the sending of a child or children to school, in any court in said county having jurisdiction of the trial of misdemeanors, and upon making of such complaint a warrant shall be issued and proceedings and trial be had as provided by law in cases of misdemeanor. All prosecutions under Sections 5 to 8, inclusive, of this article, shall be conducted by the county attorney of the county wherein the offense is committed. (Act Apr. 10, 1941, c. 169, Art. XII, §7.)

[132.07]

Reenactment of §3082.

3156-12(8). Same—Duty of Commissioner of Labor.—The commissioner of labor and his assistants shall assist in the enforcement of the provisions of Sections 5 to 8, inclusive, of this article, and shall have authority to examine the excuses granted thereunder, to make investigation into the causes for which excuses have been granted, and to revoke and cancel any that may be found to be granted without proper or sufficient cause. (Act Apr. 10, 1941, c. 169, Art. XII, §8.)

[132.08]

Reenactment of §3085.

3156-12(9). Truant officers—Duties.—The board of any district may appoint and remove at pleasure truant officers, who shall investigate all cases of truancy or nonattendance at school, make complaints, serve notice and process, and attend to the enforcement of all laws and school regulations respecting truant, incorrigible and disorderly children, and school attendance. Whenever any truant officer learns of any case of habitual truancy or continued nonattendance of any child hereby required to attend school he shall immediately notify the person having control of such child to forthwith send to and keep him in school. He may arrest without warrant and take to school any such child and shall act under the general supervision of the board, or, when directed by the board, under that of the city or district superintendent.

He shall transmit annually on or before the first day of July, each year, to the state commissioner of education, a report of the number of cases of truancy and nonattendance investigated by him and the disposition made in each case. Such officer shall receive a salary, fixed by the board appointing him, but no fees. (Act Apr. 10, 1941, c. 169, Art. XII, §9.)

[132.09]

Reenactment of §3087.

3156-12(10). Truant schools—Juvenile court.—Such boards may maintain ungraded schools for the instruction of children of the following classes between eight and 16 years of age:

(a) Habitual truants.

(b) Those incorrigible, vicious or immoral in conduct.

(c) Those who habitually wander about the streets or other public places during school hours, without lawful employment.

All such children shall be deemed delinquent and the board may compel their attendance at such truant school, or any department of the public schools, as the board may determine, and may cause them to be brought before the juvenile court of the county for appropriate discipline. (Act Apr. 10, 1941, c. 169, Art. XII, §10.)

[132.10]

Reenactment of §3088.

3156-12(11). Relief of indigent children of school age.—Every board of education or school board of any school district shall investigate or cause to be investigated, by a truant officer or other authorized officer, all cases reported to it or coming to its knowledge of any child within its jurisdiction required by law to attend school that it is claimed to be unable to do so by reason of the fact that the services of such child are required for the support of himself or herself, or to assist in the support or care of others legally entitled to his or her services, such person or persons being unable to support or care for themselves. When such board of education or school board shall report to the county auditor of the county in which the school district is situated the facts as ascertained by them and that relief is necessary, thereupon the board of county commissioners may after investigation, furnish such relief as will enable the child to attend school during the entire school year, such relief to be furnished by such board of county commissioners, from the poor fund of such county, and the board of education or school board of the school district shall furnish for the use of such child the necessary textbooks free of charge. (Act Apr. 10, 1941, c. 169, Art. XII, §11.)

[132.11]

Reenactment of §3090.

3156-12(12). Duty of truant officer and teacher.—The truant officer or other authorized officer shall notify the teacher to whom any child receiving aid under the provisions of Section 11 of this article may be assigned, and it shall be the duty of the teacher having charge of such child to report monthly to the board of education, or the school board of the school district, through the superintendent of schools, the progress such child is making in his or her school work, and the record of attendance, together with such other information as may be deemed necessary. Such truant officer or other authorized officer, shall receive the same compensation for the time engaged under the provisions of Sections 11 and 12 of this article, as he receives for similar services performed by him and shall be paid in the same manner. (Act Apr. 10, 1941, c. 169, Art. XII, §12.)

[132.12]

Reenactment of §3091.

3156-12(13). Violations of duty by officers, teachers, etc.—Any school officer, truant officer, teacher of a public or private school, graded elementary school principal, city superintendent or county superintendent of schools refusing, willfully failing or neglecting to perform any duty imposed upon him by the provisions of Section 5 to 8 inclusive of this article shall be guilty of a misdemeanor, and upon conviction thereof shall be punished for each offense by a fine not to exceed \$10.00 or by imprisonment in the county jail not to exceed ten days. All such fines, when collected, shall be paid into the county treasury for the benefit of the school district in which such offense is committed. (Act Apr. 10, 1941, c. 169, Art. XII, §13.)

[132.13]

Reenactment of §3084.

3156-12(14). Same—Penalty.—Any person who shall fail or refuse to send to or keep in school any

child of whom he has legal charge or control, and who is required by law to attend school, when notified so to do by a truant officer, or other official as hereinbefore provided, or any person who induces or attempts to induce any such child unlawfully to absent himself from school, or who knowingly harbors or employs, while school is in session, any child unlawfully absent from school, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not to exceed \$50.00, or by imprisonment in the county jail for not more than 30 days. All such fines, when collected shall be paid into the county treasury for the benefit of the school district in which such offense is committed. (Act Apr. 10, 1941, c. 169, Art. XII, §14.)

[132.14]

Reenactment of §3089.

ARTICLE XIII SAVING PROVISIONS

ANALYSIS

3156-13(1). Repealed and reenacted statutes deemed continuation of preexisting laws.

3156-13(1). Repealed and reenacted statutes deemed continuation of pre-existing laws.—Any and all portions of existing statutes hereby repealed, which are reenacted by this act, shall be deemed to be a continuation of laws heretofore existing, and all present boards, board members, officers, positions and employees, shall continue to hold their respective offices and positions for the balance of their present terms, or until otherwise succeeded or removed by law. (Act Apr. 10, 1941, c. 169, Art. XIII, §1.)

ARTICLE XIV REPEALS

ANALYSIS

3156-14(1). Statutes repealed.

3156-14(1). Statutes repealed.—Except as provided in Article XIII of this act, Mason's Minnesota Statutes of 1927, Sections 958 to 962, 2741 to 2747, 2748-1, 2750, 2754 to 2780, 2781 to 2800, 2801-1 to 2802-11, 2803, 2804, 2810 to 2818, 2819 to 2843, 2846 to

2848, 2850 to 2865a, 2868 to 2883, 2884 to 2935-14, 2951 to 2953, 2954 to 2980, 2983 to 3014, 3022 to 3036-5, 3063-1 to 3063-6, 3074 to 3076, 3080 to 3103, 5656 to 5660 and 7899, all section numbers inclusive; Mason's Supplement 1940, Sections 960, 2748, 2753 to 2780-15, 2780-17a to 2793-1, 2802 to 2802-4j, 2803-1 to 2807-1, 2814 to 2816-10, 2822 to 2839-2, 2844, 2849-1 to 2866-½, 2867 to 2883-7, 2900-1 to 2903-1, 2962-1 to 2962-5, 2991-1 to 3013, 3014-6, 3021-11 to 3021-14, 3023 to 3047-5, 3073, and 3086, all section numbers inclusive; General Statutes 1913, Sections 2719 to 2724, 2891 and 2892, all section numbers inclusive; Laws 1915, Chapter 111; Laws 1917, Chapter 306; Laws 1917, Chapter 387; Laws 1921, Chapter 414, and Laws 1935, Chapter 209, are hereby repealed. (Act Apr. 10, 1941, c. 169, Art. XIV, §1.)

ARTICLE XIVA SCHOOL BUS SERVICE

3156-14A(1). Equipment of busses. [Repealed.]

Repealed. Laws 1943, c. 447.
Act applies to school busses owned by a school district or board. Op. Atty. Gen. (166a-9), Nov. 4, 1941.

3156-14A(2). Attendants to have first aid training. [Repealed.]

Repealed. Laws 1943, c. 447.

3156-14A(3). Permits to operate—Compliance with minimum standards—Fees. [Repealed.]

Repealed. Laws 1943, c. 447.
Fees must be turned into general revenue fund and are not available for expenses of administration. Op. Atty. Gen. (9a-18), June 12, 1941.

3156-14A(4). Gratuitous service; etc. [Repealed.]

Repealed. Laws 1943, c. 447.
Words "certain occasions" refer to occasional and exceptional events such as school picnics and athletic events. Op. Atty. Gen. (166A-9), Sept. 18, 1941.
St. Cloud Bus Lines must first secure a permit, since St. Cloud is not a city of the first class. Op. Atty. Gen. (166A-9), Sept. 26, 1941.

Transportation company operating busses within cities of St. Paul and Minneapolis and transporting school children on a part-time basis is not required to qualify its drivers and busses under this act, being licensed for common carrier service by railroad and warehouse commission. Op. Atty. Gen. (166A-9), Oct. 16, 1941.

3156-14A(5) and 3156-14A(6). [Repealed.]

Repealed. Laws 1943, c. 447.

CHAPTER 15

Relief of the Poor

GENERAL PROVISIONS

3157. Support of poor.

Any county, county welfare board, city, town, village, or other subdivision of the state or any relief or welfare agency, may act as agent of federal, state or local government in furtherance of commodity stamp plans. Laws 1941, c. 98.

Laws 1941, c. 99, validates participation in federal commodity stamp plans.

Notes of Decisions

Humphrey v. T., 208M544, 295NW53; note under §3159. Evidence held to sustain finding that recipient of aid was a pauper. Galow, 210M267, 297NW743. See Dun. Dig. 7430.

Counterclaim by parents to compel plaintiff child to contribute to support. Fitzke v. Fitzke, 210M430, 298NW 712. See Dun. Dig. 7426.

Under contention that statute creates a presumption of pecuniary loss to a parent from death of a child by wrongful act of another, verdict for \$1,650 was not so inadequate as to require new trial. Gamble v. Smith, 211M 457, 1NW(2d)411. See Dun. Dig. 7426.

An action by administrator for death should not have been dismissed because surviving spouse was not in fact the wife of decedent, where there was a surviving sister, even though no testimony was offered as to her loss from her brother's death, statute obligating brother and sister to support each other, and plaintiff being entitled to recover funeral expenses in addition to any damages to next of kin. Rogers v. Cordingley, 212M546, 4NW(2d)627. See Dun. Dig. 2608.

A person who can and does support himself is not a poor person and is not chargeable or removable as such, though in the past he had been receiving relief which has been terminated. Lucht v. Bell, 214M318, 8NW(2d)26. See Dun. Dig. 7425a.

A poor person is one who for any reason is unable to earn a livelihood. Id. See Dun. Dig. 7425a.

One cannot be considered to be a poor person simply because he might at some unascertained future time become chargeable. Id. See Dun. Dig. 7425a.

To dwell peacefully within the state and to move at will from place to place therein is a constitutional right. Id. See Dun. Dig. 7431.

An annulment decree destroyed marriage relation so that former husband was no longer a "husband" within meaning of Pennsylvania statute placing liability for maintenance on husband of an inmate in an institution maintained in whole or in part by the commonwealth, though the decree provided that the former husband should maintain the former wife during her lifetime at the Pennsylvania hospital or some other suitable place, following which the former husband paid all bills presented by the county hospital and had no knowledge that commonwealth was making weekly contribution to such county hospital on certified indigents. Commonwealth of Pennsylvania v. Tappan, 215M22, 9NW(2d)18. See Dun. Dig. 7426.

A Pennsylvania statute placing liability for maintenance on husband and other relatives of inmates in institutions maintained in whole or in part by the commonwealth of Pennsylvania is to be strictly construed. Id. See Dun. Dig. 7426.

Welfare board may consider earnings of National Guardsmen on same basis as other earned income in determining eligibility for public relief, and computing