

University of the State of New York Bulletin

Entered as second-class matter August 2, 1913, at the Post Office at Albany, N. Y., under the act of August 24, 1912. Acceptance for mailing at special rate of postage provided for in section 1103, act of October 3, 1917, authorized July 19, 1918

Published Fortnightly

No. 759

ALBANY, N. Y.

June 1922

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EDUCATION LAW

AS AMENDED TO JULY 1, 1922

EXCHANGE
MAY 8 1922

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ALBANY
THE UNIVERSITY OF THE STATE OF NEW YORK
1922

EXCHANGE



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CONSTITUTIONAL PROVISIONS RELATING TO EDUCATION

Constitution, art. 9

§ 1 **Common schools.** The Legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this State may be educated.

§ 2 **Higher education.** The corporation created in the year 1784, under the name of the Regents of The University of the State of New York, is hereby continued under the name of the University of the State of New York. It shall be governed and its corporate powers, which may be increased, modified or diminished by the Legislature, shall be exercised, by not less than nine Regents.

§ 3 **Educational funds.** The capital of the common school fund, the capital of the literature fund, and the capital of the United States deposit fund, shall be respectively preserved inviolate. The revenue of the said common school fund shall be applied to the support of common schools; the revenue of the said literature fund shall be applied to the support of academies; and the sum of \$25,000 of the revenues of the United States deposit fund shall each year be appropriated to and made part of the capital of the said common school fund.

§ 4 **Restrictions of subsidies.** Neither the State nor any subdivision thereof, shall use its property or credit or any public money, or authorize or permit either to be used, directly or indirectly, in aid or maintenance, other than for examination or inspection, of any school or institution of learning wholly or in part under the control or direction of any religious denomination, or in which any denominational tenet or doctrine is taught.

AMERICAN

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1922

~~EXCHANGE~~
EDUCATION LAW
AS AMENDED TO JULY 1, 1922

[NOTE: — In compiling this edition, the text of such articles of the Education Law as do not relate to the administration of the public schools generally, has been omitted.]

L. 1910, CHAP. 140 — An act to amend the Education Law,
generally

[In effect April 22, 1910]

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1, Chapter 21 of the Laws of 1909, entitled "An act relating to education, constituting chapter 16 of the Consolidated Laws", is hereby amended to read as follows:

CHAPTER 16 OF THE CONSOLIDATED LAWS
EDUCATION LAW

- Article 1 Short title and definitions (§§ 1, 2)
- 2 Education Department (§§ 20-27)
- 3 University of the State of New York (§§ 40-79)
- 4 Commissioner of Education (§§ 90-99)
- 5 School districts (§§120-54)
- 6 School neighborhoods (§§ 170-72)
- 6-A Temporary school districts (§§ 175-79)
- 6-B Central rural schools (§§ 180-86)
- 6-C Central high school districts (§§ 187-89-1)
- 7 District meetings (§§ 190-207)
- 7-A School elections in certain cities (§§ 208-18)
- 8 School district officers; general provisions (§§ 220-36)
- 9 District clerk, treasurer, collector (§§ 250-57)
- 10 Trustees (§§ 270-85)
- 11 Boards of education (§§ 300-28)
- 12 Town clerks (§§ 340, 341)
- 13 Supervisors (§§ 360-66)
- 14 District superintendent of schools; his election, powers and duties (§§ 380-98)
- 15 Assessment and collection of taxes (§§ 410-40)
- 16 School buildings and sites (§§ 450-67)
- 17 School district bonds (§ 480)
- 18 School moneys (§§ 490-502)
- 19 Trust for schools; gospel and school lots (§§ 520-28)
- 20 Teachers and pupils (§§ 550-68)
- 20-A Medical inspection (§§ 570-77)
- 20-B Children with retarded mental development (§§ 578-79)
- 21 Contract system (§§ 580-86)

- Article 22 General industrial schools, unit trade and technical schools, part-time or continuation schools, practical arts or homemaking schools, and schools of agriculture, mechanic arts and home-making (§§ 600-8)
- 22-A Farm school in counties (§§ 610-19-b) .
- 23 Compulsory education (§§ 620-38)
- 24 School census (§§ 650-54)
- 25 Textbooks (§§ 670-74)
- 26 Physiology and hygiene (§§ 690, 691)
- 26-A Discipline and physical training (§§ 695-98)
- 26-B Instruction in the humane treatment of animals and birds (§ 700)
- 26-C Instruction in patriotism and citizenship (§§ 705, 706)
- 27 The flag (§§ 710-13)
- 28 Fire drills (§§ 730-33)
- 29 Arbor Day (§§750-52)
- 30 Teachers institute (§§ 770-76)
- 31 Training classes (§§ 790-94)
- 32 Normal schools; state normal college (§§ 810-35)
- 33 Fines; penalties; forfeitures and costs (§§ 850-62)
- 33-A Board of education in the several cities of the State (§§ 865-81)
- 33-B Salaries of the members of the supervising and teaching staff in city schools (§§ 882-89)
- 34 Appeals or petitions to Commissioner of Education (§§ 890-92)
- 35 Orphan schools (§§ 900-2)
- 36 Schools for colored children (§§ 920-22)
- 37 Indian schools (§§ 940-54)
- 38 Instruction of deaf mutes and of the blind (§§ 970-80)
- 39 New York State School for the Blind (§§ 990-1011)
- 39-A Physically defective children (§ 1020)
- 40 Cornell University (§§ 1030-39)
- 40-A Agricultural schools (§§ 1040, 1041)
- 41 State School of Agriculture at Saint Lawrence University (§§ 1050-53)
- 41-A State School of Agriculture and Domestic Science at Delhi (§§ 1055-60)
- 42 State School of Agriculture at Alfred University (§§ 1070-72)
- 42-A State School of Agriculture at Cobleskill (§§ 1075-78)
- 43 State School of Agriculture at Morrisville (§§ 1090-94)
- 43-A Retirement fund for teachers in state institutions (§§ 1095-99-a)
- 43-B State teachers retirement fund for public school teachers (§§ 1100-9-p)
- 44 Libraries (§§ 1110-41)
- 45 Court libraries (§§1160-84-a)
- 45-A State Institute of Applied Agriculture on Long Island (§§ 1185-89)
- 46 Divisions of History and Public Records (§§ 1190-99)
- 46 The New York-American Veterinary College (§§ 1190-93)
- 47 Rehabilitation (§§ 1200-10)
- 48 Laws repealed; saving clause; when to take effect (§§ 1250-52)

ARTICLE 1

Short Title and Definitions

Section 1 Short title

2 Definitions

§ 1 **Short title.** This chapter shall be known as the "Education Law."

§ 2 **Definitions.** As used in this chapter, the following specified terms mean as here defined.

1 *Academy.* The term "academy" means an incorporated institution for instruction in secondary education, and such high schools, academic departments in union schools and similar unincorporated schools as are admitted by the Regents to the University as of academic grades.

2 *College.* The term "college" includes universities and other institutions for higher education authorized to confer degrees.

3 *University.* The term "university" means The University of the State of New York.

4 *Regents.* The term "Regents" means Board of Regents of The University of the State of New York.

5 *Commissioner.* The term "Commissioner" means Commissioner of Education.

6 *School commissioner.* The term "school commissioner" means the local officer provided for in article 14.

7 *Secondary education.* The term "secondary education" means instruction of academic grades, between the elementary grades and the college or university.

8 *Higher education.* The term "higher education" means education in advance of secondary education, and includes the work of colleges, universities, professional and technical schools, and educational work connected with libraries, museums, university and educational extension courses and similar agencies.

9 *Trustee.* The term "trustees," when not used in reference to a school district, includes directors, managers or other similar members of the governing board of an educational institution.

10 *Parental relation.* The term "persons in parental relation" to a child includes the parents, guardians or other persons, whether one or more, lawfully having the care, custody or control of such child.

11 *Compulsory school ages.* The term "child of compulsory school age" means any child between seven and sixteen years of age lawfully required to attend upon instruction.

12 *School authorities.* The term "school authorities" means the trustees, or board of education, or corresponding officers, whether one or more, and by whatever names known, of a city, or school district however created.

13 *School officer.* The term "school officer" means a clerk, collector, or treasurer of any school district; a trustee or member of a board of education or other body in control of the schools by whatever name known in a union free school district or in a city; a superintendent of schools; a truant officer; a school commissioner; or other elective or appointive officer in a school district or city whose duties generally relate to the administration of affairs connected with the public school system.

14 *Board of education.* The term "board of education" shall include by whatever name known the governing body charged with the general control, management and responsibility of the schools of a union free school district or of a city.

ARTICLE 2

Education Department

- Section 20 Education Department
- 21 Divisions of Department
- 22 Assistant Commissioners
- 23 Other officers and employees
- 24 Removals and suspensions
- 25 Joint seal
- 26 Reports to the Legislature
- 27 State Education Building

§ 20 **Education Department.** The Education Department is hereby continued and shall be under the legislative direction of the Regents and the executive direction of the Commissioner of Education, who is made, by section 94 of this act, the chief executive officer of the state system of education and of the Regents. The said department is charged with the general management and supervision of all public schools and all of the educational work of the State, including the operations of The University of the State of New York.

§ 21 **Divisions of Department.** By concurrent action of the Regents and the Commissioner of Education the Department may

be divided into divisions. By like action new divisions may be created and existing divisions may be consolidated or abolished, and the administrative work of the Department assigned to the several divisions.

§ 22 **Assistant Commissioners.** The Commissioner of Education shall appoint, subject to the approval of the Regents, such Assistant Commissioners as he shall deem necessary for the proper organization and general classification of the work of the Department, and assign to such Assistant Commissioners the work which shall be under their respective supervision.

§ 23 **Other officers and employees.** The Commissioner of Education, subject to the approval of the Regents, shall have power, in conformity with their rules, to appoint all other needed officers and employees and fix their titles, duties and salaries.

§ 24 **Removals and suspensions.** With the approval of the Regents, the Commissioner of Education may, at his pleasure, remove from office any Assistant Commissioner, or other appointive officer or employee; and, when the Regents are not in session, the Commissioner may, during his pleasure, suspend, without salary, any such officer or employee, but not longer than till the adjournment of the succeeding meeting of the Regents.

§ 25 **Joint seal.** The Regents of the University and the Commissioner of Education shall together adopt, and may modify at any time, a seal, which shall be used in common as the seal of the Education Department and of the University; and copies of all records thereof and of all acts, orders, decrees and decisions made by the Regents or by the Commissioner of Education, and of their official papers, and of the drafts or machine copies of any of the foregoing, may be authenticated under the said seal and shall then be evidence equally with and in like manner as the originals.

§ 26 **Reports to the Legislature.** The Commissioner of Education shall annually prepare a report of the Education Department, including the University, which shall be transmitted to the Legislature over the signatures of the Chancellor of the University and of the Commissioner of Education. At their pleasure, the Regents or the Commissioner of Education may make other reports and communications to the Legislature. Such portions of their annual or other reports or communications as the Commissioner or the Regents shall desire for such use shall be printed by the state printer as bulletins.

§ 27 State Education Building. After the completion of the State Education Building, it shall be occupied exclusively by the Education Department, including the University, with the State Library, the State Museum, and its other departments, together with such other work with which the Commissioner of Education and the Regents have official relations, as they may, in their discretion, provide for therein; and such building and the offices of such department shall be maintained at state expense.

ARTICLE 3

University of the State of New York

- Section 40 Corporate name and objects
41 Regents
42 Officers
43 Meetings and absences
44 Quorum
45 Authority to take testimony
46 Legislative power
47 General examinations, credentials and degrees
48 Academic examinations
49 Admission and fees
50 Registrations
51 Supervision of professions
53 Departments and their government
52 Extension of educational facilities
54 State Museum; how constituted
55 Collections made by the staff
56 Indian collection
57 Institutions in the University
58 Visitation and reports
59 Charters
60 Provisional charters
61 Conditions of incorporation
62 Change of name or charter
63 Liquidation of affairs of educational institutions
64 Dissolution of incorporate academy by stockholders
65 Suspension of operations
66 Prohibitions
67 Unlawful acts in respect to examinations and credentials
68 Powers of trustees of institutions
69 Colleges may construct water-works and sewer systems
70 State scholarships established
71 Scholarship fund of The University of the State of New York
72 Regents to make rules
73 List of candidates, award of scholarship
74 Issuance of scholarship certificate

Section 75 Effect of certificate; payments thereon

76 Revocation of scholarship

77 Limitation as to number of scholarships, courses of study

78 State scholarships for soldiers, sailors, marines and trained nurses

79 Licenses of schools; supervision

§ 40 **Corporate name and objects.** The corporation created in the year seventeen hundred and eighty-four under the name of the regents of the university of the state of New York, is hereby continued under the name of the university of the state of New York. Its object shall be to encourage and promote education, to visit and inspect its several institutions and departments, to distribute to or expend or administer for them such property and funds as the state may appropriate therefor or as the university may own or hold in trust or otherwise, and to perform such other duties as may be intrusted to it. The said corporation shall have power to take, hold and administer real and personal property and the income thereof in trust for any educational, scientific, historical or other purpose within the jurisdiction of the regents of the university of the state of New York. [*Amended by L. 1920, ch. 161, in effect April 10, 1920.*]

§ 41 **Regents.** The University shall be governed and all its corporate powers exercised by a Board of Regents whose members shall at all times be three more than the then existing judicial districts of the State. The Regents now in office and those hereafter elected shall hold, in the order of their election, for such times that the term of one Regent will expire in each year on the first day of April, and his successor shall be chosen in the second week of the preceding February, on or before the fourteenth day of such month. A Regent shall be elected by the Legislature, on joint ballot of the two houses thereof.

All vacancies in such office, either for full or unexpired terms, shall be so filled that there shall always be in the membership of the Board of Regents at least one resident of each of the judicial districts. A vacancy in the office of Regent for other cause than expiration of term of service shall be filled for the unexpired term by an election at the session of the Legislature immediately following such vacancy, unless the Legislature is in session when such vacancy occurs, in which case the vacancy shall be filled by such Legislature. There shall be no "ex officio" members of the Board of Regents. No person shall be at the same time a Regent of the University and a trustee, president, principal or any other officer of an institution belonging to the University. [*Amended by L. 1915, ch. 3.*]

§ 42 **Officers.** The elective officers of the University shall be a Chancellor and a Vice-Chancellor who shall serve without salary, and such other officers as are deemed necessary by the Regents, all of whom shall be chosen by ballot by the Regents and shall hold office during their pleasure; but no election, removal or change of salary of an elective officer shall be made by less than six votes in favor thereof. Each Regent and each elective officer shall, before entering on his duties, take and file with the Secretary of State the oath of office required of state officers.

The Chancellor shall preside at all convocations and at all meetings of the Regents, and confer all degrees which they shall authorize. In his absence or inability to act, the Vice-Chancellor, or if he be also absent, the senior Regent present, shall perform all the duties and have all the powers of the Chancellor.

§ 43 **Meetings and absences.** The Regents may provide for regular meetings, and the Chancellor, or the Commissioner of Education, or any five Regents, may at any time call a special meeting of the Board of Regents and fix the time and place therefor; and at least ten days' notice of every meeting shall be mailed to the usual address of each Regent. If any Regent shall fail to attend three consecutive meetings, without excuse accepted as satisfactory by the Regents, he may be deemed to have resigned and the Regents shall then report the vacancy to the Legislature, which shall fill it.

§ 44 **Quorum.** Seven Regents attending shall be a quorum for the transaction of business.

§ 45 **Authority to take testimony.** The Regents, any committee thereof, the Commissioner of Education and any Assistant Commissioner of Education may take testimony or hear proofs relating to their official duties, or in any matter which they may lawfully investigate.

§ 46 **Legislative power.** Subject and in conformity to the constitution and laws of the State, the Regents shall exercise legislative functions concerning the educational system of the State, determine its educational policies, and except as to the judicial functions of the Commissioner of Education establish rules for carrying into effect the laws and policies of the State, relating to education, and the powers, duties and trusts conferred or charged upon the University. But no enactment of the Regents shall modify in any degree the freedom of the governing body of any seminary for the training of priests or clergymen to determine and regulate the entire course of religious, doctrinal or theological instruction to be given in such institution. No rule by which more than a majority

vote shall be required for any specified action by the Regents shall be amended, suspended or repealed by a smaller vote than that required for action thereunder.

§ 47 **General examinations, credentials and degrees.** The Regents may confer by diploma under their seal such honorary degrees as they may deem proper, and may establish examinations as to attainments in learning, and may award and confer suitable certificates, diplomas and degrees on persons who satisfactorily meet the requirements prescribed.

§ 48 **Academic examinations.** The Regents shall establish in the secondary institutions of the University, examinations in studies furnishing a suitable standard of graduation therefrom and of admission to colleges, and certificates or diplomas shall be conferred by the Regents on students who satisfactorily pass such examinations.

§ 49 **Admission and fees.** Any person shall be admitted to these examinations who shall conform to the rules and pay the fees prescribed by the Regents.

§ 50 **Registrations.** The Regents may register domestic and foreign institutions in terms of New York standards, and fix the value of degrees, diplomas and certificates issued by institutions of other states or countries and presented for entrance to schools, colleges and the professions in this State.

§ 51 **Supervision of professions.** Conformably to law the Regents may supervise the entrance regulations to and the licensing under and the practicing of the professions of medicine, dentistry, veterinary medicine, pharmacy, optometry and chiropody, and also supervise the certification of nurses, public accountants, certified shorthand reporters, architects, and members of any other profession which may hereafter come under the supervision of the Board of Regents.

The Regents may by rule or order accept evidence of preliminary and professional education for licensing a candidate to practise any such profession in lieu of that prescribed by the laws relating to such profession; provided it shall appear to the satisfaction of the Regents that such candidate has substantially met the requirement of such laws.

And the Regents shall have further power to indorse a license issued by a legally constituted board of examiners in any other state upon satisfactory evidence that the requirements for the issuance of such license were substantially the equivalent of the requirements in force in this State when such license was issued, and that the

applicant has been in the lawful and reputable practice of his profession for a period of not less than five years prior to his making application for such indorsement. When the evidence presented is not satisfying sufficient to warrant the indorsement of such license, the Board of Regents may require that the candidate for indorsement shall pass such subjects of the licensing examination specified by statute or Regents' rule as should be required of the candidate to establish his worthiness to receive such indorsement. [*Amended by L. 1917, ch. 357, in effect May 4, 1917.*]

§ 52 **Extension of educational facilities.** The Regents may extend to the people at large increased educational opportunities and facilities, stimulate interest therein, recommend methods, designate suitable teachers and lecturers, conduct examinations and grant credentials, and otherwise organize, aid and conduct such work. And the Regents, and with their approval the Commissioner of Education, may buy, sell, exchange and receive by will, or other gift, or on deposit, books, pictures, statuary or other sculptured work, lantern slides, apparatus, maps, globes, and any articles or collections pertaining to or useful in and to any of the departments, divisions, schools, institutions, associations or other agencies, or work under their supervision, or control, or encouragement, and may lend or deposit any such articles in their custody or control, when or where in their judgment compensating educational usefulness will result therefrom; and may also, from time to time, enter into contracts desirable for carrying into effect the foregoing provisions.

§ 53 **Departments and their government.** The State Library and State Museum shall be departments of the University, and the Regents may establish such other departments and divisions therein as they shall deem useful in the discharge of their duties.

§ 54 **State Museum; how constituted.** All scientific specimens and collections, works of art, objects of historic interest and similar property appropriate to a general museum, if owned by the State and not placed in other custody by a specific law, shall constitute the State Museum, and one of its officers shall annually inspect all such property not kept in the State Museum rooms, and the annual report of the Museum to the Legislature shall include summaries of such property, with its location, and any needed recommendations as to its safety or usefulness. The State Museum shall include the work of the State Geologist and Paleontologist, the State Botanist and the State Entomologist, who, with their assistants, shall be included in the scientific staff of the State Museum.

§ 55 **Collections made by the staff.** Any scientific collection made by a member of the Museum staff during his term of office shall, unless otherwise authorized by resolution of the Regents, belong to the State and form part of the State Museum.

§ 56 **Indian collection.** There shall be made, as the Indian section of the State Museum, as complete a collection as practicable of the historical, ethnographic and other records and relics of the Indians of the State of New York, including implements or other articles pertaining to their domestic life, agriculture, the chase, war, religion, burial and other rites or customs, or otherwise connected with the Indians of New York.

§ 57 **Institutions in the University.** The institutions of the University shall include all secondary and higher educational institutions which are now or may hereafter be incorporated in this State, and such other libraries, museums, institutions, schools, organizations and agencies for education as may be admitted to or incorporated by the University. The Regents may exclude from such membership any institution failing to comply with law or with any rule of the University.

§ 58 **Visitation and reports.** The Regents, or the Commissioner of Education, or their representatives, may visit, examine into and inspect, any institution in the University and any school or institution under the educational supervision of the State, and may require, as often as desired, duly verified reports therefrom giving such information and in such form as the Regents or the Commissioner of Education shall prescribe. For refusal or continued neglect on the part of any institution in the University to make any report required, or for violation of any law or any rule of the University, the Regents may suspend the charter or any of the rights and privileges of such institution.

§ 59 **Charters.** Under such name, with such number of trustees or other managers, and with such powers, privileges and duties, and subject to such limitations and restrictions in all respects as the Regents may prescribe in conformity to law, they may, by an instrument under their seal and recorded in their office, incorporate any university, college, academy, library, museum, or other institution or association for the promotion of science, literature, art, history or other department of knowledge, or of education in any way, associations of teachers, students, graduates of educational institutions, and other associations whose approved purposes are, in whole or in part, of educational or cultural value deemed worthy of recognition and encouragement by the University. No institution or

association which might be incorporated by the Regents under this chapter shall, without their consent, be incorporated under any other general law.

§ 60 **Provisional charters.** On evidence satisfactory to the Regents that the conditions for an absolute charter will be met within a prescribed time, they may grant a provisional charter which shall be replaced by an absolute charter when the conditions have been fully met; otherwise, after the specified time, on notice from the Regents to this effect, the provisional charter shall terminate and become void and shall be surrendered to the Regents. No such provisional charter shall give power to confer degrees.

§ 61 **Conditions of incorporation.** No institution shall be given power to confer degrees in this State unless it shall have resources of at least five hundred thousand dollars; and no institution for higher education shall be incorporated without suitable provision, approved by the Regents, for educational equipment and proper maintenance. No institution shall institute or have any faculty or department of education in any place or be given power to confer any degree not specifically authorized by its charter; and no corporation shall, under authority of any general act, extend its business to include establishing or carrying on any educational institution or work, without the consent of the Board of Regents.

§ 62 **Change of name or charter.** 1 The Regents may, at any time, for sufficient cause by an instrument under their seal and recorded in their office, change the name, or alter, suspend or revoke the charter or incorporation of any institution which they might incorporate under section 59, if subject to their visitation or chartered or incorporated by the Regents or under a general law; provided that, unless on unanimous request of the trustees of the institution, no name shall be changed and no charter shall be altered, nor shall any rights or privileges thereunder be suspended or repealed by the Regents, till they have mailed to the usual address of every trustee of the institution concerned at least thirty days' notice of a hearing when any objections to the proposed change will be considered, and till ordered by a vote at a meeting of the Regents for which the notices have specified that action is to be taken on the proposed change.

2 Any notice to a trustee whose address is not readily ascertainable, may be mailed to him in care of the institution.

§ 63 **Liquidation of affairs of educational institutions.** Whenever any educational corporation subject to the visitation of the Regents, chartered or incorporated by the Regents or under a general law, shall cease to act in its corporate capacity or shall have its

charter revoked by the Regents, it shall be lawful for the Supreme Court of this State, upon the application of the majority of the trustees thereof, in case said court shall deem it proper so to do, to order and decree a dissolution of such educational corporation, and for that purpose to order and direct a sale and conveyance of any and all property belonging to such corporation, and after providing for the ascertaining and payment of the debts of such corporation, and the necessary costs and expenses of such sale and proceedings for dissolution, so far as the proceeds of such sale shall be sufficient to pay the same, such court may order and direct any surplus of such proceeds remaining after payment of such debts, costs and expenses, to be devoted and applied to any such educational, religious, benevolent, charitable or other objects or purposes as the said trustees may indicate by their petition and the said court may approve.

Such application to said court shall be made by petition, duly verified by said trustees, which petition shall state the particular reason or causes why such sale and dissolution are sought; the situation, condition and estimated value of the property of said corporation, and the particular object or purposes to which it is proposed to devote any surplus of the proceeds of such property; and such petition shall, in all cases, be accompanied with proof that notice of the time and place of such intended application to said court has been duly published once in each week for at least four weeks successively, next preceding such application, in a newspaper published in the county where such corporation is located.

In case there shall be no trustees of such educational corporation residing in the county in which such corporation is located, such application may be made and such proceedings taken by the Board of Regents of the University of the State of New York. This section shall not apply to the dissolution of an academy incorporated under the laws of this State and having a capital stock. [*Former § 63 repealed; new § 63 added by L. 1911, ch. 860.*]

§ 64 Dissolution of incorporated academy by stockholders.
1 *Meeting to consider application for dissolution, when to be called.*
The trustees of any academy incorporated under the laws of this State and having a capital stock, may, and upon the written application of any person owning or lawfully holding one-third of the said capital stock, must call a general meeting of the stockholders of the said academy, as hereinafter provided, for the purpose of determining whether or not such incorporated academy shall surrender its charter and be dissolved and its property distributed among the stockholders thereof.

2 *Notice thereof, how published.* The notice for such general meeting must state the object thereof and be subscribed by the chairman or other acting presiding officer and the secretary or acting secretary of the said corporation or board of trustees; it shall be published once a week for three successive weeks prior to such meeting in a daily or weekly newspaper published in the place where the said academy is located; or if there be no such paper, then in a daily or weekly paper published within the county, if there be one, or, if not, in an adjoining county to that in which such academy is located.

3 *Vote requisite for surrender of charter and dissolution.* Whenever, at a meeting of the stockholders called as hereinbefore provided, any person or persons holding or qualified to vote upon a majority of the capital stock of such incorporated academy shall vote to surrender the charter thereof and to dissolve the corporation, the trustees of such academy, or a majority of them, must make and sign a certificate of such action, cause the same to be properly attested by the officers of the corporation and file the same, together with a copy of the published notice for the meeting at which such action was taken, and due proof of the publication thereof, in the office of the Board of Regents of The University of the State of New York and thereupon, if the said proceedings shall have been regularly conducted as above prescribed, the charter of said corporation shall be deemed to be surrendered and the said corporation dissolved.

4 *Powers of trustees of academies upon dissolution.* Upon the dissolution of such incorporated academy, as herein provided, the trustees thereof shall forthwith become and be trustees of the creditors and stockholders of the corporation dissolved. They shall have full power to settle the affairs of the said corporation; to collect and pay the outstanding debts; to sue for and recover debts and property thereof by the name of the trustees of such corporation; to sell and dispose of the property thereof, at public or private sale, and to divide among the stockholders the moneys or other property that shall remain after the payment of debts and necessary expenses.

5 *Notice to creditors to present claims, how published.* The said trustees may, after the dissolution of the said corporation, insert in a newspaper published in the place where the said academy is located, or if there be none such then in a newspaper published within the county, if there be one, or, if not, in an adjoining county, a notice once in each week for three successive months, requiring all persons having claims against the said corporation dissolved to present the same with proof thereof to the said trustees, at the place designated in such notice, on or before a day therein named which shall be not

less than three months from the first publication thereof. In case any action shall be brought upon any claim which shall not have been presented to the said trustees within three months from the first publication of such notice, the said trustees shall not be chargeable for any assets, moneys or proceeds of the said corporation dissolved, which they may have paid in satisfaction of other claims against the said corporation, or in making distribution to the stockholders thereof, before the commencement of such action.

6 *Surrender of stock scrip, upon distribution to shareholders.* Upon the distribution by the said trustees of assets or property, or the proceeds thereof, of the dissolved corporation among its stockholders the said trustees may require the certificates of ownership of capital stock, if such have been issued, standing in the name of any stockholder claiming a distributive share, or under whom such share is claimed, to be surrendered for cancellation by such stockholder or person claiming the said share; in the event of the nonproduction of any such certificate, the said trustees may require satisfactory proof of the loss thereof, or of any other cause for such nonproduction, together with such security as they may prescribe, before payment of the distributive share to which the person claiming upon such share of stock may appear to be entitled.

7 *Notice of distribution, to absent and unknown shareholders.* In case the said trustees upon such distribution by them of assets or property, or the proceeds thereof, of the dissolved corporation among its stockholders, shall be unable to find any of the said stockholders or the persons lawfully owning or entitled to any portion of the said capital stock, they shall give notice in the manner hereinabove provided for calling the general meeting of stockholders, and such distribution, to the persons in whose names such stock shall stand upon the books of the said corporation, requiring them to appear at a time and place designated, to receive the portion of such assets or property to which they may be entitled; in case of the failure of any such persons to so appear, it shall be lawful for the said trustees to pay over and deliver to the county treasurer of the county wherein such academy was located, or to any trust company or other corporation located within such county and authorized to receive moneys on deposit under order or judgment of a court of record, the proportion of the assets, property or proceeds aforesaid which such nonappearing stock bears to the whole stock; the said trustees shall also deliver therewith a list of the persons entitled to receive the same, together with the separate amounts to which they shall be severally entitled.

8 *Liability of trustees, when to cease.* Upon the payment and discharge of the debts and obligations of the corporation dissolved, as hereinbefore provided, and the distribution of its assets, property and proceeds among the stockholders thereof, and due provision made, as hereinabove prescribed, for the interests of non-appearing stockholders and such as can not be found, the said trustees shall become and be relieved and discharged from further duty, liability and responsibility by reason of their relation to the said corporation, or towards the stockholders thereof.

9 *Duties and liabilities of custodians.* Any county treasurer, trust company or other corporation to whom assets, property or proceeds shall be delivered as herein provided, shall hold the same in trust for the persons designated and entitled to receive it; and upon receiving satisfactory proof of the right and title thereto, or upon the order of any court of record competent to adjudicate thereupon, shall pay over and deliver to any persons entitled to receive the same the portion of such proceeds, property or assets to which they shall be entitled.

§ 65 **Suspension of operations.** If any institution in the University shall discontinue its educational operations without cause satisfactory to the Regents, it shall surrender its charter to them, subject, however, to restoration whenever arrangements satisfactory to the Regents are made for resuming its work.

§ 66 **Prohibitions.** 1 No individual, association or corporation not holding university or college degree-conferring powers by special charter from the Legislature of this State or from the Regents, shall confer any degrees, or transact business under or in any way assume the name university or college, till written permission to use such name shall have been granted by the Regents under their seal.

2 No person shall buy, sell or fraudulently or illegally make or alter, give, issue or obtain any diploma, certificate or other instrument purporting to confer any literary, scientific, professional or other degree, or to constitute any license, or to certify to the completion in whole or in part of any course of study in any university, college, academy, or other educational institution.

3 No diploma or degree shall be conferred in this State except by a regularly organized institution of learning meeting all requirements of law and of the University, nor shall any person with intent to deceive, falsely represent himself to have received any such degree or credential, nor shall any person append to his name any letters in the same form registered by the Regents as entitled

to the protection accorded to university degrees, unless he shall have received from a duly authorized institution the degree or certificate for which the letters are registered. Counterfeiting or falsely or without authority making or altering in a material respect any such credential issued under seal shall be a felony; any other violation of this section shall be a misdemeanor; and any person who aids or abets another, or advertises or offers himself to violate the provisions of this section, shall be liable to the same penalties.

§ 67 Unlawful acts in respect to examinations and credentials.

A person who shall

1 Personate or attempt or offer to personate another person in taking, or attempting or offering to take a nexamination held in accordance with this chapter or with the rules of the University; or

2 Take, or attempt or offer to take, such an examination in the name of any other person; or

3 Procure any other person to falsely personate him or to take, or attempt or offer to take, any such examination in his name; or

4 Have in his possession question papers to be used in any such examination, when not contained in their sealed wrappers, or copies of such papers or questions, at any time prior to the date set for such examination, unless duly authorized by the Regents or the Commissioner of Education; or

5 Sell or offer to sell question papers or any questions prepared for use in any examination held in accordance with this chapter or with the rules of the University; or

6 Use in any such examination any question papers or questions, or secure or prepare the answers to such questions prior to the time set for the examination; or

7 Transmit to the State Education Department answers to questions used in any such examination which are prepared or written outside of the period of examination, or alter any such answers after such period is closed; or

8 Secure or attempt to secure any credential regularly issued by the University, which is based upon such examination or based upon a course or courses of study in any institution of learning or educational institution approved by the University, which he has not actually passed or completed; or [*Subdivision 8, added by L. 1921, ch. 178, in effect April 9, 1921.*]

9 Otherwise secure or attempt to secure the record of having passed such examination or of having been issued or of having been given credit toward such credential in violation of the University rules; is guilty of a misdemeanor and upon conviction

thereof shall be punished for a first offense by a fine of not less than fifty dollars or imprisonment for not less than thirty days, or by both such fine and imprisonment, and for a second offense by a fine of not less than two hundred and fifty dollars, or imprisonment for not less than six months or by both such fine and imprisonment. [*Subdivision 9, formerly subdivision 8, renumbered and amended by L. 1921, ch. 178, in effect April 9, 1921.*]

§ 68 Powers of trustees of institutions. The trustees of every corporation created by the Regents, unless otherwise provided by law or by its charter, may:

1 *Number and quorum.* Fix the term of office and number of trustees, which shall not exceed twenty-five, nor be less than five. If any institution has more than five trustees, the body that elects, by a two-thirds vote after notice of the proposed action in the call for a meeting, may reduce the number to not less than five by abolishing the office of any trustee which is vacant and filing in the Regents' office a certified copy of the action. A majority of the whole number shall be a quorum.

2 *Executive committee.* Elect an executive committee of not less than five, who, in intervals between meetings of the trustees, may transact such business of the corporation as the trustees may authorize, except to grant degrees or to make removals from office.

3 *Meetings and seniority.* Meet on their own adjournment or when required by their by-laws, and as often as they shall be summoned by their chairman, or in his absence by the senior trustee, on written request of three trustees. Seniority shall be according to the order in which the trustees are named in the charter or subsequently elected. Notice of the time and place of every meeting shall be mailed not less than five nor more than ten days before the meeting to the usual address of every trustee.

4 *Vacancies and elections; removals by board of regents.* Fill any vacancy occurring in the office of any trustee by electing another for the unexpired term. The office of any trustee shall become vacant on his death, resignation, refusal to act, removal from office, expiration of his term, or any other cause specified in the charter. If any trustee shall fail to attend three consecutive meetings without excuse accepted as satisfactory by the trustees, he shall be deemed to have resigned, and the vacancy shall be filled. Any vacancy in the office of trustee continuing for more than one year, or any vacancy reducing the number of trustees to less than two-thirds of the full number may be filled by the regents. The regents may remove any trustee of a corporation created by them for mis-

conduct, incapacity, neglect of duty, or where it appears to the satisfaction of the regents that the corporation has failed or refuses to carry into effect its educational purposes. A hearing in the proceeding for the removal of such trustees shall be had before the board of regents or a committee thereof and the trustees shall be given at least ten days' notice of the time and place of such hearing. In case of removal the regents may appoint successors to the trustees so removed. The provisions of this section as to removal and filling of vacancies in trustees shall not apply to corporations now or hereafter established and maintained by a religious denomination, order or sect. No person shall be ineligible as a trustee by reason of sex. [*Subdivision 4 amended by L. 1920, ch. 745, in effect May 12, 1920.*]

5 *Property holding.* Take and hold by gift, grant, devise or bequest in their own right or in trust for any purpose comprised in the objects of the corporation, such additional real and personal property, beyond such as shall be authorized by their charter or by special or general statute, as the Regents shall authorize within one year after the delivery of the instrument or probate of the will, giving, granting, devising or bequeathing such property, and such authority given by the Regents shall make any such gift, grant, devise or bequest operative and valid in law. Any grant, devise or bequest shall be equally valid whether made in the corporate name or to the trustees of a corporation, and powers given to the trustees shall be powers of the corporation.

6 *Control of property.* Buy, sell, mortgage, let and otherwise use and dispose of its property as they shall deem for the best interests of the institution; and also to lend or deposit, or to receive as a gift, or to loan or deposit, literary, scientific or other articles, collections, or property pertaining to their work; and such gifts, loans or deposits may be made to or with the University or any of its institutions by any person, or by legal vote of any board of trustees, corporation, association or school district, and any such transfer of property, if approved by the Regents, shall during its continuance, transfer responsibility therefor to the institution receiving it, which shall also be entitled to receive any money, books or other property from the State or other sources to which said corporation, association or district would have been entitled but for such transfer.

7 *Officers and employees.* Appoint and fix the salaries of such officers and employees as they shall deem necessary who, unless employed under special contract, shall hold their offices during the

pleasure of the trustees; but no trustee shall receive compensation as such. The president or chief executive officer of an association library corporation shall be elected by the trustees from their own number and shall be the chairman of the board. [*Subdivision 7 amended by L. 1921, ch. 385, in effect April 30, 1921.*]

8 *Removals and suspensions.* Remove or suspend from office by vote of a majority of the entire board any trustee, officer or employee engaged under special contract, on examination and due proof of the truth of a written complaint by any trustee, of misconduct, incapacity or neglect of duty; provided, that at least one week's previous notice of the proposed action shall have been given to the accused and to each trustee.

9 *Degrees and credentials.* Grant such degrees and honors as are specifically authorized by their charter, and in testimony thereof give suitable certificates and diplomas under their seal; and every certificate and diploma so granted shall entitle the conferee to all privileges and immunities which by usage or statute are allowed for similar diplomas of corresponding grade granted by any institution of learning.

10 *Rules.* Make all by-laws and rules necessary and proper for the purposes of the institution and not inconsistent with law or any rule of the University; but no rule by which more than a majority vote shall be required for any specified action by the trustees shall be amended, suspended or repealed by a smaller vote than that required for action thereunder.

§ 69 **Colleges may construct water-works and sewer systems.**

1 Every incorporated college in this State is duly authorized and empowered to construct and maintain a system of water-works for the purpose of supplying its college buildings and premises with pure and wholesome water for domestic, sanitary and fire purposes, and for the preservation of the health of its students, faculty and employees, and for the preservation of the public health of the town, village or city in or near which such college is located, and the construction and maintenance of such water-works is declared to be a public use. Such water-works, as often as necessary, may be enlarged or improved. Every such incorporated college owning its water-works system and having an adequate supply of water therefrom, may furnish water to persons other than students, faculty and employees of such college at and for a just and adequate compensation, providing that they reside within a sewer district now created in which the premises of the said college or any part thereof are embraced, and provided no municipal or private public service

corporation operates or maintains a system of water-works therein capable of supplying water to such inhabitants. Whenever any such college shall extend its mains along any streets, avenues or highways for the purpose of supplying water to such inhabitants, it shall not lose its exemption from taxation by reason thereof, and shall not be deemed to be exercising a public or corporate franchise within the meaning of the tax law. [*Subdivision 1 amended by L. 1913, ch. 422.*]

2 Any such college shall have the right to acquire real estate, or any interest therein, necessary or proper for such water-works, and the right to lay, relay, repair and maintain conduit and water pipes, with connections and fixtures, on, through, and over the lands of others; the right to intercept and divert the flow of waters from the lands of riparian owners, and from persons owning and interested in any waters; and the right to prevent the flow or drainage of noxious, or impure, or unwholesome matter from the lands of others into its reservoirs, or sources of supply. But no such college shall ever have power to take or use water from any of the lands of this State, or any land, reservoir, or feeders, or any streams which have been taken by the State for the purpose of supplying the canals with water. The consent of an incorporated village or city must be obtained to lay any such pipes in or through its streets, and such consent may be accompanied by such reasonable conditions or restrictions as are proper.

3 Such college may cause such examinations and surveys for its proposed water-works to be made as may be necessary to determine the proper location thereof, and for such purpose, by its officers, agents and servants, may enter upon any lands or waters in the vicinity for the purpose of making such examinations and surveys, subject to liability for all damage done. When surveys or examinations are made or concluded, a map shall be made of the lands or interests to be taken or entered upon, and on which the land or interest of each owner or occupant shall be designated, and all streets and roads in which it is proposed to lay conduit pipes, with the proposed line thereof, which map shall be dated and signed by the engineer making the same; and said map shall be filed and kept in the college library for examination and reference, and a duplicate thereof shall be filed in the clerk's office in each county wherein any of such lands or interests proposed to be taken are located. Such examinations and surveys may be ordered and directed by the president or board of trustees of such college. A majority of the trus-

tees shall determine upon the construction of such water-works and the plans thereof, and order contracts therefor to be made by such officers of the college as may be designated.

4 If any such college shall be unable to agree upon such terms of purchase of any such property, right or easements, before or after plans shall be determined upon, it may, after such plans have been adopted, acquire the same by condemnation, according to the provisions of the condemnation law.

5 When any such college has constructed and completed water-works, as above provided, it may, by a majority of its trustees, determine upon and construct a sewer system; it may connect the same with the sewer system of the village or city in or near which said college is situated, if such connection is practicable. Examination, surveys and a map may be made as above provided. Lands and easements may be acquired by purchase, as above provided, and in case such acquisition can not be made by purchase then they may be acquired by condemnation, according to the provisions of the condemnation law.

§ 70 State scholarships established. 1 State scholarships are hereby established in the several counties of the State, to be maintained by the State and awarded as provided by this act.

2 Five such scholarships shall be awarded each county annually for each assembly district therein.

3 Each such scholarship shall entitle the holder thereof to the sum of one hundred dollars for each year which he is in attendance upon an approved college in this State during a period of four years, to be paid to or for the benefit of such holder as hereinafter provided, and out of a fund which is hereinafter created. [*Added by L. 1913, ch. 292.*]

§ 71 Scholarship fund of The University of the State of New York. 1 The scholarship fund of The University of the State of New York is hereby created. Such fund shall consist:

(a) Of all money appropriated therefor by the Legislature;

(b) Of all money and property hereafter received by the State, the Regents of the University or the Commissioner of Education by gift, grant, devise or bequest for the purpose of providing funds for the payment of such scholarships and of all income or revenue derived from any trust created for such purpose.

2 Such fund shall be kept separate and distinct from the other State funds by the State Treasurer, and payment shall be made therefrom to the persons entitled thereto in the same manner as from other state funds, except as otherwise provided by this act.

3 Whenever any such gift, grant, devise or bequest shall have been made or any trust shall have been created for the purpose of providing funds for such scholarships, the incomes or revenues derived therefrom shall be applied in maintaining scholarships in addition to those to be maintained by appropriations made by the State Legislature, as provided herein, and no part of such income or revenue shall be applied for the maintenance of state scholarships hereinbefore established for each county. Such additional scholarships shall be equitably apportioned by the Commissioner of Education among the several counties, unless it be provided in the will, deed or other instrument making such gift, grant, devise or bequest, or creating such trust, that the incomes or revenues derived therefrom be applied to the establishment and maintenance of additional scholarships in a specified county. [*Added by L. 1913, ch. 292.*]

§ 72 Regents to make rules. The Regents shall make rules governing the award of such scholarships, the issuance and cancellation of certificates entitling persons to the benefits thereof, the use of such scholarships, by the persons entitled thereto, and the rights and duties of such state scholars, and the colleges which they attend, in respect to such scholarships, and providing generally for carrying into effect the provisions of this act. Such rules shall be in conformity with this act and shall have the force and effect of a statute. [*Added by L. 1913, ch. 292.*]

§ 73 List of candidates, award of scholarships.

1 The Commissioner of Education shall cause to be prepared for each county of the state, annually, during the month of August, from the records of the education department, a list of the names of all pupils residing therein who are citizens and became entitled to college entrance diplomas under regents' rules, during the preceding school year. Such list shall also show the average standing of the pupils in the several subjects on which each of such diplomas was issued. [*Amended by L. 1920, ch. 502, in effect May 4, 1920.*]

2 The Commissioner of Education shall also cause the names of all pupils on the foregoing lists of the several counties, who are not appointed to scholarships in the county of their residence, to be arranged upon a state list in the order of their merit, as shown by their average standings on the several county lists, from which unclaimed vacant scholarships shall be filled as hereinafter provided.

3 The scholarships to which each county is entitled shall be awarded by the Commissioner of Education annually in the month

of August to those pupils residing therein who are citizens and became entitled to college entrance diplomas, under regents' rules, during the preceding school year and in the order of their merit as shown by the list prepared as provided in subdivision one of this section. [*Amended by L. 1920, ch. 502, in effect May 4, 1920.*]

4 In case a pupil who is entitled to a scholarship shall fail to apply for such scholarship within thirty days after being notified that he is entitled thereto or shall fail to comply with the rules of the Regents as to such scholarships and the same shall have been revoked or canceled on account thereof, or, if for any other reason such scholarship shall become vacant, then the pupil standing next highest to those pupils on such list for such county who have received scholarships, shall be entitled to receive appointment to such vacant scholarship. A pupil entitled to a college entrance diploma under Regents rules who failed to apply therefor within the time required by such rules to entitle him to a scholarship, and a pupil whose name would have been included in the list of names of candidates to be considered in the award of scholarships as provided herein except for errors or inadvertencies in the preparation of such list may apply to the Regents of the University for a scholarship and if it shall appear to the satisfaction of the said Regents that there was reasonable cause for the failure of such pupil to apply for such college entrance diploma as required by Regents rules, or that an error or inadvertency occurred in the preparation of the list of candidates for such scholarships and it shall appear that except for such failure, error or inadvertency the applicant would have received a scholarship, the Regents may award a scholarship to such pupil and such scholarship shall be issued and payments shall be made thereon out of moneys available therefor in the same manner as other scholarships are issued and paid. [*Amended by L. 1918, ch. 257, in effect April 17, 1918.*]

5 In case a scholarship belonging to a county shall not be claimed by a resident of such county or if there be no resident of the county entitled to appointment to the vacant scholarship in such county, the Commissioner of Education shall fill such vacancy by appointing from the state list the person entitled to such vacancy as provided in subdivision 2 of this section.

6 The Commissioner of Education shall cause such person entitled to receive appointment to a scholarship to be notified of his rights thereto and of his forfeiture of such rights by failure to make the application for such scholarship required under section 74 of this act. [*Added by L. 1913, ch. 292.*]

§ 74 **Issuance of scholarship certificate.** Upon the application of a pupil duly notified of his right to a scholarship, the Commissioner of Education shall issue to such pupil a scholarship certificate. Such application and such certificate shall be in the form prescribed by the Commissioner of Education and such certificate shall specify the college for which it is valid. Said Commissioner may also require such additional statements and information to accompany such application as he may deem necessary. [*Added by L. 1913, ch. 292.*]

§ 75 **Effect of certificate; payments thereon.** The certificate issued as provided in the preceding section shall entitle the person named therein to receive the sum of one hundred dollars each year for a period of four years to aid such person in the completion of a college education. Such sum shall be paid by the State Treasurer in two equal payments, one on October first and the other on March first out of the scholarship fund of The University of the State of New York, upon the warrant of the Comptroller issued with the approval of the Commissioner of Education. Such approval shall be given upon vouchers or other evidence showing that the person named therein is entitled to receive the sum specified, either directly or for his or her benefit. The rules of the Regents may prescribe conditions under which payments may be made direct to the college attended by the person named in such certificate, in behalf of and for the benefit of such person. [*Added by L. 1913, ch. 292, and amended by L. 1913, ch. 437.*]

§ 76 **Revocation of scholarship.** If a person holding a state scholarship shall fail to comply with the rules of the Regents in respect to the use of such scholarship, or shall fail to observe the rules, regulations or conditions prescribed or imposed by such college on students therein, or shall for any reason be expelled or suspended from such college, or shall absent himself therefrom without leave, the Commissioner of Education may, upon evidence of such fact deemed by him sufficient, make an order under the seal of the Education Department revoking such scholarship and thereupon such scholarship shall become vacant and the person holding such scholarship shall not thereafter be entitled to further payment or benefits under the provisions of this act and the vacancy caused thereby shall be filled as provided in section 73 of this act. [*Added by L. 1913, ch. 292.*]

§ 77 **Limitation as to number of scholarships; courses of study.** At no time shall there be more than twenty scholarships established and maintained for each assembly district and at no time shall there be more than three thousand such scholarships so estab-

lished and maintained for the entire State not including scholarships maintained from the revenues or income of trust funds, or gifts, devises or bequests created or made as provided in this act for the maintenance of such scholarships. A person entitled to such scholarship shall not be restricted as to the choice of the college which he desires to attend, or the course of study which he proposes to pursue; provided that no such scholarship shall include professional instruction in law, medicine, dentistry, veterinary medicine or theology, except so far as such instruction is within a regularly prescribed course of study leading to a degree other than in the above-named professions; and provided further, that the college selected by the person entitled to such scholarship is situated within the State of New York, and is incorporated as a college and authorized under the laws of this State and the rules of the Regents of the University to confer degrees. [*Added by L. 1913, ch. 292.*]

§ 78 State scholarships for soldiers, sailors, marines and trained nurses. Four hundred and fifty state scholarships are hereby established for the benefit of resident soldiers, sailors and marines who shall have served as such in the army, navy or marine corps of the United States in the world war and been honorably discharged from such service, and trained nurses with a similar record of service, and who shall have or acquire the necessary qualifications as to secondary or other preparatory education to be required by the Commissioner of Education under rules and regulations to be established by him as hereinafter provided. Each of such scholarships shall entitle the holder thereof to his tuition, in a sum not exceeding one hundred dollars per year, in any college, university, normal, technical or trade school of his selection, located within the state, such tuition to be paid by the state together with an additional sum of one hundred dollars per year for the maintenance of the holder of each such scholarships while in attendance upon instruction under such scholarship, provided however that no such annual payment shall be made to the same individual for a period longer than three years. In addition to the one hundred and fifty such scholarships heretofore allotted there shall be allotted during the fiscal year beginning July first, nineteen hundred and twenty, one hundred and fifty of such scholarships and during the fiscal year beginning July first, nineteen hundred and twenty-one, one hundred and fifty such scholarships. The Commissioner of Education shall award such scholarships and for that purpose shall establish rules and regulations for ascertaining the educational qualifications of persons who may be entitled to the benefits of this section. The commissioner

shall hold competitive examinations at least once a year and shall select the students to be certified for scholarships from each assembly district. The Commissioner of Education shall give thirty days' notice to each member of assembly of the date and place of the examination which is held in the district of such assemblyman or in the county in which the assembly district of such assemblyman is located. A list of the names and addresses of the persons appointed to scholarships for each assembly district shall be forwarded to the assemblyman of such district by the Commissioner of Education within ten days after such appointments are made. Not more than three appointments shall be made from any assembly district. In awarding the scholarships the Commissioner shall first select those who meet the requirements for admission to college. If the full quota of scholarships is not filled by appointments from this class, the remaining number of scholarships shall be filled by appointment of persons who desire to take preparatory courses. The tuition and maintenance of the person holding the scholarship while pursuing the studies in such preparatory courses shall be paid as hereinbefore provided. Application for such scholarships shall be made on or before September first, nineteen hundred and twenty-three. Any such scholarship may be revoked by the Commissioner of Education for cause. The preceding sections of this article shall not apply to scholarships provided for in this section, but such scholarships shall be deemed to be in addition to the state scholarships provided for in this article. The authorities in control of an institution to which a person is admitted for instruction under this section shall cause the certificate of appointment of such person as a holder of such scholarship to be filed with the comptroller, and moneys appropriated for carrying out the provisions of this section shall be paid by the state comptroller upon the certificate of the Commissioner of Education accompanied by vouchers signed by the authorities in control of the institution to which the money is to be paid. [*Added by L. 1919, ch. 606, and amended by L. 1920, ch. 893, in effect May 21, 1920. The sum of \$60,000 was appropriated by the legislature to carry out the provisions of this section.*]

§ 79 Licenses of schools; supervision. 1 No person, firm, corporation, association or society shall conduct, maintain or operate any school, institute, class or course of instruction in any subjects whatever without making application for and being granted a license from The University of the State of New York to so conduct, maintain or operate such institute, school, class or course. Such application shall be made in the form and under the rules prescribed by the

Regents of the University of the State. The application for such license shall be accompanied with a verified statement showing the purposes for which the school, institute, class or course is to be maintained and conducted, and the nature and extent and purpose of the instruction to be given. No license shall be granted for the conduct of any such school, institute, class or course by the Regents of the University of the State where it shall appear that the instruction proposed to be given includes the teaching of the doctrine that organized governments shall be overthrown by force, violence or unlawful means, or where it shall appear that such school, institute, class or course is to be conducted in a fraudulent manner.

Licenses shall not be required for the public schools of the city, union free and common school districts of the State nor for educational institutions which are now or may hereafter be incorporated by the University of the State or which are now or may hereafter be admitted to membership in the University of the State; nor shall such license be required of schools now or hereafter established and maintained by a religious denomination or sect well recognized as such at the time this section takes effect; nor shall such license be required for classes conducted by fraternal orders duly incorporated under the laws of this State which have for their purpose solely the instruction of their members in the ritual of such orders. A school, institute, class or course licensed as provided in this section shall be subject to visitation by officers and employees of The University of the State of New York.

2 A license granted to a school, institute, class or course as provided herein shall be subject to revocation by the Regents of the University upon due notice after an opportunity to be heard before the Board of Regents or a committee thereof or an officer of the Education Department in each case designated by the Board of Regents. Such license shall be revoked when it shall appear to the satisfaction of the Regents that there is being taught in such school, institute, class or course the doctrine that organized government should be overthrown by force, violence or unlawful means, or that the same is being conducted in a fraudulent manner. The action of the Regents of the University of the State in refusing to grant a license to any applicant as provided in this section or in revoking a license previously issued shall be subject to review by certiorari in the Supreme Court of the State, as provided by law.

3 Any person, firm, corporation, association or society, or any representative or employee thereof, maintaining or conducting a school, institute, course or class without a license granted as herein

provided shall be guilty of a misdemeanor and upon conviction therefor shall be punished by a fine not exceeding one hundred dollars, or by imprisonment not exceeding sixty days. Whenever it shall appear that any person, firm, corporation, association or society is maintaining or conducting a school, institute, course or class without such license an appropriate action and injunction proceedings may be brought on behalf of the State by the Attorney-General to restrain such person, firm, corporation, association or society, or any employee or representative thereof, from continuing the maintenance or conduct of such school, institute, course or class without such license. [Added by L. 1921, ch. 667, in effect September 1, 1921. The sum of \$10,000 was appropriated by the Legislature to carry out the provisions of this section.]

ARTICLE 4

Commissioner of Education

- Section 90 Commissioner of Education continued
- 91 How chosen
 - 92 Term of office
 - 93 Salary
 - 94 General powers and duties
 - 94-a Transfer of powers of State Board of Charities in relation to the New York State School for the Blind to the Commissioner of Education
 - 95 Removal of school offices; withholding public money
 - 96 Other powers
 - 97 Schools of union free school districts and cities
 - 98 Reports of school officers
 - 99 County clerk and county treasurers to forward certain reports

§ 90 Commissioner of Education continued. The office of Commissioner of Education is hereby continued.

§ 91 How chosen. 1 The Commissioner of Education shall be elected by a majority vote of the Regents.

2 Such Commissioner may be elected without regard to the place of his residence whether it be within or without the State of New York.

§ 92 Term of office. The Commissioner of Education shall serve during the pleasure of the Board of Regents.

§ 93 Salary. The salary of such Commissioner shall be seven thousand five hundred dollars per annum, payable monthly, and he

shall also be paid one thousand five hundred dollars in lieu and in full for his traveling and other expenses which shall also be payable monthly.

§ 94 **General powers and duties.** The Commissioner of Education is hereby charged with the following powers and duties:

1 He is the chief executive officer of the state system of education and of the Board of Regents. He shall enforce all general and special laws relating to the educational system of the State and execute all educational policies determined upon by the Board of Regents.

2 He shall have general supervision over all schools and institutions which are subject to the provisions of this act, or of any statute relating to education, and shall cause the same to be examined and inspected, and shall advise and guide the school officers of all districts and cities of the State in relation to their duties and the general management of the schools under their control.

3 He shall have general supervision of industrial schools, trade schools and schools of agriculture, mechanic arts and homemaking; he shall prescribe regulations governing the licensing of the teachers employed therein; and he is hereby authorized, empowered and directed to provide for the inspection of such schools, to take necessary action to make effectual the provisions therefor, and to advise and assist boards of education in the several cities and school districts in the establishment, organization and management of such schools.

4 He shall also have general supervision over the state normal schools which have been, or which may hereafter be, established as required by the provisions of this chapter.

5 He shall be *ex officio* a trustee of Cornell University.

6 He shall be responsible for the safe keeping and proper use of the Department and University seal and of the books, records and other property in charge of the Regents, and for the proper administration and discipline of the various offices and divisions of the Education Department.

7 He may annul upon cause shown to his satisfaction any certificate of qualification granted to a teacher by any authority whatever or declare any diploma issued by a state normal school ineffective and null as a qualification to teach a common school within this State, and he may reconsider and reverse his action in any such matter.

8 He shall cause to be prepared and keep in his office records of all persons who have received, or shall receive, certificates of qualification to teach or diplomas of the state normal schools, with

the dates thereof, and shall note thereon all annulments of such certificates and diplomas, and reversals thereof, with the dates and causes thereof, together with such other particulars as he may deem expedient.

8-a The Commissioner shall procure with the consent of the federal authorities complete lists giving the names, ages and destination within the State of all alien children of school age and such other facts as will tend to identify them, and shall deliver copies of such lists to the several boards of education and school boards in the respective localities within the State to which said children shall be destined, to aid in the enforcement of the provisions of this chapter relative to the compulsory attendance at school of children of school age. [*Subdivision 8-a added by L. 1921, ch. 21, in effect March 3, 1921.*]

9 He shall cause to be prepared suitable registers, blanks, forms and regulations for making all reports and conducting all necessary business under this chapter, and shall cause the same, with such information and instructions as he shall deem conducive to the proper organization and government of the common schools and the due execution of their duties by school officers, to be transmitted to the officers and persons intrusted with the execution of the same.

10 He may administer oaths and take affidavits concerning any matter relating to the duties of his office or pertaining in any way to the schools of the State or any part thereof.

11 He is hereby authorized to furnish by means of pictorial or graphic representations, additional facilities for instruction in geography, history, science and kindred subjects, to the schools, institutions and organizations under the supervision of the Regents. Material collected for this purpose may, under Regents general rules, be lent for a limited time to responsible institutions and organizations for the benefit of artisans, mechanics and other citizens of the several communities of the State. He may from time to time enter into contracts necessary for carrying out this provision.

11-a The Commissioner of Education is authorized and directed to establish and provide for the maintenance and conduct of courses of study or training in state normal institutions and in colleges and universities and other educational institutions and in connection with other educational agencies for the purpose of training teachers in principles and methods of instruction, and to give them knowledge to fit them to instruct foreign-born and native adults and minors over sixteen years of age in evening, extension, factory, home and community classes. Such courses of study shall be prescribed by

the Commissioner of Education and shall continue for a period of not less than one year. No teacher employed to instruct foreign-born and native adults and minors over sixteen years of age shall be employed by the State or compensated in whole or in part by the State, unless he shall have completed such course of study or training or shall have an equivalent thereof to be determined under the rules and regulations of the Commissioner of Education. A special certificate shall be issued to teachers who have completed such course of study or a course of instruction which is equivalent thereto, provided, however, that temporary permits may be issued by the Commissioner of Education to teachers who are qualified to give such instruction pending the completion of such a course of study or training. [*Added by L. 1918, ch. 412; amended by L. 1920, ch. 851, in effect May 20, 1920. The sum of \$40,000 was appropriated by the Legislature to carry out the provisions of this subdivision.*]

11-b [*Subdivision 11-b repealed by L. 1921, ch. 327, in effect April 22, 1921.*]

11-c The board of estimate and apportionment of a city, the council of a city, or the common council of a city, the board of supervisors of a county, the board of trustees of an incorporated village, the town board of a town, may make appropriations to aid and promote the extension of education among the illiterates and non-English-speaking persons within the jurisdiction of these respective bodies. [*Added by L. 1919, ch. 617, in effect May 14, 1919. The sum of \$100,000 was appropriated to the Commissioner of Education for carrying out the provisions of subdivisions 11-b and 11-c.*]

11-d The Commissioner of Education or the board of education or trustees of any city or school district may provide for the establishment of courses of instruction or study and schools in connection with factories, places of employment, or in such other places as he or they may deem advisable, for the purpose of giving instruction to foreign-born and native adults and minors over the age of sixteen years. Such course of instruction or study shall include instruction in English, history, civics and other subjects tending to promote good citizenship and to increase vocational efficiency. Such course of instruction and study shall be prescribed by the Regents of The University of the State of New York, and shall be in conformity with rules to be adopted by them. If the board of education or trustees of a city or school district shall establish such a course of instruction or study, and shall employ

teachers properly qualified as provided by law to give such instruction, the Commissioner of Education shall apportion in the same manner as teachers' quotas are apportioned to such city or school district an amount equal to one-half the salary paid to each of such teachers, but not to exceed one thousand dollars for each teacher so employed. [*Subdivision 11-d added by L. 1920, ch. 852, and amended by L. 1921, ch. 327, in effect April 22, 1921.*]

12 He shall also have and execute such further powers and duties as he shall be charged with by the Regents.

§ 94-a **Transfer of powers of State Board of Charities in relation to the New York School for the Blind to the Commissioner of Education.** All the powers of regulation, supervision and control heretofore exercised by the State Board of Charities upon, over and in relation to the New York State School for the Blind at Batavia, by virtue of the state charities law, are hereby transferred to and vested in the Commissioner of Education in addition to his other powers and duties, and the Commissioner of Education shall hereafter exercise and perform in relation to such state school for the blind all the powers and duties heretofore exercised and performed by the State Board of Charities relating to the regulation, supervision and control of such school under the provisions of the state charities law. Nothing herein contained shall in any way deprive the State Board of Charities of its powers of visitation and inspection in regard to said school for the blind as provided in the constitution nor affect in any way the fiscal control of said school now exercised under the state charities law by the fiscal supervisor of state charities. [*Added by L. 1919, ch. 136, in effect July 1, 1919.*]

§ 95 **Removal of school officers; withholding public money.**

1 Whenever it shall be proved to his satisfaction that any trustee, member of a board of education, clerk, collector, treasurer, school commissioner, superintendent of schools or other school officer has been guilty of any wilful violation or neglect of duty under this chapter, or any other act pertaining to common schools or other educational institution participating in state funds, or wilfully disobeying any decision, order or regulation of the Regents or of the Commissioner of Education, said Commissioner may, by an order under his hand and seal, which order shall be recorded in his office, remove such school officer from his office.

2 Said Commissioner of Education may also withhold from any district or city its share of the public money of the State for wilfully disobeying any provision of law or any decision, order or regulation as aforesaid.

§ 96 **Other powers.** The Commissioner of Education shall also have power and it shall be his duty to cause to be instituted such proceedings or processes as may be necessary to properly enforce and give effect to any provision in this chapter or in any other general or special law pertaining to the school system of the State or any part thereof or to any school district or city. He shall possess the power and authority to likewise enforce any rule or direction of the Regents.

§ 97 **Schools of union free school districts and cities.** The schools of every union free school district and of every city in all their departments shall be subject to the visitation of the Commissioner of Education. He is charged with the general supervision of their boards of education and their management and conduct of all departments of instruction.

§ 98 **Reports of school officers.** The officers of the several districts and cities of the State and all other school officers shall make such reports and in such form from time to time in relation to the schools under their management and supervision as the Commissioner of Education shall require.

§ 99 **County clerk and county treasurers to forward certain reports.** 1 The county clerk of each county shall, upon the requisition of the Commissioner of Education, file with such Commissioner any reports of trustees of school districts and boards of education or the abstract of such reports made by school commissioners which have been filed in the office of such county clerk pursuant to the provisions of the Education Law, whenever it is necessary for the Commissioner of Education to obtain information or data contained in official reports which have been transmitted to the Education Department but which have been destroyed by fire or otherwise.

2 The county treasurer of each county shall, upon the requisition of the Commissioner of Education, forward to said Commissioner any original certificates relating to the apportionment of school moneys which the Commissioner of Education has filed in the office of such treasurer whenever it is necessary to obtain information on the apportionment of school moneys when the data relating thereto in the office of the Commissioner of Education has been destroyed by fire or otherwise. After securing such information as may be necessary from such certificates, the Commissioner of Education shall return the same to the treasurer of such county.

[*Added by L. 1911, ch. 159.*]

ARTICLE 5

School Districts

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§ 120 Existing districts continued. All school districts organized either by special laws or pursuant to the provisions of a general law are hereby continued and may be altered or dissolved as herein provided.

§ 121 **Formation of new district.** 1 A district superintendent may organize a new school district out of the territory of one or more school districts which are wholly within his supervisory district, whenever the educational interests of the community require it. If there is an outstanding bonded indebtedness chargeable against the district or districts out of the territory of which such new district is organized; the district superintendent shall apportion said indebtedness between such new district and the remaining portion of the district or districts out of which such new district is organized, according to the assessed valuation thereof, and the portion of the indebtedness so apportioned shall become a charge for principal and interest upon the respective districts as though the same had been incurred by said districts separately.

2 The district superintendents of two or more adjoining supervisory districts when public interests require it, may form a joint school district out of the adjoining portions of their respective districts. [Amended by L. 1912, ch. 294.]

§ 122 **Number and description of districts.** 1 Each school commissioner shall renumber the school districts of each town in his commissioner district from time to time and shall also number each new district and shall describe in metes and bounds each of such school districts.

2 The order of a school commissioner forming or numbering a school district and the written description thereof together with all notices, orders, consents and proceedings relating to the formation or alteration thereof shall be filed with the town clerk of the town in which such district is located.

3 Every joint district shall bear the same number in every school commissioner district of whose territory it is in part composed.

§ 123 **Alteration by consent.** 1 With the written consent of the trustees of all the districts to be affected thereby, the district superintendent may make an order altering the boundaries of any school district within his jurisdiction, and fix in such order a day when the alteration shall take effect.

2 With the written consent of the board of education of a union free school district having a population of five thousand or more, and employing a superintendent of schools, and the written consent of the board of education or trustees of a district in a supervisory district adjoining such union free school district, the district superintendent having jurisdiction may make an order altering the boundaries of such districts, and fix in such order a day when the alteration shall take effect. [Amended by L. 1914, ch. 154.]

§ 124 **Alteration without consent.** If the trustees of any district affected thereby refuse to consent, the school commissioner may make and file with the town clerk his order making the alteration, but reciting the refusal, and directing that the order shall not take effect until a day therein to be named, and not less than three months after the date of such order.

§ 125 **Hearing of objections to order for alteration without consent.** 1 Within ten days after making and filing such order the school commissioner shall give at least a week's notice in writing to the trustees of all districts affected by the proposed alterations, that at a specified time, and at a named place within the town in which one of the districts to be affected lies, he will hear the objections to the alteration.

2 The trustees of any district to be affected by such order may request the supervisor and town clerk of each of the towns, within which such districts shall wholly or partly lie, to be associated with the school commissioner.

3 At the time and place mentioned in the notice, such commissioner, with the supervisors and town clerks, if they shall attend and act, shall hear and decide the matter, and the decision shall be final unless duly appealed from. Such decision must either affirm or vacate such order, and must be filed with and recorded by the town clerk of the town in which the district to be affected shall lie, and a tie vote shall be regarded a decision for the purposes of an appeal on the merits. Upon such appeal the Commissioner of Education may affirm, modify or vacate the order of the school commissioner or the action of the local board.

§ 126 **Dissolution or alteration of joint district.** The majority of the school commissioners within whose districts any joint school district lies may make an order at a meeting duly called by one of such commissioners altering or dissolving such district.

§ 127 **Special meeting of joint district to act regarding dissolution.** 1 If a school commissioner, by notice in writing, shall require the attendance of the other school commissioners, at a joint meeting for the purpose of altering or dissolving a joint district, and a majority of all the commissioners shall refuse or neglect to attend, such commissioners attending, or any one of them, may call a special meeting of such school district for the purpose of deciding whether such district shall be dissolved.

2 If such special meeting shall vote to dissolve the district the school commissioner who called such meeting may make an order dissolving the district and shall recite in such order the refusal or

neglect of the other school commissioners, his call of the special meeting and the action taken at such meeting.

§ 128 **Dissolution by consent and consequent alteration of districts.** 1 A school commissioner may dissolve one or more common school districts upon the written consent of the trustees of all the districts to be affected. When one or more of such districts adjoin a union free school district whose limits do not correspond with those of an incorporated village or city, he may annex the territory of such dissolved districts to such union free school district.

2 A school commissioner on the written consent of the boards of education of the districts affected may also dissolve a union free school district when it adjoins another union free school district and annex the territory of such dissolved district to such other union free school district.

§ 129 **Dissolution, re-formation and consolidation of districts.** Any school commissioner may dissolve one or more districts, and may from such territory form a new district; he may also unite such territory or a portion thereof to any adjoining school district, except a union free school district whose boundaries are coterminous with the boundaries of an incorporated village or city.

§ 130 **Consolidation of districts by vote of qualified electors.** Two or more common school districts may be consolidated and created as one common school district, of¹ two or more union free school districts may be consolidated and created as one union free school district, or one or more common school districts may be consolidated with one or more union free school districts and created as a union free school district, by a vote of the qualified electors thereof as provided in the following sections. [*Former § 130 repealed by L. 1911, ch. 334; new § 130 added by L. 1913, ch. 129.*]

§ 131 **Request for meeting to consolidate districts; notices of meeting.** 1 Whenever two-thirds of the qualified electors of each of two or more districts in which there shall be less than fifteen qualified electors, or if there be fifteen or more qualified electors in either of such districts whenever ten or more of such electors shall sign a request for a meeting to be held for the purpose of determining whether such districts shall be consolidated as a common school district, and submit the same to the trustees or board of education of each of such districts, it shall be the duty of such trustees or board of education to give public notice that a meeting of the qualified electors of such districts will be held at some convenient place within such districts, as centrally located as may be, to vote upon the ques-

¹ So in original.

tion of consolidating such districts. Such notice shall specify the day and hour when such meeting shall be held, not less than twenty nor more than thirty days after the posting, service or publication of such notice. If the trustees or board of education shall refuse or neglect to give such notice within twenty days after such request is submitted the Commissioner of Education may authorize and direct any qualified elector of the district to give such notice.

2 If any part of either of such districts is situated wholly or partly within an incorporated village in which one or more newspapers are published, such notice shall be published once in each week for three consecutive weeks before such meeting in all the newspapers published in such village, and shall also be posted at least twenty days prior to such meeting, in at least five conspicuous places in each district. In all other districts the trustees or board of education of each district shall authorize and direct a qualified elector thereof to notify each qualified elector of such district of such meeting by delivering to him a copy of such notice or in case of his absence from home, by leaving a copy thereof, or so much thereof as relates to the time, place and object of the meeting, at the place of his abode, at least twenty days prior to the time of such meeting.

3 The reasonable expense of the publication and service of such notice shall be chargeable upon the districts, if the vote be in favor of consolidation, and if not, shall be paid by the persons signing the request for such meeting as provided by section 144. [*Former § 131 repealed by L. 1911, ch. 334; new § 131 added by L. 1913, ch. 129, and amended by L. 1914, ch. 101.*]

§ 132 **Proceedings at meeting for consolidation; adoption of resolution; proceedings to be filed.** Such meeting shall be organized as provided in section 145. Such meeting may adopt a resolution to consolidate such districts if two-thirds of the qualified electors of each district having less than fifteen of such electors are present, or in case of districts having fifteen or more qualified electors if ten or more are present. The vote upon such resolution shall be by taking and recording the ayes and noes. The clerk shall keep a poll-list upon which shall be recorded the names of all qualified electors voting upon the resolution, the districts in which such electors reside, and how each elector voted. If it shall appear from the votes so recorded that a majority of the qualified electors present and voting from each district are in favor of such resolution it shall be declared adopted. If a majority of the qualified electors present and voting from each district are not in favor of such resolution, all

further proceedings at such meeting, except a motion to reconsider or adjourn shall be dispensed with and no such meeting shall be again called within one year thereafter.

Copies of such request, notice of meeting, order of the Commissioner of Education directing a qualified elector to call such meeting, if any, and the minutes of the meeting, including the record of the vote upon the resolution, duly certified by the chairman and clerk, shall be transmitted by either the chairman or clerk, one to the Commissioner of Education, and one to the district superintendent of schools in whose jurisdiction such districts are located. [*Former § 132 repealed by L. 1911, ch. 334; new § 132 added by L. 1913, ch. 129, and amended by L. 1914, ch. 101.*]

§ 133 Order creating consolidated district; effect. The district superintendent shall thereupon issue an order consolidating such districts and creating a common school district, or union free school district, as the case may be, designating such district by number. Such order shall take effect at some date to be specified therein, not more than three months after the date of the meeting. He shall file such order in the town clerk's office of the town in which such districts are located. If such districts are located in two or more supervisory districts such order shall be executed jointly by the district superintendents of such districts. Such order shall have the same effect as an order executed by a district superintendent dissolving two or more common school districts and forming a new district therefrom, or dissolving one or more of such districts and uniting the territory thereof to a union free school district. But a district superintendent may, upon a petition of at least twenty-five qualified electors of the consolidated district, where one of the districts consolidated is a union free school district, or shall, when directed by the Commissioner of Education, direct the clerk of the board of education of such union free school district to call a special meeting of the qualified electors thereof, for the purpose of increasing the number of members of the board of education of such new district, subject to the limitations prescribed by section 308 of this chapter, or for the purpose of terminating the offices of the members of the board of education in office when the consolidation takes effect. If it be determined to increase the number of such members, such meeting shall elect the additional number so determined upon, as provided in such section 308. If it be determined to elect a new board of education in place of the board in office when the consolidation takes effect, such meeting shall proceed with the election of a board of education as provided

in sections 301 and 302 of this chapter. [*Added by L. 1913, ch. 129.*]

§ 134 District quotas of consolidated districts. There shall be apportioned and paid to the district created by the consolidation of districts as provided in sections one hundred and twenty-eight, one hundred and twenty-nine and one hundred and thirty-two of this article district quotas for each of the districts consolidated in the same amount and under the same conditions as though such consolidation had not been effected. Such apportionment shall be based upon the assessed valuation of the taxable property within such districts as they existed at the time of the consolidation, and the trustees or board of education of the consolidated district shall include in their report a statement of such assessed valuation. The money so apportioned and paid to the consolidated district may be applied to the payment of the salaries of teachers, the transportation of pupils and the maintenance of the school in the district. If a district is divided into portions, which are annexed to other districts, the district quota of such district, based upon the assessed valuation of the taxable property within the bounds of the district at the time of division, shall be apportioned among such other districts in the proportions, respectively, that the assessed valuation of the taxable property in the annexed portions bears to the assessed valuation of such property in the district so divided. The trustees or board of education of each of such other districts shall include in their report a statement of the assessed valuation of its annexed portion and may use the money so apportioned for payment of salaries of teachers, the transportation of pupils and the maintenance of schools in their respective districts. [*Former § 134 repealed by L. 1911, ch. 334; new § 134 added by L. 1913, ch. 129; amended by L. 1914, ch. 101 and L. 1920, ch. 140, in effect April 1, 1920.*]

§ 134-a The bonded indebtedness of certain dissolved districts. Whenever two or more districts are dissolved pursuant to the provisions of section 128 of this article and annexed to adjoining districts or consolidated as provided in section 132, the bonded indebtedness of any such district shall thereupon become a charge upon the enlarged district formed by such annexation. The board of education or trustees of such district shall raise by tax an amount sufficient to pay any of the bonds and interest thereof of such district as the same shall become due. [*Former § 133 renumbered and amended by L. 1913, ch. 129.*]

§ 135 Continuance of dissolved districts for payment of debts. Though a district be dissolved, it shall continue to exist in law, for

the purpose of providing for and paying all its just debts; and to that end the trustees and other officers shall continue in office, and the inhabitants may hold special meetings, elect officers to supply vacancies and vote taxes; and all other acts necessary to raise money and pay such debts shall be done by the inhabitants and officers of the district.

§ 136 **Deposit of records of dissolved district.** 1 The school commissioner, or a majority of such commissioners in whose districts a dissolved school district was situated, shall by written order delivered to the clerk of the district, or to any person in whose possession the books, papers and records of the district, or any of them, may be, direct such clerk or other person to deposit the same in the clerk's office in the town named in the order.

2 Such clerk or other person, by neglect or refusal to obey the order, shall forfeit fifty dollars, to be applied to the benefit of the common schools of said town.

§ 137 **Property of districts consolidated.** When two or more districts shall be consolidated into one, the new district shall succeed to all the rights of property possessed by the annulled districts.

§ 138 **Sale of property of dissolved district and disposition of proceeds.** 1 When a district is divided into portions, which are annexed to other districts, its property shall be sold by the supervisor of the town, within which its schoolhouse is situated, at public auction, after at least five days' notice.

2 Such notice shall be given by posting the same in three or more public places of the town in which the schoolhouse is situated and in one conspicuous place in the district so dissolved.

3 The supervisor, after deducting the expenses of the sale, shall apply its proceeds to the payment of the debts of the district, and apportion the residue, if any, among the owners or possessors of taxable property in the district, in the ratio of their several assessments on the last corrected assessment-roll of the towns, and pay it over accordingly.

§ 139 **Collection and distribution of moneys due dissolved district.** The supervisor of the town within which the schoolhouse of the dissolved district was situated may demand, sue for and collect, in his name of office, any money of the district outstanding in the hands of any of its former officers, or any other person; and, after deducting his costs and expenses, shall report the balance to the school commissioner who shall apportion the same equitably among the districts to which the parts of the dissolved

district were annexed, to be by them applied as their district meeting shall determine.

§ 140 Fees of supervisor and town clerk. The supervisor and town clerk shall be entitled each, to one dollar and fifty cents a day, for each day's service in any proceeding under section one hundred twenty-five of this article, to be levied and paid as a charge upon their town.

§ 141 Notice of meeting for establishment of union free school district. 1 Whenever fifteen persons entitled to vote at any meeting of the inhabitants of any school district in the State, shall sign a request for a meeting, to be held for the purpose of determining whether a union free school shall be established therein in conformity with the provisions of this article, it shall be the duty of the trustees of such district, within ten days after such request shall have been presented to them, to give public notice that a meeting of the inhabitants of such district entitled to vote thereat will be held for such purpose as aforesaid, at the schoolhouse, or other more suitable place in such district, on a day and at an hour to be specified in such notice not less than twenty nor more than thirty days after the publication of such notice.

2 If the trustees shall refuse to give such notice, or shall neglect to give the same for twenty days, the Commissioner of Education may authorize and direct any inhabitant of such district to give the same.

§ 142 Posting, publication and service of notice. 1 Whenever such district shall correspond wholly or in part with an incorporated village, in which there shall be published a daily or weekly newspaper, the notice required in section 141 shall be given by posting the same in five conspicuous places in said district, at least twenty days prior to such meeting, and by causing the same to be published once a week for three consecutive weeks before such meeting, in all newspapers published in said district.

2 In other districts the said notice shall be given by posting the same as aforesaid, and in addition thereto, the trustees of such district shall authorize and require any taxable inhabitant thereof to notify every other qualified voter in such district of such meeting by delivering to him a copy of such notice or in case of his absence from home, by leaving a copy thereof, or so much thereof as relates to the time, place and object of the meeting, at the place of his abode at least twenty days prior to the time of such meeting.

§ 143 Notice in case of adjoining districts. 1 Whenever fifteen persons, entitled as aforesaid, from each of two or more

adjoining districts, shall unite in a request for a meeting of the inhabitants of such districts, to determine whether such districts shall be consolidated by the establishment of a union free school therein, it shall be the duty of the trustees of such districts, or a majority of them, to give public notice of such meeting, at some convenient place within such districts, and as central as may be, within the time and to be published and served in the manner set forth in sections 141 and 142 of this article, in each of such districts.

2 The commissioner of Education may order such meeting under the conditions and in the manner prescribed in section 141 of this article.

§ 144 **Expense of notice.** The reasonable expense of the publication and service of such notice, shall be chargeable upon the district, in case a union free school is established by the meeting so convened, to be levied and collected by the trustees, as in case of taxes now levied for school purposes; but in the event that such union free school shall not be established, then the said expense shall be chargeable upon the inhabitants signing the request, jointly and severally, to be sued for, if necessary, in any court having jurisdiction of the same.

§ 145 **Proceedings at meeting and effect of affirmative vote.**
 1 Any such meeting held pursuant to the foregoing provisions shall be organized by the election of a chairman and clerk and may be adjourned from time to time, by a majority vote, provided that such adjournment shall not be for a longer period than ten days; and whenever at any such meeting duly called and held under the provisions of sections 141 and 142 of this article, at least fifteen qualified voters of the districts shall be present; or at such meeting duly called and held under the provisions of section 143 of this article, at least fifteen qualified voters of each of the two or more adjoining districts, joining in the request, shall be present, such meeting may, by the affirmative vote of a majority present and voting, adopt a resolution to establish a union free school in said district, or to consolidate the two or more adjoining districts by establishing a union free school in said districts pursuant to the notice of said meeting. If said meeting shall determine to establish a union free school in said districts as aforesaid, it shall be lawful for such meeting thereafter to proceed to the election of a board of education as provided in sections 301 and 302 of this chapter.

2 The school commissioner in whose district the union free school district is thus organized shall designate such district as union free school district number of the town of and the

said board shall have the name and style of the board of education of (adding the designation aforesaid).

3 Copies of said request, notice of meeting, order of the Commissioner of Education directing some inhabitant to call said meeting, if any, and minutes of said meeting, duly certified by the chairman and clerk thereof, shall be transmitted and deposited, immediately after such meeting by one of such officers, one to and with the town clerk, one to and with the school commissioner in whose jurisdiction said districts are located, and one to and with the Commissioner of Education.

4 If at any such meeting, the question as to the establishment of a union free school shall not be decided in the affirmative, as aforesaid, then all further proceedings at such meeting, except a motion to reconsider or adjourn, shall be dispensed with, and no such meeting shall be again called within one year thereafter.

5 When any such meeting shall have established a union free school in said districts, such union free school district shall not be dissolved within the period of one year from the first Tuesday of August next after such meeting.

§ 146 Meeting to determine regarding reorganization as common school district. In any union free school district established under the laws of this State, and which shall have been established for the period of one year or more, it shall be the duty of the board of education, upon the application of fifteen resident taxpayers of such district, to call a special meeting in the manner prescribed by law, for the purpose of determining whether application shall be made in the manner hereinafter provided, for the dissolution of such union free school district, and for its reorganization as one or more common school districts.

§ 147 Result of vote for or against reorganization. 1 Whenever, at any such meeting called and held as aforesaid, it shall be determined by a majority vote of the legal voters present and voting, to be ascertained by taking and recording the ayes and noes, not to dissolve such union free school district, no other meeting for a similar purpose shall be held in said district within three years from the time the first meeting was held.

2 Whenever at any such meeting called and held as aforesaid it shall be determined by a two-thirds vote of the legal voters present and voting, to be ascertained by taking and recording the ayes and noes, to dissolve such union free school district, it shall be the duty of the board of education to present to the school commissioner of the commissioner district in which said union free

school is situated, a certified copy of the call, notice and proceedings. If such school commissioner shall approve the proceedings of said meeting, he shall certify the same to the board of education. Such approval shall not take effect until the day preceding the first Tuesday of August next succeeding; but after that date such district shall cease to be a union free school district.

§ 148 **Reversion to form of original school districts.** If any union free school district dissolved under the foregoing provisions shall have been established by the consolidation of two or more districts, it shall be lawful for such school commissioner to order that its territory be divided into two or more districts, to correspond, so far as practicable, with the districts theretofore consolidated.

§ 149 **School commissioner may require equality of partition.** Such school commissioner may make his approval of the proceedings of any such meeting held as aforesaid conditional upon the payment, by the district which has been most greatly benefited by the consolidation in the way of buildings and other improvements to the other districts into which the said union free school district is divided, of such sum of money as he may deem equitable.

§ 150 **Effect of veto by school commissioner regarding subsequent meeting.** If such school commissioner shall not approve the proceedings of any such meeting, held as aforesaid, for the purpose of dissolving a union free school district, no other meeting shall be held in such district, for a similar purpose, within three years from the time the first meeting was held.

§ 151 **Report of proceedings to Commissioner of Education.** Whenever the proceedings of a meeting, held as aforesaid, for the purpose of dissolving a union free school district, shall have been approved by such school commissioner and shall have been certified by him to the board of education, it shall be the duty of the board of education of the district affected forthwith to file with the Commissioner of Education, copies of the call, notice, proceedings of the meeting, and the action taken by such school commissioner thereon.

§ 152 **Distribution of moneys on dissolution.** All moneys remaining in the hands of the treasurer of the union free school district when the order of dissolution shall take effect shall be apportioned equitably among the several districts into which such union free school district is divided, and shall be paid over to the collectors or treasurers of such districts when they shall have been elected and have qualified according to law.

§ 153 **School property exempt from taxation.** The grounds, buildings, furniture, books, apparatus and all other property of a school district shall not be subject to taxation for any purpose.

§ 154 **Application of funds obtained from sale of school property.** All moneys obtained from the sale of any school property authorized under the provisions of this chapter shall be applied for the benefit of the district as directed by the voters thereof in any annual or special meeting.

ARTICLE 6

School Neighborhoods

Section 170 Setting off school neighborhoods

171 Neighborhood meetings

172 Duties of neighborhood clerk and trustee

§ 170 **Setting off school neighborhoods.** Each school commissioner in respect to the territory within his district shall have power, with the approval of the Commissioner of Education, to set off by itself any neighborhood adjoining any other state of the union, where it shall be found most convenient for the inhabitants to send their children to a school in such adjoining state, and to deliver to the town clerk of the town in which it lies, in whole or in part, a description of each such separate neighborhood. He shall also prepare a notice, describing such neighborhood, and appointing a time and place for the first neighborhood meeting, and deliver such notice to a taxable inhabitant of such neighborhood. It shall be the duty of such inhabitant to notify every other inhabitant of the neighborhood, qualified to vote at the meeting, by reading the notice in his hearing, or, in case of his absence from home, by leaving a copy thereof, or so much thereof as relates to the time, place and object of the meeting, at the place of his abode, at least six days before the time of the meeting. In case such meeting shall not be held, and in the opinion of the school commissioner it shall be necessary to hold such meeting before the time herein fixed for the first annual meeting, he shall deliver another such notice to a taxable inhabitant of the neighborhood, who shall serve it as hereinbefore provided.

§ 171 **Neighborhood meetings.** The annual meeting of each neighborhood shall be held on the first Tuesday of August in each year, at the hour and place fixed by the last previous neighborhood meeting; or, if such hour and place has not been so fixed, then at

the hour and place of such last meeting; or, if such place be no longer accessible, then at such other place as the trustee, or, if there be no trustee, the clerk, shall in the notices designate. The proceedings of no neighborhood meeting, annual or special shall be held illegal for want of a due notice to all the persons qualified to vote thereat, unless it shall appear that the omission to give such notice was wilful and fraudulent. The inhabitants of any neighborhood, entitled to vote, when assembled in any annual meeting or any special meeting called by the commissioner as above provided, shall have power, by a majority vote of those present, to appoint a chairman for the time being, and to choose a neighborhood clerk and one trustee, and to fill vacancies in office. The provisions of article 7 of this chapter, shall apply to and govern such meeting, so far as the same can in substance be applied to the proceedings; and the provisions of article 8 of this chapter shall apply to and govern the officers of such neighborhood, so far as the same can in substance be applied thereto.

§ 172 **Duties of neighborhood clerk and trustee.** The neighborhood clerk shall keep a record of the proceedings of his neighborhood, and of the reports of the trustees, and deliver the same to his successor. In case such neighborhood shall be annexed to a district within this State its records shall be filed in the office of the clerk of such district. The trustee shall, between the twenty-fifth day of July and the first day of August in every year, make his annual report to the school commissioner, and file it in the office of the clerk of the town of which the neighborhood is a part. Such report shall specify the whole amount of public moneys received during the year and from what public officer, and the manner in which it was expended; the whole number of such children as can be included in the district trustees' report residing in the neighborhood on the thirtieth day of August prior to the making of such report; and any other matters which the Commissioner of Education may require.

ARTICLE 6-A

(Article added by L. 1913, ch. 176)

Temporary School Districts

- Section 175 Establishment of temporary school districts
- 176 Organization of district; officers
- 177 Maintenance of schools; teachers
- 178 Payment of expenses; gifts and contributions
- 179 Regulations of Commissioner of Education

§ 175 **Establishment of temporary school districts.** Temporary school districts may be established outside of cities and union free school districts and public schools shall be maintained therein as hereinafter provided. Such districts may be established whenever any considerable number of persons shall have been congregated in camps or other places of temporary habitation, who are engaged in the construction of public works by, or under contract with, the State, or in the construction of public works or improvements by or under contract with any municipality. Such temporary districts shall be established by order of the district superintendent of schools of the supervisory district within which such camps or other places of temporary habitation are located, subject to the approval of the Commissioner of Education. Such order shall be filed in the State Education Department and if the public works or improvements are being constructed by a municipality, a copy thereof shall be filed in the office of the officer or board of the city under whose direction they are being constructed. When so established such districts shall be entitled to share in the apportionment of public money as in the case of other school districts, except that each district quota shall be one hundred and twenty-five dollars. The money so apportioned shall be paid to the treasurer of the district and be applied in the payment of teachers' salaries. [*Added by L. 1913, ch. 176.*]

§ 176 **Organization of districts; officers.** Each of such districts shall have a trustee who shall be appointed by the district superintendent of schools, and a district clerk and treasurer to be appointed by the trustee. Each of such officers shall serve during the continuance of the camp or other place of temporary habitation, unless sooner removed by the district superintendent. The treasurer shall give a bond to the people of the State, in an amount to be determined by the district superintendent, and with sureties approved by him, conditioned for the proper disbursement and accounting of all moneys received by him in behalf of such district. [*Added by L. 1913, ch. 176.*]

§ 177 **Maintenance of schools; teachers.** Such schools shall be under the supervision of the district superintendent and shall be maintained pursuant to regulations adopted by the Commissioner of Education. They shall be free to all children of school age residing in such camps and other places of temporary habitation, and also to all adults residing therein. They shall be open at such hours as may be prescribed by the district superintendent, subject to the approval of the Commissioner of Education. The trustee of each such district shall employ qualified teachers for the school therein, for such

term and at such rate of compensation as may be determined upon by the district superintendent with the approval of the Commissioner of Education. The said trustees shall provide suitable building or rooms for such school and shall require the same to be kept in proper condition for the maintenance thereof, and shall cause the same to be equipped and supplied with all necessary books, furniture, apparatus and appliances. [*Added by L. 1913, ch. 176.*]

§ 178 **Payment of expenses; gifts and contributions.** The costs and expenses of maintaining such schools in temporary districts, exclusive of the amount apportioned thereto out of the public moneys, shall be paid in such districts where the public works are being constructed by the State, out of moneys appropriated for such purpose. In districts where public works or improvements are being constructed for a municipality, such costs and expenses shall be a charge upon such municipality, and shall be paid out of funds available for the payment of the costs of construction of such works or improvements.

The trustees of such district shall prepare an estimate of the amount of probable expenditures for the maintenance of the public schools in such district, which shall include a statement of the amount in the hands of the treasurer available for such maintenance, the amount received by such treasurer from gifts, contributions and other sources, and the amount to be received from the public school moneys, as herein provided, and shall also state the amount required to be raised for such school, specifying the items thereof, for the ensuing school year. The form of such estimate shall be prescribed by the district superintendent. In the districts where the public works are being constructed by a municipality the said estimate shall be executed in duplicate, one of which shall be filed with the State Education Department, and the other shall be filed in the office of the department or officer of the municipality under whose supervision such public works are being constructed. Upon the approval of such estimates by the State Education Department, notice thereof shall be given to the said department or officer of the municipality, and payment of the amount specified in such estimate shall be made to the treasurer of such district. The treasurer shall preserve vouchers of all payments made by him on account of the school in his district and shall make no payments for purposes not provided for in the estimate, nor without the order of the trustee of the district accompanied with the necessary vouchers. [*Added by L. 1913, ch. 176.*]

§ 179 **Regulations of Commissioner of Education.** The Commissioner of Education shall make regulations, not inconsistent

herewith, for the purpose of providing for the establishment and maintenance of schools as herein provided, and for the purpose of carrying into effect the full extent of this article. [*Added by L. 1913, ch. 176.*]

ARTICLE 6-B

(*Article added by L. 1914, ch. 55*)

Central Rural Schools

- Section 180 Formation of districts
- 181 Notice of meeting and expense of notice
- 182 Trustees at meeting
- 183 Powers and duties of boards of education
- 184 Powers and limitations of districts
- 185 State aid
- 186 Transportation of scholars

§ 180 **Formation of districts.** The Commissioner of Education is hereby authorized and empowered to lay out in this State in any territory exclusive of a city school districts conveniently located for the attendance of scholars and of suitable size for the establishment of central schools to give instruction usually given in the common schools and in high schools, including instruction in agriculture. [*Added by L. 1914, ch. 55.*]

§ 181 **Notice of meeting and expense of notice.** Whenever fifteen persons who are residents and taxable inhabitants in any such district shall unite in a request for a meeting of the inhabitants of such district to determine whether such school shall be established, and file the same in writing with the town clerk of the town in which such district is located, or if located in more than one town, with the town clerk of each town in which any part of such district is, it shall be the duty of each town clerk with whom such notice is filed to post a notice of such meeting, not less than five or more than ten days after the same is filed in his office, in three conspicuous places in the district if the whole thereof be in his town. If the district be located in more than one town the notice shall be prepared by the clerk of the town containing the largest portion of the territory of the district and furnished by him to the other town clerk or clerks for posting. If a weekly or daily newspaper be published within such school district the notice shall be published therein by the clerk preparing the notice, at least three days before the meeting. All reasonable expense of the publication and service of such notice

shall be a town charge upon the town or towns in which the said district, or a part thereof, is located, unless the district decides to establish a central school under this act, in which case such expense shall be a charge upon the district. [Added by L. 1914, ch. 55.]

§ 182 **Trustees at meeting.** 1 Any such meeting held pursuant to such notice shall be organized by the election of a chairman and clerk, and may be adjourned from time to time by a majority vote, provided that such adjournment shall not be for a longer period than ten days; and whenever at any such meeting duly called and held under the provisions of this act fifteen qualified voters of the district shall be present, such meeting may, by an affirmative vote of a majority present and voting, adopt a resolution to establish a central school in said district. If said meeting shall determine to establish such school in said district, it shall be lawful for said meeting thereafter to proceed to the election by ballot of a board of education of not less than three nor more than seven trustees who shall, by the order of said meeting, be divided into three classes, as nearly equal as may be, the first to hold until one, the second until two, and the third until three years from the first Tuesday in August next following. Thereafter there shall be elected in such districts at the annual meeting trustees to supply the places of those whose terms of office by the classification aforesaid expire. The trustees thus elected shall enter at once upon their offices. The said trustees and their successors in office shall constitute the board of education of such district.

2 The Commissioner of Education shall designate the district thus organized as central school district number of the town or towns of and the said board shall have the name and style of "the board of education of (adding the designation aforesaid)."

3 Copies of said requests, notice of meeting and minutes of said meeting duly certified by the chairman and clerk thereof shall be transcribed and deposit made after such meeting by one of said officers, one to and with the town clerk of each town in which any part of said district is located, one to and with the school superintendent in whose jurisdiction the district or any part thereof is located, and one to and with the Commissioner of Education.

4 If at any such meeting the question as to the establishment of a central school shall not be decided in the affirmative as aforesaid, then all further proceedings at such meeting, except a motion to reconsider the question, shall be dispensed with, and no such meeting shall be again called within one year thereafter.

5 If any town clerk fail to perform any duty devolving upon him under this act the same may be performed by the Commissioner of Education. [*Added by L. 1914, ch. 55.*]

§ 183 **Powers and duties of boards of education.** Boards of education in any such district shall have the same powers and duties as boards of education in union free school districts as prescribed by this act. Nothing in this act shall be construed to deprive any existing school district of the property belonging to such district, or to affect the indebtedness of said district. [*Added by L. 1914, ch. 55.*]

§ 184 **Powers and limitations of district.** Any central district thus established shall have the same powers and be subject to the same limitations that are now conferred or imposed by law upon union free school districts as provided by this act. [*Added by L. 1914, ch. 55.*]

§ 185 **State aid.** Any district organized under the provisions of this act shall from the time of its organization receive from the State the amount of money on the basis of attendance paid to the common school districts included therein during the year preceding its organization, at the rate that the said districts were then entitled to receive moneys pursuant to law. If a common school district be divided in the formation of a central district the moneys of such common school district shall be apportioned by the Commissioner of Education, and the share thereof apportioned to that part of the common school district included in the central district shall be paid to the central district. Whenever any such district shall comply with the requirements of section 604 of the Education Law in relation to the establishment of general schools of agriculture and home making, the Commissioner of Education shall make the same annual apportionment of state school moneys to such central school as is now required to be made by law to a high school or union free school district complying therewith. Any such central district shall also receive all other allowances of public moneys apportioned by the State which it would be entitled to receive if it were a union free school district. [*Added by L. 1914, ch. 55.*]

§ 186 **Transportation of scholars.** The Commissioner of Education shall have power in any such central district to require the payment by the district of such expense of transportation of school children to and from the school as in his judgment justice requires, and the same shall be a charge upon the district. [*Added by L. 1914, ch. 55.*]

ARTICLE 6-C

(*Art. 6-C, added by L. 1917, ch. 137, in effect April 5, 1917*)

Central High School Districts

- Section 187 Formation of central high school district
 188 Request for meeting to vote on establishment of district; notice of meeting
 189 Expense of notice
 189-*a* Conduct of meeting
 189-*b* Proceedings to be submitted to Commissioner of Education; order establishing district
 189-*c* Number and election of members of board of education
 189-*d* Location of high school site
 189-*e* Acquisition of site and erection of building
 189-*f* Issue and sale of bonds
 189-*g* Powers of board of education; laws applicable
 189-*h* District meetings; vote upon school taxes
 189-*i* Apportionment of expenses
 189-*j* District treasurer; custody and disbursement of funds
 189-*k* State aid
 189-*l* Transportation of pupils

§ 187 **Formation of central high school district.** Two or more adjoining school districts may be formed into a central high school district in the manner provided in this article, for the purpose of erecting, establishing and maintaining therein a high school for the secondary education of the pupils residing in such district who have completed the work of the elementary grades in the several school districts included in such central high school district. [*Added by L. 1917, ch. 137, in effect April 5, 1917.*]

§ 188 **Request for meeting to vote on establishment of district; notice of meeting.** 1 Whenever fifteen qualified electors of each of the districts proposing to establish such central high school district shall sign a request in writing for a meeting of the qualified electors of such districts, to be held for the purpose of determining whether a central high school district be established in conformity with the provisions of this article, it shall be the duty of the board of education of each union free school district and of the trustees of each common school district to give public notice that a meeting of the qualified electors of such districts will be held at a time and place to be specified therein. Such place shall be conveniently accessible to the qualified electors of such districts and the notice shall specify the day and hours of the meeting, which shall be not less

than twenty nor more than thirty days after the publication of such notice. If the board of education and trustees of such districts refuse or fail to give such notice within twenty days after such request shall have been presented to them, the Commissioner of Education may by order authorize and direct an inhabitant of any such districts to give such notice.

2 Such notice shall be published once a week for three consecutive weeks before the meeting in all the newspapers published in any of the districts proposed to be established as a central high school district. In addition to such publication, such notice shall be posted in five conspicuous places in each of such districts at least twenty days prior to the meeting. If there are no newspapers published in any of such districts, such notice shall be posted in at least ten conspicuous places in each of such districts at least twenty days prior to the day of the meeting. [*Added by L. 1917, ch. 137, in effect April 5, 1917.*]

§ 189 **Expense of notice.** The reasonable expense of the publication and service of such notice, together with the expenses actually incurred in the holding of such meeting, shall be chargeable against the central high school district, if it be established, and shall be levied and collected by the board of education of such district, in the same manner as are other expenses chargeable against such district for the establishment and maintenance of a high school therein. In the event that such central high school district is not established, such expenses shall be chargeable upon the qualified electors signing the request, jointly and severally, to be sued for if necessary in any court having jurisdiction of the same. [*Added by L. 1917, ch. 137, in effect April 5, 1917.*]

§ 189-a **Conduct of meeting.** Such meeting shall be organized by the election of a chairman and a clerk, and may be adjourned from time to time by a majority vote, provided that such adjournment shall not be for a longer period than ten days. If there are at least fifteen qualified electors present from each of the districts proposing to establish such central high school district, such meeting may by the affirmative vote of a majority of those present and voting from each of such districts adopt a resolution to establish a central high school district comprising the districts voting in favor thereof. If when such resolution is presented a majority of the qualified electors present from one or more of such districts is opposed to the establishment of such central high school district, and a majority of the qualified electors present and voting from each of the other districts is in favor of such resolution, the qualified electors present

and voting from the districts in favor of the establishment of such district may adopt a resolution for the establishment of a central high school district comprising the districts voting in favor of such resolution.

The resolutions so submitted shall be voted upon by taking and recording the ayes and noes. The clerk of the board shall keep a poll list containing the names of the qualified electors present from each of the districts and indicating how each of such electors voted upon such resolutions. [*Added by L. 1917, ch. 137, in effect April 5, 1917.*]

§ 189-b **Proceedings to be submitted to Commissioner of Education; order establishing district.** A copy of the request of the qualified electors for the meeting to establish such central high school district, the notice of the meeting and the minutes of the proceedings thereof, including the resolutions adopted by the electors present thereat, shall be certified by the chairman and clerk of the meeting and shall be submitted to the Commissioner of Education. The Commissioner shall, upon such notice and after such hearing as he may deem proper, consider the papers submitted to him in respect to the establishment of such district and ascertain as to the advisability of establishing such district. If he deems it for the educational interests of the districts affected that such central high school district shall be established, he shall issue an order under the seal of the Department, directing that the said districts be established as a central high school district. The original order shall be filed in the office of the Commissioner, and copies thereof shall be filed in the offices of the district clerks of the districts comprising such central high school district, and also in the offices of the town clerks of the town in which such districts or any parts thereof are situated. Such district shall be established as a central high school district upon the execution of such order. [*Added by L. 1917, ch. 137, in effect April 5, 1917.*]

§ 189-c **Number and election of members of board of education.** The order of the Commissioner of Education establishing such central high school district shall specify the number of members to constitute the board of education of such district and the number of members representing each of the districts included in such district. The number of such members shall be not less than five. There shall be at least one member of such board from each common school district and at least two from each union free school district. The board of education of each union free school district in such central high school district shall appoint the number of

persons so designated by the Commissioner to represent such district as members of the board of education thereof. In each common school district having a sole trustee, such trustee shall represent such district as a member of the board of education of such central high school district. If a common school district have three trustees, such board of trustees shall designate one of its members to represent such district as a member of such board of education. The persons so designated shall be members of the board of education of the central high school district during their terms of office as members of the board of education or as trustees of the districts respectively represented by them. Whenever a vacancy shall occur in the office of a member of the board of education of such central high school district, it shall be filled as above provided. [*Added by L. 1917, ch. 137, in effect April 5, 1917.*]

§ 189-d Location of high school site. The board of education of such central high school district shall designate the site of the central high school in such district by resolution containing a description thereof by metes and bounds. If such board of education is unable to agree as to the selection of a site for such high school building, or shall for any reason neglect or refuse to designate such site, the Commissioner of Education may upon submission of the question to him, after a hearing and due investigation, issue an order determining the location of the site of such building. [*Added by L. 1917, ch. 137, in effect April 5, 1917.*]

§ 189-e Acquisition of site and erection of building. The board of education of a central high school district shall, when the site of the said high school building shall have been designated as provided herein, submit to the qualified electors of such district a proposition authorizing the levy and collection of a tax, in one sum or by installments, sufficient in amount for the purchase or acquisition of such site.

The said board of education shall also submit to the qualified electors of the said central high school district a proposition authorizing the levy and collection of a tax in installments, for the erection on such site of a new building suitable for high school purposes and for the construction of such improvements or structures on such site as may be required for the establishment and maintenance of a high school in such district.

Such propositions shall be voted upon by the qualified electors of the district at a meeting called by the board of education of such central high school district, and for the purpose of voting upon such propositions the said district shall be deemed to be a

school district and the provisions of this chapter relative to district meetings and the adoption of propositions authorizing the levy of school taxes shall apply to meetings held in such central high school district for the purposes herein specified. [*Added by L. 1917, ch. 137, in effect April 5, 1917.*]

§ 189-f Issue and sale of bonds. The board of education of such central high school district may, when a tax shall have been voted at a meeting of the qualified electors thereof, to be collected in installments, for the purpose of purchasing or acquiring a school-house site or for erecting a school building or for the construction of improvements or structures on such site, as provided in the preceding section, borrow so much of the sum voted as may be necessary, at a rate not exceeding six per centum, and issue bonds or other evidences of indebtedness therefor, which shall be a charge upon the district and be paid at maturity, and which shall not be sold below par. Such bonds shall be sold in the manner provided by section 480 of this chapter. [*Added by L. 1917, ch. 137, in effect April 5, 1917.*]

§ 189-g Powers of board of education; laws applicable. The board of education of such central high school district shall have the same powers and duties in respect to the school therein as a board of education of a union free school district has, under this chapter, in respect to the schools in such district. Except as otherwise provided in this article, the provisions of this chapter as to the courses of study, the qualifications and employment of teachers and the maintenance, conduct and supervision of public schools in union free school districts shall apply to a central high school in a central high school district established as herein provided. [*Added by L. 1917, ch. 137, in effect April 5, 1917.*]

§ 189-h District meetings; vote upon school taxes. The annual meeting of a central high school district shall be held on the first Tuesday in June. Special meetings may be called in the same manner and for the same purposes as special meetings in union free school districts. Such meetings shall be held for the same purposes and in the same manner, and be subject to the same provisions of law, as like meetings in union free school districts, and all persons who are qualified electors of the school districts included in such central high school district may vote at such meetings.

The board of education of such district shall present at the annual meeting a detailed statement in writing of the estimated expenditures required for the support and maintenance of the central high

school therein for the ensuing year. The said meeting shall vote the necessary taxes to meet such expenditures, in the same manner as taxes are voted at a district meeting in a union free school district. The provisions of sections 322 to 326, inclusive of this chapter, and all other provisions relative to the making of appropriations, the voting of taxes, and the expenditure of moneys for the support, maintenance and expenses of public schools in union free school districts, shall apply to the support, maintenance and expenses of a central high school in a central high school district established as provided in this chapter. [*Added by L. 1917, ch. 137, in effect April 5, 1917.*]

§ 189-i **Apportionment of expenses.** The board of education of such central high school district shall cause to be apportioned among the school districts included in such district the amount required for the payment of the principal and interest of all bonds issued and sold as provided in this article for the purchase or acquisition of a schoolhouse site, the erection thereon of a new school building and the construction of improvements and other structures on such site, and for the payment of the authorized expenditures for the maintenance, support and expenses of such high school during the ensuing school year. There shall be apportioned to each such district such portion of such amount as the assessed valuation of the taxable property in such district bears to the total assessed valuation of all the school districts included in such central high school district. The board of education of such central high school district shall on or before August first of each year present to the board of education of each union free school district and to the trustee or board of trustees of each common school district in such central high school district a certified statement of the portion of such amount to be paid by each of such districts, and the said boards of education, boards of trustees or trustees shall cause the same to be raised by tax on the taxable property in such districts, in the same manner as other taxes for the support and maintenance of the schools therein. The board of education of a central high school district in the county of Westchester shall present such certified statements to the board of education of each union free school district and to the trustees or board of trustees of each common school district in such central high school district on or before the third Tuesday in June each year and such boards of education, boards of trustees or trustees shall include such amount in the annual school taxes for such districts and certify the same to the supervisor of the town before July first

each year as provided in the laws applicable to such county. [*Added by L. 1917, ch. 137, in effect April 5, 1917.*]

§ 189-j District treasurer and clerk; custody and disbursement of funds. The board of education of such district shall appoint a treasurer, who shall hold office during the pleasure of the board and shall be subject to the provisions of this chapter relative to the treasurer of a union free school district. The amount raised by tax in the several districts included within the central high school district for the support and maintenance of such central high school, as provided in this section, shall be paid to the treasurer of such central high school district and shall be paid out by him upon the orders of the board of education issued and executed in pursuance of a resolution of said board. The provisions of this chapter relative to the payment of claims against a union free school district shall apply, so far as practicable, to the payment of claims against a central high school district established as provided in this article. The board of education of such district may appoint one of its members or a qualified elector of such district as clerk of the district. [*Added by L. 1917, ch. 137, in effect April 5, 1917.*]

§ 189-k State aid. Public moneys shall be apportioned to such central high school district on account of the central high school maintained therein, in the same amount and under the same conditions as in the case of apportionments to union free school districts on account of secondary instruction given in the public schools of such districts, under the provisions of this chapter. [*Added by L. 1917, ch. 137, in effect April 5, 1917.*]

§ 189-l Transportation of pupils. The board of education of such central high school district may cause transportation to be furnished to the pupils of the districts entitled to attend such central high school who reside so remote from such schools that they will be deprived of the privilege of attendance thereat unless such transportation is furnished. The cost of such transportation shall be a charge against such central high school district and shall be raised by tax without a vote of the district and be paid in the same manner as other expenditures for the support and maintenance of such central high school. The Commissioner of Education may, upon sufficient notice to such board of education and after an opportunity to such board to be heard in its defense, issue an order directing such board to provide such transportation. [*Added by L. 1917, ch. 137, in effect April 5, 1917.*]

ARTICLE 7

District Meetings

- Section 190 Notice of first meeting of district
 191 Service of notice of first meeting of district
 192 Second notice of first meeting of district
 193 Notice of annual meeting
 194 Time and place of annual meeting
 195 Annual meetings of districts reformed after dissolution
 196 Special meeting to transact business of annual meeting
 197 Special meetings in common school districts
 198 Special meetings in union free school district¹
 199 Call of special district meeting by school commissioner
 200 Effect of want of due notice of district meetings
 201 Penalty for failure to serve notice
 202 Duty to attend district meetings
 203 Qualifications of voters at district meetings
 204 Declaration in case of challenge of voter
 205 Penalty for false declaration or unauthorized vote
 206 Powers of voters
 207 Vote on proposition to expend money

§ 190 **Notice of first meeting of district.** Whenever any school district shall be formed, or two or more common school districts are consolidated as provided in section 132 the district superintendent of schools, or any one or more of such district superintendents within whose districts it may be, shall prepare a notice describing such district, and appointing a time and place for the first district meeting, and deliver such notice to a taxable inhabitant of the district. [*Amended by L. 1913, ch. 129.*]

§ 191 **Service of notice of first meeting of district.** It shall be the duty of such inhabitant to notify every other inhabitant of the district qualified to vote at the meeting, by delivering to him a copy of the notice of such meeting, or in case of his absence from home, by leaving a copy thereof, or so much thereof as relates to the time, place and object of the meeting, at the place of his abode, at least six days before the time of the meeting.

§ 192 **Second notice of first meeting of district.** In case such meeting shall not be held, and in the opinion of the school commissioner it shall be necessary to hold such meeting, before the time herein fixed for the first annual meeting, he shall deliver another such notice to a taxable inhabitant of the district, who shall serve it as provided in section 191.

¹ So in original.

§ 193 Notice of annual meeting. 1 The district clerk of each common school district shall give notice of the time and place of the annual meeting by posting five notices of such meeting in five conspicuous places in the district five days previous to the date of such meeting. One of such notices must be posted on the front door of the schoolhouse.

2 The clerk of each union free school district shall give notice of the time and place of the annual meeting by publishing a notice once in each week within the four weeks next preceding such district meeting, in two newspapers if there shall be two, or in one newspaper if there shall be but one, published in such district. But if no newspaper shall then be published therein, the said notice shall be posted in at least twenty of the most public places in said district twenty days before the time of such meeting. [*Subdivision 2 amended by L. 1915, ch. 171.*]

3 Such notice and all other notices and reports required to be published in newspapers under the provisions of this chapter shall be printed at the rates and for the fees prescribed in section 3317 of the Code of Civil Procedure. In the event that the publishers of one or both of the newspapers published within such district shall refuse to print and publish the notices or reports at the rates and for the fees so prescribed, publication in such newspaper or newspapers so refusing may be omitted, in which case the notices or reports shall be posted as required by this section in lieu of such publication. [*Subdivision 3 added by L. 1921, ch. 284, in effect April 20, 1921.*]

§ 194 Time and place of annual meeting. The annual meeting of each school district shall be held on the first Tuesday of May in each year, and, unless the hour and place thereof shall have been fixed by a vote of a previous district meeting, the same shall be held in the schoolhouse at seven-thirty o'clock in the evening. If a district possesses more than one schoolhouse, it shall be held in the one usually employed for that purpose, unless the trustees designate another. If the district possesses no schoolhouse, or if the schoolhouse shall not be accessible, then the annual meeting shall be held at such place as a trustee, or, if there be no trustee, the clerk, shall designate in the notice. Provided, however, that in union free school districts whose limits do not correspond with those of an incorporated city or village, the board of education may at any regular meeting, by resolution duly adopted and entered upon its minutes, determine that the annual meeting of such union free school district shall be held on the first Tuesday in August; and

thereafter until such determination shall be changed, such annual meeting shall be held on the first Tuesday in August of each year; and where any such district shall have heretofore or hereafter determined that the election of the members of the board of education shall be held on the Wednesday next following the day designated by law for holding the annual meeting of such district as provided by section 303 of the Education Law, such election shall be held at the time so determined until such determination shall be changed. [*Amended by L. 1910, ch. 442, L. 1913, ch. 440, and L. 1915, ch. 232.*]

§ 195 **Annual meetings of districts reformed after dissolution.** The districts formed by the dissolution of a union free school district, as provided in sections 146 and 147 of this chapter shall hold their annual meetings on the first Tuesday of May next after the dissolution of such union free school district, and shall elect officers as now required by law. [*Amended by L. 1913, ch. 129.*]

§ 196 **Special meeting to transact business of annual meeting.** Whenever the time for holding the annual meeting in school districts shall pass without such meeting being held in a district, a special meeting shall thereafter be called by the trustees or by the clerk of such district for the purpose of transacting the business of the annual meeting; and if no such meeting be called by the trustees or the clerk within ten days after such time shall have passed, the school commissioner of the commissioner district in which said school district is situated or the Commissioner of Education may order any inhabitant of such district to give notice of such meeting in the manner provided in section 191, and the officers of the district shall make to such meeting the reports required to be made at the annual meeting, subject to the same penalty in case of neglect; and the officers elected at such meeting shall hold their respective offices only until the next annual meeting and until their successors are elected and shall have qualified.

§ 197 **Special meetings in common school districts.** 1 A special district meeting shall be held whenever called by the trustees. The notice thereof shall state the purposes for which it is called, and no business shall be transacted at such special meeting, except that which is specified in the notice; and the district clerk, or, if the office be vacant, or the clerk be sick or absent, or shall refuse to act, a trustee, or some taxable inhabitant, by order of the trustees, shall serve the notice upon each inhabitant of the district qualified to vote at district meetings, at least six days before the day of the meeting, in the manner prescribed in section 191.

2 The inhabitants of a district may, at any annual meeting, adopt a resolution prescribing some other mode of giving notice of special meetings, which resolution and the mode prescribed thereby shall continue in force until rescinded or modified at some subsequent annual meeting.

§ 198 **Special meetings in union free school districts.** 1 Boards of education shall have power to call special meetings of the inhabitants of their respective districts whenever they shall deem it necessary and proper, in the manner prescribed in subdivision 2 of section 193 of this chapter.

2 In union free school districts whose limits correspond with those of any incorporated village or city, the boards of education shall have power to call special meetings of the inhabitants of their respective districts for the purposes mentioned in section 467 in the manner prescribed in said subdivision 2 of section 193.

§ 199 **Call of special district meeting by school commissioner.** When the clerk and all the trustees of a school district shall have removed from the district, or their office shall be vacant, so that a special meeting can not be called, as hereinbefore provided, the school commissioner may in like manner give notice of, and call a special district meeting.

§ 200 **Effect of want of due notice of district meetings.** The proceedings of no district meeting, annual or special, shall be held illegal for want of a due notice to all the persons qualified to vote thereat, unless it shall appear that the omission to give such notice was wilful and fraudulent.

§ 201 **Penalty for failure to serve notice.** Every taxable inhabitant, to whom a notice of any district meeting shall be delivered for service pursuant to any provisions of this article, who shall refuse or neglect to serve the same, as hereinbefore prescribed, shall forfeit five dollars for the benefit of the district.

§ 202 **Duty to attend district meetings.** Whenever any district meeting shall be duly called, it shall be the duty of the inhabitants qualified to vote thereat, to assemble at the time and place fixed for the meeting.

§ 203 **Qualifications of voters at district meetings.** A person shall be entitled to vote at any school meeting for the election of school district officers, and upon all other matters which may be brought before such meeting who is:

- 1 A citizen of the United States.
- 2 Twenty-one years of age.

3 A resident within the district for a period of thirty days next preceding the meeting at which he offers to vote; and who in addition thereto possesses one of the following four qualifications:

a Owns or hires, or is in the possession under a contract of purchase of real property in such district liable to taxation for school purposes, or

b Is the parent of a child of school age, provided such child shall have attended the district school in the district in which the meeting is held for a period of at least eight weeks during the year preceding such school meeting, or

c Not being the parent, has permanently residing with him a child of school age who shall have attended the district school for a period of at least eight weeks during the year preceding such meeting, or

d Owns any personal property, assessed on the last preceding assessment-roll of the town, exceeding fifty dollars in value, exclusive of such as is exempt from execution.

No person shall be deemed to be ineligible to vote at any such meeting, by reason of sex, who has the other qualifications required by this section.

§ 204 **Declaration in case of challenge of voter.** If a person offering to vote at any school district meeting shall be challenged as unqualified, by any legal voter in such district, the chairman presiding at such meeting shall require the person so offering, to make the following declaration: "I do declare and affirm that I am, and have been, for the thirty days last past, an actual resident of this school district and that I am qualified to vote at this meeting." And every person making such declaration shall be permitted to vote on all questions proposed at such meeting; but if any person shall refuse to make such declaration, his vote shall be rejected.

§ 205 **Penalty for false declaration or unauthorized vote.** A person who shall wilfully make a false declaration of his right to vote at a school meeting, after his right to vote thereat has been challenged, shall be deemed guilty of a misdemeanor. And a person not qualified to vote at such meeting, who shall vote thereat, shall thereby forfeit ten dollars, to be sued for by the supervisor for the benefit of the common schools of the town.

§ 206 **Powers of voters.** The inhabitants entitled to vote, when duly assembled in any district meeting, shall have power, by a majority of the votes of those present:

- 1 To appoint a chairman.
- 2 To appoint a clerk for the time if the district clerk is absent.
- 3 To adjourn from time to time as occasion may require.

4 To elect one or three trustees as hereinafter provided, a district clerk and a district collector, and in any district which shall so determine, as hereinafter provided, to elect a treasurer, at their first meeting, and so often as such offices or any of them become vacated, except as hereinafter provided.

5 At the first meeting, or at any subsequent annual meeting, or at any special meeting duly called for that purpose, the qualified voters of any school district are authorized to adopt by a vote of a majority of such voters present and voting, to be ascertained by taking and recording the ayes and noes, a resolution to elect a treasurer of said district, who shall be the custodian of all moneys belonging to said district, and the disbursing officer of such moneys. If such resolution shall be adopted, such voters shall thereupon elect by ballot a treasurer for said district. Any person elected treasurer at any meeting other than an annual meeting, shall hold office until the next annual meeting after such election, and until his successor shall be elected or appointed, and thereafter a treasurer shall be elected at each annual meeting for the term of one year. [*Subdivision 5 amended by L. 1910, ch. 442.*]

6 To fix the amount in which the collector and treasurer shall give bonds for the due and faithful performance of the duties of their offices.

7 To designate a site for a schoolhouse, or for the grounds to be used for playgrounds, or for agricultural, athletic centers and social center purposes, or, with the consent of the district superintendent of schools within whose district the school district lies, to designate sites for two or more schoolhouses for the district. Such designation of a site for a schoolhouse, or for such grounds, can be made only at a special meeting of the district, duly called for such purpose by a written resolution in which the proposed site shall be described by metes and bounds, and which resolution must receive the assent of a majority of the qualified voters present and voting, to be ascertained by taking and recording the ayes and noes, or by ballot. [*Subdivision 7 amended by L. 1913, ch. 221.*]

8 To vote a tax upon the taxable property of the district, to purchase, lease and improve such sites or an addition to such sites and grounds for the purposes specified in the preceding subdivision, to hire or purchase rooms or buildings for schoolrooms or schoolhouses, or to build schoolhouses; to keep in repair and furnish the same with necessary fuel, furniture and appurtenances, and to purchase such implements, apparatus and supplies as may be necessary to provide instruction in agriculture and other subjects, and for the

organization and conduct of athletic, playground and other social center work. [*Subdivision 8 amended by L. 1913, ch. 221.*]

9 To vote a tax, not exceeding twenty-five dollars in any one year, for the purchase of maps, globes, reproductions of standard works of art, blackboards and other school apparatus, and for the purchase of textbooks and other school necessities for the use of poor scholars of the district. [*Subdivision 9 amended by L. 1914, ch. 216.*]

10 To vote a tax for the establishment of a school library and the maintenance thereof, or for the support of any school library already owned by said district, and for the purchase of books therefor, and such sum as they may deem necessary for the purchase of a bookcase.

11 To vote a tax to supply a deficiency in any former tax arising from such tax being, in whole or in part, uncollectible.

12 To authorize the trustees to cause the schoolhouses, and their furniture, appurtenances and school apparatus to be insured by any insurance company created by or under the laws of this State, or any other insurance company authorized by law to transact business in this State.

13 To alter, repeal and modify their proceedings, from time to time, as occasion may require.

14 To vote a tax for the purchase of a book for the purpose of recording their proceedings.

15 To vote a tax to replace moneys of the district, lost or embezzled by district officers; and to pay the reasonable expenses incurred by district officers in defending suits or appeals brought against them for their official acts, or in prosecuting suits or appeals by direction of the district against other parties.

16 To vote a tax to pay whatever deficiency there may be in teachers' wages after the public money apportioned to the district shall have been applied thereto.

17 To vote a tax to pay and satisfy of record any judgments of a competent court which may have been or shall hereafter be obtained in an action against the trustees of the district for unpaid teachers' wages, where the time to appeal from said judgments shall have lapsed, or there shall be no intent to appeal on the part of such district, or the said judgments are or shall be of the court of last resort.

18 Whenever any district shall have contracted with the school authorities of any city, or other school district for the education therein of the pupils residing in such school district, or whenever

in any school district children of school age shall reside so remote from the schoolhouse therein that they are practically deprived of school advantages during any portion of the school year, the inhabitants thereof entitled to vote are authorized to provide, by tax or otherwise, for the conveyance of any or all pupils residing therein to the schools of such city, or district with which such contract shall have been made, or to the school maintained in said district, and the trustees thereof may contract for such conveyance when so authorized in accordance with such rules and regulations as they may establish, and for the purpose of defraying any expense incurred in carrying out the provisions of this subdivision, they may if necessary use any portion of the public money apportioned to such district as a district quota.

§ 207 **Vote on proposition to expend money.** In all propositions arising at said district meetings, involving the expenditure of money, or authorizing the levy of taxes, the vote thereon shall be by ballot, or ascertained by taking and recording the ayes and noes of such qualified voters attending and voting at such district meetings.

ARTICLE 7-A

(Added by L. 1917, ch. 791, in effect June 8, 1917)

School Elections in Certain Cities

- Section 208 Application of article
- 209 Annual school election
- 210 Qualifications of electors
- 211 Division of city or district into districts; elections held in school-houses
- 212 Notices of election
- 213 Preparation of poll lists in certain cities; correction
- 214 Inspectors of election; organization
- 215 Nomination and ballot
- 216 Conduct of election; challenges
- 217 Canvass of votes and return to board of education; declaration of result
- 218 Use of voting machines

§ 208 **Application of article.** This article shall apply to each city in the State, in which members of the board of education are elected by the qualified electors of such city at an election other than a general or municipal election. [*Added by L. 1917, ch. 791, in effect June 8, 1917.*]

§ 209 Annual school election. 1 An annual election shall be held on the first Tuesday of May in each city to which this article applies.

2 The polls of such election shall be open from twelve o'clock noon until eight o'clock in the evening. [*Added by L. 1917, ch. 791, in effect June 8, 1917.*]

§ 210 Qualifications of voters. A person shall be entitled to vote at a school election in such city who is:

1 A citizen of the United States.

2 Twenty-one years of age.

3 A resident within the election district for a period of thirty days next preceding the election at which he offers to vote; and who in addition thereto possesses one of the following four qualifications:

a Owns or hires real property in such district or is in the possession of such property under a contract of purchase, assessed upon the last preceding assessment-roll of the city, or

b Is the parent of a child of school age, provided such child shall have attended the public schools in the city in which the election is held for a period of at least eight weeks during the year preceding such election, or

c Not being the parent, has permanently residing with him a child of school age who shall have attended such public schools for a period of at least eight weeks during the year preceding such election, or

d Owns personal property, assessed on the last preceding assessment-roll of the city, exceeding fifty dollars in value, exclusive of such as is exempt from execution.

No person shall be deemed to be ineligible to vote at any such election, by reason of sex, who has the other qualifications required by this section. In any city school district whose boundaries are coterminous with the boundaries of the city, any person shall be permitted to vote at any such election in the school election district within which he resides on the date of the election, provided he shall have been resident of the city school district for the period of thirty days next preceding the date of the election, and provided he shall possess the other qualifications which entitle him to vote as prescribed in this section. [*Added by L. 1917, ch. 791. Subdivision 3-d amended by L. 1921, ch. 384, in effect April 30, 1921.*]

§ 211 Division of city into districts; elections held in school-houses. The board of education of each such city shall adopt a resolution on or before the first day of April, preceding the first annual school election held hereunder, dividing the city into school

election districts. The city shall be so divided, that if circumstances will permit, there shall be a schoolhouse in each district and each district shall contain not more than one thousand qualified voters. The districts thus formed shall continue in existence until modified by resolution of the board of education. Such resolution shall accurately describe the boundaries of such districts by streets, alleys and highways, when practicable, and shall so far as may be, include one or more of the regular election districts of such city. School elections shall be held in such districts so far as may be possible in the public schoolhouses therein. If there is no public schoolhouse in a district the board of education shall by resolution designate the place where the election in such district shall be held. [*Added by L. 1917, ch. 791, in effect June 8, 1917.*]

§ 212 **Notices of election.** The board of education shall cause a notice of the annual school election to be published at least once in each week for the four weeks preceding such election, in at least two newspapers published in such city. Such notice shall state the day of election and the hours during which the polls are to be open, shall accurately describe the boundaries of the school election districts into which the city is divided, and shall specify the schoolhouses or other places therein where such election will be held. Such notice shall also state that poll lists prepared by the clerk of the board of education as required by this article containing the names of the qualified electors of each school election district are on file and may be examined at the office of such clerk or of the superintendent of schools of such city. [*Added by L. 1917, ch. 791, in effect June 8, 1917.*]

§ 213 **Preparation of poll lists in certain cities; correction.**
1 The secretary or clerk of the board of education in each such city having a population of over fifty thousand shall on or before the first day of April in each year prepare a poll list for each school election district which shall contain the names of all persons residing in such district who shall be qualified to vote for candidates for the offices of members of the board of education at the ensuing election. The names on such list shall be arranged alphabetically by the surnames, and the place of residence by street and number of each person named on such list, if any, and if not, some description accurately locating such place of residence shall be given on such list. [*Subdivision 1 amended by L. 1921, ch. 384, in effect April 30, 1921.*]

2 Such list shall be placed on file in the office of the secretary

or clerk of the board of education or some other suitable and accessible place to be designated by the board of education where it may be examined by persons interested therein during the office hours of such secretary or clerk for thirty days preceding the annual school election and from four to eight o'clock in the evening of each Friday and Saturday of the four weeks immediately preceding the election. The secretary or clerk of the board of education or some person to be designated by such board shall attend at such office at such times, and shall permit such lists to be examined by the public.

3 Any person whose name is not upon such list, who is or will be a qualified voter of the city at such election, may file a written statement with the secretary or clerk of the board of education giving his name, place of residence, occupation and the school election district in which he resides, and specifying the qualifications which entitle him to vote at such election. The name of such voter shall thereupon be placed on such poll list. If such person appears before the secretary or clerk of the board of education and furnishes the information above required, such secretary or clerk shall place his name upon the poll list.

4 If a qualified voter is a resident of a school election district and his name appears on a poll list as a resident of another district, a written statement may be filed by such voter with the secretary or clerk of the board of education showing his correct residence and the name of such voter shall thereupon be stricken from such poll list and placed upon the proper poll list.

5 The board of education shall furnish blanks for such statements, which shall be used by the voters in presenting the facts above prescribed. No change or alteration of such list shall be made by any person before the correction and revision thereof as hereinafter provided.

6 Such statements and challenges shall be received and preserved by the secretary or clerk of the board or other person designated by the board, and on the Monday preceding the annual election such secretary or clerk shall correct and revise each of such duplicate lists by striking therefrom and inserting in their proper places the names of persons who have filed the statements above referred to and shall indicate on such lists the persons whose qualifications as voters have been challenged.

7 Such corrected and revised lists shall be filed in the office of the secretary or clerk of the board of education. Such board shall cause a copy of the list of each election district to be delivered on the day of the election, before the opening of the polls therein, to the

inspectors of such districts, at the place where the election in such district is to be held.

8 A qualified voter may, upon the examination of such list, file a written challenge of the qualifications as a voter of any person whose name appears on such list. Such challenge shall be written and shall be on blanks to be furnished by the board of education.

9 In each city of the State having a population of fifty thousand or less by the last preceding census any person possessing qualifications which entitle him or her to vote at a school election as prescribed in section 210 of this chapter may vote at any such election held within his school election district without any previous registration or poll listing under the provisions of subdivisions one to eight, both inclusive, of this section. The provisions of sections 208 to 218, both inclusive, except as herein modified, are hereby made applicable to the conduct of elections in the school election districts of such cities having a population of fifty thousand or less in all respects not inconsistent with the provisions hereof. [*Added by L. 1917, ch. 791. Subdivision 9 added by L. 1921, ch. 384, in effect April 30, 1921.*]

§ 214 **Inspectors of election; organization.** The board of education shall appoint not less than ten days prior to each school election three qualified voters residing in each school election district to act as inspectors of elections in such district at the annual election. The secretary or clerk of the board of education shall give¹ written notice of appointment to the persons so appointed. If a person appointed an inspector of election refuses to accept such appointment or fails to serve, the board may appoint a qualified voter of the school election district to fill the vacancy. Not more than two additional inspectors of elections for each district may be appointed for one or more of such school election districts, when, in the opinion of the board, special circumstances exist requiring the services of such additional inspectors. Such inspectors shall, before opening the polls in the election district for which they are appointed, organize by electing one of their number as chairman, and one as poll clerk. Each inspector shall receive for his services a compensation of three dollars, to be paid out of the school funds in the same manner as other claims against the city or district. [*Added by L. 1917, ch. 791, in effect June 8, 1917.*]

§ 215 **Nomination and ballot.** 1 Candidates for members of the board of education in a city to which this article applies shall be

¹ So in original.

nominated by petition directed to the board of education and signed by at least thirty persons qualified to vote at school elections in such city. Such petition shall contain the name and residences of the candidates for the vacancies in the board of education to be filled at the annual election and shall state whether such candidates are nominated for full terms or for the unexpired portions of such terms. Such petitions shall be filed with the secretary or clerk of the board of education on or before the tenth day preceding the day of the annual election.

2 The board of education shall cause to be printed official ballots containing the names of all candidates as above provided. The ballots shall separately state whether the persons named thereon are candidates for full terms or for unexpired terms. The names of the candidates shall be arranged alphabetically according to their surnames in columns under titles or designations showing whether they are to be elected for full terms or unexpired terms. Blank spaces shall be provided so that voters may vote for candidates who have not been nominated for the offices to be filled at such election. The form of such ballots shall conform substantially to the form of ballots used at general elections as prescribed in the election law. Such ballots shall be printed at the expense of the city and the cost thereof shall be paid out of funds appropriated for school purposes and available therefor.

3 There shall be delivered to the inspectors in each school election district on the day of the annual election a supply of such ballots which shall at least equal the number of qualified voters in such district as appears from the poll list thereof.

4 Such ballots shall have printed thereon instructions as to the marking of the ballots and the number of candidates for the several offices for which a voter is permitted to vote.

5 If official ballots are not furnished as above provided, an election of members of a board of education in such city shall not be declared invalid or illegal because of the use of ballots which do not conform to the requirements of this section or of the provisions of the election law, provided the intent of the voter may be ascertained from the use of such irregular or defective ballots and such use was not fraudulent and did not substantially affect the result of the election. [*Added by L. 1917, ch. 791, in effect June 8, 1917.*]

§ 216 **Conduct of election; challenges.** 1 Such election shall be conducted, so far as may be, in accordance with the provisions of the election law, relative to general elections, except as otherwise provided herein. Ballot boxes shall be provided by the board of

education for each school election district, one to contain the ballots voted and the other for the rejected or defective ballots.

2 All persons whose names appear upon the poll list as residing in such election district shall be permitted to vote and shall be given ballots for such purpose.

3 Booths shall be provided and voters shall be required to enter such booths for the purpose of marking their ballots. The ballots when presented to the inspector shall be folded so as to conceal the names of the candidates for whom the voter has voted.

4 All voters entitled to vote who are in the place where the election is held at or before the time of closing the polls shall be allowed to vote. The inspectors shall keep a poll list, containing the name and address of each qualified elector who votes at such election for the candidates or propositions or questions voted for thereat.

5 Any qualified voter of a district may challenge the right of a person to vote at the time when he requests a ballot. All persons named upon the poll list as having been challenged prior to the day of the election shall also be challenged before they are given ballots to vote. The chairman of the board of inspectors shall administer to each person so challenged the following oath: "I do solemnly swear (or affirm) that I am a citizen of the United States; that I am of the age of twenty-one years or more; that I have been for the thirty days last past an actual resident of this city; and that in addition thereto I possess one of the four qualifications prescribed by section 210 of the education law, to wit: — (Here state facts upon which qualifications are claimed), and am therefore qualified to vote at this election." The chairman of the board of inspectors shall before administering such oath inform the person so challenged of the four qualifications prescribed by such section. If the person challenged so swears or affirms, he shall be permitted to vote at such election; but if he shall refuse to so swear or affirm, he shall not be given a ballot or be permitted to vote.

6 A person who wilfully swears or affirms falsely as to his right to vote at such election after his right to vote has been challenged is guilty of perjury and may be punished in the manner provided by law for the punishment of such crime. A person who is not qualified to vote at such election who shall vote thereat, although not challenged, shall be guilty of misdemeanor, punishable by a fine of not less than twenty-five dollars, or by imprisonment for not less than thirty days, or by both such fine and imprisonment. [*Added by L. 1917, ch. 791, in effect June 8, 1917.*]

§ 217 **Canvass of votes and return to board of education; declaration of result.** 1 Immediately upon the close of the polls the inspectors of each school election district shall count the ballots found in the ballot box without unfolding them, except so far as is necessary to ascertain that each ballot is single. They shall compare the number of ballots found in the ballot box with the number of persons recorded on the poll list as having voted at the election. If the number of ballots found in the ballot box shall exceed the number of names, such ballots shall be replaced without being unfolded in the box from which they were taken and shall be thoroughly mingled in such box and one of the inspectors designated by the board shall then publicly draw out as many ballots as shall be equal to the number of excess ballots. The ballots so drawn out shall be enclosed without unfolding in an envelop which shall be sealed and endorsed with a statement of the number of such excess ballots withdrawn from the box and shall be signed by the inspector who withdrew such ballots. Such envelop with the excess ballots therein shall be placed in the box for the defective or spoiled ballots.

2 The ballots shall be counted or canvassed by the inspectors in the manner provided for the canvassing of ballots at a general election except as otherwise provided herein. The votes cast for each candidate shall be tallied and counted by the inspectors and a statement shall be made containing the names of each candidate receiving votes in such district and the number of votes cast for each candidate. Such statement shall also give the number and describe the ballots which are declared void and shall also specify the number of wholly blank ballots cast. Such statement shall be signed by the inspectors. The ballots which were declared void and not counted shall be inclosed in an envelop which shall be sealed and endorsed as containing void ballots and signed by the inspectors. Such envelop shall be placed in the ballot box containing the defective and spoiled ballots.

3 After the ballots are counted and the statements have been made as required herein the ballots shall be replaced in the ballot box. Each box shall be securely locked and sealed and deposited by an inspector designated for the purpose with the secretary or clerk of the board of education. The unused ballots shall be placed in a sealed package and returned by the inspector designated for such purpose to the said secretary or clerk at the same time that such ballot boxes are delivered to him. The statement of the canvass of the votes shall be delivered to the secretary or clerk of the board of education on the day following the annual election.

4 The board of education shall meet at the usual place of meeting at eight o'clock in the evening of the day following such election and shall forthwith examine and tabulate the statements of the result of the election in the several school election districts. The said board shall canvass the returns as contained in such statements and shall determine the number of votes cast for each candidate in the several school election districts. The board shall thereupon declare the result of the canvass. The candidates receiving a plurality of the votes cast respectively for the several offices shall be declared elected. The secretary or clerk of the board of education shall record the result of the election as announced by the board of education.

5 The secretary or clerk of the board of education shall within twenty-four hours after the result of the election has been declared serve a written notice either personally or by mail upon each person declared to be elected as a member of the board of education. [Added by L. 1917, ch. 791, in effect June 8, 1917.]

§ 218 Use of voting machines. In a city in which voting machines are used at general or municipal elections, it shall be lawful for the board of education of such city to authorize the use of such voting machines at a school election. When such voting machines are used the law relating to the use of such machines at a general or municipal election shall apply to and govern the use of such machines in a school election. [Added by L. 1917, ch. 791, in effect June 8, 1917.]

ARTICLE 8

School District Officers; General Provisions

Section 220	Officers of district
221	Qualifications of officers
222	Ineligibility to office
223	Oath of office
224	Terms of office
225	Terms of officers of newly created district
226	Number of trustees; determination of change
227	Election of officers
228	Notice and acceptance of election
229	Refusal of trustee to serve
230	Penalty for refusal to serve or perform duty
231	Resignation of district officers
232	Vacating office
233	Filling vacancy in office of trustee
234	Filling vacancy in office of clerk, collector or treasurer
235	Notice of appointment to fill vacancy and filing thereof
236	District records, books, et cetera, are district property

§ 220 **Officers of district.** 1 Each school district shall have from one to three trustees as the district determines, a clerk, a collector and if the district so decides a treasurer.

2 A union free school district shall have from three to nine trustees as the district shall determine.

§ 221 **Qualifications of officers.** Every school district officer must be able to read and write and must be a qualified voter of the district.

§ 222 **Ineligibility to office.** 1 No school commissioner or supervisor is eligible to the office of trustee or member of a board of education, and no trustee can hold the office of district clerk, collector, treasurer or librarian.

2 A person removed from a school district office shall be ineligible to appointment or election to any district office for a period of one year from the date of such removal.

3 Not more than one member of a family shall be a member of the same board of education in any school district.

§ 223 **Oath of office.** No officer of a school district shall be required to take the constitutional oath of office.

§ 224 **Term of office.** 1 In a district having three or more trustees the full term of office of trustee shall be three years, but a trustee may be elected for one or two years as provided in this chapter.

2 In a district having a sole trustee the term of office of trustee shall be one year.

3 The term of office of all other district officers shall be one year.

4 One year, within the meaning of this section, is a school year. A school year shall be from August first until July thirty-first following. [*Subdivision 4 amended by L. 1910, ch. 442.*]

§ 225 **Terms of officers of newly created district.** The terms of all officers elected at the first meeting of a newly created district shall expire on the first Tuesday of May next thereafter. [*Amended by L. 1913, ch. 129.*]

§ 226 **Number of trustees; determination of change.** 1 At the first annual meeting next after the erection of a district the electors shall determine, by resolution, whether the district shall have one or three trustees; and if they resolve to have three trustees, shall elect the three for one, two and three years, respectively, and shall designate by their votes for which term each is elected; thereafter in such district, one trustee shall be elected at each annual meeting to fill the office of the outgoing trustee.

2 The electors of any district having three trustees shall have power to decide at any annual meeting by a majority vote of those present and voting, whether the district shall have a sole trustee or three trustees. If they resolve to have a sole trustee, the trustees in office shall continue in office until their terms of office shall expire. No election of a trustee shall be had in the district until the offices of such trustees shall become vacant by the expiration of their terms of office or otherwise, and thereafter but one trustee shall be elected for said district.

3 The electors of a district having but one trustee may determine at an annual meeting, by a two-thirds vote of the legal voters present thereat, to have three trustees; and upon the adoption of a resolution to that effect, shall proceed to elect three trustees or such number as may be necessary to form a board of three trustees, in the same manner as provided in this section for the election of three trustees at the first annual meeting after the erection of a district; and thereafter in such district, one trustee shall be elected for three years, at each annual meeting, to fill the office of the outgoing trustee.

§ 227 Election of officers. 1 All district officers shall be elected by ballot and the trustees shall provide a suitable ballot box for such purpose.

2 Two inspectors of election shall be appointed in such manner as the meeting shall determine, who shall receive the votes cast, canvass the same and announce the result of the ballot to the chairman.

3 A poll-list containing the name of every person whose vote shall be received shall be kept by the clerk of the meeting.

4 The ballots shall be written or printed, or partly written and partly printed, containing the name of the person voted for and designating the office for which each is voted.

5 The chairman shall declare to the meeting the result of each ballot, as announced to him by the inspectors, and the persons having the majority of votes, respectively, for the several officers,¹ shall be elected.

§ 228 Notice and acceptance of election. 1 The district clerk shall forthwith notify in writing each person elected to office of his election and the date thereof.

2 Such person shall be deemed to have accepted the office, unless within five days after the service of such notice, he shall file his

¹ So in original.

written refusal with the clerk. The presence of any such person at the meeting which elects him to office, shall be deemed a sufficient notice to him of his election.

§ 229 **Refusal of trustee to serve.** A trustee who publicly declares that he will not accept or serve in the office of trustee, or refuses or neglects to attend three successive meetings of the board, of which he is duly notified, without rendering a good and valid excuse therefor to the other trustees vacates his office by refusal to serve.

§ 230 **Penalty for refusal to serve or perform duty.** 1 Every person chosen or appointed to a school district office and being duly qualified to fill the same who shall refuse to serve therein shall forfeit the sum of five dollars.

2 Every person chosen or appointed to a school district office and not refusing to accept the same who shall wilfully neglect or refuse to perform any duty thereof shall by such neglect or refusal vacate his office and also forfeit the sum of ten dollars.

3 The school commissioner of the commissioner district wherein any such person resides may accept his written resignation of the office, and the filing of such resignation and acceptance in the office of the district clerk shall be a bar to the recovery of either penalty under this section.

4 These penalties shall be for the benefit of the district for which such officer was appointed or elected.

§ 231 **Resignation of district officers.** A school district officer may resign to a district meeting. Such officer shall also be deemed to have resigned if he files a written resignation with the school commissioner of his district and such commissioner indorses thereon his approval and files the same with the district clerk.

§ 232 **Vacating office.** 1 A school district office becomes vacant by the death, resignation, refusal to serve, incapacity, removal from the district or from office.

2 The collector or treasurer vacates his office by not executing a bond to the trustees, as herein required.

3 A trustee or a member of a board of education vacates his office by the acceptance of either the office of school commissioner or supervisor.

§ 233 **Filling vacancy in office of trustee.** 1 A vacancy in the office of trustee in any district may be filled by election within thirty days after it occurs. If not so filled the school commissioner of the commissioner district, within which the schoolhouse or prin-

cipal schoolhouse of the district is situated, may appoint a competent person to fill it.

2 If a vacancy in the office of trustee in a union free school district exists the Commissioner of Education may order a special election for filling such vacancy. When such special election is ordered the vacancy shall not be filled otherwise.

3 If such vacancy is supplied by a district meeting, it shall be for the balance of the unexpired term; but when such vacancy is supplied by appointment by a school commissioner it shall be only until the next annual meeting of the district.

§ 234 **Filling vacancy in office of clerk, collector or treasurer.** A vacancy in the office of clerk, collector or treasurer, may be filled by appointment by the trustees of the district, and the appointees shall hold their respective offices until the next annual meeting of the district, and until their successors are elected and have qualified.

§ 235 **Notice of appointment to fill vacancy and filing thereof.** Every appointment to fill a vacancy shall be forthwith filed, by the school commissioner or trustees making it, in the office of the district clerk, who shall immediately give notice of the appointment to the person appointed.

§ 236 **District records, books etc., are district property.** The records, books and papers belonging or appertaining to the office of any officer of a school district are hereby declared to be the property of such district and shall be open for inspection by any qualified voter of the district at all reasonable hours, and any such voter may make copies thereof.

ARTICLE 9

District Clerk; Treasurer; Collector

- Section 250 Duties of district clerk
 251 Duties of district treasurer
 252 Collector's bond
 253 Collector to disburse teachers' fund
 254 Clerk, treasurer and collector in union free school district
 255 Payments and reports by collector
 256 Liability of collector for moneys lost
 257 Remedy of trustees against collector in default

§ 250 **Duties of district clerk.** It shall be the duty of the clerk of each school district:

1 To record the proceedings of all meetings of the voters of his district in a book to be provided for that purpose by the district,

and to enter therein true copies of all reports made by the trustees to the school commissioner.

2 To give notice, in the manner prescribed by section 191, of the time and place of holding special district meetings called by the trustees.

3 To affix a notice in writing of the time and place of any adjourned meeting, when the meeting shall have been adjourned for a longer time than one month, in at least five of the most public places of such district, at least five days before the time appointed for such adjourned meeting.

4 To give the required notice of every annual district meeting.

5 To give notice immediately to every person elected or appointed to office of his election or appointment; and also to report to the town clerk of the town in which the schoolhouse of his district is situated, the names and post-office addresses of such officers, under a penalty of five dollars for neglect in each instance.

6 To notify the trustees of every resignation duly accepted by the school commissioner.

7 To keep and preserve all records, books and papers belonging to his office and to deliver the same to his successor. For a refusal or neglect so to do, he shall forfeit fifty dollars for the benefit of the schools of the district, to be recovered by the trustees.

8 To obey the order of the school commissioners as to depositing the books, papers and records of his office in the town clerk's office in case the district shall be dissolved.

9 To attend all meetings of the board of trustees when notified, and keep a record of their proceedings in a book provided for that purpose.

10 To call special meetings of the inhabitants whenever all the trustees of the district shall have vacated their office.

11 To immediately notify the county treasurer of the name and address of persons elected to the office of district treasurer, if a treasurer is elected, and of the district collector. [*Subdivision 11, added by L. 1916, ch. 314.*]

§ 251 Duties of district treasurer. 1 The treasurer of a school district shall be the custodian of all moneys belonging to the district from whatever source derived, and it is hereby made the duty of the trustees of such district to pay to such treasurer any and all moneys that may come into their hands belonging to such district derived from sales of personal or real property of the district, from insurance policies, from bonds of the district issued and sold by them, or from any other source whatever.

2 The collector of such district shall pay over to such treasurer all moneys collected by him under and by virtue of any tax list and warrant issued and delivered to him.

3 Such treasurer is hereby authorized and empowered to demand and receive from the supervisor of the town in which such school district is situated all public money apportioned to said district.

4 It shall be the duty of such treasurer within ten days after notice of his election to execute and deliver to the trustees of such district, his bond in such sum as shall have been fixed by a district meeting or as such trustees shall require, with at least two sureties to be approved by such trustees, conditioned to faithfully discharge the duties of his office, and to well and truly account for all moneys received by him, and to pay over any sums of money remaining in his hands to his successor in office. Such bond when so executed and approved in writing by such trustees shall be filed with the district clerk.

5 No moneys shall be paid out or disbursed by such treasurer except upon the written orders of a sole trustee, or a majority of the trustees.

6 Such treasurer shall, whenever required by such trustees report to them a detailed statement of the moneys received by him, and his disbursements,¹ and at the annual meeting of such district he shall render a full account of all moneys received by him, and from what source, and when received and all disbursements made by him and to whom and the dates of such disbursements respectively, and the balance of moneys remaining in his hands.

§ 252 Collector's bond. 1 Within such time, not less than ten days, as the trustees shall allow him for the purpose, the collector, before receiving the first warrant for the collection of money, shall execute a bond to the trustees, with one or more sureties, to be approved by a majority of the trustees, in such amount as the district meeting shall have fixed, or if such meeting shall not have fixed the amount then in such amount as the trustees shall deem reasonable, conditioned for the due and faithful execution of the duties of his office.

2 The trustees, upon receiving said bond, shall, if they approve thereof, indorse their approval thereon, and forthwith deliver the same to the town clerk of the town in which said collector resides, and said clerk shall file the same in his office, and enter in a book to be kept by him for that purpose, a memorandum, showing the

¹ So in original.

date of said bond, the names of the parties and sureties thereto, the amount of the penalty thereof, and the date and time of filing the same, and said town clerk is authorized to receive as a fee for such filing and memorandum the sum of twenty-five cents, which sum is hereby made a charge against the school district interested in said bond.

§ 253 **Collector to disburse teachers' fund.** 1 The trustees of a school district which has not a treasurer may direct by resolution duly entered on the minutes of their proceedings the collector of such district to disburse to teachers the money apportioned by the State for teachers' salaries.

2 The collector shall thereupon execute a bond to the trustees, with two or more sureties, in double the amount of the last apportionment, with like condition of sureties, approval of trustees, and amount and like directions as to filing as are required in the preceding section for a bond for the collection of taxes, and conditioned also for the due and faithful execution of the duties of his office as such disbursing agent.

§ 254 **Clerk, treasurer and collector in union free school district.** 1 In every union free school district the board of education shall have power to appoint one of their number, or some other qualified voter in said district who is not a teacher employed therein as clerk of the board of education of such district.

2 Such clerk shall also act as clerk of said district, and shall perform all the clerical and other duties pertaining to his office, and for his services he shall be entitled to receive such compensation as shall be fixed at an annual meeting of such district.

3 In case no provision is made at an annual meeting for the compensation of a clerk the board of education may fix the same.

4 Said board of education in every union free school district whose limits do not correspond with those of an incorporated village or city shall appoint a district treasurer, and a collector who shall hold office during the pleasure of the board. The board shall also fix the compensation of the treasurer. In case the board of education appoints as its collector the receiver or collector of taxes of a village located wholly or in part within the boundaries of the school district, the board of education is authorized to pay such receiver or collector a fixed compensation to be agreed upon, in lieu of all fees or other charges to which a school district collector might be entitled, under the provisions of this chapter. All fees or other charges collected by such receiver or collector upon school taxes or assessments under the provisions of this chapter shall belong

to the school district and shall be paid into the school district funds. [*Subdivision 4 as amended by L. 1922, ch. 314, in effect March 28, 1922.*]

4 Said board of education in every union free school district whose limits do not correspond with those of an incorporated village or city shall appoint a district treasurer, and a collector who shall hold office during the pleasure of the board. The board shall also fix the compensation of the treasurer. The board may designate a bank, banks or banker for the deposit of all moneys received by the treasurer and may require of any such banks or banker security for the repayment thereof. It may require a report by the cashier of such bank, banks or banker to be submitted at any regular meeting of the board of the amount of deposit to the credit of the treasurer. [*Subdivision 4 as amended by L. 1922, ch. 328, in effect March 28, 1922.*]

5 Such treasurer and collector shall each, and within ten days after notice in writing of his appointment, duly served upon him, and before entering upon the duties of his office, execute and deliver to the said board of education a bond, with sufficient penalty and sureties as the board may require, conditioned for the faithful discharge of the duties of his office; and in case such bond shall not be given within the time specified, such office shall thereby become vacant, and said board shall thereupon, by appointment, fill such vacancy.

6 So much of this section as relates to the election of a clerk shall not apply to the towns of Cortlandt and White Plains in Westchester county.

§ 255 Payments and reports by collector. 1 The collector shall keep in his possession all moneys received or collected by him by virtue of any warrant, or received by him from the county treasurer or board of supervisors for taxes returned as unpaid, or moneys apportioned by the State or raised by direct taxation for teachers' wages or library, and pay the same out upon the written order of a majority of the trustees.

2 When a treasurer shall have been elected in a district, the collector shall pay over the moneys collected by him by virtue of his warrant, to said treasurer as provided in section 251; and he shall report in writing, at the annual meeting, all his collections, receipts and disbursements, and shall report to the supervisor on or before the first Tuesday of March in each year the amounts of school moneys in his hands not paid out on trustees' orders, and shall pay to his successor in office, when such successor has duly

qualified and given a bond as required by section 252, all moneys in his hands belonging to the district.

§ 256 **Liability of collector for moneys lost.** If by the neglect of the collector any moneys shall be lost to a school district, which might have been collected within the time limited in the warrant delivered to him for their collection, he shall forfeit to such district the amount of the moneys thus lost, and shall account for and pay over the same to the trustees of such district, in the same manner as if they had been collected.

§ 257 **Remedy of trustees against collector in default.** For the recovery of all such forfeitures, and of all balances, in the hands of the collector, which he shall have neglected or refused to pay to his successor, or to the treasurer of such district, the trustees, in their name of office, shall have their remedy upon the official bond of the collector, or any action and any remedy given by law; and they shall apply all such moneys, when recovered, in the same manner as if paid without suit.

ARTICLE 10

Trustees

- Section 270 Trustees constitute a board and body corporate
 271 Property held by trustees as corporation
 272 Powers and duties of a sole trustee
 273 Mode of exercise of trustees' powers
 274 Powers of trustees when vacancies on board exist
 275 Powers and duties of trustees
 276 Trustees' annual report
 277 Annual report of trustees of certain joint districts
 278 Trustees' annual report to district
 279 Penalty for failure of trustee to account
 280 Payment by trustee to successor
 281 Trustees' right to¹ action against predecessors
 282 Notice of nonpayment of moneys apportioned
 283 Taxation for expenses incurred by trustees
 284 Issuing order in excess of available funds a misdemeanor
 285 Trustees must not be interested in district contracts

§ 270 **Trustees constitute a board and body corporate.** The sole trustee or the trustees of a school district shall constitute a board for such district and such board is hereby created a body corporate.

¹ So in original.

§ 271 **Property held by trustees as corporation.** All property which is now vested in, or shall hereafter be transferred to the trustees of a district, for the use of schools in the district, shall be held by them as a corporation.

§ 272 **Powers and duties of a sole trustee.** The sole trustee of a district shall possess all the powers and be subject to all the duties, liabilities and penalties which the law imposes upon a board of three trustees.

§ 273 **Mode of exercise of trustees' powers.** 1 The powers committed by law to the trustees of a district must be exercised by them as a board. The board must meet for the transaction of business in accordance with notice of time and place.

2 In a board composed of three trustees, when only two meet to deliberate upon any matter, and the third, if notified, does not attend, or the three meet and deliberate thereon, the conclusion of two upon the matter, and their order, act or proceeding in relation thereto, shall be as valid as though it were the conclusion, order, act or proceeding of the three; and a recital of the two in their minute of the conclusion, act or proceeding, or in their order, act or proceeding of the fact of such notice, or of such meeting and deliberation, shall be conclusive evidence thereof.

3 A meeting of the board may be ordered by any member thereof, by giving not less than twenty-four hours' notice of the same.

§ 274 **Powers of trustees when vacancies on board exist.** 1 While there is one vacancy in the office of trustee, the two trustees shall have all the powers and be subject to all the duties and liabilities of the three. And while there are two such vacancies, the trustee in office shall have all the powers and be subject to all the duties and liabilities of the three, as though he were a sole trustee.

2 When a vacancy shall occur in the office of trustee, the board shall immediately call a special meeting of the district to supply such vacancy.

§ 275 **Powers and duties of trustees.** It shall be the duty of the trustees of a school district, and they shall have power:

1 To call special meetings of the inhabitants of such districts whenever they shall deem it necessary and proper.

2 To give notice of special, annual and adjourned meetings in the manner prescribed in this chapter, if there be no clerk of the district, or he be absent or incapable of acting, or shall refuse to act.

3 To make out a tax-list of every district tax voted by a district meeting, or authorized by law, which shall contain the names of all

the taxable inhabitants residing in the district at the time of making out the list, and the amount of tax payable by each inhabitant, as directed in article fifteen of this chapter.

4 To purchase or lease such schoolhouse sites and other grounds to be used for playgrounds, or for agriculture, athletic center and social center purposes, and to purchase or build such schoolhouses as a district meeting may authorize; to hire temporarily such rooms or buildings as may be necessary for school purposes; and to purchase such implements, supplies and apparatus as may be necessary to provide instruction in agriculture, or to equip and maintain playgrounds, and to conduct athletic and social center activities in the district, when authorized by a vote of a district meeting. [*Subdivision 4, amended by L. 1913, ch. 221.*]

5 To have the custody and safe-keeping of the district schoolhouses, their sites and appurtenances.

6 To insure the school buildings, furniture and school apparatus in some company created by or under the laws of this State, or in an insurance company authorized by law to transact business in this State, and to comply with the conditions of the policy, and raise by a district tax the amount required to pay the premiums thereon.

7 To insure the school library in such a company in a sum fixed by a district meeting, and to raise the premium by a district tax, and comply with the conditions of the policy.

8 To contract with and employ as many legally qualified teachers as the schools of the district require; to determine the rate of compensation and the term of the employment of each teacher and to determine the terms of school to be held during each school year, and to employ persons to supervise, organize, conduct and maintain athletic, playground and social center activities when they are authorized by a vote of a district meeting as provided by law. The regular teachers of the school may be employed at an increased compensation or otherwise, and by separate agreement, written or oral, for one or more of such purposes. [*Subdivision 8, amended by L. 1913, ch. 221.*]

9 To establish rules for the government and discipline of the schools.

10 To prescribe the course of studies to be pursued in such schools. Provisions shall be made for instructing pupils in all schools supported by public money, or under state control, in physiology and hygiene, with special reference to the effect of alcoholic drinks, stimulants and narcotics upon the human system, and in the humane treatment and protection of animals and birds.

[*Subdivision 10, amended by L. 1917, ch. 210, in effect April 19, 1917.*]

11 To pay, towards the wages of legally qualified teachers the public moneys apportioned to the district for such purpose by giving them orders therefor on the supervisor, or on the collector or treasurer of such district when duly qualified to receive and disburse the same.

12 To collect by district tax an amount sufficient to pay any judgment or the salaries of teachers for the current school year after deducting from the aggregate amount required for this purpose the amount of public money in the hands of the supervisor, collector or treasurer applicable to the payment of teachers' salaries and to pay the same by written orders on the collector or treasurer.

13 To draw upon the supervisor, the collector or treasurer, when duly qualified to receive and disburse the same, for the school moneys, by written orders signed by the sole trustee, or where there are three trustees, signed by a majority of said trustees as prescribed by subdivisions 1 and 2 of section 360 of this chapter.

14 To keep each of the schoolhouses under their charge, and its furniture, school apparatus and appurtenances, in necessary and proper repair, and make the same reasonably comfortable for use, but shall not expend therefor without vote of the district an amount to exceed fifty dollars in any one year.

15 To make any repairs and abate any nuisances, pursuant to the direction of the school commissioner as herein provided, and provide fuel, stoves or other heating apparatus, pails, brooms and other implements necessary to keep the schoolhouses and the schoolrooms clean, and make them reasonably comfortable for use when no provision has been made therefor by a vote of the district, or the sum voted by the district for said purposes shall have proved insufficient.

16 To provide for building fires and cleaning the schoolrooms, and for janitor work generally in and about the schoolhouse, and pay reasonable compensation therefor.

17 To provide bound blank-books for the entering of their accounts, the records of the district and the proceedings of district and trustee meetings, and a list of the movable property of the district and they shall deliver such books to their successors in office.

18 To expend in the purchase of a dictionary, books, reproductions of standard works of art, maps, globes or other school apparatus, including implements, apparatus and supplies for instruction

in agriculture, or for conducting athletic playgrounds and social center activities, a sum not exceeding twenty-five dollars in any one year, without a vote of the district. [*Subdivision 18 amended by L. 1913, ch. 221, and by L. 1914, ch. 216.*]

19 To establish temporary or branch schools in such places in the district as shall best accommodate the children, and to hire rooms or buildings therefor and to fit up and furnish such rooms or buildings in a suitable manner for conducting school therein when it is shown:

a That any considerable number of the children residing in a portion of the district are so remote from the schoolhouse as to render it difficult for them to attend school in such schoolhouse in inclement weather, or;

b That the school building is overcrowded and proper accommodations are not afforded all the children of the district, or;

c That for any other sufficient reason suitable and proper school facilities are not provided by the present school accommodations.

Any expenditure made or liability incurred in pursuance of this section shall be a charge upon the district.

§ 276 Trustees' annual report. The trustees of each district shall make a full report to the Commissioner of Education upon any particular matter relating to their schools whenever such report shall be required by said Commissioner. The trustees of each school district shall, on the first day of August in each year, make to the school commissioner a report in writing for the year ending on July thirty-first preceding. Such report shall be in such form as the Commissioner of Education shall prescribe. In every case the trustees shall sign and certify to said report and deliver it to the clerk of the town, in which the schoolhouse of the district is situated; and every such report shall certify:

1 The whole time school has been maintained in their district during the year ending on the day previous to the date of such report, and stating what portion of the time such school has been taught by qualified teachers, and the whole number of days, including holidays, in which the school was taught by qualified teachers.

2 The amount of their drafts upon the supervisor, collector or treasurer for the payment of teachers' salaries during such year, and the amount of their drafts upon him for the purchase of books

¹ So in original.

and school apparatus during such year, and the manner in which such moneys have been expended.

3 The number of children taught in the district school during such year by qualified teachers, and the aggregate days' attendance of all such children upon the school.

4 The number of children residing in their district, over five and under eighteen years of age, who shall have been, on the thirtieth day of August last preceding the date of such report, legal residents of such district. Children supported at a county poor-house or an orphan asylum shall not be included in such enumeration.

5 The number of vaccinated and unvaccinated children of school age in their respective districts.

6 The amount of money paid for teachers' salaries, in addition to the public money paid therefor, the amount of taxes levied in said district for purchasing schoolhouse sites, for building, hiring, purchasing, repairing and insuring schoolhouses, for fuel, for school libraries, or for any other purpose allowed by law.

7 Such additional information in relation to the schools under their management and control as the Commissioner of Education shall require.

§ 277 **Annual report of trustees of certain joint districts.** Where a school district lies in two or more counties, its trustees shall file their annual report in the office of the clerk of the town in which the principal schoolhouse of the district is situated.

§ 278 **Trustees' annual report to district.** The trustees shall render to the district, at its annual meeting, a just, full and true account in writing, of all moneys received by them respectively for the use of the district, or raised or collected by taxes, the preceding year, and of the manner in which the same shall have been expended, and showing to which of them an unexpended balance, or any part thereof, is chargeable; and of all drafts or orders made by them upon the supervisor, collector, treasurer or other custodian of moneys of the district; and a full statement of all appeals, actions or suits and proceedings brought by or against them, and of every special matter touching the condition of the district.

§ 279 **Penalty for failure of trustee to account.** By a wilful neglect or refusal to render such account, a trustee forfeits any unexpired term of his office, and becomes liable to the trustees for any district moneys in his hands.

§ 280 **Payment by trustee to successor.** An outgoing trustee shall forthwith pay, to his successor or any other trustees of the district in office, all moneys in his hands belonging to the district.

§ 281 Trustees' right of action against predecessor. The trustees in office shall sue for and recover any district moneys in the hands of any former trustee, or of his personal representatives, and apply them to the use of the district.

§ 282 Notice of nonpayment of moneys apportioned. If any portion of the moneys apportioned to the district shall not be paid by the supervisor, the collector or treasurer, upon the due requirement of the trustees, they shall forthwith notify the treasurer of the county and the Commissioner of Education of the fact.

§ 283 Taxation for expenses incurred by trustees. When trustees are required or authorized by law, or by a vote of their district, to incur any expenses for such district, and when any expenses incurred by them are made, by express provision of law, a charge upon such district, they may raise the amount thereof by tax in the same manner as if the definite sum to be raised had been voted by a district meeting.

§ 284 Issuing order in excess of available funds a misdemeanor. 1 The trustees of a school district shall not issue an order or draft upon a supervisor, collector or treasurer for the payment of the salary of a teacher unless there shall be in the hands of such supervisor, collector or treasurer at the time sufficient money belonging to the district to meet such order or draft.

2 A violation of this section by the trustees of a district shall be a misdemeanor.

§ 285 Trustees must not be interested in district contracts. No trustee shall be personally interested directly or indirectly in any contract which he makes in behalf of the district.

ARTICLE 11

Boards of Education

- Section 300 Boards of education corporate bodies
- 301 Board of education in district whose boundaries are not coterminous with those of an incorporated village or city
- 302 Board of education in district whose boundaries are coterminous with those of an incorporated village or city
- 303 Provisions for separate elections in certain districts
- 304 Determination of election disputes
- 305 Election and organization of board of education in new district where union free school district containing two incorporated villages is divided
- 306 Annual meetings of boards of education

- Section 307 Change in number of members of board of education in union free school district whose boundaries¹ are coterminous with those of an incorporated village or city
- 308 Change in number of members of board of education in union free school district whose boundaries are not coterminous with those of an incorporated village or city.
- 309 Power of removal of member of board of education
- 310 Powers and duties of boards of education
- 311 Night schools; kindergartens
- 312 Appointment of superintendent of schools
- 313 Regular meetings; visitation of schools
- 314 Limitation upon expenditures
- 315 Deposit, custody and payment of moneys in cities and villages
- 316 Moneys and accounts in union free school districts whose boundaries are not the same as the boundaries of incorporated cities and villages
- 317 Boards of education have powers of trustees of common schools and trustees of academies
- 318 Academy may be adopted as academic department
- 319 Contracts with academies
- 320 Retransfer of academy to its former trustees
- 321 Records; reports
- 322 Reports to Commissioner of Education
- 323 Estimated expenses for ensuing year
- 324 Vote upon school taxes
- 325 Levy of tax for certain purposes without vote
- 326 Reference to Commissioner of Education
- 327 Corporate authorities must raise tax certified by board of education
- 328 Application of this article

§ 300 **Boards of education corporate bodies.** The board of education of each union free school district or city is hereby created a body corporate and it shall, at its first meeting and at each annual meeting thereafter, elect one of its members president.

§ 301 **Board of education in district whose boundaries are not coterminous with those of an incorporated village or city.**
 1 Whenever a union free school district shall be established pursuant to the provisions of sections 141 to 145 of this chapter and the boundaries of such district shall not be coterminus with the boundaries of an incorporated city or village, it shall be the duty of the meeting at which such union free school district is established to elect by ballot not less than three nor more than nine trustees, who shall, by the order of such meeting, be divided into three classes, the first to hold until one, the second until two, and

¹ So in original.

the third until three years from the first Tuesday of August next following, except as in the next section provided. Thereafter there shall be elected in such districts, at the annual meeting, trustees to supply the places of those whose terms of office, by the classification aforesaid, expire.

2 The trustees thus elected, shall enter at once upon their offices, and the office of any existing trustees in such districts, before the establishment of a union free school therein, shall cease, except for the purposes stated in section 135 of this chapter. The said trustees and their successors in office shall constitute the board of education of the union free school district thus established. [*Sub-division 2 amended by L. 1910, ch. 442.*]

§ 302 Board of education in district whose boundaries are coterminous with those of an incorporated village or city. Whenever said board of education shall be constituted for any district whose limits correspond with those of any incorporated village or city, the trustees so elected shall, by the order of such meeting, be divided into three classes: The first class to serve until one; the second, until two; and the third, until three years after the date of the next charter election in such village or city, and their regular term of service shall be computed from the several dates of such charter elections. Thereafter, there shall be annually elected in such villages and cities, at the charter elections, by separate ballot, to be indorsed "school trustee," in the same manner as the charter officers thereof, trustees of the said union free schools, to supply the places of those whose terms by the classification aforesaid expire.

§ 303 Provisions for separate elections in certain districts.
1 In union free school districts whose limits do not correspond with those of an incorporated village or city, and in which the number of children of school age exceeds three hundred, as shown by the last annual report of the board of education to the school commissioner, the qualified voters of any such district may by a vote of a majority of those present and voting, at any annual meeting, or at any duly called special meeting, to be ascertained by taking and recording the ayes and noes, determine that the election of the members of the board of education shall be held on the Wednesday next following the day designated by law for holding the annual meeting of said district.

2 Until such determination shall be changed, such election shall be held on the Wednesday next following the day on which such annual meeting of such district shall be held between the hours of

twelve o'clock noon and four o'clock in the afternoon at the principal schoolhouse in the district, or at such other suitable place as the trustees may designate.

3 When the place of holding such election is other than at the principal schoolhouse, the trustees shall give notice thereof by the publication of such notice, at least one week before the time of holding such election, in some newspaper published in the district, or by posting the same in three conspicuous places in the district. The trustees may, by resolution, extend the time of holding the election from four o'clock until sunset.

4 Such members of the board of education as may be present, shall act as inspectors of election. If a majority of such board shall not be present at the time of opening the polls, those members of the board in attendance may appoint any of the legal voters of the district present, to act as inspectors in place of the absent trustees; and if none of the board of education shall be present at the time of opening the polls, the legal voters present may choose three of their number to act as inspectors.

5 The clerk of the board of education shall attend at the election and record in a book, to be provided for that purpose, the name of each elector as he deposits his ballot. If the clerk of the board of education shall be absent, or shall be unable or refuse to act, the board of education or inspectors of election shall appoint some person who is a legal voter in the district to act in his place. Any clerk or acting clerk who shall neglect or refuse to record the name of a person whose ballot is received by the inspectors, shall be liable to a fine of twenty-five dollars, to be sued for by the supervisor of the town.

6 The board of education shall, at the expense of the district, provide a suitable box in which the ballots shall be deposited as they are received. Such ballots shall contain the names of the persons voted for, and shall designate the office for which each of said names is voted. The ballots may be either written or printed, or partly written and partly printed. The inspectors immediately after the close of the polls shall proceed to canvass the votes. They shall first count the ballots to determine if they tally with the number of names recorded by the clerk, and if they exceed that number, enough ballots shall be withdrawn to make them correspond. Such inspectors shall count the votes and announce the result. The persons having a *plurality*¹ of the votes respectively for the several

¹ The former law provided for a majority vote to elect. The amendment does not affect union free school districts which do not hold elections of school officers on the Wednesday following the annual meeting.

offices shall be elected, and the clerk shall record the result of such ballot and election as announced by the inspectors. [*Subdivision 6 amended by L. 1910, ch. 442.*]

7 Whenever the time for holding such election, as aforesaid, shall pass without such election being held in any such district, a special election shall be called by the board of education, but if no such election be called by said board within twenty days after such time shall have passed, the school commissioner or the Commissioner of Education may order any inhabitant of said district to give notice of such election in the manner prescribed by section 193; and the officers elected at such special election shall hold their respective offices only until the next annual election, and until their successors are elected and shall have qualified, as in this chapter provided.

8 The foregoing provisions shall not apply to union free school districts in cities, nor to union free school districts whose boundaries correspond with those of an incorporated village, nor to any school district organized under a special act of the Legislature, in which the time, manner and form of the election of district officers shall be different from that prescribed for the election of officers in union free school districts, organized under the general law, nor to any of the union free school districts in the counties of Suffolk, Chenango, Warren and Saint Lawrence. [*Subdivision 8 amended by L. 1917, ch. 270, in effect April 27, 1917.*]

§ 304 Determination of election disputes. All disputes concerning the validity of any district election or of any of the acts of the officers of such election shall be referred to the Commissioner of Education for determination and his decision in the matter shall be final and not subject to review. The Commissioner may in his discretion order a new election.

§ 305 Election and organization of board of education in new district where union free school district containing two incorporated villages is divided. 1 Within ten days after the school commissioner shall have designated any separate school district organized under the provisions of sections 130 and 131 of this chapter, he shall call a special meeting of the qualified voters of such school district at a time and place to be named by him to elect a board of education to consist of six members, two of whom shall be elected for one year, two for two years and two for three years from the date of the annual school meeting next succeeding such special meeting. The call for such special meeting shall be published in the manner provided in section 130 for calling a special

meeting to determine as to whether the school district shall be divided.

2 The school commissioner shall call such special meeting to order and the voters present shall elect a chairman and secretary for such meeting and appoint three tellers to canvass the votes cast. After the votes shall have been canvassed the chairman and secretary shall forthwith certify the result of such canvass to the said school commissioner, who shall within five days thereafter convene the members of the board of education, shown by said certificate to have been elected, for the purpose of organization, and said certificate of the result of such canvass shall thereupon become a part of the record of said school district.

§ 306 Annual meetings of boards of education. 1 The annual meeting of the board of education of every union free school district whose limits do not correspond with those of an incorporated village or city shall be held on the first Tuesday in August of each year, except in districts in which the annual meeting is held on the first Tuesday in August, in which case the annual meeting of the board of education of such district shall be held on the second Tuesday in August.

2 The annual meeting of the board of education of every union free school district whose limits correspond with those of an incorporated village or city shall be held on the Tuesday next after the election of the members of such board at the annual charter election of the village or city. [*Amended by L. 1911, ch. 830 and L. 1915, ch. 232.*]

§ 307 Change in number of members of board of education in union free school district whose boundaries are coterminous with those of an incorporated village or city. The number of members of the board of education of a union free school district whose limits correspond with those of an incorporated village or city, may be increased to not more than nine or decreased to not less than three in the following manner:

1 The board of education of such union free school district, shall, upon the application of at least fifteen resident taxpayers of such district, submit to a special meeting, held at least thirty days prior to the annual charter election, in such village or city, a proposition for the increase or decrease of the number of members of the board of education to a number specified in the proposition.

2 Such special meeting shall be called and held in the manner prescribed by subdivision 2 of section 193 of this chapter.

3 If such proposition is adopted and it is determined thereby to increase the number of members of the board of education of such district, there shall be elected at the next ensuing annual village or city election, a sufficient number of members of the board of education so that the total number of members of the board will be the number specified in such proposition. Such additional members shall be elected for such terms so that as nearly as possible the terms of one-third of the members of such board, will expire annually. Successors to such additional members shall be elected in like manner.

4 If such proposition is adopted and it is determined thereby to decrease the number of the board of education in such district, no members of the board of education of such district shall thereafter be elected until by expiration of term the number of members of the board of education will be less than the number specified in such proposition; and thereafter the number of members of the board of education of such district shall be the number specified in such proposition. Not more than one proposition under this section shall be submitted in any calendar year.

§ 308 **Change in number of members of board of education in union free school district whose boundaries are not coterminous with those of an incorporated village or city.** 1 The number of members of the board of education of a union free school district whose limits do not correspond with those of an incorporated village or city may be increased or decreased at an annual meeting by a majority vote of the qualified voters present and voting to be ascertained by taking and recording the ayes and noes. The number of such board shall not be increased to more than nine nor decreased to less than three.

2 No vote shall be taken upon the proposition to increase or decrease the number of members of such board of education unless the notice of the annual meeting shall contain a statement to the effect that the voters of such district will vote upon such proposition. The board of education of any such district shall, upon the application of at least fifteen voters of such district, include in the notice of the annual meeting a statement that the proposition to increase or decrease such board will be presented to the annual meeting for determination. If the board refuses or fails to give such notice the notice may be given in such manner as the Commissioner of Education may direct.

3 If any such board shall consist of less than nine members and such meeting shall determine to increase the number, such meeting

shall elect the additional number so determined upon and shall divide such number into three classes, the first to hold office one year, the second two years and the third three years.

4 If such meeting shall determine to diminish the number of members composing such board, no election shall be held in such district to fill the vacancies of the outgoing members until the number of such members shall correspond to the number which such meeting shall determine to compose such board.

§ 309 **Power of removal of member of board of education.** For cause shown, and after giving notice of the charge and opportunity of defense, the Commissioner of Education may remove any member of a board of education. Wilful disobedience of any lawful requirement of the commissioner of education, or a want of due diligence in obeying such requirement or wilful violation or neglect of duty is cause for removal.

§ 310 **Powers and duties of boards of education.** The said board of education of every union free school district shall have power, and it shall be their duty:

1 To adopt such by-laws and rules for its government as shall seem proper in the discharge of the duties required under the provisions of this chapter.

2 To establish such rules and regulations concerning the order and discipline of the schools, in the several departments thereof, as they may deem necessary to secure the best educational results.

3 To prescribe the course of study by which the pupils of the schools shall be graded and classified, and to regulate the admission of pupils and their transfer from one class or department to another, as their scholarship shall warrant.

4 To prescribe the textbooks to be used in the schools, and to compel a uniformity in the use of the same, pursuant to the provisions of this chapter, and to furnish the same to pupils out of any moneys provided for that purpose.

5 To make provision for the instruction of pupils in physiology and hygiene with special reference to the effect of alcoholic drinks, stimulants and narcotics upon the human system, and in the humane treatment and protection of animals and birds. [*Subdivision 5 amended by L. 1917, ch. 210, in effect April 19, 1917.*]

6 To purchase sites, or additions thereto, for recreation grounds for agricultural purposes, and for schoolhouses for the district. when designated by a meeting of the district; and to construct such schoolhouses and additions thereto as may be so designated; to purchase furniture and apparatus for such schoolhouses, and to

keep the furniture and apparatus therein in repair; and, when authorized by such meeting, to purchase implements, supplies, and apparatus for agricultural, athletic, playground, and social center purposes. [*Subdivision 6 amended by L. 1913, ch. 221.*]

7 To hire rooms in which to maintain and conduct schools when the rooms in the schoolhouses are overcrowded, or when such schoolhouses are destroyed, injured or damaged by the elements, and to fit up and furnish such rooms in a suitable manner for conducting schools therein.

8 To insure the schoolhouses and their furniture, apparatus and appurtenances, and the school library, in some company created by or under the laws of this State, or in some insurance company authorized by law to transact business in this State, and to comply with the conditions of the policy, and raise the sums paid for premiums by district tax.

9 To take charge and possession of the schoolhouses, sites, lots, furniture, books, apparatus, and all school property within their respective districts; and the title of the same shall be vested respectively in said board of education.

10 To sell, when authorized by a vote of the qualified voters of the school district, any former school site or lot, or any real estate the title to which is vested in the board, and the buildings thereon, and appurtenances or any part thereof, at such price and upon such terms as said voters shall prescribe, and to convey the same by deed to be executed by the board or a majority of the members thereof. Also to exchange real estate belonging to the district for the purpose of improving or changing schoolhouse sites.

11 To take and hold for the use of the said schools or of any department of the same, any real estate transferred to it by gift, grant, bequest or devise, or any gift, legacy or annuity, of whatever kind, given or bequeathed to the said board, and apply the same, or the interest or proceeds thereof, according to the instructions of the donor or testator.

12 To have in all respects the superintendence, management and control of said union free schools, and to establish therein, in conformity with the Regents rules, an academic department, whenever in their judgment the same is warranted by the demand for such instruction; to receive into said union free schools any pupils residing out of said district, and to regulate and establish the tuition fees of such nonresident pupils in the several departments of said schools.

13 To provide fuel, furniture, apparatus and other necessities for the use of said schools.

14 To appoint such librarians as they may from time to time deem necessary.

15 To contract with and employ such persons as by the provisions of this chapter are qualified teachers, to determine the number of teachers to be employed in the several departments of instruction in said school, and at the time of such employment, to make and deliver to each teacher a written contract as required by section 561 of this chapter; and employ such persons as may be necessary to supervise, organize, conduct and maintain athletic, playground and social center activities, or for any one or more of such purposes. The regular teachers of the school may be employed at an increased compensation or otherwise, and by separate agreement, written or oral, for one or more of such purposes. [*Subdivision 15 amended by L. 1913, ch. 221.*]

16 To fill any vacancy which may occur in said board by reason of the death, resignation, removal from office or from the school district, or refusal to serve, of any member or officer of said board; and the person so appointed in the place of any such member of the board shall hold his office until the next annual election of trustees.

17 To remove any member of their board for official misconduct. But a written copy of all charges made of such misconduct shall be served upon him at least ten days before the time appointed for a hearing of the same; and he shall be allowed a full and fair opportunity to refute such charges before removal.

18 To provide and maintain suitable and convenient water-closets as provided in section 457 of this chapter.

19 To borrow money in anticipation of taxes remaining uncollected which have been levied by such district for the current fiscal year, and not in excess thereof, whenever in the discretion of the board of education it shall be necessary to do so for the purpose of paying the current expenses of the district for such current fiscal year, by issuing certificates of indebtedness, in the name of the board of education, signed by the president and clerk thereof, which certificates must be payable within such current fiscal year or within nine months thereafter, and shall bear interest at a rate not exceeding six per centum per annum.

20 To raise by tax upon the property of the district any moneys required to pay the salary of teachers employed after applying thereto the school moneys apportioned to the district by the State.

21 To provide for the medical inspection of all children in attendance upon schools under their supervision whenever in their judgment such inspection shall be necessary and to pay any expense incurred therefor out of funds authorized by the voters of the district or city or which may properly be set aside for such purpose by the common council or the board of estimate and apportionment of a city. Provided, however, that no such funds shall be appropriated or authorized by the voters of a union free school district situate wholly within a city of the third class, unless the board of education shall incorporate in the notice of the annual meeting or election a statement to the effect that at such meeting or election a proposition to appropriate such funds will be voted upon, specifying the amount. [*Subdivision 21 added by L. 1910, ch. 602, and amended by L. 1912, ch. 215.*]

22 To provide, purchase, lease, furnish and maintain buildings or other suitable accommodations for the use of teachers employed in the district when duly authorized by a meeting of the district and to raise by tax upon the taxable property of the district the moneys necessary for such purposes. [*Subdivision 22 added by L. 1922, ch. 344, in effect March 29, 1922.*]

§ 311 **Kindergartens; night schools.** The board of education of each school district and of each city may maintain kindergartens which shall be free to resident children between the ages of four and six years.

Night schools wherein the common branches and such additional subjects as may be adapted to students applying for instruction are taught on three nights each week, for two hours each night, shall be maintained by the board of education:

1 In each city of the first class throughout the duration of the day school term.

2 In each city of the second class on at least one hundred nights.

3 In each city of the third class on at least eighty nights.

4 In each city not subject to the foregoing provisions and in each school district where twenty or more minors between the ages of sixteen and twenty-one years are required to attend school, or where twenty or more persons over the age of sixteen years make applications for instruction in a night school, for at least seventy-five nights.

All night schools shall be free to all persons residing in the districts or city.

[*Amended by L. 1918, ch. 409, in effect September 1, 1918.*]

§ 312 **Appointment of superintendent of schools.** 1 In any union free school district having a population of four thousand five hundred or more, which fact shall be determined by the commissioner of education, as provided in section four hundred and ninety-two of this chapter, the board of education may appoint a superintendent of schools. [*Subdivision 1 amended by L. 1920, ch. 141, in effect July 1, 1920.*]

2 Such superintendent shall be under the direction of the board of education, which shall prescribe his powers and duties. He shall be paid a salary from the teachers' fund, to be fixed by the board of education, and he may be removed from office by a vote of the majority of all the members of such board. Whenever such superintendent shall be appointed, the said union free school district shall be entitled to the benefits of the provisions of section four hundred and ninety-two of this chapter.

§ 313 **Regular meetings; visitation of schools.** 1 It shall be the duty of each board of education elected pursuant to the provisions of this article to have a regular meeting at least once in each quarter.

2 Each board shall appoint one or more committees, to visit every school or department under its supervision and such committee shall visit such schools at least twice in each quarter, and report at the next regular meeting of the board on the condition thereof.

3 The meetings of all such boards shall be open to the public, but said boards may hold executive sessions, at which sessions only the members of such boards or the persons invited shall be present.

§ 314 **Limitation upon expenditures.** No board of education shall incur a district liability in excess of the amount appropriated by a district meeting unless such board is specially authorized by law to incur such liability.

§ 315 **Deposit, custody and payment of moneys in cities and villages.** 1 All moneys raised for the support of schools in any city or in any union free school district whose boundaries are coterminous with the boundaries of an incorporated village or apportioned to the same by the Education Department or otherwise, shall be paid into the treasury of such city or village to the credit of the board of education therein; and the funds so received into such treasury shall be kept separate and distinct from any other funds received into the said treasury. And the officer having the charge thereof shall give such additional security for the safe custody

¹ So in original.

thereof as the corporate authorities of such city or village shall require.

2 No money shall be drawn from such funds, credited to the several boards of education, unless in pursuance of a resolution of said board, and on drafts drawn by the president and countersigned by the secretary or clerk, payable to the order of the persons entitled to receive such money, and stating on their face the purpose or service for which such moneys have been authorized to be paid by the said board of education.

§ 316 Moneys and accounts in union free school districts whose boundaries are not the same as the boundaries of incorporated cities and villages. 1 All moneys raised in a union free school district whose limits do not correspond with those of a city or an incorporated village, or apportioned thereto by the Education Department or otherwise, shall be paid to the treasurer of the district entitled to receive the same, and be applied to the uses of the district and the board shall annually render their accounts of all moneys received and expended by them for the use of said schools.

2 No money shall be drawn from such funds in possession of such treasurer, unless in pursuance of a resolution of said board, and on drafts drawn by the president and countersigned by the clerk payable to the order of the persons entitled to receive¹ such money, and stating on their face the purpose or service for which said moneys have been authorized to be paid by the said board of education.

§ 317 Boards of education have powers of trustees of common schools and trustees of academies. The board of education shall possess all the powers and privileges, and be subject to all the duties in respect to the common schools, or the common school departments in any union free school in said districts, which the trustees of common schools possess or are subject to under this chapter, not specially provided for in this article, and not inconsistent with the provisions of this article; and to enjoy, whenever an academic department shall be by them established, all the immunities and privileges now enjoyed by the trustees of academies in this State.

§ 318 Academy may be adopted as academic department. Whenever a union free school shall be established under the provisions of article 5, and there shall exist within its district an academy, the board of education, when authorized by a vote of the voters of the district, may adopt such academy as the academic

¹ So in original.

department of the district, with the consent of the trustees of the academy, and thereupon the trustees by a resolution to be attested by the signatures of the officers of the board and filed in the office of the clerk of the county, shall declare their offices vacant, and thereafter the said academy shall be the academic department of such union free school. The board of education when thereto authorized by a vote of the qualified voters of the district may lease said academy and site, and maintain the academic department of such union free school therein and thereon.

§ 319 **Contracts with academies.** The board of education of a union free school district, with the approval of the Commissioner of Education, may adopt an academy as the academic department thereof, and contract for the instruction therein of pupils of academic grade, residing in the district. The academy thereupon becomes the academic department of such union free school, and the district is entitled to the same rights and privileges, is subject to the same duties, and the apportionment and distribution of state school money shall be made to it, as if an academic department had been established in such school.

§ 320 **Retransfer of academy to its former trustees.** If there shall be, in a dissolved union free school district, an academy which shall have been adopted as the academic department of the union free school, under the provisions of title 9, chapter 555 of the Laws of 1864, and any amendment thereof, or title 8 of chapter 556 of the Laws of 1894, and any amendment thereof, or under this chapter, it shall, upon the application of a majority of the surviving resident former trustees or stockholders, be transferred by the board of education to said former trustees or stockholders.

§ 321 **Records; reports.** It shall be the duty of the board of education to keep an accurate record of all its proceedings in books provided for that purpose. It shall also be the duty of said board to cause to be published once in each year, during the month of July, in at least one public newspaper, printed in such district, a full and detailed account of all moneys received by the board or the treasurer of said district, for its account and use, and of all the moneys expended therefor, giving the items of expenditure in full; should there be no paper published in said district said board shall publish such account by notice to the taxpayers, by posting copies thereof in five public places in said district. [*Amended by L. 1919, ch. 74, in effect March 20, 1919.*]

§ 322 **Reports to Commissioner of Education.** 1 The board of education of each district and of each city shall make such detailed report and in such form upon any matter relating to the schools under their management and control as the Commissioner of Education shall from time to time require.

2 Such board of education shall also make an annual report giving the information relating to their schools required of trustees under section 276 of this chapter. Such report shall also contain such information as the Commissioner of Education shall require and shall be in the form prescribed by him. Such report shall be made on the first day of August of each year and, in the case of a board of education of a union free school district, shall be delivered to the town clerk of the town in which the schoolhouse of such district is located.

§ 323 **Estimated expenses for ensuing year.** It shall be the duty of the board of education of each district to present at the annual meeting a detailed statement in writing of the amount of money which will be required for the ensuing year for school purposes exclusive of the public moneys, specifying the several purposes and the amount for each. This section shall not be construed to prevent the board from presenting such statement at a special meeting called for the purpose, nor from presenting a supplementary and amended statement or estimate at any time.

§ 324 **Vote upon school taxes.** After the presentation of such statement or estimate, the question shall be taken upon voting the necessary taxes to meet the estimated expenditures, and when demanded by any voter present, the question shall be taken upon each item separately, and the inhabitants may increase the amount of any estimated expenditures or reduce the same, except for teachers' wages, and the ordinary contingent expenses of the schools.

§ 325 **Levy of tax for certain purposes without vote.** If the inhabitants shall neglect or refuse to vote the sum estimated necessary for teachers' wages, after applying thereto the public school moneys, and other moneys received or to be received for that purpose, or if they shall neglect or refuse to vote the sum estimated necessary for ordinary contingent expenses, the board of education may levy a tax for the same, in like manner as if the same had been voted by the inhabitants.

§ 326 **Reference to Commissioner of Education.** If any question shall arise as to what are ordinary contingent expenses the same may be referred to the Commissioner of Education, by a

statement in writing, signed by one or more of each of the opposing parties upon the question, and the decision of the Commissioner shall be conclusive.

§ 327 **Corporate authorities must raise tax certified by board of education.** 1 The corporate authorities of any incorporated village or city in which any such union free school shall be established, shall have power, and it shall be their duty, to raise, from time to time, by tax, to be levied upon all the real and personal property in said city or village, as by law provided for the defraying of the expenses of its municipal government, such sum as the board of education established therein shall declare necessary for teachers' salaries and the ordinary contingent expenses of supporting the schools of said district.

2 The sums so declared necessary shall be set forth in a detailed statement in writing, addressed to the corporate authorities by the board of education, giving the various purposes of anticipated expenditure, and the amount necessary for each; and the said corporate authorities shall have no power to withhold the sums so declared to be necessary; and such corporate authorities as aforesaid shall have power, and it shall be their duty to raise, from time to time, by tax as aforesaid, any such further sum to be set forth in a detailed statement in writing, addressed to the corporate authorities by the board of education, giving the various purposes of the proposed expenditure, and the amount necessary for each which may have been or which may hereafter be authorized by a majority of the voters of such union free school district present and voting at any special district meeting duly convened for any of the purposes stated in section 467 of this chapter.

§ 328 **Application of this article.** The provisions of this article shall apply to all union free schools heretofore organized pursuant to the provisions of chapter 433 of the Laws of 1853, and the amendments thereof, chapter 555 of the Laws of 1864, and the amendments thereof, and of chapter 556 of the Laws of 1894, and the amendments thereof; and sections 327, 460, 467 and 480 of this chapter are made applicable to all school districts established by and organized under special statutes, except those of cities; and sections 310, subdivision 19, 312 and 458 of this chapter are made applicable to all school districts having a population of five thousand and upwards established by and organized under special statutes.

ARTICLE 12

Town Clerks

Section 340 Duties of town clerks

341 Expenses of town clerks

§ 340 Duties of town clerks. It shall be the duty of the town clerk of each town:

1 To keep all books, maps, papers, and records of his office touching common schools, and forthwith to report to the school commissioner any loss or injury to the same.

2 To receive from the supervisors the certificates of apportionment of school moneys to the town, and to record them in a book to be kept for that purpose.

3 To notify forthwith the trustees of the several school districts of the filing of each such certificate.

4 To see that the trustees of the school districts make and deposit with him their annual reports within the time prescribed by law, and to deliver them to the school commissioner on demand.

5 To furnish the school commissioner of the school commissioner district in which his town is situated the names and post-office addresses of the school district officers reported to him by the district clerks.

6 To distribute to the trustees of the school districts all books, blanks and circulars which shall be delivered or forwarded to him by the Commissioner of Education or school commissioner for that purpose.

7 To receive from the supervisor, and record in a book kept for that purpose, the annual account of the receipts and disbursements of school moneys required to be submitted to the town auditors, together with the action of the town auditors thereon, and to send a copy of the account and of the action thereon, by mail, to the Commissioner of Education whenever required by him, and to file and preserve the vouchers accompanying the account.

8 To receive and to record, in the same book, the supervisor's final account of the school moneys received and disbursed by him, and deliver a copy thereof to such supervisor's successor in office.

9 To receive from the outgoing supervisor, and file and record in the same book, the county treasurer's certificate, that his successor's bond has been given and approved.

10 To receive, file and record the descriptions of the school

districts, and all papers and proceedings delivered to him by the school commissioner pursuant to the provisions of this chapter.

11 To act, when thereto legally required, in the erection or alteration of a school district, as in article 5 of this chapter provided.

12 To receive and preserve the books, papers and records of any dissolved school district, which shall be ordered, as hereinafter provided, to be deposited in his office.

13 To perform any other duty which may be devolved upon him by this chapter, or by any other act touching common schools. [*Renumbered § 364 by L. 1917, ch. 328; renumbered § 340 by L. 1918, ch. 199.*]

§ 341 **Expenses of town clerks.** The necessary expenses and disbursements of the town clerk in the performance of his said duties, are a town charge, and shall be audited and paid as such. [*Renumbered § 365 by L. 1917, ch. 328; renumbered § 341 by L. 1918, ch. 199.*]

ARTICLE 13

Supervisors

Section 360 Duties of supervisors

- 361 Sale of gospel or school lots on division of town
- 362 Payment of proceeds of sale of gospel or school lots
- 363 Supervisor's bond for school moneys
- 364 Refusal of supervisor to give bond
- 365 Report by supervisors to district superintendents
- 366 Penalties of certain bonds

§ 360 **Duties of supervisors.** It is the duty of every supervisor:

1 To disburse the school moneys in his hands applicable to the payment of teachers' wages, upon and only upon the written orders of a sole trustee or a majority of the trustees, in favor of qualified teachers. But whenever the collector in any school district shall have given bonds for the due and faithful performance of the duties of his office as disbursing agent, as required by section 253 or whenever any school district shall elect a treasurer as provided in this chapter, the said supervisor shall, upon the receipt by him of a copy of the bond executed by said collector or treasurer as herein required, certified by the trustees, pay over to such collector or treasurer, all moneys in his hands applicable to the payment of teachers' wages in such district, and the said collector or treasurer

shall disburse such moneys so received by him upon such orders as are specified herein to the teachers entitled to the same.

2 To pay over all the school money apportioned to a union free school district, to the treasurer of such district, upon the order of its board of education.

3 To keep a just and true account of all the school moneys received and disbursed by him during each year, and to lay the same, with proper vouchers, before the town board or board of town auditors at each annual meeting thereof.

4 To provide a bound blank book, the cost of which shall be a town charge, and to enter therein all his receipts and disbursements of school moneys, specifying from whom and for what purposes they were received, and to whom and for what purposes they were paid out; and to deliver the book to his successor in office.

5 To make out a just and true account of all school moneys received by him and of all disbursements thereof, within fifteen days after the termination of his office and to deliver the same to the town clerk to be filed and recorded, and to notify his successor in office that such account has been made and filed.

6 To deliver to his predecessor the county treasurer's certificate showing that he has given to such treasurer the bond required by section 363 of this chapter and that such bond has been approved by such treasurer, and to procure from the town clerk a copy of his predecessor's account, and to demand and receive from him all school moneys remaining in his hands.

7 To pay to his successor upon receipt of such certificate all school moneys remaining in his hands, and to forthwith file the certificate in the town clerk's office.

8 To sue for and recover, in his name of office, when the duty is not elsewhere imposed by law, all penalties and forfeitures imposed by this chapter, and for any default or omission of any town officer or school district board or officer under this chapter; and after deducting his costs and expenses to report the balances to the school commissioner.

9 To act, when legally required, in the erection or alteration of a school district, as provided in article 5 of this chapter, and to perform any other duty which may be devolved upon him by this chapter, or any other act relating to common schools.

10 To take and hold possession of the gospel and school lots of their respective towns.

11 To lease the same for such time and not exceeding twenty-one years, and upon such conditions as they shall deem expedient.

12 To sell the same with the advice and consent of the inhabitants of the town, in town-meeting assembled, for such price and upon such terms of credit as shall appear to them most advantageous.

13 To invest the proceeds of such sales in loans, secured by bond and mortgage upon unincumbered real property of the value of double the amount loaned.

14 To purchase the property so mortgaged upon a foreclosure, and to hold and convey the property so purchased whenever it shall become necessary.

15 To reloan the amount of such loans repaid to them, upon the like security.

16 To apply the rents and profits of such lots, and the interest of the money arising from the sale thereof, to the support of schools, as may be provided by law, in such manner as shall be thus provided.

17 To render a just and true account of the proceeds of the sales and the interest on the loans thereof, and of the rents and profits of such gospel and school lots, and of the expenditure and appropriation thereof, on the last Tuesday next preceding the annual town-meeting in each year, to the town board.

18 To deliver over to his successor in office, all boxes, papers and securities relating to the same, at the expiration of their respective offices.

19 To take therefor a receipt, which shall be filed in the clerk's office of the town; and,

20 To commence and prosecute in and by the name and style of the supervisor of the town any suits against any of his predecessors in office or against any other person to recover any debt, dues or demands, in anywise arising from such public lot; and no such suit shall abate by the death, resignation or removal from office of the said supervisor but the same shall and may be prosecuted to judgment and execution by his successor in office. [*Renumbered* § 370 by *L. 1917, ch. 328*; *renumbered* § 360 by *L. 1918, ch. 199.*]

§ 361 **Sale of gospel or school lots on division of town.** Whenever a town having lands assigned to it for the support of the gospel or of schools, shall be divided into two or more towns, or shall be altered in its limits by the annexing of a part of its territory to other towns, such lands shall be sold by the supervisor of the town, in which such lands were included immediately before such division or alteration; and the proceeds thereof shall be apportioned between the towns interested therein, in the same manner as the other public moneys of towns, so divided or altered, are appor-

tioned. [*Renumbered* § 371 by *L. 1917, ch. 328*; *renumbered* § 361 by *L. 1918, ch. 199.*]

§ 361 **Payment of proceeds of sale of gospel or school lots.** The shares of such moneys, to which the towns shall be respectively entitled, shall be paid to the supervisors of the respective towns, and shall thereafter be subject to the provisions of this article. [*Renumbered* § 372 by *L. 1917, ch. 328*; *renumbered* § 362 by *L. 1918, ch. 199.*]

§ 363 **Supervisor's bond for school moneys.** 1 Immediately on receiving the school commissioner's certificates of apportionment the county treasurer shall require of each supervisor, and each supervisor shall give to the treasurer, in behalf of the town, his bond, with two or more sufficient sureties, approved by the treasurer, in the penalty of at least double the amount of the school moneys set apart or apportioned to the town, and of any such moneys unaccounted for by his predecessors, conditioned for the faithful disbursement, safe-keeping and accounting for such moneys, and of all other school moneys that may come into his hands from any other source.

2 If the condition shall be broken, the county treasurer shall sue the bond in his own name, in behalf of the town, and the money recovered shall be paid over to the successor of the supervisor in default, such successor having first giving¹ security as aforesaid.

3 Whenever the office of a supervisor shall become vacant, the county treasurer shall require the person elected or appointed to fill such vacancy to execute a bond, with two or more sureties, to be approved by the treasurer, in the penalty of at least double the sum of the school moneys remaining in the hands of the old supervisor, when the office became vacant, conditioned for the faithful disbursement and safe-keeping of and accounting for such moneys. But the execution of this bond shall not relieve the supervisor from the duty of executing the bond first above mentioned. [*Renumbered* § 373 by *L. 1917, ch. 328*; *renumbered* § 363 by *L. 1918, ch. 199.*]

§ 364 **Refusal of supervisor to give bond.** The refusal of a supervisor to give such security shall be a misdemeanor, and any fine imposed on his conviction thereof shall be for the benefit of the common schools of the town. Upon such refusal, the moneys so set apart and apportioned to the town shall be paid to and disbursed by some other officer or person to be designated by the county judge, under such regulations and with such safeguards as

¹ So in original.

he may prescribe, and the reasonable compensation of such officer or person, to be adjusted by the board of supervisors, shall be a town charge. [*Renumbered* § 374 by L. 1917, ch. 328; *renumbered* § 364 by L. 1918, ch. 199.]

§ 365 **Report by supervisors to district superintendents.** On the first Tuesday of February in each year, each supervisor shall make a return in writing to the district superintendent of schools of the supervisory district in which the town is situated, showing the amounts of school moneys in his hands not paid on the orders of trustees for teachers' salaries, and the districts to which they stand accredited, and if such moneys remain in his hands, he shall report that fact; and thereafter he shall not pay out any of said moneys until he shall have received the certificate of the next apportionment; and the moneys so returned by him shall be reapportioned as directed in article 18 of this chapter. [*Amended by L. 1913, ch. 130; renumbered* § 375 by L. 1917, ch. 328; *renumbered* § 365 by L. 1918, ch. 199.]

§ 366 **Penalties of certain bonds.** Whenever the supervisor of the town or a school district officer is required to furnish a bond under the provisions of this chapter in the penalty of double the amount of moneys apportioned or to be received, and such supervisor or district officer furnishes the bond of a surety or bonding company authorized by law to transact business in this State and to execute such bond, the penalty thereof may be fixed at the amount of moneys so apportioned or to be received, in lieu of the double penalty herein prescribed. [*Added by L. 1921, ch. 480, in effect May 2, 1921.*]

Fees of Supervisor

Town Law (L. 1909, ch. 63)

§ 85 **Compensation of town officers.**

3 The supervisor of each town shall be allowed and paid, in the same manner as other town charges are allowed and paid, a fee of one per centum on all moneys paid out by him as such supervisor, including school moneys disbursed by him as provided in the Education Law, moneys paid out by him for damages arising from dogs killing or injuring sheep as provided in article 7 of the county law, moneys in his hands paid out by him for the relief of the poor, and all other town moneys paid out by him for defraying town charges, except moneys expended under article 6 of the highway law. But no such fee shall be allowed or paid upon moneys paid over by him to his successor in office. Such fees shall be in full compensation for all services rendered by him in respect to moneys received and paid out by him as such supervisor as provided by law except the compensation provided in section 110 of the highway law. [*As amended by L. 1909, ch. 491.*]

Appropriation for Pedagogical Department

(County Law, § 12)

46 In order to provide an adequate number of teachers to be available for employment in the public schools in the county, the board of supervisors of any county in which is located a college or university having a department for fitting pupils to be teachers, and commonly known as a pedagogical department, may, from time to time, appropriate moneys for salaries of the teaching staff in such department, or to be applied toward the payment of such salaries, and may raise such moneys by tax on the taxable property within the county. [*As added by L. 1922, ch. 307, in effect March 28, 1922.*]

ARTICLE 14

(Entire article amended by L. 1910, ch. 607)

District Superintendent of Schools; His Election, Powers and Duties

- Section 380 Office of district superintendent of schools created
- 381 Supervisory districts
- 382 School directors
- 383 Election of district superintendent
- 384 Qualifications of district superintendents
- 385 District superintendent must take oath of office
- 386 Term of office of district superintendent
- 387 Vacancies in the office of district superintendent
- 388 Filling vacancies in the office of district superintendent
- 389 Salary of district superintendent
- 390 Expense of district superintendents
- 391 Salary of district superintendent may be withheld
- 392 Removal of district superintendent from office
- 393 District superintendent not to be interested in certain business or to accept rewards, et cetera
- 394 District superintendent not to engage in other business
- 395 General powers and duties of district superintendent
- 396 District superintendent subject to the rules of Commissioner of Education
- 397 Other duties of a district superintendent
- 398 Appeals from acts of district superintendent, et cetera

§ 380 Office of district superintendent of schools created. The office of district superintendent of schools is hereby created to begin on the first day of January, nineteen hundred and twelve. [*Amended by L. 1910, ch. 607.*]

§ 381 Supervisory districts. 1 The territory embraced in the school commissioner districts of the State outside of cities and of school districts of five thousand population or more, which

employ a superintendent of schools, shall be organized and divided into supervisory districts. In the formation or division of such territory into such districts no town shall be divided. The territory of such districts must be contiguous and compact and towns shall be arranged in districts so that there shall be as equal a division of the territory and number of school districts as may be practicable.

2 In a county entitled to two or more supervisory districts the school commissioner of each school commissioner district in such county and the supervisor of each town in such county shall meet at the county seat of such county on the third Tuesday in April, nineteen hundred and eleven, at ten o'clock in the forenoon and divide such county into the number of supervisory districts to which it is entitled.

3 The county clerk of such county shall give ten days' notice, in writing, of such meeting, to each of such school commissioners and supervisors. The county clerk shall also call such meeting to order at the proper hour and the school commissioners and supervisors present shall elect from their number a chairman and a clerk.

4 A copy of the proceedings of such meeting showing the supervisory districts formed and naming the towns composing each of such districts, certified by the chairman and clerk, shall be deposited by the clerk of such meeting in the office of the clerk of the county immediately after the close of the meeting. The county clerk on receipt of the same shall forward a certified copy thereof to the Commissioner of Education.

5 The number of supervisory districts into which each county shall be organized or divided is as follows:

a Hamilton, Putnam, Rockland, Schenectady, each one;

b Chemung, Fulton, Genesee, Montgomery, Nassau, Schuyler, Seneca, Yates, each two;

c Albany, Columbia, Cortland, Essex, Greene, Livingston, Niagara, Orange, Orleans, Rensselaer, Schoharie, Suffolk, Sullivan, Tioga, Tompkins, Warren, Wyoming, each three;

d Broome, Clinton, Dutchess, Franklin, Herkimer, Lewis, Madison, Monroe, Ontario, Saratoga, Ulster, Washington, Wayne, Westchester, each four;

e Allegany, Cattaraugus, Cayuga, Chenango, Erie, Onondaga, Oswego, each five;

f Chautauqua, Delaware, Jefferson, Otsego, each six;

g Oneida, Steuben, each seven;

h Saint Lawrence, eight districts. [*Amended by L. 1919, ch. 300, in effect May 3, 1919.*]

6 The district superintendents of two or more supervisory districts in a county may unite in a petition to the board of supervisors of the county for a change in the boundaries of such districts by including or excluding one or more towns, stating the reasons for such change, and if such change conforms to the territorial requirements of subdivision 1 of this section, the board of supervisors may, by resolution, change such districts in accordance with such petition. A copy of such resolution, certified by the chairman and clerk of the board of supervisors, shall be deposited by the clerk in the office of the clerk of the county. The county clerk on receipt of the same shall forward a certified copy thereof to the Commissioner of Education. [*Subdivision 6 added by L. 1916, ch. 238; section amended by L. 1910, ch. 607.*]

§ 382 **School directors; terms of office; election; appointment.**
1 Each town included within a supervisory district shall have two school directors who shall serve for terms of four years each. The school directors who are in office when this act takes effect shall continue in office until their successors are chosen as provided by law. School directors shall be elected at the town meetings held in the years next succeeding the expiration of the terms of the school directors in office when this act takes effect and one director shall be elected at the town meeting held in every fourth year thereafter. Such directors and their successors in office shall serve for terms of four years each to commence on the first day of January following their election. Such directors shall be elected in the same manner that town officers are elected at town meetings held under the provisions of the town law, and the provisions of the election law relating to the nomination and election of such town officers shall apply to the nomination and election of such directors. [*Subdivision 1 amended by L. 1920, ch. 285, in effect April 21, 1920.*]

2 A school director shall vacate his office by removal from the town or by filing a written resignation with the town clerk. A vacancy in the office of school director shall be filled by the town board of the town in which such vacancy exists, for the remainder of the unexpired term. If the town fails to elect a director a vacancy shall be deemed to exist in such office.

3 A school director before entering upon the discharge of the duties of his office, and not later than thirty days after the date on which he was elected to office, shall take the oath of office prescribed by the constitution. Such oath may be taken before a justice of the peace or a notary public, and must be filed in the office of the clerk of the town.

4 A school director shall receive two dollars per day for each day's service and his necessary traveling expenses, and the town board of the town for which such director is chosen shall audit and allow the same. [*Amended by L. 1910, ch. 607, and L. 1916, ch. 168.*]

§ 383 Election of district superintendent. 1 The school directors of the several towns composing a supervisory district shall meet for organization at eleven o'clock in the forenoon on the third Tuesday in May following their election. Such meeting shall be held at a place in the supervisory district, designated by the county clerk, at least ten days previous to the date thereof. At the time the county clerk designates such place of meeting he shall also mail a notice of the time and place of such meeting to each school director of the district. The school directors present at such meeting shall organize by electing from their number a chairman, a clerk and two inspectors of election. The school directors at such meeting shall designate a place for holding future meetings.

2 The school directors of the several towns composing a supervisory district shall be a board of school directors, and such board of directors shall meet at eleven o'clock in the forenoon on the third Tuesday in August, 1911, and on the third Tuesday in June every fifth year thereafter, and elect a district superintendent of schools. The clerk of such board shall give each director at least ten days' notice in writing of the hour, date and place of such meeting.

3 If such directors fail to elect a district superintendent of schools before the first day of January following the date of such meeting, and a vacancy exists in such office, the county judge shall appoint such superintendent who shall serve until the board of directors shall fill such vacancy.

4 In the election of such district superintendent the vote shall be by ballot and the person receiving a majority of all votes cast shall be elected. Each school director shall be entitled to one vote in such election.

5 The clerk of such board shall file a copy of the proceedings of each meeting and each election, certified by himself and the chairman, in the office of the clerk of the county in which such meeting or election is held within three days after the close thereof.

6 The county clerk on receipt of notice of the election of a district superintendent of schools in any supervisory district of his county shall deliver to the person elected a certificate of such

election attested by his signature with the seal of the county and shall also transmit to the Commissioner of Education a duplicate of such certificate of election. [*Amended by L. 1910, ch. 607.*]

7 When a district superintendent enters the military or naval service of the United States during the continuance of the present war, the board of school directors of the supervisory district of such district superintendent shall designate a person to act as the deputy of such district superintendent. This deputy shall during the absence of said district superintendent perform all the duties and possess the power and authority conferred by law on a district superintendent. Such person shall also possess qualifications approved by the Commissioner of Education. [*Added by L. 1918, ch. 107, in effect March 28, 1918.*]

§ 384 **Qualifications of district superintendents.** 1 To be eligible to election to the office of district superintendent of schools a person must be at least twenty-one years of age, a citizen of the United States and a resident of the State, but he need not be a resident of the supervisory district for which he is elected at the time of his election. Such superintendent must, however, become a resident of the county containing the district for which he has been elected on or before the date on which his term of office begins. Failure to acquire such residence will be deemed a removal from the county. No person shall be ineligible on account of sex.

2 In addition thereto he must possess or be entitled to receive a certificate authorizing him to teach in any of the public schools of the State without further examination and he shall also pass an examination prescribed by the Commissioner of Education on the supervision of courses of study in agriculture and teaching the same.

3 A district superintendent who is removed from office shall not be eligible to election to such office in any supervisory district for a period of five years. [*Amended by L. 1910, ch. 607.*]

§ 385 **District superintendent must take oath of office.** A district superintendent of schools before entering upon the discharge of the duties of his office, and not later than five days after the date on which his term of office is to commence, shall take the oath of office prescribed by the constitution. Such oath may be taken before a county clerk, a justice of the peace, or a notary public and must be filed in the office of the clerk of the county. [*Amended by L. 1910, ch. 607.*]

§ 386 **Term of office of district superintendent.** The district superintendents elected in 1911 shall hold office until the first day

of August, 1916. The full term of office of a district superintendent of schools elected in 1916 and thereafter shall be five years and shall commence on the first day of August next after his election. A district superintendent of schools unless removed shall hold office until his successor is chosen and qualified. [*Amended by L. 1910, ch. 607.*]

§ 387 **Vacancies in the office of district superintendent.** The office of district superintendent of schools shall be vacant upon:

- 1 The death of an incumbent.
- 2 His removal from office by the Commissioner of Education.
- 3 His removal from the county.
- 4 His filing in the office of the clerk of the county his written resignation.

5 His acceptance of the office of supervisor, town clerk or trustee of a school district.

6 His failure to take and file the oath of office as provided in this article. [*Amended by L. 1910, ch. 607.*]

§ 388 **Filling vacancy in the office of district superintendent.** Whenever a vacancy occurs it shall be filled for the remainder of the unexpired term by the board of school directors. Upon direction of the Commissioner of Education the clerk of the board in which the supervisory district having such vacancy is located shall immediately call a special meeting of such board for the purpose of electing a district superintendent. The provisions of this title relative to the election generally of a district superintendent of schools, including notices, filing of the proceedings and all other matters relating to such an election, shall apply to a special election to fill a vacancy in such office. [*Amended by L. 1910, ch. 607.*]

§ 389 **Salary of district superintendent.** 1 Each district superintendent shall receive an annual salary from the State of eighteen hundred dollars, payable monthly by the Commissioner of Education from moneys appropriated therefor.

2 The supervisors of the towns composing any supervisory district may by adopting a resolution by a majority vote increase the salary to be paid by such district to its district superintendent. Such supervisors must thereupon file with the clerk of the board of supervisors a certificate showing the amount of such increase. The board of supervisors of each county shall levy such amount annually by tax on the towns composing such supervisory district within the county. [*Amended by L. 1910, ch. 607; subdivision 1 amended by L. 1917, ch. 794 and by L. 1919, ch. 559, in effect May 12, 1919.*]

§ 390 **Expense of district superintendents.** The Commissioner of Education shall quarterly audit and allow the actual sworn expense incurred by each district superintendent of schools in the performance of his official duties, but the amount of such expense allowed shall not exceed in any year six hundred dollars. Such expenses shall be paid by the Commissioner of Education from moneys appropriated therefor. [*Amended by L. 1910, ch. 607, and L. 1920, ch. 421, in effect May 3, 1920.*]

§ 391 **Salary of district superintendent may be withheld.** The Commissioner of Education may, whenever he is satisfied that a district superintendent of schools has persistently neglected to perform an official duty, withhold payment of the whole or any part of such superintendent's salary as it shall become due and he may also withhold any sum to which such superintendent shall be entitled for expenses and the amount thus withheld shall be forfeited; but said Commissioner may in his discretion remit such forfeiture in whole or in part. [*Amended by L. 1910, ch. 607.*]

§ 392 **Removal of district superintendent from office.** The Commissioner of Education may, by an order under the seal of the Education Department, remove a district superintendent of schools from office whenever he is satisfied that such superintendent:

- 1 Has been guilty of immoral conduct;
- 2 Is incompetent to perform any official duty; or
- 3 Has persistently neglected or wilfully refused to perform any lawful duty imposed upon him. [*Amended by L. 1910, ch. 607.*]

§ 393 **District superintendent not to be interested in certain business or to accept rewards, et cetera.** A district superintendent of schools shall not:

1 Be directly or indirectly interested otherwise than as author in the sale, publication, or manufacture of school books, maps, charts, or school apparatus or in the sale or manufacture of school furniture or any other school or library supplies.

2 Be directly or indirectly interested in any contract made by the trustees of a school district.

3 Be directly or indirectly interested in any agency or bureau maintained to obtain or aid in obtaining positions for teachers or superintendents.

4 Directly or indirectly receive any emolument, gift, pay, reward or promise of pay or reward for recommending or procuring the sale, use or adoption or aiding in procuring the sale, use or adoption of any book, map, chart, school apparatus or furniture or other supplies for any school or library or for recommending a teacher

or aiding a teacher in obtaining an appointment to teach. [*Amended by L. 1910, ch. 607.*]

§ 394 District superintendents not to engage in other business.

A district superintendent of schools shall devote his whole time to the performance of the duties of his office and shall not engage in any other occupation or profession. Such time as shall not necessarily be devoted by a district superintendent of schools to the performance of the clerical and administrative work of his office shall be devoted to the visitation and inspection of the schools maintained in his supervisory district. [*Amended by L. 1910, ch. 607.*]

§ 395 General powers and duties of district superintendent.

A district superintendent of schools shall have power and it shall be his duty:

1 To inquire from time to time into and ascertain whether the boundaries of the school districts within his supervisory district are definitely and plainly described in the records of the office of the proper town clerk; and in case the record of the boundaries of any school district shall be found indefinite or defective, or if the same shall be in dispute, then to cause the same to be amended or an amended record of the boundaries to be made. All necessary expenses incurred in establishing such amended records shall be a charge on the district or districts affected, to be audited and allowed by the trustees thereof, on the certificate of the district superintendent.

2 To assemble all the teachers of his district by towns or otherwise, for the purpose of conference on the course of study, for reports of and advice and counsel in relation to discipline, school management and other school work, and for promoting the general good of all the schools of the district. Teachers shall be entitled to compensation for days actually in attendance upon such conference. [*Subdivision 2 amended by L. 1913, ch. 511.*]

3 To frequently and thoroughly inspect the work done in the training classes maintained in his district and to report to the Commissioner of Education on the efficiency of the instruction given and the observation and practice work done by the members thereof.

4 To hold meetings of trustees and other school officers and to advise with and counsel them in relation to their powers and duties and particularly in relation to the repair, construction, heating, ventilating and lighting of schoolhouses and improving and adorning the school grounds. To especially advise trustees relative to the employment of teachers, the adoption of textbooks and the purchase of library books, school apparatus, furniture and supplies.

5 To direct the trustees of any district to make any alterations or repairs to the schoolhouses or outbuildings which shall, in his opinion, be necessary for the health or comfort of the pupils, but the amount which trustees shall be directed to expend in such alterations or repairs shall not exceed two hundred dollars in any one year.

6 To direct the trustees of any district to make any repairs or alterations to school furniture, or where in his opinion any furniture is unfit for use and not worth repairing, or when sufficient furniture is not provided, to direct that such new furniture shall be provided as he deems necessary, but the amount thus directed to be expended shall not exceed in any one year one hundred dollars.

7 To direct the trustees of any district to abate any nuisance in or on the school grounds.

8 To condemn a schoolhouse as provided elsewhere in this chapter.

9 To examine and license teachers pursuant to the provisions of this chapter. He shall also conduct such other examinations as the Commissioner of Education shall direct.

10 To examine any charge affecting the moral character of any teacher residing or employed within his district, and to revoke such teacher's certificate as elsewhere provided by this chapter.

11 To take affidavits and administer oaths in all matters pertaining to the public school system, but without charge or fee.

12 To take and report to the Commissioner of Education under the direction of such Commissioner testimony in a case on appeal. In such a case or in any matter or proceeding to be heard or determined by the district superintendent, he may issue a subpoena to compel the attendance of a witness. Service of such subpoena shall be made a reasonable time before the date named therein for the hearing, by exhibiting the same to the person so served, with the signature of the district superintendent of schools attached, and by leaving a copy thereof with such person. The witness shall be entitled to receive at the time of service, the same fees as provided by law for witnesses in a court of record. Disobedience to such subpoena shall subject the delinquent to a penalty of twenty-five dollars, which shall be recovered by the county treasurer in his name of office for the benefit of the county.

13 To exercise in his discretion any of the powers and perform any of the duties of another district superintendent on the written request of such other superintendent, and he must exercise such

powers and perform such duties when directed to do so by the Commissioner of Education.

14 To make such investigations and to make such reports to the Commissioner of Education upon any matter or act as said Commissioner shall from time to time request. He shall make an annual report on the first day of September in such form and giving such information as the Commissioner of Education shall require. For this purpose he shall procure the reports of trustees of school districts from the town clerk's office and after abstracting the necessary contents thereof shall indorse and deposit them with a copy of his abstract in the office of the county clerk. [*Section amended by L. 1910, ch. 607.*]

§ 396 District superintendent subject to the rules of Commissioner of Education. A district superintendent shall be subject to such rules and directions as the Commissioner of Education shall from time to time prescribe. [*Amended by L. 1910, ch. 607.*]

§ 397 Other duties of a district superintendent. A district superintendent of schools shall, in addition to the duties especially conferred upon him by this title, possess and be subject to all the powers, duties and responsibilities with which a school commissioner is charged by law. [*Amended by L. 1910, ch. 607.*]

§ 398 Appeals from acts of district superintendent, et cetera. Appeals from the official acts of a district superintendent of schools or from his refusal or failure to act in any matter in which he may legally act, may be taken to the Commissioner of Education. All questions in controversy relating to the election of such district superintendent or to the formation of supervisory district shall be determined by the Commissioner of Education on proper appeal. The provisions of article 14 of this chapter shall apply to and govern such appeals and decisions therein. [*Amended by L. 1910, ch. 607.*]

Payment of Certain Expenses of District Superintendents

[*County Law, § 12*]

36 The board of supervisors is authorized to provide for the payment of properly itemized and verified bills of district superintendents of schools of the supervisory districts in the county rendered by them for expenses incurred for necessary printing, office supplies and clerical assistance subject to such conditions as the board may prescribe. The board may, by resolution, authorize the incurring of indebtedness for such purposes and when so authorized the bills therefor shall be audited and paid in the same manner as other charges against the county. [*As added by L. 1914, ch. 389; renumbered by L. 1917, ch. 106; and amended by L. 1922, ch. 494, in effect April 6, 1922.*]

ARTICLE 15

Assessment and Collection of Taxes

- Section 410 Assessment of taxes
- 410-a Levy of taxes in Suffolk county
 - 410-b Temporary loans in Suffolk county in anticipation of taxes
 - 411 Property to be assessed
 - 412 Ascertainment of valuations
 - 413 Power of trustees to determine values
 - 414 Equalization within joint districts
 - 415 Assessment of vacant land
 - 416 Persons working land on shares and vendees in possession liable to taxation
 - 417 Liability of property of certain absentee owners
 - 418 Certain exemptions from tax for building schoolhouse
 - 419 Right of certain tenants to charge tax to landlord
 - 420 Requisites and authority of collector's warrant
 - 421 Time for delivery of warrant to collector
 - 422 Jurisdiction of collector
 - 423 Renewals of warrants
 - 424 Amendment of tax-lists
 - 425 Collector's notice
 - 426 Collector's fees
 - 427 Notice to railroad companies and certain other corporations of assessment and tax
 - 428 Payment of tax by railroad and certain other corporations to county treasurer
 - 429 Duty of collector after failure of railroad and certain other corporations to pay within thirty days
 - 430 Payment of tax by county treasurer to collector
 - 431 Such companies may pay collector
 - 432 Trustee's right of action to recover tax
 - 433 Collector's return of unpaid taxes
 - 434 Certification by trustees of collector's return
 - 435 Payment of unpaid taxes from county treasury
 - 436 Levy by supervisors of unpaid taxes
 - 437 Payment before levy
 - 438 Proceedings for collection same as of county taxes
 - 439 Filing tax-list and warrant with town clerk
 - 440 Assessment for school purposes of certain state lands

§ 410 **Assessment of taxes.** Immediately after a tax shall have been voted by a district meeting, for a purpose arising during the current school year the trustees shall assess it, and make out the tax-list therefor, and annex thereto their warrant for its collection. Where a tax is voted at an annual school meeting for school purposes during the following school year the said trustees shall prepare their tax-list therefor and annex thereto their warrant for

its collection within thirty days after August first. But they may at the same time assess two or more taxes so voted, and any taxes they are authorized to raise without such vote, and make out one tax-list and one warrant for the collection of the whole. They shall prefix to their tax-list a heading showing for what purpose the different items of the tax are levied. [*Amended by L. 1911, ch. 830.*]

§ 410-a **Levy of taxes in Suffolk county.** In the school districts of Suffolk county, in the year nineteen hundred and eighteen, the several district trustees and boards of education shall levy the taxes which were required for their respective districts in 1917 and which shall have been approved by the electors for the year 1918. When any such tax shall have been extended against the assessable property in the district, as provided in the next section, each parcel of property or taxpayer shall be credited for the amount of such tax as has been paid thereon for the year 1917 by virtue of other provisions of this chapter. [*Added by L. 1918, ch. 518.*]

§ 410-b **Temporary loans in Suffolk county in anticipation of taxes.** The trustees or board of education of a school district in such county may borrow money on temporary loans in anticipation of taxes levied in such district, for the purposes for which such taxes are levied, but shall not borrow in excess of the amount of such taxes. Such loans shall be payable out of the taxes on account of which they are made, and in no case shall interest run on any such loans after such taxes are collected. [*Amended by L. 1919, ch. 302, and L. 1920, ch. 293, in effect April 21, 1920.*]

§ 411 **Property to be assessed.** 1 School district taxes shall be apportioned by the trustees upon all real estate within the boundaries of the district which shall not be by law exempt from taxation, except as hereinafter provided, and such property shall be assessed to the person or corporation owning or possessing the same at the time such tax-list shall be made out.

2 The trustees shall also apportion the district taxes upon all persons residing in the district, and upon all corporations liable to taxation therein, for the personal estate owned by them and liable to taxation.

3 Land lying in one body and occupied by the same person, either as owner or agent for the same principal, or as tenant under the same landlord, if assessed as one lot on the last assessment-roll of the town after revision by the assessors, shall, though situated partly in two or more school districts, be taxable in that one of them in which such occupant resides. This rule shall not apply to

land owned by nonresidents of the district, and which shall not be occupied by an agent, servant or tenant residing in the district. Such unoccupied real estate shall be assessed as nonresident, and a description thereof shall be entered in the tax-list.

§ 412 **Ascertainment of valuations.** The valuations of taxable property shall be ascertained, so far as possible, from the last assessment-roll of the town, after revision by the assessors; and no person shall be entitled to any reduction in the valuation of such property, as so ascertained, unless he shall give notice of his claim to such reduction in writing to the trustees of the district before the tax-list shall be made out.

§ 413 **Power of trustees to determine values.** The trustees of a district shall ascertain the true value of the property to be taxed from the best evidence in their power, giving notice to the persons interested, and proceeding in the same manner as the town assessors are required by law to proceed in the valuation of taxable property, the hearing of grievances, and the revision of the town assessment-roll in the following cases:

1 When a reduction shall be duly claimed and where the valuation of taxable property cannot be ascertained from the last completed assessment-roll of the town;

2 When the valuation of such property shall have increased or diminished since the last assessment-roll of the town was completed;

3 When an error, mistake, or omission on the part of the town assessors shall have been made in the description or valuation of taxable property.

§ 414 **Equalization within joint districts.** When a district embraces parts of two or more towns, the trustee, trustees, or board of education of such district may upon their own motion and shall upon the written request of three or more persons liable to pay taxes upon real property in such district secure from the last completed town assessment-rolls a statement of the assessed valuation of each parcel of real property and of all personal property subject to taxation for school purposes in such district and shall deliver such statement to the district superintendent of the supervisory district in which the schoolhouse of such district is located. Such district superintendent shall immediately secure from the State Tax Commission a statement of the rates of equalization fixed by the commission for the towns in which such district is situated and shall determine the full valuation of the real property of each part of a town included in such district by dividing the total assessed valuation of such real property in such part of a

town by the rate of equalization fixed by the commission for such town and shall add to such full valuation the amount of all assessments of personal property liable to taxation for school purposes in such part of a town. Such district superintendent shall also determine what proportion of any tax thereafter to be levied in such district for school purposes shall be levied upon each part of a town included in such district by dividing the sum of the full valuation of real property and the assessed valuation of personal property in such part of a town by the total of all such full valuations of real property and assessed valuations of personal property in such school district. Such proportions should be expressed in the nearest exact hundredths and the trustee or trustees of such school district shall thereafter levy such a proportion of any tax to be raised in the district upon each part of a town included in such district as shall have been determined by the district superintendent, until a new determination shall have been made in accordance with the provisions of this section. [*Amended by L. 1921, ch. 585, in effect May 5, 1921.*]

§ 415 **Assessment of vacant land.** When any real estate within a district so liable to taxation shall not be occupied and improved by the owner, his servant or agent, and shall not be possessed by any tenant, the trustees of any district, at the time of making out any tax-list by which any tax shall be imposed thereon, shall make and insert in such tax-list a statement and description of every such lot, piece or parcel of land so owned by nonresidents therein, in the same manner as required by law from town assessors in making out the assessment-roll of their towns; and if any such lot is known to belong to an incorporated company liable to taxation in such district, the name of such company shall be specified, and the value of such lot or piece of land shall be set down opposite to such description, which value shall be the same that was affixed to such lot or piece of land in the last assessment-roll of the town; and if the same was not separately valued in such roll, then it shall be valued in proportion to the valuation which was affixed in the said assessment-roll to the whole tract of which such lot or piece shall be part.

§ 416 **Persons working land on shares and vendees in possession liable to taxation.** Any person working land under a contract for a share of the produce of such land, shall be deemed the possessor, so far as to render him liable to taxation therefor, in the district where such land is situate, and any person in possession of real property under a contract for the purchase thereof shall

be liable to taxation therefor in the district where such real property is situated.

§ 417 **Liability of property of certain absentee owners.** Every person owning or holding any real property within any school district, who shall improve and occupy the same by his agent or servant, shall, in respect to the liability of such property to taxation, be considered a taxable inhabitant of such district, in the same manner as if he actually resided therein.

§ 418 **Certain exemptions from tax for building schoolhouse.** Every taxable inhabitant of a district who shall have been, within four years, set off from any other district, without his consent, and shall within that period, have actually paid in such other district, under a lawful assessment therein, a district tax for building a schoolhouse, shall be exempted by the trustees of the district where he shall reside, from the payment of any tax for building a schoolhouse therein.

§ 419 **Right of certain tenants to charge tax to landlord.** Where any district tax, for the purpose of purchasing a site for a schoolhouse, or for purchasing or building, keeping in repair, or furnishing such schoolhouse with necessary fuel and appurtenances, shall be lawfully assessed, and paid by any person on account of any real property whereof he is only a tenant at will, or for three years, or for a less period of time, such tenant may charge the owner of such real estate with the amount of the tax so paid by him, unless some agreement to the contrary shall have been made by such tenant.

§ 420 **Requisites and authority of collector's warrant.** The warrant¹ for the collection of a district tax shall be under the hands of the trustees, or a majority of them, with or without their seals; and it shall have the like force and effect as a warrant issued by a board of supervisors to a collector of taxes in the town; and the collector to whom it may be delivered for collection shall be thereby authorized and required to collect from every person in such tax-list named the sum set opposite to his name, or the amount due from any person specified therein, in the same manner that collectors are authorized to collect town and county taxes.

§ 421 **Time for delivery of warrant to collector.** 1 A warrant for the collection of a tax voted by the district shall not be delivered to the collector until the thirty-first day after the tax was voted.

2 A warrant for the collection of a tax authorized by law without

¹ So in original.

a vote of the district may be delivered to the collector whenever the same is completed.

§ 422 **Jurisdiction of collector.** Any collector to whom any tax-list and warrant may be delivered for collection may execute the same in any other district or town in the same county, or in any other county where the district is a joint district and composed of territory from adjoining counties, in the same manner and with the like authority as in the district in which the trustees issuing the said warrant may reside, and for the benefit of which said tax is intended to be collected; and the bond or sureties of any collector, given for the faithful performance of his official duties, are hereby declared and made liable for any moneys received or collected on any such tax-list and warrant.

§ 423 **Renewals of warrants.** If the sum of money, payable by any person named in such tax-lists, shall not be paid by him or collected by such warrant within the time therein limited, it shall be lawful for the trustees to renew such warrant in respect to such delinquent person; and whenever more than one renewal of a warrant for the collection of any tax-list may become necessary in any district, the trustees may make such further renewal, with the written approval of the supervisor of any town in which a school-house of said district may be located, to be indorsed upon such warrant.

§ 424 **Amendment of tax-lists.** Whenever the trustees of any school district shall discover any error in a tax-list made out by them, they may, with the approval and consent of the Commissioner of Education, after refunding any amount that may have been improperly collected on such tax-list, if the same shall be required by him, amend and correct such tax-list, as directed by the Commissioner, in conformity to law.

§ 425 **Collector's notice.** 1 The collector, on the receipt of a warrant for the collection of taxes, shall give notice to the taxpayers of the district by publicly posting written or printed, or partly written and partly printed, notices in at least three public places in such district, one of which shall be on the outside of the front door of the schoolhouse, stating that he has received such warrant and will receive all such taxes as may be voluntarily paid to him within thirty days from the time of posting said notice.

2 Such collector shall also give a like notice, either personally or by mail, at least twenty days previous to the expiration of the thirty days aforesaid, to the president, secretary, general or division superintendent, or manager of any canal or pipe line, assessed for

taxes upon the tax-list delivered to him with the aforesaid warrant.

3 Such collector shall also give a like notice to all nonresident taxpayers on said list whose tax amounts to one dollar or more and whose residence or post-office address may be known to such collector, or may be ascertained by him upon inquiry of the trustees and clerk of his district.

4 No school collector shall be entitled to recover from any railroad corporation, canal company or pipe line, or nonresident taxpayer more than one per centum fees on the taxes assessed against such corporation or nonresident, unless such notice shall have been given as aforesaid; and in case the whole amount of taxes shall not be so paid in, the collector shall forthwith proceed to collect the same.

§ 426 **Collector's fees.** The collector shall receive for his services on all sums paid in as aforesaid, one per centum, and upon all sums collected by him, after the expiration of the time mentioned, five per centum, except as hereinbefore provided; and in case a levy and sale shall be necessarily made by such collector, he shall be entitled to traveling fees, at the rate of ten cents per mile, to be computed from the schoolhouse in such district.

§ 427 **Notice to railroad companies and certain other corporations of assessment and tax.** 1 It shall be the duty of the school collector in each school district in this State, within five days after the receipt by such collector of any and every tax or assessment roll of his district, to prepare and deliver to the county treasurer of the county in which such district, or the greater part thereof, is situated, a statement showing the name of each railroad, telegraph, telephone, electric light or gas company, including a company engaged in the business of supplying natural gas, appearing in said roll, the assessment against each of said companies for real and personal property respectively, and the tax against each of said companies.

2 It shall thereupon be the duty of such county treasurer, immediately after the receipt by him of such statement from such school collector, to notify the ticket agent or manager of any such railroad, telegraph, telephone, electric light or gas company, including a company engaged in the business of supplying natural gas assessed for taxes at the station or office nearest to the office of such county treasurer or to notify the company at its principal office within this State personally or by mail, of the fact that such statement has been filed with him by such collector, at the same time specifying

the amount of tax to be paid by such company. [*Amended by L. 1913, ch. 216.*]

§ 428 **Payment of tax by railroad and certain other corporations to county treasurer.** Any railroad company heretofore organized, or which may hereafter be organized, under the laws of this State and any telegraph, telephone, electric light or gas company including a company engaged in the business of supplying natural gas may within thirty days after the receipt of such statement by such county treasurer, pay the amount of tax so levied or assessed against it in such a district and in such statement mentioned and contained with one per centum fee thereon, to such county treasurer, who is hereby authorized and directed to receive such amount and to give proper receipt therefor. [*Amended by L. 1913, ch. 216.*]

§ 429 **Duty of collector after failure of railroad and certain other corporations to pay within thirty days.** In case any railroad company and any telegraph, telephone, electric light or gas company including a company engaged in the business of supplying natural gas shall fail to pay such tax within said thirty days, it shall be the duty of such county treasurer to notify the collector of the school district in which such delinquent railroad company is assessed, of its failure to pay said tax, and upon receipt of such notice it shall be the duty of such collector to collect such unpaid tax in the manner now provided by law together with five per centum fees thereon; but no school collector shall collect by distress and sale any tax levied or assessed in his district upon the property of any such company until the receipt by him of such notice from the county treasurer. [*Amended by L. 1913, ch. 216.*]

§ 430 **Payment of tax by county treasurer to collector.** The several amounts of tax received by any county treasurer in this state, under the provisions of the last three sections, of and from such companies, shall be by such county treasurer placed to the credit of the school district for or on account of which the same was levied or assessed, and on demand paid over to the school collector thereof, and the one per centum fees received therewith shall be placed to the credit of, and on demand paid to, the school collector of such school district. [*Amended by L. 1913, ch. 216.*]

§ 431 **Such companies may pay collector.** Nothing in the last four sections contained shall be construed to hinder, prevent or prohibit any railroad company or telegraph, telephone, electric light or gas company including a company engaged in the business of supplying natural gas from paying its school tax to the school collector direct, as provided by law. [*Amended by L. 1913, ch. 216.*]

§ 432 **Trustees' right of action to recover tax.** Whenever any sum of money payable by any person named in such tax-list, shall not be paid by such person, or collected by such warrant within the time therein limited, or the time limited by any renewal of such warrant; or in case the property assessed be real estate belonging to an incorporated company, and no goods or chattels can be found whereon to levy the tax, the trustees may sue for and recover the same in their name of office.

§ 433 **Collector's return of unpaid taxes.** If any tax on real estate placed upon the tax-list and duly delivered to the collector, or the taxes upon nonresident stockholders in banking associations organized under the laws of Congress, shall be unpaid at the time the collector is required by law to return his warrant, he shall deliver to the trustees of the district an account of the taxes remaining due, containing a description of the lands upon which such taxes were unpaid as the same were placed upon the tax-list, together with the amount of the tax so assessed, and upon making oath before any justice of the peace or judge of a court of record, notary public or any other officer authorized to administer oaths, that the taxes mentioned in any such account remain unpaid, and that, after diligent efforts, he has been unable to collect the same, he shall be credited by said trustees with the amount thereof.

§ 434 **Certification by trustees of collector's return.** Upon receiving any such account from the collector, the trustees shall compare it with the original tax-list, and if they find it to be a true transcript they shall add to such account their certificate to the effect that they have compared it with the original tax-list and found it to be correct, and shall immediately transmit the account, affidavit and certificate to the treasurer of the county.

§ 435 **Payment of unpaid taxes from county treasury.** Out of any moneys in the county treasury, raised for contingent expenses, or for the purpose of paying the amount of the taxes so returned unpaid, the treasurer shall pay to the district treasurer, if there be such an officer, otherwise to the collector, the amount of the taxes so returned as unpaid, and if there are no moneys in the treasury applicable to such purpose, the board of supervisors, at the time of levying said unpaid taxes, as provided in the next section, shall pay to the district treasurer, if there be such an officer, otherwise to the collector of the school district the amount thereof which has been relieved, by voucher or draft on the county treasurer, in the same manner as other county charges are paid, and the collector

shall be charged by the trustees with the amount so relieved. [Amended by L. 1910, ch. 284, and L. 1915, ch. 136.]

§ 436 **Levy by supervisors of unpaid taxes.** Such account, affidavit and certificate shall be laid by the county treasurer before the board of supervisors of the county, who shall cause the amount of such unpaid taxes, with seven per centum of the amount in addition thereto, to be levied upon the lands upon which the same were imposed; and if imposed upon the lands of any incorporated company, then upon such company; and when collected the same shall be returned to the county treasurer to reimburse the amount so advanced, with the expenses of collection.

§ 437 **Payment before levy.** Any person whose lands are included in any such account may pay the tax assessed thereon, with five per centum added thereto, to the county treasurer, at any time before the board of supervisors shall have directed the same to be levied.

§ 438 **Proceedings for collection same as of county taxes.** The same proceedings in all respects shall be had for the collection of the amount so directed to be raised by the board of supervisors as are provided by law in relation to the county taxes; and upon a similar account, as in the case of county taxes of the arrears thereof uncollected, being transmitted by the county treasurer to the Comptroller, the same shall be paid on his warrant to the treasurer of the county advancing the same; and the amount so assumed by the State shall be collected for its benefit, in the manner prescribed by law in respect to the arrears of county taxes upon land of nonresidents; or if any part of the amount so assumed consisted of a tax upon any incorporated company, the same proceedings may also be had for the collection thereof as provided by law in respect to the county taxes assessed upon such company.

§ 439 **Filing tax-list and warrant with town clerk.** Within fifteen days after any tax-list and warrant shall have been returned by a collector to the trustees of any school district, the trustees shall deliver the same to the town clerk of the town in which the collector resides, and said town clerk shall file the same in his office.

§ 440 **Assessment for school purposes of certain state lands.**
1 The board of education of union free school district number one, town of Dannemora, in the county of Clinton, shall hereafter assess the property owned by the State and situate within the boundaries of said district, exclusive of the improvements erected thereon by the State at the same valuation as other lands in said district are assessed, and the Comptroller shall hereafter pay to the

school authorities of such district the amount of taxes levied upon the land of the State for school purposes in such district by virtue of this section, out of any moneys hereafter appropriated by the Legislature for the payment of assessments for local improvements on property owned by the State.

2 The local school authorities of union free school district number two of the town of Wawarsing, Ulster county, districts numbers¹ six and eight of the town of Dover and districts number one and two of the town of Beekman, Dutchess county, all the school districts in the towns of Hyde Park and Poughkeepsie, Dutchess county, all the school districts in the towns of Highlands, Woodbury and Tuxedo, Orange county, union free school district number one of the town of Ossining in the county of Westchester, all the school districts in the towns of Marcy, Trenton, Western and Lee, Oneida county, districts number eleven, twelve and thirteen in the town of Russia, Herkimer county, school district number one, town of Rush, Monroe county, school district number four of the town of Fort Ann, Washington county, school district number fifteen of the towns of Babylon and Huntington, Suffolk county, school district number three of the town of Collins, Erie county, and of school districts in the county of Rockland shall hereafter assess the lands owned by the State of New York and situate within the boundaries of said districts, exclusive of the improvements, if any, erected thereon by the State, at the same valuation as similar lands of individuals in said districts are assessed and the Comptroller shall hereafter credit to the treasurer of the county wherein such lands are situated the amount of taxes levied upon the lands of the State therein for school purposes from taxes payable by said county treasurer each year to the State for state taxes levied and assessed upon the taxable property of the towns in which such districts are located and upon the adjustment of such taxes so made, the said county treasurer shall pay to the collector of taxes of the school districts in which such lands are situated the amount of such taxes as allowed and so paid by the State. [*Subdivision 2 amended by L. 1911, ch. 593; L. 1915, ch. 125; L. 1916, ch. 407; L. 1917, ch. 46; L. 1918, ch. 254; L. 1919, ch. 301; L. 1920, ch. 831; and by L. 1921, ch. 63, in effect March 9, 1921.*]

3 After a tax has been voted by a district meeting in a district specified in the preceding subdivision, in which there is land owned by the State and the trustees have made the assessment and their tax-list therefor, such trustees shall immediately file in the office

¹ So in original.

of the Comptroller a duly verified copy of such tax list, which in addition to the other matters now required by law shall state which are lands belonging to the State. The Comptroller shall within thirty days after the receipt of such list and after hearing the trustees, if they or any of them so desire, correct or reduce any assessment of state lands which may be in his judgment an unfair proportion to the remaining assessment of land within the district, and shall in other respects approve the assessment and communicate such approval to the trustees. No such assessment of state lands shall be valid for any purpose until the amount of the assessment is approved by the Comptroller.

Provisions of Tax Law Relative to School Districts

Note.—The following provisions of the tax law (L. 1909, ch. 62), are of special interest to school district officers:

§ 40 Assessors to apportion valuation of railroad, telegraph, telephone, pipe line, water or gas companies and of special franchises among school and special districts. The assessors of each town or city in which a railroad, telegraph, telephone, water pipe line, or gas company, including a company engaged in the business of supplying natural gas, is assessed by them or by the tax commission upon property lying in more than one school district or in one or more special districts in which a tax is levied for district purposes shall after the time fixed for hearing complaints and action thereon and prior to the final completion of the roll, pursuant to section 39 of this chapter, apportion the assessed valuation of the property of each of such corporations so made by them or by the tax commission among such school and special districts. Such apportionments shall be entered by the assessors in the appropriate column of the assessment-roll and a certificate thereof signed by the assessors or a majority of them shall be filed with the town or city clerk within five days thereafter, and thereupon the valuations so apportioned shall become the valuations of such property in such districts for the purpose of taxation for the ensuing year. The town clerk shall furnish the trustees of school districts a certified statement of the valuations apportioned to their respective districts.

In case of the failure of the assessors to act, a supervisor of the town or city shall make such apportionment on request of either the trustee of any school district or the officers of any special district or the corporation assessed. In case of any alteration in any school district affecting the valuation of such property, the officer making the same shall fix and determine the valuations in the districts affected for the current year. [*Amended by L. 1912, ch. 271; L. 1913, ch. 556, and L. 1916, ch. 323, in effect April 26, 1916.*]

§ 70-b Receipts for taxes. Every collector of taxes shall deliver or upon request forward by mail, a receipt wholly written with ink or partly printed and filled out with ink to each person paying a tax, specifying the date of such payment, the name of such person, the description of the property as shown on the assessment-roll, the name of the person to whom the same is assessed, the amount of such tax, and the date of delivery to him of the assessment-roll on account of which such tax was paid. For the

purpose of giving such receipt, each collector shall have a book of blank receipts, so arranged that when a receipt is torn therefrom a corresponding copy or stub will remain. The tax commission shall prescribe the form of such receipts, stubs and books and they shall be furnished to the town collector by the board of supervisors, at the expense of the county; to the city collector by the common council, at the expense of the city; to the village collector by the village trustees at the expense of the village; to the school collector by the trustee or trustees at the expense of the school district. The expense of mailing receipts shall be a proper charge against the city, town, village or school district. At the time of giving such a receipt the collector shall make the same entries on the corresponding copy or stub as are required to be made on the receipt. Such book shall be subject to public inspection and shall be filed by the collector with his return, together with the assessment-roll in the office of the county treasurer, or such officer or board to which such collector makes his return. [*Amended by L. 1916, ch. 323, in effect April 26, 1916.*]

Distribution of Revenues Derived from Franchise Tax on Business Corporations

(*Tax Law § 219-h*)

7 Upon the distribution of such revenues as hereinbefore provided the entire allotment of any town in Onondaga county paid to the supervisor thereof shall be further distributed by him as follows: One-third thereof shall be apportioned among the several school districts in such town in the proportions that the total amount of the assessed valuation of all the real property of such corporations in each of said school districts, respectively, or part thereof in such town, bears to the aggregate assessed valuation of all the real property of such corporations in the entire town, as the same appears upon the last preceding town assessment-roll. The balance thereof shall be retained by him and credited to general town purposes. (*As added by L. 1921, ch. 447, and amended by L. 1922, ch. 654, in effect April 13, 1922.*)

Distribution of Revenues Derived from Personal Income Tax

(*Tax Law § 382 in part*)

Except as hereinafter provided, upon the distribution of such revenues to any town the supervisor shall, with the approval of the town board, distribute not to exceed one-third of such allotment to such town among the several school districts in the town in the proportions that the assessed valuation of the real property of each of such school districts, respectively, or part thereof in such town as the same appears upon the last preceding town assessment-roll bears to the aggregate assessed valuation of the real property of the entire town, but the amount so distributed to any school district for any one year shall not exceed one-fourth of the amount raised by taxation in such school district for school purposes during the preceding year, and the excess, if any, not so distributed to any such district shall be retained by the supervisor and credited, together with the remaining two-thirds of such total allotment, to general town purposes. However, the town board, by resolution, may direct the supervisor to retain all such moneys allotted to the town, in which case such one-third shall not be so distributed to the school districts, but all moneys so allotted to the towns shall be credited to general town purposes. [*As amended by L. 1922, ch. 107, in effect March 10, 1922.*]

Provisions of Village Law relative to Collection of School District Taxes

§ 70 Office created; term of office; compensation. In each village adjoining a city of the first class, situated within a county having a population of four hundred thousand or upwards, according to the last state enumeration, except in counties adjoining a city of over one million inhabitants, there shall be a receiver of taxes and assessments. The term of office of such receiver of taxes and assessments shall be four years. Such office shall be filled by the electors of the village, in the same manner as other elective offices of the village, at the times hereinafter provided. The salary shall be fixed by the board of trustees of such village, but where a union free school district, located wholly or in part within the boundaries of a village, shall appoint such receiver of taxes and assessments as the collector or receiver of school taxes and assessments for such school district and pay him a fixed compensation in lieu of fees and other charges, the salary or receiver of school taxes and assessments for such school district and such village as the school district board of trustees and the village board of trustees may agree. [*As amended by L. 1922, ch. 323, in effect March 28, 1922.*]

ARTICLE 16**School Buildings and Sites**

- Section 450 No schoolhouse shall be built on town line
 451 Plans and specifications of new¹ school buildings must be approved by Commissioner of Education
 452 Halls, doors, stairways, staircases etc.
 453 Fire escapes
 454 Use of school buildings for examinations and institutes
 455 Use of schoolhouse and grounds out of school hours
 456 Condemnation of schoolhouse and erection of new schoolhouse in place thereof
 457 Provision for outbuildings
 458 When board of education may designate site without vote of district
 459 Change of site
 460 Site, how designated
 461 Sale of former schoolhouse or site
 462 Application of proceeds of sale
 463 Acquisition of real property
 464 When owner's consent necessary
 465 Vesting of title of lands in certain cases
 466 Application to certain districts
 467 School taxes and school bonds

§ 450 No schoolhouse shall be built on town line. No schoolhouse shall be built so as to stand on the division line of any two towns.

¹ So in original.

§ 451 **Plans and specifications of school buildings must be approved by Commissioner of Education.** 1 No schoolhouse shall hereafter be erected, repaired, enlarged or remodeled in a city of the third class or in a school district, at an expense which shall exceed five hundred dollars, until the plans and specifications thereof shall have been submitted to the Commissioner of Education and his approval indorsed thereon. Such plans and specifications shall show in detail the ventilation, heating and lighting of such buildings.

2 The Commissioner of Education shall not approve the plans for the erection of any school building or addition thereto or remodeling thereof unless the same shall provide

a At least fifteen square feet of floor space and two hundred cubic feet of air space for each pupil to be accommodated in each study or recitation room therein.

b For assuring at least thirty cubic feet of pure air every minute per pupil, and

c The facilities for exhausting the foul or vitiated air therein shall be positive and independent of atmospheric changes.

3 No tax voted by a district meeting or other competent authority in any such city, or school district exceeding the sum of five hundred dollars, shall be levied by the trustees until the Commissioner of Education shall certify that the plans and specifications for the same comply with the provisions of this section.

§ 452 **Halls, doors, stairways, staircases etc.** 1 All schoolhouses for which plans and detailed statements shall be filed and approved, as required by the preceding section shall have all halls, doors, stairways, seats, passage-ways and aisles and all lighting and heating appliances and apparatus arranged to facilitate egress and afford adequate protection in cases of fire or accident.

2 All exit doors shall open outwardly, and shall, if double doors be used, be fastened with movable bolts operated simultaneously by one handle from the inner face of the door.

3 No staircase shall be constructed with winder steps in lieu of a platform but shall be constructed with straight runs, changes in direction being made by platforms. No door shall open immediately upon a flight of stairs, but a landing at least the width of the door shall be provided between such stairs and such doorway.

§ 453 **Fire escapes.** 1 All school buildings in the State, except in the city of New York, which are more than two stories high, shall have properly constructed stairways on the outside thereof, with suitable doorways leading thereto, from each story above the first, for use in case of fire. Such stairways shall be kept in good

order and free from obstruction, and shall not be bolted or locked during school hours.

2 It shall be the duty of the trustee or board of education having charge of said school buildings to cause such stairways to be constructed and maintained, and the reasonable and proper cost thereof shall in each case be a legal charge upon the district or city, and shall be raised by tax, as other moneys are raised for school purposes.

§ 454 Use of school buildings for examinations and institutes.

1 The use of a school building shall be granted for any examination or teachers institute appointed by the Commissioner of Education upon the request of the school commissioner in whose school commissioner district or the superintendent of the city in which such building is located or upon the direction or order of such Commissioner of Education.

2 No charge shall be made therefor except when such building is used for a teachers institute, in which case a reasonable allowance may be made to said district or city for lighting, heating and janitor service, provided always that due and proper care shall be maintained and the school building be left in such condition as found in relation to cleanliness and neatness.

§ 455 Use of schoolhouse and grounds out of school hours.

Schoolhouses and the grounds connected therewith and all property belonging to the district shall be in the custody and under the control and supervision of the trustees or board of education of the district. The trustees or board of education may adopt reasonable regulations for the use of such schoolhouses, grounds or other property, when not in use for school purposes, for such other public purposes as are herein provided. Such regulations shall not conflict with the provisions of this chapter and shall conform to the purposes and intent of this section and shall be subject to review on appeal to the commissioner of education as provided by law. The trustees or board of education of each district may, subject to regulations adopted as above provided, permit the use of the schoolhouse and rooms therein, and the grounds and other property of the district, when not in use for school purposes, for any of the following purposes:

1 By persons assembling therein for the purpose of giving and receiving instruction in any branch of education, learning or the arts.

2 For public library purposes, subject to the provisions of this chapter, or as stations of public libraries.

3 For holding social, civic and recreational meetings and entertainments, and other uses pertaining to the welfare of the community; but such meetings, entertainment and uses shall be non-exclusive and shall be open to the general public.

4 For meetings, entertainments and occasions where admission fees are charged, when the proceeds thereof are to be expended for an educational or charitable purpose; but such use shall not be permitted if such meetings, entertainments and occasions are under the exclusive control, and the said proceeds are to be applied for the benefit of a society, association or organization of a religious sect or denomination, or of a fraternal, secret or exclusive society or organization other than organizations of veterans of the military, naval and marine service of the United States. [*Subdivision 4 amended by L. 1921, ch. 82, in effect March 16, 1921.*]

5 For polling places for holding primaries and elections and for the registration of voters, and for holding political meetings. But no such use shall be permitted unless authorized by a vote of a district meeting, held as provided by law, or, in cities by the board of education thereof. Except in cities, it shall be the duty of the trustees or board of education to call a special meeting for such purpose upon the petition of at least ten per centum of the qualified electors of the district. Authority so granted shall continue until revoked in like manner and by the same body as granted.

6 For civic forums and community centers. Upon the petition of at least twenty-five citizens residing within the district or city, the trustees or board of education in each school district or city shall organize and conduct community centers for civic purposes, and civic forums in the several school districts and cities, to promote and advance principles of Americanization among the residents of the state. The trustees or board of education in each school district or city, when organizing such community centers or civic forums, shall provide funds for the maintenance and support of such community centers and civic forums, and shall prescribe regulations for their conduct and supervision, provided that nothing herein contained shall prohibit the trustees of such school district or the board of education to prescribe and adopt rules and regulations to make such community centers or civic forums self-supporting as far as practicable. Such community centers and civic forums shall be at all times under the control of the trustees or board of education in each school district or city, and shall be non-exclusive and open to the general public. [*Amended by L. 1913, ch. 221; L. 1917, ch. 214; and L. 1920, ch. 150, in effect April 1, 1920.*]

Provisions of Election Law relating to Use of School Buildings*(Election Law, § 66)*

3 A schoolhouse or other public building or any building exempt from taxation shall be designated, if the use of the same as a registration and polling place will not interfere with its customary use, and if it be so situated as to be convenient to the voters residing in the election district. The expense, if any, incidental to its use under such designation shall be paid like the expense of other registration and polling places. Whenever a school or other public building is located in an election district and the registration and polling place of such district is not located in a school or other public building, a statement of the reason for not designating such building must be entered by the board charged with the duty of making such designations in its minutes or other record. [*As amended by L. 1922, ch. 588, in effect April 12, 1922.*]

§ 456 **Condemnation of schoolhouse and erection of new schoolhouse in place thereof.** 1 A school commissioner may make an order condemning a schoolhouse, if he finds upon examination that such schoolhouse is wholly unfit for use and not worth repairing. He shall deliver such order to a trustee of the district and transmit a copy thereof to the Commissioner of Education. He shall also state in such order the date on which it shall take effect and the sum which in his opinion will be necessary to erect a school building suitable to the needs of the district.

2 Immediately upon the receipt of said order, the trustees of such district shall call a special meeting of the voters of said district, to consider the question of building a new schoolhouse therein. Such meeting shall have power to determine the size of said schoolhouse, the material to be used in its erection, and to vote a tax to build the same. But such meeting shall have no power to reduce the estimate made by the Commissioner aforesaid by more than twenty-five per centum of such estimate.

3 And where no tax for building such schoolhouse shall have been voted by such district within thirty days from the time of holding the first meeting to consider the question, it shall be the duty of the trustees of such district to contract for the building of a schoolhouse capable of accommodating the children of the district, and to levy a tax to pay for the same, which tax shall not exceed the sum estimated as necessary by the Commissioner aforesaid, and which shall not be less than such estimated sum by more than twenty-five per centum thereof. But such estimated sum may be increased at any subsequent school meeting legally held in the district.

§ 457 **Provision for outbuildings.** 1 The trustees in the several school districts shall provide at least two suitable and convenient

water-closets or privies for each of the schools under their charge, which shall be entirely separated each from the other, and have separate means of access, and approaches thereto separated by a substantial close fence not less than seven feet in height. It shall also be the duty of trustees to keep such outbuildings in a clean and wholesome condition.

2 The board of education of each union free school district and of a city shall provide and maintain at least two suitable and convenient water-closets or privies for each of the schools under their charge, and in conformity with the provisions of this section.

3 Any expense incurred by the trustees of a common school district in carrying out the requirements of this section shall be a charge upon the district, when such expense shall have been authorized by the school commissioner within whose district the schoolhouse is located, and a tax may be levied therefor without a vote of the school district. Any expense incurred by the board of education in carrying out the foregoing provisions shall be a charge upon the district or city and payable out of any of the contingent funds thereof; and a tax may be levied therefor without a vote of the district.

4 A failure on the part of the trustees or a board of education to comply with the provisions of this section shall be sufficient grounds for their removal from office and for withholding from the district or city its share of the public moneys of the State.

§ 458 **When board of education may designate site without vote of district.** A board of education in a union free school containing a population of five thousand or more may, without a vote of the qualified voters of said district, designate sites or additions thereto for schoolhouses.

§ 459 **Change of site.** No site of a schoolhouse shall be changed unless a majority of the legal voters present and voting at a district meeting shall adopt a resolution designating a new site and describing such site by metes and bounds. Such resolution shall be adopted either by ballot or taking and recording the ayes and noes.

§ 460 **Site, how designated.** The designation of a site by any school district meeting shall be by written resolution containing a description thereof by metes and bounds, and such resolution must receive the assent of a majority of the qualified voters present and voting at said meeting, to be ascertained by taking and recording the ayes and noes, or by ballot.

§ 461 **Sale of former schoolhouse or site.** 1 Whenever th

site of a schoolhouse shall have been changed, as herein provided, the inhabitants of a district entitled to vote, lawfully assembled at any district meeting, shall have power, by a majority of the votes of those present, to direct the sale of the former site or lot, and the buildings thereon and appurtenances or any part thereof, at such price and upon such terms as they shall deem proper; and any deed duly executed by the trustees of such district, or a majority of them, in pursuance of such direction, shall be valid and effectual to pass all the estate or interest of such school district in the premises.

2 When a credit shall be directed to be given upon such sale for the consideration money, or any part thereof, the trustees are hereby authorized to take in their corporate name such security by bond and mortgage, or otherwise, for the payment thereof, as they shall deem best, and shall hold the same as a corporation, and account therefor to their successors in office and to the district, in the manner they are now required by law to account for moneys received by them; and the trustees of any such district and their successors may, in their name of office, sue for and recover the moneys due and unpaid upon any security so taken by them or their predecessors.

§ 462 **Application of proceeds of sale.** All moneys arising from any sale made in pursuance of the last preceding section, shall be applied to the expenses incurred in procuring a new site, and in removing or erecting thereon a schoolhouse, and improving and furnishing such site and house, and their appurtenances, so far as such application shall be necessary; and the surplus, if any, shall be devoted to the purchase of school apparatus and the support of the school, as the voters of the district at any meeting shall direct.

§ 463 **Acquisition of real property.** Real property may be acquired in any school district and in any city except a city of the first or second class, for school purposes and for any other purpose for which such property may be acquired as provided in this chapter, as follows:

1 By gift, grant, devise or purchase.

2 By condemnation, if an agreement can not be made with the owner for the purchase thereof. Such proceedings shall be instituted and conducted by the trustee or board of education, in the name of the district under the provisions of the condemnation law.

3 This section does not permit the acquisition by condemnation of less than the whole of a city or village lot with the erections and improvements thereon. [*Amended by L. 1913, ch. 221.*]

§ 464 **When owner's consent necessary.** The following property can not be acquired without the consent of the owner :

1 A homestead occupied as such by the owner, except such portion thereof as may appear to the court to be unnecessary for the reasonable use and enjoyment of the homestead.

2 A garden, orchard or any part thereof, not within a city, which has existed for a period of one year prior to the beginning of the condemnation proceedings.

3 A yard or enclosure, or any part thereof, necessary to the use or enjoyment of buildings.

4 Fixtures or erections for the purpose of trade or manufacture, which have existed for a period of one year prior to the beginning of the condemnation proceedings. [*Amended by L. 1911, ch. 782.*]

5 The second and third subdivisions of this section shall not be construed as prohibiting the acquisition by condemnation of the whole of a city or village lot together with the erections and improvements thereon. [*Subdivision 5, added by L. 1920, ch. 195, in effect April 14, 1920.*]

§ 465 **Vesting of title of lands in certain cases.** Boards of education in cities of the third class are hereby clothed with all the powers of trustees, and the title to any and all lands acquired in any city under the provisions of section 463 of this chapter shall vest in the board of education thereof, or such other corporate body as is by law vested with the title to the school lands in such city. But nothing herein contained shall be construed to limit or circumscribe the powers and duties heretofore lodged in such board of education by law.

§ 466 **Application to certain districts.** The provision of section 463 of this article shall apply to union free school districts and to districts organized under special laws; and the trustees of such districts and the boards of education organized under special laws shall be and are hereby clothed with all the powers vested in trustees in the three preceding sections.

§ 467 **School taxes and school bonds.** 1 A majority of the voters of any school district; present at any annual or special district meeting, duly convened, may authorize such acts and vote such taxes as they shall deem expedient for making additions, alterations, repairs or improvements, to the sites or buildings belonging to the district, or for the purchase of other sites or buildings, or for a change of sites, or for the purchase of land and buildings for agricultural, athletic, playground or social center purposes, or for the erection of new buildings, or for buying apparatus, imple-

ments, or fixtures, or for paying the wages of teachers, and the necessary expenses of the school, or for such other purposes relating to the support and welfare of the school as they may, by resolution, approve. [*Subdivision 1 amended by L. 1913, ch. 221.*]

2 On all propositions arising at said meetings involving the expenditure of money, or authorizing the levy of a tax in one sum or by instalments, the vote thereon shall be by ballot, or ascertained by taking and recording the ayes and noes of such qualified voters attending and voting at such meetings; and they may direct the moneys so voted to be levied in one sum, or by instalments.

3 No addition to or change of site or purchase of a new site or tax for the purchase of any new site or structure, or for the purchase of an addition to the site of any schoolhouse, or for the purchase of land and buildings for agricultural, athletic, playground or social center purposes, or for building any new schoolhouse or for the erection of an addition to any schoolhouse already built, shall be voted at any such meeting in a union free school district unless a notice by the board of education stating that such tax will be proposed, and specifying the object thereof and the amount to be expended therefor, shall have been given in the manner provided herein for the notice of an annual meeting. In a common school district the notice of a special meeting to authorize any of the improvements enumerated in this section shall be given as provided in section 197. [*Subdiv. 3 amended by L. 1913, ch. 221.*]

4 And whenever a tax for any of the objects hereinbefore specified shall be legally voted the board of trustees or board of education shall make out their tax list, and attach their warrant thereto, in the manner provided in article 15 of this chapter, for the collection of school district taxes, and shall cause such taxes or such instalments to be collected at such times as they shall become due.

5 No vote to raise money shall be rescinded, nor the amount thereof be reduced at any subsequent meeting, unless it be an adjourned meeting or a meeting called by regular and legal notice, which shall specify the proposed action, and at which the vote upon said proposed reduction or rescinding shall be taken by ballot or by taking and recording the ayes and noes of the qualified voters attending and voting thereat.

ASSESSMENT ON STATE LANDS

(*Tax law, § 22, in part*)

. . . No tax for the erection of a schoolhouse . . . shall be imposed upon the state lands unless such erection . . . shall have first been approved in writing by the conservation commission.

ARTICLE 17

School District Bonds

§ 480 Issuance of school district bonds. 1 For the purpose of giving effect to the provisions of section four hundred and sixty-seven of this chapter, trustees or boards of education are hereby authorized, whenever a tax shall have been voted to be collected in instalments, for the purpose of building a new schoolhouse, or building an addition to a schoolhouse, or making additions, alterations or improvements to buildings or structures belonging to the district or city, or for the purchase of a new site or for an addition to a site, or for the purchase of land or buildings for agricultural, athletic, playground, or social center purposes, or for the purchase of furniture, fixtures and equipment for any such buildings and playgrounds, to borrow so much of the sum voted as may be necessary, at a rate of interest not exceeding six per centum, and to issue bonds or other evidences of indebtedness therefor, which shall be a charge upon the district, and be paid at maturity, and which shall not be sold below par. In districts having an aggregate valuation of real property of five hundred thousand dollars or over, no bonds shall be hereafter issued which make the total bonded indebtedness, at any time, exceed fifteen per centum of the aggregate assessed valuation of the real property within the bounds of such school district, unless the resolution authorizing the issue and sale of such bonds, in excess of such amount, shall be adopted by a vote of two-thirds of the qualified electors present and voting on such resolution at the meeting called for such purpose. [*Subdivision 1 amended by L. 1913, ch. 221; L. 1920, ch. 162; L. 1921, ch. 318; and L. 1922, ch. 124, in effect March 13, 1922.*]

2 Notice of the time and place of the sale of such bonds shall be given by the trustees or board of education at least ten days prior thereto by publication twice in two newspapers, if there be two, or in one newspaper if there be but one published in such district. But if no newspaper shall then be published therein, the said notice shall be posted in at least ten of the most public places in said district ten days before the sale.

3 It shall be the duty of the trustees or the persons having charge of the issue or payment of such indebtedness, to transmit a statement thereof to the clerk of the board of supervisors of the county in which such indebtedness is created, annually, on or before the first day of November.

4 When such bonds are sold by a union free school district whose boundaries are the same as the boundaries of an incorporated village

or city, such bonds shall be signed by the president and clerk of the board of education and delivered to the treasurer of such village or city who shall countersign them and give notice of the sale thereof in like manner as is provided for the notice of sale of bonds in subdivision 2 of this section. The proceeds of the sale of such bonds shall be paid into the treasury of said incorporated village or city, to the credit of the board of education.

5 When such bonds are sold by a common school district the payment or collection of the last instalment shall not be extended beyond twenty years from the time such vote was taken.

6 All of the provisions of the general municipal law relative to the method of the registry of municipal bonds and the conversion of coupon into registered bonds shall apply to bonds issued pursuant to the provisions of this section, except that the duties therein required to be performed by the clerk of a municipal corporation shall be performed by the clerk of the school district. [*Subdivision 6 added by L. 1914, ch. 31.*]

7 A trustee, board of education, qualified elector or taxpayer of a school district, a purchaser of school district bonds or other evidence of indebtedness issued and sold as provided in this section, or a person holding any of such bonds or evidences of indebtedness may institute a proceeding before the Commissioner of Education, in accordance with rules and regulations to be prescribed by him, for the purpose of ratifying and confirming the proceedings of a district meeting authorizing the levy and collection of a tax payable in instalments as provided in section 467 of this chapter, and the proceedings and official acts of a trustee, board of trustees or board of education of such district under this section, and for the purpose of legalizing and validating the bonds or other evidences of indebtedness of such district issued and sold under this section. If it appear to the satisfaction of the Commissioner that the acts and proceedings of district officers and meetings pertaining to the levy and collection of taxes payable in instalments for the objects specified in such section 467 of this chapter, and of the trustees and boards of education and other district officers pertaining to the issuance and sale of such bonds, substantially complied with the provisions of this chapter, he shall render a decision ratifying and confirming such acts and proceedings, and may in a proper case issue an order directing that a tax be levied for the payment of the principal and interest of such bonds or other evidences of indebtedness. If there has been a fair expression of the will of the qualified electors of the district and it appears that the action taken

was not affected or prejudiced by defects in, or failure to give, the notice required by statute, or if it appears that the failure to take, or a defect in, any step in the acts or proceedings of district officers or meetings did not influence materially the result of such meetings, the Commissioner may disregard such defects or failure and determine that there has been a substantial compliance with the statute. The decision of the Commissioner of Education in such proceeding shall have the same force and effect as a decision rendered by him in an appeal brought as provided in section 880 of this chapter. [*Subdivision 7, added by L. 1917, ch. 413, in effect May 8, 1917.*]

Legalizing School Bonds; Rate of Interest

General Municipal Law

ARTICLE 2-a

[*Inserted by L. 1911, ch. 769*]

Legalizing Bonds or Proceedings for Issuance

Section 22 Legalizing proceedings

23 Petition

24 Notice of presentation of petition; filing; answer

25 Hearing

26 Determination of court

27 Appeal

28 Effect of determination

29 Definitions

§ 22 **Legalizing proceedings.** Proceedings heretofore or hereafter taken by a municipal corporation authorized by law to issue bonds, or by its officers, agents or voters, pursuant to a statute authorizing or requiring such proceedings, may be legalized and confirmed by the supreme court in the manner and with the effect provided by this article. A proceeding may be instituted hereunder for the purposes of legalizing and confirming such proceedings taken prior to the issuance and sale of such bonds, or for the purpose of legalizing and confirming such preliminary proceedings and also the issuance, sale and form of such bonds. Such a proceeding may be instituted by the officer or officers of such municipal corporation authorized or required by law to sell such bonds, or if the purpose of such proceeding also includes the legalizing and confirming of the proceedings in respect to the issuance, sale and form of such bonds, by any taxpayer of the municipal corporation or by a purchaser or holder of such bonds.

§ 23 **Petition.** The officer or person commencing such proceeding shall present a verified petition to a special term of the Supreme Court held within the judicial district in which such municipal corporation is wholly or partly situated, stating the statute under which it is proposed to issue such bonds or under which such bonds were issued, the purpose thereof, the aggregate amount of bonds proposed to be issued or issued, the time when such bonds are payable, and all proceedings that have been taken by the municipal corporation, or by its officers, agents or voters, in respect to the

issuance and sale of such bonds, and praying that such court shall investigate the law and facts in relation to such proceedings and determine whether such proceedings substantially complied with the statute under which it is proposed to issue and sell such bonds, or under which such bonds were issued and sold. Such petition may also state any particular in which the petitioner deems that such proceedings may not have complied with the statute under which it is proposed to issue and sell such bonds, or under which the same were issued and sold.

§ 24 Notice of presentation of petition; filing; answer. A notice stating the time and place of the presentation of such petition and briefly describing the proceedings sought to be legalized and confirmed shall be published at least twice in a newspaper, if any, published in the municipal corporation, or if no newspaper be published therein, in a newspaper published in the city, village or town nearest to such municipal corporation. Such publication shall be made at least twenty and not more than thirty days prior to the date of such hearing. Such notice shall also be posted in at least ten conspicuous public places in the municipal corporation. If such proceeding be instituted by a taxpayer, or a purchaser or holder of bonds which have been issued, such notice shall also be served upon the mayor of a city, the president of a village, the supervisor of a town, or the officer, board or commission authorized or required by law to sell such bonds, and upon any known purchaser or holder of such bonds. Such notice shall be so served personally or by mail at least twenty days before the date of such hearing and shall be accompanied by the petition proposed to be presented at such hearing, and at least ten days prior to such hearing such municipal corporation may serve on the petitioner a verified answer to such petition. If such proceeding be instituted by a municipal officer or officers, a copy of the petition proposed to be presented at the hearing shall be filed in the office of the officer or officers authorized or required by law to sell such bonds. At any time prior to such hearing a taxpayer of such municipality, or if such bonds have been issued, a holder or purchaser may file in such office a verified answer to such petition.

§ 25 Hearing. At the time of such hearing any taxpayer of the municipal corporation, or if such bonds have been issued, any holder or purchaser thereof may intervene and with the consent of the court be made a party thereto. Upon such hearing any party to such proceeding may appear, by counsel, and may produce and examine witnesses as to the proceedings taken in respect to the issue and sale of such bonds. Such witnesses shall be subject to cross-examination by any party appearing at such hearing.

The court may appoint a referee to take testimony in respect to the proceedings for the issuance and sale of such bonds and may otherwise require the parties thereto to produce proof, by affidavit or otherwise, of any facts which may tend to enable the court to make a full and complete determination in respect to the proceedings for the issuance and sale of such bonds.

§ 26 Determination of court. If, after such hearing and investigation, such court is satisfied that the statute under which such proceedings were taken authorized bonds to be issued by the municipal corporation for the aggregate amount for which it is proposed to issue the same, or for the amount of bonds issued and sold thereunder if such bonds have been already issued and sold, and that the proceedings taken by such municipal corporation,

its officers, agents or voters, prior to the issuance and sale of such bonds, or including the issuance and sale of such bonds have been already issued, substantially complied with the statute under which it is proposed to issue such bonds, or under which such bonds were issued and sold, the court, may, by order, legalize and confirm the proceedings taken prior to the issue and sale of such proposed bonds, or if such bonds have been issued, including the proceedings on the issuance and sale thereof and the form of the bonds issued thereunder, with the same force and effect as though all the provisions of law in relation to such proceedings and form had been strictly complied with. The court may determine that such statute was substantially complied with if it authorized the aggregate amount of bonds proposed to be issued or issued thereunder, that the proposition to issue such bonds was adopted at the election, if any, to which it was submitted or by the required vote of the meeting of the body or board to which it was submitted, and that such bonds, if issued and sold were sold at not less than par and at a rate of interest no greater than was authorized by the statute under which such bonds were issued, notwithstanding any irregularity or technicality in the form of proposition or resolution proposing or authorizing such issue, or in the notice of the election or of the meeting of the board or body adopting such resolution or authorization, or in the time or manner of service thereof, or in the conduct of the election or meeting at which such proposition or authorization was adopted, or in that such proposition was submitted more than once within one year or other shorter period than authorized by law, or, if such bonds have already been issued in the manner of issuance or sale thereof, or in the time or times of payment thereof, notwithstanding any other technical or formal irregularity of like nature in such proceedings. If the court is satisfied that the proceedings for the issuance and sale of such bonds did not substantially comply with the statute under which it was proposed to issue and sell the same or under which the same were issued and sold, he may make an order accordingly specifying the particulars in which he deems that such proceedings failed to comply with such statute.

§ 27 Appeal. An appeal may be taken to the Appellate Division from the order of the Supreme Court legalizing and confirming such proceedings, or refusing to legalize and confirm the same. Such appeal must be taken within ten days after the entry of the order, by the service of the notice of appeal upon all the parties to such proceeding who appeared personally or by counsel at the hearing before the Supreme Court. The decision of the Appellate Division thereon shall be final.

§ 28 Effect of determination. If the order of the Supreme Court legalizes and confirms such proceedings, upon the expiration of the time to appeal therefrom if no appeal be taken, or upon the entry of the final order of the Appellate Division confirming such order of the Supreme Court, such proceedings shall be deemed legalized and confirmed. If such proceeding was instituted to legalize and confirm proceedings prior to the issuance and sale of such bonds, the officer or officers of such municipal corporation authorized to issue such bonds may issue and sell the same accordingly, and the validity of such bonds shall not thereafter be in any manner questioned by reason of any defect or irregularity in such preliminary proceedings, and notwithstanding any such irregularity or defect shall be binding and legal obligations upon the municipal corporation issuing and selling the same.

If such proceeding was instituted to legalize and confirm the proceedings for the issue and sale of bonds that were issued and sold at the time such proceeding was instituted, such bonds shall be valid and binding obligations upon the municipal corporation, in like manner, and the validity thereof shall not in any manner be questioned by reason of any irregularity or defect in the proceedings for the issue and sale of such bonds, or in the form thereof.

§ 29 **Definitions.** The term "municipal corporation" as used in this article includes a city, county, village, town, school district, sewer district, water district, lighting district or any other district or territory authorized by law to issue bonds.

The term "bonds" as used in this article includes bonds, corporate stock, certificates of indebtedness or any other obligations whereby a municipal corporation agrees to pay a stated sum of money.

Interest on Bonds

(General Municipal Law, Sec. 21)

§ 21 **Maximum rate of interest on municipal bonds.** If in any general or special law passed before January first, nineteen hundred eighteen, authorizing or requiring an issue of bonds by a municipal corporation, or by any department, board, commission, or officer thereof, a maximum rate of interest on the bonds to be issued thereunder be prescribed, the rate of interest on such bonds hereafter issued in pursuance of such general or special law may be fixed by the department, board, commission or officer charged by law with the duty of issuing such bonds at any rate not more than the legal rate of interest, notwithstanding the provisions of such general or special law prescribing a different maximum rate. The term "municipal corporation" as used in this section includes a city, county, village, town, school district, sewer district, water district, lighting district or any other district or territory authorized by law to issue bonds, and the term "bonds" includes bonds, corporate stock, certificates of indebtedness or any other obligation whereby a municipal corporation agrees to pay a stated sum of money. [*Added by L. 1911, ch. 573, and amended by L. 1918, ch. 23, in effect March 4, 1918.*]

ARTICLE 18

School Moneys

- Section 490 When apportioned and how applied
- 491 Apportionment of moneys appropriated for the support of common schools
- 491-a Additional apportionment of school moneys
- 492 Conditions under which cities and districts are entitled to an apportionment from the appropriation for the support of common schools
- 493 Apportionment of moneys appropriated to cities, academies, academic departments and school libraries
- 494 Manner of certifying and paying apportionment provided for in preceding section

- Section 495 County treasurers to render annual report
 496 Certificate of apportionment by Commissioner of Education
 497 Moneys apportioned, when and how payable
 498 Apportionment of school moneys by district superintendents
 499 Duty of and payment to supervisor
 500 Power of Comptroller to withhold payment of school moneys
 501 Union free school district and city, a school district
 502 Apportionment for support of training classes

§ 490 When apportioned and how applied. The amount annually appropriated by the Legislature for the support of common schools shall be apportioned by the Commissioner of Education on or before the twentieth day of January in each year as hereinafter provided; and all moneys so apportioned shall be applied exclusively to the payment of teachers' salaries.

§ 491 Apportionment of moneys appropriated for the support of common schools. After setting apart therefrom for a contingent fund not more than ten thousand dollars, the Commissioner of Education shall apportion the money appropriated for the support of common schools:

1 To each city and to each union school district which has a population of five thousand and which employs a superintendent of schools, eight hundred dollars. This shall be known as a supervision quota.

2 To each district having an assessed valuation of twenty thousand dollars or less, two hundred dollars.

3 To each district having an assessed valuation of forty thousand dollars or less, but exceeding twenty thousand dollars, one hundred and seventy-five dollars.

4 To each district having an assessed valuation of sixty thousand dollars or less, but exceeding forty thousand dollars, and to each Indian reservation for each teacher employed therein for a period of one hundred and eighty days or more, one hundred fifty dollars. [*Subdivision 4 amended by L. 1917, ch. 74, in effect March 20, 1917.*]

5 To each of the orphan asylums which meet the conditions mentioned in article 35 of this chapter, one hundred and twenty-five dollars.

6 To each of the remaining districts and to each of the cities in the State one hundred twenty-five dollars. The apportionment provided for by subdivisions 2, 3, 4, 5 and 6 shall be known as district quotas.

7 To each such district, city and orphan asylum for each additional qualified teacher and his successors by whom the common

schools have been taught during the period of time required by law, one hundred dollars. The apportionment provided for by this subdivision shall be known as the teachers' quota.

8 To a school district or a city which has failed to maintain school for one hundred eighty days or which has employed an extra teacher for a shorter period than one hundred eighty days such part of a district or teacher's quota as seems to him equitable when the reason for such failure is in his judgment sufficient to warrant such action; but in case such failure to maintain a school in such district or city for a period of one hundred eighty days was caused by the prevalence of an infectious or contagious disease in the community, the Commissioner may in his discretion apportion to such district or city full district and teachers' quotas. [*Subdivision 8 amended by L. 1917, ch. 74, in effect March 20, 1917.*]

9 To each separate neighborhood such sum as in his opinion it is equitably entitled to receive upon the basis of distribution established by this article.

10 All errors or omissions in the apportionment whether made by the Commissioner of Education or by the school commissioner shall be corrected by the Commissioner of Education. Whenever a school district has been apportioned less money than that to which it is entitled the Commissioner of Education may allot to such district the balance to which it is in his judgment entitled and the same shall be paid from the contingent fund. Whenever a school district has been apportioned more money than that to which it is entitled the Commissioner of Education may, by an order under his hand, direct such moneys to be paid back into the hands of the county treasurer by him to be credited to the school fund, or he may deduct such amount from the next apportionment to be made to said district.

11 The Commissioner of Education may also in his discretion excuse the default of a trustee or a board of education in employing a teacher not legally qualified, legalize the time so taught and authorize the payment of the salary of such teacher.

§ 491-a Additional apportionment of school moneys. 1 In addition to any other apportionment or quota provided for in this article, to be applied to the payment of teachers' salaries, the commissioner of education shall apportion and pay annually, at the same time and in the same manner as public school moneys are apportioned and paid under this article, or prior thereto in the discretion of the commissioner of education, to each city school district and

to each common or union free school district, from moneys appropriated for the support of common schools, for each teacher employed in the school or schools of such district who shall have taught during the period required by law, as follows:

(a) In cities of the first class containing a population of over one million, six hundred dollars.

(b) In cities of the first class containing a population of less than one million; in cities of the second class containing a population, according to the federal census of nineteen hundred and twenty, of over one hundred and fifty thousand; in a city school district in a city of the third class adjoining a city of the first class containing a population of less than one million; and in cities of the second and third classes in a county adjoining a city having a population of over one million, which county has a population of over three hundred thousand, five hundred and fifty dollars.

(c) In other cities of a population of fifty thousand or more and in union free school districts wholly situated within such cities, four hundred and fifty dollars.

(d) In other cities of a population of less than fifty thousand and in union free school districts authorized by law to have superintendents of schools three hundred and fifty dollars.

(e) In other union free school districts maintaining academic departments, three hundred and fifty dollars.

(f) In each other school district employing more than one teacher, three hundred dollars.

(g) In each other school district employing but one teacher and having an assessed valuation exceeding one hundred thousand dollars, two hundred dollars.

(h) In each other school district employing but one teacher and having an assessed valuation of one hundred thousand dollars or less, two hundred dollars, and in addition thereto the sum of three dollars for each entire thousand dollars that the assessed valuation of such district is less than one hundred thousand dollars. [*Subdivision amended by L. 1921, ch. 584, in effect May 5, 1921.*]

2 The additional teachers' quotas herein provided for shall be apportioned subject to the following conditions:

(a) The schedules and schedule conditions required by article thirty-three-b of this chapter, as hereby amended, shall have been duly filed, and the salaries and salary increments of members of the teaching and supervising staffs of city and union free school districts shall be not less than those prescribed in such article and shall be fixed as therein provided.

(b) There shall be paid to each teacher in a city, except a city of the first class, and to each teacher in a union free school district on account of whom a teacher's quota is apportioned as herein provided, for the school year beginning August first, nineteen hundred and twenty, an amount at least equal to the quota so apportioned, in excess of the annual salary paid to such teacher in such city or union free school district as provided in schedules or contracts in force on March first, nineteen hundred and nineteen. If, for sufficient cause shown to the satisfaction of the commissioner of education, the annual salary of a teacher in such city or union free school district shall have been increased in an amount less than that of such teacher's quota, the commissioner may apportion to such city or district on account of such teacher the whole or a portion of such quota.

(c) In case new positions are created and additional teachers are employed, or teachers are employed who were not on the teaching staff of a city or union free school district when this act takes effect, such teachers shall receive for the school year beginning August first, nineteen hundred and twenty, the salaries prescribed under the schedules and schedule conditions adopted as provided in article thirty-three-b of this chapter, as hereby amended, and in force and effect on and after August first, nineteen hundred and twenty.

(d) The additional teachers' quotas apportioned as herein provided shall be based on the number of teachers employed in each city, union free and common school district for the school year preceding the time when such apportionment is made.

(e) The commissioner of education may in his discretion withhold from a city or union free school district the whole or a portion of a teacher's quota to be apportioned as herein provided, for a failure on the part of a board of education to comply with the provisions of article thirty-three-b of this chapter, as amended, or with the provisions of this section, or for a refusal or failure to place such teacher in a position in the schedule or under such schedule conditions to which she is justly entitled.

3 The trustees or board of education in each school district, except a city school district, and a union free school district in which schedules of compensation or salaries are required to be filed as provided in article thirty-three-b of this chapter, shall pay to each teacher employed in such district a compensation or a salary which shall be not less than at the rate of eight hundred dollars for a school year of forty weeks. Such minimum compensation or

salary shall become effective for the school year beginning August first, nineteen hundred and twenty, and continue annually thereafter. [*Subdivision 3 as amended by L. 1922, ch. 20, in effect February 15, 1922.*]

4 The apportionments of additional teachers' quotas provided for in this section are for the purpose of aiding city, union free and common school districts in paying the increased salaries of teachers as herein provided, and the sums so apportioned to such city, union free and common school districts shall be applied for such purpose and such sums shall not in any case be placed in the city treasury of any city to the credit of the general fund of such city for the reduction of taxation therein, notwithstanding any provision to the contrary contained in the charter of such city or in any act relating to such city or in any general, special or local act. [*Added by L. 1919, ch. 645, and amended by L. 1920, ch. 680, in effect May 10, 1920. The sum of \$22,550,000 was appropriated by the legislature to carry out the provisions of ch. 680 of L. 1920.*]

§ 492 Conditions under which cities and districts are entitled to an apportionment from the appropriation for the support of common schools. 1 The commissioner of education shall make no allotment of a supervision quota to any city or district unless satisfied that such city or district employs a competent superintendent whose time is exclusively devoted to the supervision of the public schools of such city or district; nor shall he make any allotment to any district in the first instance without first causing an enumeration of the inhabitants to be made which shall show the population thereof to be at least four thousand five hundred, the expense of such enumeration, as certified by said commissioner, shall be paid by the district in whose interest it is made. The population shown by the last state or federal census or village enumeration may be accepted by said commissioner whenever the village and school district boundaries coincide. [*Subdivision 1 amended by L. 1920, ch. 141, in effect July 1, 1920.*]

2 No district shall be entitled to any portion of such school moneys on such apportionment unless the report of the trustees for the preceding school year shall show that a common school was supported in the district and taught by a qualified teacher or by successive qualified teachers for at least one hundred and eighty days, inclusive of legal holidays that may have occurred during the term of said school and exclusive of Saturdays. [*Subdivision 2 amended by L. 1913, ch. 511.*]

3 No Saturday shall be counted as part of said one hundred and

eighty days of school and no school shall be in session on a legal holiday, except general election day, Washington's birthday and Lincoln's birthday. A deficiency not exceeding six days during any school year caused by a teacher's attendance upon teachers conferences held by district superintendents of schools within a county, shall be excused by the Commissioner of Education. In common school districts the term of school shall begin each year on the first Tuesday of September. [*Former subdivision 4; renumbered subdivision 3 and amended by L. 1913, ch. 511.*]

§ 493 **Apportionment of moneys appropriated to cities, academies, academic departments and school libraries.** The commissioner of education shall apportion the money annually appropriated for the support of cities, academies, academic departments and school libraries in accordance with regulations established or to be established by him as follows:

1 To each city, union school district and non-sectarian academy two hundred dollars for each year of academic instruction maintained therein up to and including the fourth year of high school work. This apportionment shall be known as the academic quota. [*Subdivision 1 amended by L. 1920, ch. 680, in effect May 10, 1920.*]

2 To each non-sectarian private academy an allowance equal to the amount raised from local sources but not to exceed two hundred fifty dollars annually for approved books, reproductions of standard works of art, and apparatus. [*Subdivision 2 amended by L. 1914, ch. 216.*]

3 To each city an allowance equal to the amount raised from local sources but not to exceed eighteen dollars and two dollars additional for each duly licensed teacher employed therein for the legal term, and two hundred fifty dollars for each academic department maintained by it for approved books, reproductions of standard works of art and apparatus. [*Subdivision 3 amended by L. 1914, ch. 216.*]

4 To each union free school district maintaining an academic department an allowance equal to the amount raised from local sources, but not to exceed two hundred sixty-eight dollars annually and two dollars additional for each teacher employed in said district for the legal term for approved books, reproductions of standard works of art and apparatus. [*Subdivision 4 amended by L. 1914, ch. 216.*]

5 To all other school districts an allowance equal to the amount raised from local sources but not to exceed eighteen dollars annually and two dollars additional for each duly licensed teacher

employed in said district for the legal term for approved books, reproductions of standard works of art, geographical maps, a globe and school apparatus. [*Subdivision 5 amended by L. 1914, ch. 216.*]

6 To each city and union free school district maintaining an academic department, fifty dollars per year for at least thirty-six weeks' instruction or a proportionate amount if for eight weeks or more for each nonresident academic pupil attending the academic department of such school from districts not maintaining such academic departments, and no charge for the instruction of such nonresident pupil in excess of the quota herein provided shall be made by any district or city maintaining an academic department unless it shall appear to the satisfaction of the Commissioner that the tax rate for school purposes of the city or district receiving the nonresident academic pupil is equal to or in excess of the tax rate for school purposes of that district from which such nonresident pupil comes; or that the instruction of such nonresident pupil adds to the total cost of instruction of academic pupils in such city or union free school district a sum in excess of the quota herein provided. Pupils residing in districts not maintaining a four-year curriculum may be included in this apportionment after having completed the course of study prescribed for the school in the district in which they reside. The tuition charged, if any, in excess of the aforesaid state tuition is hereby declared a charge upon the district from which such nonresident pupil attends, subject, however, to the right of such district to designate the academic school or schools where instruction shall be given at the district's expense. Such designation shall be made by each school district at the annual meeting of such district. Such designation may be reviewed upon appeal to the Commissioner of Education in the event the parent or guardian of such pupils deem themselves aggrieved thereby. In case any school district shall fail to make such designation at the annual school meeting, the district superintendent of schools in the supervisory district in which such district is located may make such designation subject to review on appeal by the Commissioner of Education. City and union free school districts shall not refuse to receive nonresident academic pupils for instruction without valid and sufficient reasons therefor, nor shall excessive sums be charged for the instruction of such pupils. All acts of the board of education or other district officers relating to such pupils and the tuition charged for their instruction are hereby declared subject to review by the Commissioner of Education. Where a district is so situated that its academic pupils can be more conveniently instructed in the

academic department of a school located in another state, the Commissioner of Education is hereby authorized to make the same apportionment to such district, annually, to be applied in payment of the tuition of each such academic pupil so instructed outside the State, as he shall be authorized by law to make for the instruction of academic pupils within the State, and upon the same conditions. [*Subdivision 6 amended by L. 1912, ch. 276; L. 1913, ch. 399; L. 1915, ch. 214; L. 1919, ch. 368; L. 1920, ch. 680; and by L. 1921, ch. 383, in effect August 1, 1921.*]

6-a To each city and union free school district maintaining an academic department an apportionment shall be made for the instruction of each nonresident pupil attending such academic department from military reservations located within the boundaries of the State of New York but under the jurisdiction of the United States in the same amount and upon the same conditions as specified in subdivision six of this section. [*Subdivision 6-a added by L. 1920, ch. 501, in effect May 4, 1920.*]

7 After the payment of the allowances herein provided for, the balance shall be divided among the several academies maintaining academic departments, other than high schools and academic departments maintained by cities and union free school districts, on the basis of aggregate days' attendance of academic pupils therein. [*Subdivision 7 amended by L. 1921, ch. 208, in effect April 20, 1921.*]

8 The Commissioner shall set aside at the beginning of the fiscal year a sum which in his opinion will be sufficient to pay the allowances for books and apparatus herein provided before making the other apportionments as directed by this article. The allowances for books and apparatus shall be apportioned and paid as often during each year as the Commissioner may determine. All other apportionments above provided for shall be made so far as possible during the month of October each year on the basis of the reports of the previous year.

9 To entitle a city, academy, academic department or school library to an apportionment from this fund the school authorities having control must render a satisfactory report for the preceding year to the Commissioner of Education before the twentieth day of September in each year unless such neglect is excused by the Commissioner for sufficient reason. They must also have complied with all Regents' laws and ordinances during the preceding academic year.

§ 494 Manner of certifying and paying apportionment provided for in preceding section. Payment from this fund shall

be made to the county treasurer of each county for all schools located in such county, by the State Treasurer on the warrant of the Comptroller or the certificate of the Commissioner of Education. The Commissioner of Education immediately after making an apportionment shall certify, or cause to be certified, to the county treasurer of every county included in such apportionment, excepting those counties included within the territory of the city of New York, with respect to his county, the name of each academy, the number of each school district and the town in which it is situated and the name of each city to which money has been allotted and the amount allotted to each. The county treasurer shall, upon the receipt of such certificate and payment from the State Treasurer, pay to the treasurer, if there be one, otherwise to the disbursing officer or collector of each school district, academy and city named in the certificate of the Commissioner of Education, the amount to which said district, academy or city is entitled as shown by such certificate. Any apportionment which shall be made to the city of New York shall be certified and paid to the chamberlain of the city of New York, and any apportionment which shall be made to any private academy situated within the territory of the city of New York, shall be certified and paid directly to the disbursing officer of the academy to which the apportionment is made. [*Amended by L. 1912, ch. 77.*]

§ 495 **County treasurers to render annual report.** The county treasurers of the State shall, upon the first day of October of each year and at such other times as the Commissioner of Education may require, make a report for the preceding year to the Commissioner of Education, showing the amount of money received by them from this fund and the school districts, cities or academies to which such money has been paid and the amount paid to each, and the amount, if any, remaining in their hands unclaimed by any school district, city or academy together with any other fact relative to the disbursement of this fund which said Commissioner may require.

§ 496 **Certificate of apportionment by Commissioner of Education.** As soon as possible after the making of any annual or general apportionment, the Commissioner of Education shall certify it, or cause it to be certified, to the county clerk, county treasurer, district superintendents, and city treasurer or chamberlain, in every county in the State; and if it be a supplemental apportionment, then to the county clerk, county treasurer and district

superintendents of the county in which the schoolhouse of the district concerned is situated. [*Amended by L. 1912, ch. 77.*]

§ 497 **Moneys apportioned, when and how payable.** At least one-half of the moneys so annually apportioned by the Commissioner of Education shall be payable on or before the first day of March and the remaining part of such moneys on or before the fifteenth day of May, in each year, next after such apportionment, to the treasurers of the several counties and the chamberlain of the city of New York, respectively; and the said treasurers and the chamberlain shall apply for and receive the same as soon as payable. The county treasurer shall pay to the city treasurer of each city and the treasurer of each union free school district having a population of five thousand or more inhabitants and in which a superintendent of schools has been appointed, situated within his county, all school moneys apportioned to such city or district as provided by sections 491, 492 and 604 of this chapter. [*Amended by L. 1914, ch. 52.*]

§ 498 **Apportionment of school moneys by district superintendents.** The district superintendent of schools shall, on or before the fifteenth day of February in each year, apportion the supervision, district and teachers' quotas to the several districts entitled thereto, within his supervisory district, as shown by the certificate of the Commissioner of Education to the said district superintendent. He shall procure from the supervisors of the towns in his district a transcript showing the unexpended moneys in their hands applicable to the payment of teachers' salaries. The amounts in each supervisor's hands shall be charged as a partial payment of the sums apportioned to the town teachers' salaries.

He shall procure from the county treasurer a full list and statement of all payments to him of moneys for or on account of fines and penalties, or accruing from any other source, for the benefit of schools and of the towns or districts for whose benefit the same were received. Such of said moneys as belong to a particular district, he shall set apart and credit to it; and such as belong to the schools of a town he shall set apart and credit to the schools in that town, and shall apportion them together with such as belong to the schools of the county as hereinafter provided for the payment of teachers' salaries.

He shall sign, in duplicate, a certificate, showing the amounts apportioned and set apart to each school district and part of a district, and the towns in which they were situated, and shall forthwith deliver one of said duplicates to the treasurer of the county and transmit the other to the Commissioner of Education.

He shall certify to the supervisor of each town, in his supervisory district the amount of school moneys apportioned to each district or part of a district of his town for teachers' wages. [*Amended by L. 1913, ch. 130.*]

§ 499 **Duty of and payment to supervisor.** On receiving the certificate of the school commissioners, each supervisor shall forthwith make a copy thereof for his own use, and deposit the original in the office of the clerk of his town; and the moneys so apportioned to his town shall be paid to him immediately on his compliance with the requirements of section 363 of this chapter.

§ 500 **Power of Comptroller to withhold payment of school moneys.** The Comptroller may withhold the payment of any moneys to which any county may be entitled from the appropriation of the incomes of the school fund and the United States deposit fund for the support of common schools, until satisfactory evidence shall be furnished to him that all moneys required by law to be raised by taxation upon such county, for the support of schools throughout the State, have been collected and paid or accounted for to the State Treasurer.

§ 501 **Union free school district and city, a school district.** Every union free school district and every city having an organized city system of schools shall, for all the purposes of the apportionment, distribution, payment and withholding of school moneys, be regarded and recognized as a school district.

§ 502 **Apportionment for support of training classes.** The Commissioner of Education shall apportion the money annually appropriated for the support of training of teachers as follows:

1 To each academy and union free school district which has maintained a training class in accordance with the provisions of article thirty-one of this chapter and with the regulations prescribed by the Commissioner of Education, the sum of seven hundred dollars. The Commissioner of Education may in his discretion make an allowance to each academy and union free school district in such amount as he may deem advisable, not greater than the amount herein prescribed, notwithstanding the failure or default of such academy or union free school district in maintaining such training class with the number of members required and for the term prescribed by section 791 of this chapter. [*Subdivision 1 amended by L. 1920, ch. 56, in effect March 23, 1920.*]

2 The balance of the money appropriated for such purpose shall be apportioned to the cities of the State which maintain training schools in accordance with the provisions of articles twenty and

thirty-one of this chapter and with the regulations prescribed by the Commissioner of Education, ratably according to the aggregate attendance of the pupils regularly admitted to such training schools.

ARTICLE 19

Trusts for Schools; Gospel and School Lots

- Section 520 Property to be held in trust for common schools
 521 Control and supervision of trusts for common schools
 522 Report of trusts to Commissioner of Education
 523 Report of supervisor regarding gospel or school lots
 524 Apportionment of gospel funds
 525 Authorization of apportionment of gospel funds
 526 Payment of apportionment of gospel funds
 527 Bond required of collector or treasurer
 528 Application of moneys

§ 520 **Property to be held in trust for common schools.** Real and personal estate may be granted, conveyed, devised, bequeathed and given in trust and in perpetuity or otherwise, to the State, or to the Regents or to the Commissioner of Education for the support or benefit of the common schools, within the State, or within any part or portion of it, or of any particular common schools within it; and to any county, or the school commissioners of any county, or to any city or any board of officers thereof, or to any school commissioner district or its commissioner, or to any town, or supervisor of a town, or to any school district or its trustees, for the support and benefit of common schools within such county, city, school commissioner district, town or school district, or within any part or portion thereof respectively, or for the support and benefit of any particular common schools therein. No such grant, conveyance, devise or bequest shall be held void for the want of a named or competent trustee or donee, but where no trustee or donee, or an incompetent one is named, the title and trust shall vest in the people of the State, subject to its acceptance by the Legislature, but such acceptance shall be presumed.

§ 521 **Control and supervision of trusts for common schools.** The Legislature may control and regulate the execution of all such trusts; and the Commissioner of Education shall supervise and advise the trustees, and hold them to a regular accounting for the trust property and its income and interest at such times, in such forms, and with such authentications, as he shall, from time to time, prescribe.

§ 522 **Report of trusts to Commissioner of Education.** The common council of every city, the board of supervisors of every county, the trustees of every village, the supervisor of every town, the trustees of every school district, and every other officer or person who shall be thereto required by the Commissioner of Education shall report to him whether any, and if any, what trusts are held by them respectively, or by any other body, officer or person to their information or belief for school purposes, and shall transmit, therewith, an authenticated copy of every will, conveyance, instrument or paper embodying or creating the trust; and shall, in like manner, forthwith report to him the creation and terms of every such trust subsequently created.

§ 523 **Report of supervisor regarding gospel or school lots.** Every supervisor of a town shall report to the Commissioner of Education whether there be, within the town, any gospel or school lot, and, if any, shall describe the same, and state to what use, if any, it is put by the town; and whether it be leased, and, if so, to whom, for what term and upon what rents; and whether the town holds or is entitled to any land, moneys or securities arising from any sale of such gospel or school lot, and the investment of the proceeds thereof, or of the rents and income of such lots and investments, and shall report a full statement and account of such lands, moneys and securities.

§ 524 **Apportionment of gospel funds.** It shall be lawful for the supervisor of any town having money arising from the sale of gospel lands, and known as gospel funds, to apportion such funds among the several school districts of his respective town as hereinafter provided.

§ 525 **Authorization of apportionment of gospel funds.** 1 The town board of any town having a gospel fund of five hundred dollars or less may authorize the supervisor of the town to apportion such fund among the several school districts of the town.

2 The voters of any town having a gospel fund of more than five hundred dollars may at any regular or special town meeting authorize the supervisor of the town to apportion such fund among the several school districts of the town.

§ 526 **Payment of apportionment of gospel funds.** When such apportionment is authorized the supervisor shall pay to the collector, or if the district has a treasurer to the treasurer, of the several school districts of his town its pro rata share according to the aggregate school attendance of each school district in the preceding year.

§ 527 Bond required of collector or treasurer. The collector or the treasurer if the district has a treasurer, of each of such school districts shall execute and file with the supervisor of such town a bond of twice the amount of such apportionment with sufficient sureties, to be approved by such supervisor.

§ 528 Application of moneys. Such moneys shall be held by such collector or treasurer and paid upon the written order of the trustee of the district for such purposes as the annual or a special meeting of the district shall direct.

ARTICLE 20

Teachers and Pupils

Section 550 Qualification of teachers

551 Minimum qualifications of teachers in primary and grammar schools

552 Regulations governing certification of teachers

553 Commissioner of Education to issue certificates

554 Indorsement of foreign certificates and diplomas

555 Certification of teachers by local authorities

555-a Additional qualifications of teachers

556 Revocation of certificate by school commissioner

557 Unqualified teachers shall not be paid from school moneys

558 Penalty for payment of unqualified teacher

559 Teachers responsible for record books

560 Verification of school register

561 Contract with teacher

562 Penalty for teacher's failure to complete contract

563 Contract when teacher is related to trustee or member of board

564 Individual liability of trustee

565 Dismissal of teacher

566 Teacher's salary payable as often as monthly

567 Common schools free to resident pupils; tuition from nonresident pupils

568 Removal of superintendents, teachers and employees for treasonable or seditious acts or utterances

§ 550 Qualifications of teachers. No person shall be employed or authorized to teach in the public schools of the State who is:

1 Under the age of eighteen years.

2 Not in possession of a teacher's certificate issued under the authority of this chapter or a diploma issued on the completion of a course in a state normal school of this State or in the state normal college.

3 Not a citizen. The provisions of this subdivision shall not

apply, however, to an alien teacher now or hereafter employed, provided such teacher shall make due application to become a citizen and thereafter within the time prescribed by law shall become a citizen. [*Amended by L. 1918, ch. 158; L. 1919, ch. 120; and L. 1922, ch. 315, in effect March 28, 1922.*]

§ 551 **Minimum qualifications of teachers in primary and grammar schools.** No person shall hereafter be employed or licensed to teach in the primary and grammar schools of any city or school district authorized by law to employ a superintendent of schools who has not had successful experience in teaching for at least three years, or in lieu thereof has not completed:

1 A course in one of the state normal schools of this State or in any approved college, prescribed by the Commissioner of Education. [*Subdivision 1 amended by L. 1920, ch. 155, in effect April 5, 1920.*]

2 An examination for and received a life state certificate issued in this state by a superintendent of public instruction or the commissioner of education.

3 A course of study in a high school or academy of not less than three years approved by the Commissioner of Education or from some institution of learning of equal or higher rank approved by the same authority, and who subsequently to the completion of such course has not graduated from a school for the professional training of teachers having a course of not less than two years approved by the Commissioner of Education or its equivalent.

§ 552 **Regulations governing certification of teachers.** The Commissioner of Education shall prescribe, subject to approval by the Regents, regulations governing the examination and certification of teachers employed in all public schools of the State.

§ 553 **Commissioner of Education to issue certificates.** The Commissioner of Education may issue:

1 A life state certificate upon examinations only which shall entitle its holder to teach for life in the public schools of the State without further examination.

2 Such other certificates as Regents general rules shall prescribe.

3 A temporary license limited to a school district, school commissioner district or city for a period not to exceed one year.

§ 554 **Indorsement of foreign certificates and diplomas.** The Commissioner of Education may in his discretion indorse:

1 A diploma issued by a normal school of another state.

2 A certificate issued by the chief educational officer or state board of another state.

Such indorsement confers on the holder of such diploma or certificate the privileges conferred by law on the holder of a normal school diploma or state certificate issued in this State.

§ 555 **Certification of teachers by local authorities.** A school commissioner, a city superintendent of schools or such other authority of a city as may be designated by a special act or the city charter may issue such certificate as may be authorized by the Regents general rules or by such special act or city charter.

§ 555-a **Additional qualifications of teachers.** 1 In addition to the requirements for teachers and certification prescribed as provided in this article, each teacher employed in the public schools of each city, union free and common school district in the State shall obtain a certificate of qualifications from the Commissioner of Education as herein provided. Such certificate shall state that the teacher holding the same is a person of good moral character and that he has shown satisfactorily that he is loyal and obedient to the government of this State and of the United States; no such certificate shall be issued to any person who, while a citizen of the United States, has advocated, either by word of mouth or in writing, a form of government other than the government of the United States or of this State, or who advocates or has advocated, either by word of mouth or in writing, a change in the form of government of the United States or of this State, by force, violence or any unlawful means.

2 No certificate shall be issued by the Commissioner of Education or by school authorities under any other provision of this article until the applicant therefor shall have been examined and a certificate of qualifications issued as provided in this section.

3 No teacher shall be employed in the public schools of the city, union free and common school districts of this State on and after January first, nineteen hundred and twenty-two, without having obtained a certificate of qualifications as provided in this section.

4 The certificate authorizing a person to teach may be revoked by the Commissioner of Education on the ground that such person is not of good moral character, or if it shall appear to the Commissioner of Education that such person has, while a citizen of the United States, advocated, either by word of mouth or in writing, a form of government other than the government of the United States or of this State, or that such person advocates or has advocated, either by word of mouth or in writing, a change in the form of government of the United States or of this State by force, violence or any unlawful means. [*Added by L. 1921, ch. 666, in*

effect May 9, 1921. The sum of \$15,000 was appropriated by the Legislature to carry out the provisions of this section.]

§ 556 **Revocation of certificate by school commissioner.** A school commissioner shall examine any charge affecting the moral character of any teacher within his district, first giving such teacher reasonable notice of the charge, and an opportunity to defend himself therefrom; and if he find the charge sustained, he shall annul the teacher's certificate, by whomsoever granted, and declare him unfit to teach; and if the teacher holds a certificate of the Commissioner of Education or of a former superintendent of public instruction or a diploma of a state normal school, he shall notify the Commissioner of Education forthwith of such annulment and declaration.

§ 557 **Unqualified teachers shall not be paid from school moneys.** No part of the school moneys apportioned to a district shall be applied to the payment of the salary of an unqualified teacher, nor shall his salary, or any part thereof, be collected by a district tax except as provided in section 491 of this chapter.

§ 558 **Penalty for payment of unqualified teacher.** Any trustee who applies or directs, or consents to the application of any district money to the payment of an unqualified teacher's salary, thereby commits a misdemeanor; and any fine imposed upon him therefor shall be for the benefit of the common schools of the district.

§ 559 **Teachers responsible for record books.** Teachers shall keep, prepare and enter in the books provided for that purpose, the school lists and accounts of attendance herein mentioned, and shall be responsible for their safekeeping and delivery to the clerk of the district at the close of their engagements or terms.

§ 560 **Verification of school register.** 1 Each teacher shall, by his oath or affirmation, verify his entries in the school register provided by the Education Department, and the entries shall constitute the school lists from which the average daily attendance shall be determined. Such oath or affirmation may be taken by the district clerk or trustee, but without charge.

2 A teacher shall not be entitled to his salary for the last month of a term until he shall have so made and verified such entries and the trustees shall not draw on the supervisor, collector or treasurer for any portion of his salary for such month until such oath or affirmation shall have been made.

§ 561 **Contract with teacher.** 1 All trustees of school districts or boards of education who shall employ any teacher to teach shall,

at the time of such employment, make and deliver to such teacher, or cause to be made and delivered, a contract in writing, signed by them, or by some person duly authorized to represent them in the premises, in which the details of the agreement between the parties, and particularly the length of the term of employment, the amount of compensation and the time when such compensation shall be due and payable shall be clearly and definitely set forth.

2 No contract for the employment of a teacher in a district having three or more trustees shall be made for more than one year in advance or for a shorter time than ten weeks unless for the purpose of filling out an unexpired term of school.

3 No contract for the employment of a teacher in a district having a sole trustee shall be made to extend beyond the date of the expiration of the term of office of such trustee. A sole trustee of a school district shall have full power and authority to contract with teachers for the term for which he has been elected any time after the date of the annual meeting at which such trustee was elected.

4 Nor shall any trustee contract with any teacher whose certificate of qualifications shall not cover a period at least as long as that covered by the contract of service. [*Amended by L. 1910, ch. 442.*]

§ 562 **Penalty for teacher's failure to complete contract.** Any failure on the part of a teacher to complete an agreement to teach a term of school without good reason therefor shall be deemed sufficient ground for the revocation of the teacher's certificate.

§ 563 **Contract when teacher is related to trustee or member of board.** 1 No person who is related to any trustee by blood or marriage shall be employed as a teacher, except with the approval of two-thirds of the voters of such district present and voting upon the question at an annual or special meeting of the district.

2 No person who is related by blood or marriage to any member of a board of education shall be employed as a teacher by such board, except upon the consent of two-thirds of the members thereof to be determined at a board meeting and to be entered upon the proceedings of the board.

§ 564 **Individual liability of trustee.** Any person employed in disregard of section 561 or of section 563 shall have no claim for wages against the district, but may enforce the specific contract made against the trustees or board of education consenting to such employment as individuals.

§ 565 **Dismissal of teacher.** No teacher shall be removed during a term of employment unless for neglect of duty, incapacity

to teach, immoral conduct, or other reason which, when appealed to the Commissioner of Education, shall be held by him sufficient cause for such dismissal.

§ 566 **Teacher's salary payable as often as monthly.** The salary of any teacher employed in the public schools of this State shall be due and payable at least as often as at the end of each calendar month of the term of employment.

§ 567 **Common schools free to resident pupils; tuition from nonresident pupils.** 1 A person over five and under twenty-one years of age is entitled to attend the public schools maintained in the district or city in which such person resides without the payment of tuition.

2 Nonresidents of a district, if otherwise competent, may be admitted into the school of a district or city, upon the consent of the trustees, or the board of education, upon terms prescribed by such trustees or board.

3 The school authorities of a district or city must deduct from the tuition of a nonresident pupil whose parent or guardian owns property in such district or city and pays a tax thereon for the support of the schools maintained in such district or city the amount of such tax.

§ 568 **Removal of superintendents, teachers and employees for treasonable or seditious acts or utterances.** A person employed as superintendent of schools, teacher or employee in the public schools, in any city or school district of the State, shall be removed from such position for the utterance of any treasonable or seditious word or words or the doing of any treasonable or seditious act or acts while holding such position. [*Added by L. 1917, ch. 416, in effect May 8, 1917.*]

Savings Banks in Schools

[*Banking Law (L. 1914, ch. 369)*]

§ 279 **Advertisements of unauthorized savings banks and the use of the word "savings" prohibited; exception as to school savings.** 2 The principal or superintendent of any school in the State of New York or any person designated for that purpose by the board of education or other school authority under which such school shall be, or the superintendent or other designated head of any philanthropic agency incorporated for philanthropic purposes, if such agency be so authorized by certificate of the superintendent of banks, may collect from time to time small amounts of savings from the pupils of said school, or from the children or persons under the direction or guidance of such philanthropic agency and deposit the same on the day of collection in some savings bank in the State, or, in villages and cities

in which there is no regularly established savings bank in any savings and loan association, trust company, state or national bank located in the State and having an interest department, and upon the subsequent establishment of a savings bank in such village or city the deposit of such moneys or the continuance of deposits in any savings and loan association, trust company, state or national bank previously used as a depository of school savings shall not be deemed a violation of the provisions of this section. The money so collected shall be placed to the credit of the respective pupils, children or persons from whom the money shall be collected, or if the amount collected at any one time shall be deemed insufficient for the opening of individual accounts, it shall be deposited in the names¹ of said principal, superintendent or head of such philanthropic agency or designated person, in trust to be by him eventually transferred to the credit of the respective pupils, children or persons to whom the same belongs. In the meantime, said principal, superintendent or head of such philanthropic agency or designated person shall furnish to the bank a list giving the names, signatures, addresses, ages, places of birth, parents' names and such other data concerning the respective pupils, children or persons as the savings bank may require, and it shall be lawful to use the words "system of school savings banks" or "school savings banks" or "thrift funds" in circulars, reports and other printed or written matter used in connection with the purposes of this section. [L. 1914, ch. 369, amended by L. 1916, ch. 90; and L. 1920, ch. 128, in effect March 30, 1920.]

ARTICLE 20-a

[Article added by L. 1913, ch. 627]

Medical Inspection

- Section 570 Medical inspection to be provided
- 571 Employment of medical inspectors
- 572 Pupils to furnish health certificates
- 573 Examinations by medical inspectors
- 574 Record of examinations; eye and ear tests
- 575 Existence of contagious diseases; return after illness
- 576 Enforcement of law
- 577 State medical inspection of schools

§ 570 Medical inspection to be provided. Medical inspection shall be provided for all pupils attending the public schools in this State, except in cities of the first class, as provided in this article. Medical inspection shall include the services of a trained registered nurse, if one is employed, and shall also include such services as may be rendered as provided herein in examining pupils for the existence of disease or physical defects and in testing the eyes and ears of such pupils. [Added by L. 1913, ch. 627.]

¹ So in original.

§ 571 **Employment of medical inspectors.** The board of education in each city and union free school district, and the trustee or board of trustees of a common school district, shall employ, at a compensation to be agreed upon by the parties, a competent physician as a medical inspector, to make inspections of pupils attending the public schools in the city or district. If appointed by a board of education of a city such physician shall reside within the city. The physicians so employed shall be legally qualified to practise medicine in this State, and shall have so practised for a period of at least two years immediately prior to such employment. Any such board or trustees may employ one or more school nurses, who shall be registered trained nurses and authorized to practise as such. Such nurses when so employed shall aid the medical inspector of the district and shall perform such duties for the benefit of the public schools as may be prescribed by such inspector.

A medical inspector or school nurse may be employed by the trustees or boards of education of two or more school districts, and the compensation of such inspector, and the expenses incurred in making inspections of pupils as provided herein, shall be borne jointly by such districts, and be apportioned among them according to the assessed valuation of the taxable property therein.

In cities and union free school district having more than five thousand inhabitants, the board of education may employ such additional medical inspectors as may be necessary to properly inspect the pupils in the school in such cities and union free school district.

The trustees of a common school district or the board of education of a union free school district whose boundaries are coterminous with the boundaries of an incorporated village shall, in the employment of medical inspectors, employ the health officer of the town in which such common school district is located or the health officer of such union free school district, so far as may be advantageous to the interests of such district. [*Added by L. 1913, ch. 627, and amended by L. 1916, ch. 182.*]

§ 572 **Pupils to furnish health certificates.** A health certificate shall be furnished by each pupil in the public schools upon his entrance in such schools, and thereafter at the opening of such schools at the beginning of each school year. Each certificate shall be signed by a duly licensed physician who is authorized to practise medicine in this State, and shall describe the condition of the pupil when the examination was made, which shall not be more than thirty days prior to the presentation of such certificate, and state whether such pupil is in a fit condition of bodily health to

permit his or her attendance at the public schools. Such certificate shall be submitted within thirty days to the principal or teacher having charge of the school and shall be filed with the clerk of the district. If such pupil does not present a health certificate as herein required, the principal or teacher in charge of the school shall cause a notice to be sent to the parents of such pupil that if the required health certificate is not furnished within thirty days from the date of such notice, an examination will be made of such pupil as provided herein. [*Added by L. 1913, ch. 627.*]

§ 573 **Examinations by medical inspectors.** Each principal or teacher in charge of a public school shall report to the medical inspector having jurisdiction over such school the names of all pupils who have not furnished health certificates as provided in the preceding section, and the medical inspector shall cause such pupils to be separately and carefully examined and tested to ascertain whether any of them are suffering from defective sight or hearing, or from any other physical disability tending to prevent them from receiving the full benefit of school work, or requiring a modification of such work to prevent injury to the pupils or to receive the best educational results. If it be ascertained upon such test or examination that any of such pupils are inflicted with defective sight or hearing or other physical disability as above described the principal or teacher, having charge of such school, shall notify the parents or other persons with whom such pupils are living, as to the existence of such defects and physical disability. If the parents or guardians are unable or unwilling to provide the necessary relief and treatment for such pupils, such fact shall be reported by the principal or teacher to the medical inspector, whose duty it shall be to provide relief for such pupils. [*Added by L. 1913, ch. 627.*]

§ 574 **Record of examinations; eye and ear tests.** Medical inspectors or principals and teachers in charge of public schools shall make eye and ear tests of the pupils in such schools, at least once in each school year. The State Commissioner of Health shall prescribe the method of making such tests, and shall furnish general instruction in respect to such tests. The Commissioner of Education, after consultation with the State Commissioner of Health, shall prescribe and furnish to the school authorities suitable rules of instruction as to tests and examinations made as provided in this article, together with test cards, blanks, record books and other useful appliances for carrying out the purposes of this article. The Commissioner of Education shall provide for pupils in the normal schools, city training schools and training classes instruction

and practice in the best methods of testing the sight and hearing of children. [*Added by L. 1913, ch. 627.*]

§ 575 **Existence of contagious diseases; return after illness.** Whenever upon investigation a pupil in the public schools shows symptoms of smallpox, scarlet fever, measles, chicken pox, tuberculosis, diphtheria, influenza, tonsilitis, whooping cough, mumps, scabies or trachoma, he shall be excluded from the school and sent to his home immediately, in a safe and proper conveyance, and the health officer of the city or town shall be immediately notified of the existence of such disease. The medical inspector shall examine each pupil returning to a school without a certificate from the health officer of the city or town, or the family physician, after absence on account of illness or from unknown cause.

Such medical inspectors may make such examinations of teachers, janitors and school buildings as in their opinion the protection of the health of the pupils and teachers may require. [*Added by L. 1913, ch. 627.*]

§ 576 **Enforcement of law.** It shall be the duty of the Commissioner of Education to enforce the provisions of this article, and he may adopt such rules and regulations not inconsistent herewith, after consultation with the State Commissioner of Health, for the purpose of carrying into full force and effect the objects and intent of this article.

He may, in his discretion, withhold the public money from a district which wilfully refuses or neglects to comply with this article, and the rules and regulations made hereunder. [*Added by L. 1913, ch. 627.*]

§ 577 **State medical inspection of schools.** The Commissioner of Education shall appoint a competent physician who has been in the actual practice of his profession for a period of at least five years, as state medical inspector of schools. The state medical inspector of schools, under the supervision of the Commissioner of Education, shall perform such duties as may be required for carrying out the provisions of this article. The said medical inspector shall be appointed in the same manner as other employees of the Education Department. [*Added by L. 1913, ch. 627.*]

Provisions of the Public Health Law (L. 1909, ch. 49) relative to the Vaccination of School Children

§ 310 **Vaccination of school children.** 1 A child or person not vaccinated shall not be admitted or received into a school in a city of the first or second class. The board, officers or other person having the charge, management or control of such school shall cause this provision of law to be

enforced. The board of health or other board, commission or officers of such city having jurisdiction of the enforcement of the chapter therein shall provide, at the expense of the city for the vaccination of all pupils of such school whose parents or guardian do not provide vaccination for them.

2 Whenever smallpox exists in any other city or school district, or in the vicinity thereof, and the State Commissioner of Health shall certify in writing to the school authorities in charge of any school or schools in such city or district, it shall become the duty of such school authorities to exclude from such schools every child or person who does not furnish a certificate from a duly licensed physician to the effect that he has successfully vaccinated such child or person with the vaccine virus in the usual manner or that such child or person shows evidence by scar of a successful previous vaccination. Whenever school authorities having the charge, management and control of schools in a district or city cause this provision of law to be enforced the local board of health shall provide for the vaccination of all children whose parents or guardian do not provide such vaccination.

3 The expense incurred, when such vaccination is performed under the direction of the local health authorities, shall be a charge upon the municipality in which the child or person vaccinated resided, and shall be audited and paid in the same manner as other expenses incurred by such municipality are audited and paid. The local boards of health or other health authorities may, in their discretion, provide for the payment of additional compensation to health officers performing such vaccination.¹ [*Amended by L. 1915, ch. 133, in effect March 30, 1915.*]

§ 311 **Vaccination; how made; reports.** 1 No person shall perform vaccination for the prevention of smallpox who is not a regularly licensed physician under the laws of the State. Vaccination shall be preformed¹ in such manner only as shall be prescribed by the State Commissioner of Health.

2 No physician shall use vaccine virus for the prevention of smallpox unless such vaccine virus is produced under license issued by the secretary of the treasury of the United States and is accompanied by a certificate of approval by the State Commissioner of Health, and such vaccine virus shall then be used only within the period of time specified in such approval.

3 Every physician performing a vaccination shall within ten days make a report to the State Commissioner of Health upon a form furnished by such Commissioner setting forth the full name and age of the person vaccinated and, if such person is a minor, the name and address of his parents, the date of vaccination, the date of previous vaccination¹ if possible, the name of the maker of the vaccine virus and the lot or batch number of such vaccine virus. [*Amended by L. 1915, ch. 133, in effect March 30, 1915.*]

ARTICLE 20-b

[*Added by L. 1917, ch. 553, in effect May 18, 1917*]

Children with Retarded Mental Development

Section 578 Children with retarded mental development

579 Assistant mental diagnostician

¹ So in original.

§ 578 **Children with retarded mental development.** 1 The board of education of each city and of each union free school district, and the board of trustees of each school district shall, within one year from the time this act becomes effective, ascertain, under regulations prescribed by the Commissioner of Education and approved by the Regents of the University, the number of children in attendance upon the public schools under its supervision who are three years or more retarded in mental development.

2 The board of education of each city and of each union free school district in which there are ten or more children three years or more retarded in mental development shall establish such special classes of not more than fifteen as may be necessary to provide instruction adapted to the mental attainments of such children.

3 The board of education of each city and of each union free school district, and the board of trustees of each school district which contains less than ten such children may contract with the board of education of another city or school district for the education of such children in special classes organized in the schools of the city or district with which such contract is made. [*Added by L. 1917, ch. 553, in effect May 18, 1917.*]

§ 579 **Assistant mental diagnostician.** There shall be in the Department of Education an assistant mental diagnostician, to be appointed by the Commissioner of Education. He shall receive an annual salary to be fixed by the Commissioner of Education within the amount of moneys appropriated therefor. He shall conduct psychological examinations of backward school children, select children who need special class instruction and perform such other duties as the Commissioner may prescribe. [*Added by L. 1920, ch. 457, in effect May 4, 1920.*]

ARTICLE 21

Contract System

- Section 580 District meeting to authorize contract system
- 581 District or city with which such contract may be made
- 582 Trustees or boards of education may contract to receive such children
- 583 Form of contract
- 584 Validity of contract
- 585 Apportionment to contracting district
- 586 Report of pupils from other districts

§ 580 **District meeting to authorize contract system.** Any school district may decide by a majority vote of the qualified voters present and voting at any district meeting:

1 To contract for the education of all the children of such district in another district or in a city instead of maintaining a home school;

2 To contract for the education of part of the children of such district in another district or in a city and maintain a home school.

§ 581 **District or city with which such contract may be made.**

1 Such contract may be made with one or more districts or cities. The district meeting authorizing such contract may designate the districts or cities with which such contracts may be made.

2 If the district meeting fails to make such designation or if any district or city so designated refuses to make such contract, the trustees of the district authorizing such contract may enter into a contract with a district willing to make such contract.

§ 582 **Trustees or boards of education may contract to receive such children.** The trustees or board of education of any district or city may enter into a contract to receive and educate in the schools of such district or city the children of any district which shall authorize its trustees to contract for the education of its children as provided by section 580 of this chapter.

§ 583 **Form of contract.** Such contract shall be written and in the form prescribed by the Commissioner of Education.

§ 584 **Validity of contract.** Such contract shall not be valid or binding upon either party thereto until a copy thereof is filed with the Commissioner of Education and approved by such Commissioner.

§ 585 **Apportionment to contracting district.** 1 Whenever the period of time for which a district contracts for the education of its children or such period together with the time school is actually taught in said district shall amount to one hundred and eighty days and the contract shall include all the children of school age in such district, such district shall be entitled to receive the apportionments of public money it would receive if it maintained a school. [*Subdivision 1 amended by L. 1921, ch. 387, in effect April 30, 1921.*]

2 Whenever a district maintains a home school and contracts for the education of at least twelve of its children in another district or city it shall be entitled to one teacher's quota in addition to its district quota.

3 No school district operating under the contract system shall receive a greater apportionment than the excess of the total expense incurred in payment of tuition and transportation of pupils over the amount of a tax of one-half of one per centum on the assessed valuation of the district, as shown by the report of the trustee to the district superintendent. [*Subdivision 3 amended by L. 1921, ch. 387, in effect April 30, 1921.*]

4 Whenever a district contracts with another district or a city and such district or city maintains a high school or an academic department, and whenever the expense of the tuition and transportation for the pupils of said district shall exceed the sum of the public school money of the district and the amount of a tax of one-half of one per centum on the assessed valuation of the district, the tuition of the academic pupils attending such high school or academic pupils from such contracting district may be paid by the State as provided by section 493 of this chapter. [*Subdivision 4 added by L. 1915, ch. 194, and amended by L. 1921, ch. 387, in effect April 30, 1921.*]

§ 586 Report of pupils from other districts. The children attending a school under any such contract shall be reported to the Commissioner of Education by the trustees or board of education of the district or city wherein such children attend school as though they were residents of such city or school district.

ARTICLE 22

[*Article amended by L. 1919, ch. 531*]

General Industrial Schools, Unit Trade and Technical Schools, Part-time or Continuation Schools, Practical Arts or Homemaking Schools and Schools of Agriculture, Mechanic Arts and Homemaking

Section 600 General industrial schools, unit trade and technical schools, schools of agriculture, mechanic arts and homemaking, evening vocational schools, practical arts or homemaking schools and¹ may be established in cities

601 Part-time or continuation schools shall be established in cities and school districts

602 Establishment of general industrial schools and unit trade and technical schools, and schools of agriculture, mechanic arts and homemaking, practical arts or homemaking schools, evening vocational schools; directors of agriculture, mechanic arts and homemaking

¹ So in original.

- 603 Appointment of an advisory board
- 604 Authority of the board of education over such schools
- 605 State aid for general industrial schools, unit trade and technical schools, practical arts or homemaking schools, part-time or continuation schools, schools of agriculture, mechanic arts and homemaking and evening vocational schools
- 606 Application of such moneys
- 607 Annual estimate by board of education and appropriations by municipal and school districts
- 608 Courses in schools of agriculture for training of teachers

§ 600 General industrial schools, trade schools and schools of agriculture, mechanic arts and homemaking, may be established in cities. The board of education of any city may establish, acquire, conduct and maintain as a part of the public school system of such city the following:

1 General industrial schools in communities of less than twenty-five thousand inhabitants open to pupils who have completed the elementary school course or who have attained the age of fourteen years; and

2 Unit trade and technical schools open to pupils who have attained the age of fourteen years or who have completed the elementary school course or who have met such other requirements as the Commissioner of Education may have prescribed; and

3 Schools of agriculture, mechanic arts and homemaking, open to pupils who have completed the elementary school course or who have attained the age of fourteen, or who have met such other requirements as the local school authorities may have prescribed; and

4 Practical arts or homemaking schools open to pupils who have completed the elementary school course, or who have attained the age of fourteen years, or who have met such other requirements as the Commissioner of Education may have prescribed. Special requirements may be prescribed for courses conducted in communities of less than twenty-five thousand inhabitants.

5 Evening vocational schools in which instruction shall be given in the trades and in industrial, agricultural and homemaking subjects, and which shall be open to pupils over sixteen years of age, who are regularly and lawfully employed during the day and which provide instruction in subjects related to the practical work carried on in such employment; but such evening vocational schools providing instruction in homemaking shall be open to all women over sixteen years of age who are employed in any capacity during the day.

The word "school," as used in this article, shall include any department or course of instruction established and maintained in a public school for any of the purposes specified in this section. [*Amended by L. 1919, ch. 531, in effect August 1, 1919.*]

§ 601 Part-time or continuation schools shall be established in cities and school districts having a population of five thousand or more inhabitants. *a* The board of education of each city and of each such school district in which there are twenty or more minors above the age of fourteen years and below the age of eighteen years, who are not in regular attendance upon instruction, shall establish and maintain part-time or continuation schools or classes in which such minors shall receive instruction. Such schools or classes may be established in public school buildings, in other buildings especially adapted for their operation, in manufacturing or mercantile establishments and in factories. Such schools or classes, wherever they are established or maintained, shall be under the control and management of the board of education and shall be a part of the public school system of the city or district which maintains them. Courses of study in private or parochial part-time or continuation schools or classes which meet the requirements of the statutes and the regulations prescribed thereunder may be approved by the Commissioner of Education and, when thus approved, attendance thereon shall be accepted for that required under this article.

b Such part-time or continuation schools or classes shall be maintained each year during the full period of time which the public schools of a city or district are in session. The sessions of such part-time or continuation schools or classes shall be on the regular school days and for as many hours between the hours of eight o'clock forenoon and five o'clock afternoon as shall be necessary to provide the required instruction for such minors who reside in said city or district.

c The courses of study in such part-time or continuation schools or classes shall be approved by the Commissioner of Education and shall include among other subjects instruction in American history, the rights and obligations of citizenship, industrial history, economics, the essential features of the laws relating to the industries taught, and shall also include such other subjects as will enlarge the vocational intelligence of such minors.

d The board of education of each city and of each such school district shall make necessary arrangements to begin to operate and

maintain such part-time or continuation schools or classes, on the opening of the public schools in September 1920, and shall annually thereafter in September open and maintain additional schools and classes so that by the opening of the public schools in September 1925, a sufficient number of such schools shall have been established as to afford the required instruction under this article to those minors who are required to attend such schools or classes.

e Each minor under the age of eighteen years, who is not in regular attendance upon a public, private or parochial school or who is regularly and lawfully employed in some occupation or service, unless such minor has completed a four-year secondary course of instruction approved by the Regents of the University, shall attend a part-time or continuation school or class in the city or district in which such minor resides or may be employed. Such attendance shall be for not less than four hours per week and not more than eight hours per week for each week which such school or class is in session except that the school authorities may, subject to the approval of the Commissioner of Education, permit any such minor to increase the number of hours per week of required attendance and decrease the number of weeks of required attendance. Such minor who is temporarily out of regular employment or service shall attend such school not less than twenty hours per week. The attendance upon a part-time or continuation school or class shall be between the hours of eight o'clock forenoon and five o'clock afternoon.

f The Commissioner of Education shall make a survey of each city or district to ascertain the industrial, commercial, economic and social needs of such city or district and the benefits and opportunities to be afforded through the establishment of such part-time or continuation schools or classes to the community and to those who are required to attend such schools or classes. The Industrial Commission and the Commissioner of Agriculture shall cooperate with the Commissioner of Education in making such survey.

g The Regents of the University shall establish regulations to govern and regulate the administration of such part-time or continuation schools or classes and the attendance of minors thereon. To meet local necessities the board of education of each city or school district may establish regulations but such regulations shall not conflict with the regulations adopted by the Regents.

h The parent, guardian or other person having the custody or control of a minor who is required under the provisions of this article to attend a part-time or continuation school or class shall

cause such minor to attend such school or class. A parent, guardian or other person who refuses or fails to comply with this provision of the law shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine of not more than one hundred dollars or by imprisonment for not more than ten days, or both such fine and imprisonment at the discretion of the court. Any minor under seventeen years of age who fails to attend upon instruction as defined by this article shall be subject to the provisions of section 635 of the Education Law. [*Subdivision h amended by L. 1921, ch. 386, in effect September 1, 1921.*]

i Any person, firm or corporation employing a minor between the ages of fourteen years and eighteen years shall permit the attendance of such minor upon a part-time school or class whenever such part-time school or class shall have been established in the city or district where the minor resides or may be employed, and upon the termination of employment of any such minor the employer shall return within three days the employment certificate of such minor by mail to the school authorities, and a person, firm or corporation employing a minor over fourteen years of age and less than eighteen years of age contrary to the provisions of this article shall be subject to a fine of not less than twenty-five dollars and not more than one hundred dollars for each offense or by imprisonment in the city or county jail for not less than five days and not more than ten days, or by such fine and imprisonment at the discretion of the court. A person, firm or corporation, which has in its employ a minor who fails to attend a part-time or continuation school or class as required herein, shall immediately discontinue the services of such minor upon receiving from the school authorities written notice of the failure of such minor to attend such part-time or continuation school or class, and a person, firm or corporation violating this provision of law shall be subject to a fine of fifty dollars for each offense.

j The board of education of each city or district having a population of five thousand or more inhabitants is hereby required to enforce the provisions of this law and the Commissioner of Education is hereby charged with the duty and vested with necessary authority to supervise the enforcement and administration of this act.

k If the authorities of such a city or school district fail or refuse to provide the necessary funds for the establishment and maintenance of such part-time or continuation schools or classes as are required under this law, the city or district shall forfeit from the

funds due such city or district from the State for school purposes an amount equal to that which is estimated by the board of education as necessary to properly operate and maintain such schools or classes. The public or state funds thus forfeited by such city or district shall be apportioned by the Commissioner of Education to the board of education of such city or district for the purpose of maintaining such part-time or continuation schools or classes and the board of education of the city or district receiving such funds shall apply the same toward the maintenance of such schools or classes and in payment of the expenses incurred thereby. [*Amended by L. 1919, ch. 531, in effect August 1, 1919.*]

§ 602 Establishment of general industrial and unit trade and technical schools, and schools of agriculture, mechanic arts and homemaking, practical arts or homemaking schools or evening vocational schools; directors of agriculture, mechanic arts and homemaking. The board of education of any union free school district shall also establish, acquire and maintain general industrial schools, unit trade and technical schools, schools of agriculture, mechanic arts and homemaking, and practical arts or homemaking schools and evening vocational schools for like purposes whenever such schools shall be authorized by a district meeting. The trustees or board of trustees of a common school district may establish a school or a course in agriculture, mechanic arts and homemaking, when authorized by a district meeting. The board of education of a city, town or union free school district, not maintaining a school of agriculture, mechanic arts and homemaking may employ a director of agriculture. The boards of education or trustees of two or more districts or towns may by joint contract employ such a director and determine in such contract as to the portion of the compensation which is to be paid by each district. The qualifications of a person employed as such director shall be prescribed by the Commissioner of Education, as provided by law in respect to teachers employed in public schools of the State. [*Amended by L. 1919, ch. 531, in effect August 1, 1919.*]

§ 603 Appointment of an advisory board. 1 The board of education shall appoint an advisory board of five members representing the local trades, industries, and occupations. In the first instance two of such members shall be appointed for a term of one year and three of such members shall be appointed for a term of two years. Thereafter as the terms of such members shall expire the vacancies caused thereby shall be filled for a full term of two years. Any other vacancy occurring on such board shall be

filled by the appointing power named in this section for the remainder of the unexpired term.

2 It shall be the duty of such advisory board to counsel with and advise the board of education in relation to the powers and duties vested in such board by this chapter. [*Amended by L. 1919, ch. 531, in effect August 1, 1919.*]

§ 604 **Authority of the board of education over such schools.** The board of education in a city or in a union free school district in which city or district a general industrial school, unit trade or technical school, a school of agriculture, mechanic arts and home-making, or practical arts or homemaking school, or a part-time or continuation school, or an evening vocational school is established as provided in this article, is vested with the same power and authority over the management, supervision and control of such school and the teachers or instructors employed therein as such board now has over the schools and teachers under their charge. Such boards of education shall also have full power and authority:

1 To employ competent teachers or instructors.

2 To provide proper courses of study.

3 To purchase or acquire sites and grounds and to purchase, acquire, lease or construct and to repair suitable shops or buildings and to properly equip the same.

4 To purchase necessary machinery, tools, apparatus and supplies. [*Amended by L. 1919, ch. 531, in effect August 1, 1919.*]

§ 605 **State aid for general industrial schools, unit trade and technical schools, part-time or continuation schools, practical arts or homemaking schools, evening vocational schools, and schools of agriculture, mechanic arts and homemaking.** 1 The Commissioner of Education in the annual apportionment of the state school moneys shall apportion therefrom to each city and school district for each general industrial school, unit trade and technical school, part-time or continuation school, practical arts or homemaking school or evening vocational school, maintained therein for thirty-six weeks during the school year and employing one teacher whose work is devoted exclusively to such school, and having an enrolment of such number of pupils as may be required by the Commissioner of Education and maintaining an organization and a course of study, and conducted in a manner approved by him, a sum equal to two-thirds of the salary paid to such teacher, but not exceeding one thousand dollars.

2 He shall also apportion in like manner to each city, union free school district or common school district for each school of

agriculture, mechanic arts and homemaking, maintained therein for thirty-six weeks during the school year, and employing one teacher whose work is devoted exclusively to such school, and such number of pupils as may be required by the Commissioner of Education having an enrolment and maintaining an organization and course of study and conducted in a manner approved by him, a sum equal to two-thirds of the salary paid to such teacher. Such teacher may be employed for the entire year, and during the time that the said school is not open shall be engaged in performing such educational services as may be required by the board of education or trustees, under regulations adopted by the Commissioner of Education. Where a contract is made with a teacher for the entire year and such teacher is employed for such period, as herein provided, the Commissioner of Education shall make an additional apportionment to such city or district of the sum of two hundred dollars. But the total amount apportioned in each year on account of such teacher shall not exceed one thousand dollars.

3 The Commissioner of Education shall also make an additional apportionment to each city and union free school district for each additional teacher employed in the schools mentioned in the preceding subdivisions of this section for thirty-six weeks during the school year, a sum equal to one-half of the salary paid to each such additional teacher, but not exceeding one thousand dollars for each teacher.

4 The Commissioner of Education shall also apportion in like manner to each city, town and school district employing, or joining in the employment of, a director of agriculture, as authorized by section 602 of this chapter, and establishing, maintaining and conducting an organization and course of instruction in such subject, approved by the Commissioner of Education, a sum equal to one-half of the salary paid to such director by such city, town or district, or by two or more of such towns or districts, not exceeding in each year the sum of six hundred dollars for each director employed. Where the apportionment is made on account of a director employed by two or more towns or districts, it shall be apportioned to such towns or districts in accordance with the proportionate amount paid by each of such towns or districts under the contract made with such director.

5 The Commissioner of Education, in his discretion, may apportion to a district or city maintaining such schools or employing such teachers for a shorter time than thirty-six weeks, or for a less time than a regular school day, an amount pro rata to the time

such schools are maintained or such teachers are employed. This section shall not be construed to entitle manual training high schools or other secondary schools maintaining manual training departments, to an apportionment of funds herein provided for.

Any person employed as teacher as provided herein may serve as principal of the school in which the said industrial or trade school or course, or school or course of agriculture, mechanic arts and homemaking, is maintained. [*Amended by L. 1919, ch. 531, in effect August 1, 1919.*]

§ 606 **Application of such moneys.** All moneys apportioned by the Commissioner of Education for schools under this article shall be used exclusively for the payment of the salaries of teachers employed in such schools in the city or district to which such moneys are apportioned. [*Amended by L. 1919, ch. 531, in effect August 1, 1919.*]

§ 607 **Annual estimate by board of education and appropriations by municipal and school districts.** The board of education of each city and the board of education or trustees of each school district which maintains a general industrial school, unit trade or technical school, school of agriculture, mechanic arts and homemaking, part-time or continuation schools, practical arts or homemaking schools or evening vocational schools, shall include in its estimate of expenses pursuant to the provisions of this chapter the amount that will be required to maintain such schools after applying toward the maintenance thereof the amount apportioned therefor by the Commissioner of Education. Such amount shall thereafter be levied, assessed and raised by tax upon the taxable property of the city or district at the time and in the manner that other taxes for school purposes are raised in such city or district. [*Amended by L. 1919, ch. 531, in effect August 1, 1919.*]

§ 608 **Courses in schools of agriculture for training of teachers.** The state schools of agriculture at Saint Lawrence University, at Alfred University and at Morrisville may give courses for the training of teachers in agriculture, mechanic arts, domestic science or homemaking, approved by the Commissioner of Education. Such schools shall be entitled to an apportionment of money as provided in section 605 of this chapter for schools established in union free school districts. Graduates from such approved courses may receive licenses to teach agriculture, mechanic arts and homemaking in the public schools of the State, subject to such rules and regulations as the Commissioner of Education may prescribe. [*Amended by L. 1919, ch. 531, in effect August 1, 1919.*]

FEDERAL AID

An act was passed by Congress, approved February 23, 1917, entitled "An act to provide for the promotion of vocational education; to provide for cooperation with the states in the promotion of such education in agriculture and the trades and industries; to provide for cooperation with the states in the preparation of teachers of vocational subjects, and to appropriate money and regulate its expenditure." This act appropriated an annual amount which will reach an annual maximum of \$7,000,000 in 1926 to be apportioned among the states which accept the conditions under which the apportionment is to be made and provide some official body or officer to cooperate with the federal authorities in carrying into effect the provisions of the act. The act creates officers whose duty it will be to prescribe the instruction to be given in vocational subjects and to aid and encourage the states in promoting vocational education. The State Legislature enacted the following act accepting the terms and provisions of the federal act:

L. 1917, ch. 576.—An act to provide for the acceptance of the benefits of an act passed by the Senate and House of Representatives of the United States of America, in congress assembled, to provide for the promotion of vocational education.

Section 1 The State of New York hereby accepts all of the provisions and the benefits of an act passed by the Senate and House of Representatives of the United States of America, in congress assembled, entitled "An act to provide for the promotion of vocational education; to provide for cooperation with the states in the promotion of such education in agriculture and the trades and industries; to provide for cooperation with the states in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditure," approved February 23, 1917.

§ 2 The State Treasurer is hereby constituted and appointed the custodian of the moneys paid to the State of New York for vocational education, under the provisions of such act, and such moneys shall be paid out in the manner provided by such act for the purposes therein specified.

§ 3 The Regents of The University of the State of New York are hereby designated as the state board for the purpose of carrying into effect the provisions of such act, and are hereby authorized and directed to cooperate with the federal board of vocational education in the administration and enforcement of its provisions, and to perform such official acts and exercise such powers as may be necessary to entitle the State to receive its benefits.

§ 4 This act shall take effect immediately.

NOTE.—The regulations of the Board of Regents provide for the distribution of the funds allotted to New York State to the various cities and districts which maintain the following types of schools (1) unit trade schools, (2) high school departments of vocational agriculture, (3) compulsory part-time or continuation schools; aid is also given to State Schools of Agriculture meeting Federal requirements and to the various State institutions offering approved vocational teacher training courses.

ARTICLE 22-a

[Article added by L. 1915, ch. 307]

Farm Schools in Counties

- Section 610 Establishment of farm schools
 611 Acquisition of lands and erection of buildings
 612 Board of managers
 613 Powers and duties of board
 614 Powers of superintendent; discipline of school
 615 Course of instruction
 616 State aid
 617 Children admitted to such school
 618 Agreements with parents and guardians to pay expense of maintenance; compulsory support
 619 Maintenance by county
 619-a Reports to board of supervisors; inspection
 619-b Powers of Commissioner of Education and State Department of Education

§ 610 **Establishment of farm schools.** The board of supervisors of any county outside of the city of New York may adopt a resolution by a majority vote of the members of the board establishing a farm school for the purpose of giving instruction in the trades and in industrial, agricultural and homemaking subjects to children of the county not more than eighteen nor less than eight years of age who may be admitted thereto as provided by law. [Added by L. 1915, ch. 307.]

§ 611 **Acquisition of lands and erection of buildings.** Upon the adoption of the resolution as provided in the foregoing section the board of supervisors shall purchase land in some conveniently accessible place in the county to be used for the purpose of such school. They may acquire such land by gift, purchase or condemnation. The land when so acquired shall be held in the name of the county for the benefit of such school. Upon the acquisition of such land the board of supervisors shall erect the necessary buildings and suitably equip them for use. Such board may also provide for the improvement of existing buildings and make such repairs and alterations on the buildings upon the land used for the purpose of the school as may be necessary for the maintenance and operation thereof. [Added by L. 1915, ch. 307.]

§ 612 **Board of managers.** The board of managers of such school shall consist of not less than five members and shall be composed of all the city, village and district superintendents of schools

of the county in which it is located, in addition to such other members as may be necessary to make a total membership of such board of not less than five. Such additional members of the board shall be appointed by the board of supervisors from the resident taxpayers of the county, who shall serve for terms of four years commencing on the first day of January succeeding their appointment. Such terms shall be so arranged that the terms of no two of the members so appointed shall expire in the same year, and for this purpose the terms of the members first appointed hereunder shall be as follows: In case one member shall be appointed, the term shall be four years, in case two members shall be appointed, the terms shall be four and two years, respectively, in case three members shall be appointed, the terms shall be four, three and two years, and in case four members shall be appointed, the terms shall be four, three, two and one year, respectively, which terms shall commence on the first day of January succeeding their appointment, and their successors shall be appointed for full terms of four years as above provided. Appointments to fill vacancies shall be for the unexpired portion of the terms. The members of the board shall serve without compensation. They shall receive their necessary expenses incurred in the performance of their duties. The amount of such expenses shall be charged against the county and shall be paid in the same manner as other county charges. The board shall organize by the election of one of its members as chairman and another as secretary. [*Added by L. 1915, ch. 307.*]

§ 613 Powers and duties of board. The board of managers of such school shall be responsible for the operation and maintenance of the school; employ a superintendent and such teachers and assistants as may be required for the operation and maintenance of the school when authorized so to do by the board of supervisors of the county; fix the compensation of such superintendent, teachers and assistants within the amount made available therefor by the said board of supervisors; prescribe rules and regulations for the management of the school and for the purpose of carrying into effect the object thereof; provide for the detention, maintenance and instruction of all children who are admitted to the school. [*Added by L. 1915, ch. 307.*]

§ 614 Powers of superintendent; discipline of school. The superintendent of the school shall, subject to the regulations of the board of managers:

1 Have the general management of the school and the land,

buildings and equipment thereof, and devote his entire time to its affairs;

2 Be responsible for the welfare of pupils of the school and see that the regulations and directions of the board of managers are carried into effect;

3 Supervise and direct the methods of instruction and the performance of duties by the teachers, assistants and employees of such school;

4 Prescribe rules for the government and discipline of the pupils of the school and cause such rules to be enforced;

5 Protect and care for the property of the school;

6 Give special attention to the proper instruction, detention, restraint, discipline, comfort and physical and moral welfare of the pupils of the school, and perform such other duties as may be required of him by the board of managers, with a view of carrying out of the purposes of this article. [*Added by L. 1915, ch. 307.*]

§ 615 **Course of instruction.** The board of managers shall prescribe the courses of instruction to be followed in such school, subject to the approval of the Commissioner of Education. Such instruction shall include instruction in agriculture, mechanic arts, trades and homemaking. The provisions of this chapter and of the regulations of the Education Department relating to vocational instruction in the public schools shall apply to such school so far as they do not conflict with the provisions of this article and may be made applicable thereto. [*Added by L. 1915, ch. 307.*]

§ 616 **State aid.** There shall be annually apportioned to such school from the moneys appropriated by the State Legislature for the support of the public schools of the State the sum of one thousand dollars and an additional sum of two hundred dollars for each teacher employed therein for a period of thirty-six weeks during each school year, whose entire time is given to the instruction of pupils in such school. No such apportionment shall be made unless there are at least fifteen pupils enrolled and actually in attendance at such school during such period of thirty-six weeks, and unless such school maintains an organization and a course of study and is conducted in a manner approved by the Commissioner of Education. [*Added by L. 1915, ch. 307.*]

§ 617 **Children admitted to such school.** Children not more than eighteen nor less than eight years of age may be admitted to or received in such school, either (1) upon the application of the parents or guardians having the legal custody or control of such children, accompanied by the written consent of such parents or

guardians, or (2) upon commitment thereto as truants or incorrigible pupils as provided in section 635 of this chapter, or (3) upon commitment thereto as juvenile delinquents as provided by law, provided that children convicted of crime shall not be committed to such school. Children who have no homes or who are without proper parental control or who are under improper guardianship may be sent to and received in such school, in the same manner and under the same authority as in case of other children who are improperly provided for at home. [*Added by L. 1915, ch. 307.*]

§ 618 **Agreements with parents and guardians to pay expense of maintenance; compulsory support.** The board of managers may make an agreement with the parents or guardian of a child in such school for the payment of an amount therein specified for the instruction and maintenance of such pupil. An application for the admission of a child with the consent of the parents or guardian shall not be granted unless suitable provision be made for the clothing of such child. The amount agreed to be paid for instruction, maintenance and clothing shall be secured to the satisfaction of the board of managers. Such board shall ascertain by investigation the financial ability of parents, guardians, and other persons legally liable for the support of pupils admitted to such school upon commitment, and may demand of such parents, guardians or persons the payment of an amount reasonably sufficient to pay all or a portion of the cost of the instruction, maintenance and clothing of such pupils. The board may proceed against such parents, guardians or persons, by proper suit or proceeding in a court of competent jurisdiction for the recovery of the amount agreed or required to be paid, as herein provided. The amount so recovered, after the payment of the necessary costs and expenses of such suit or proceeding, shall be paid into the treasury of the county, and shall be applied to the payment of the cost of the instruction, maintenance and clothing of such pupils. [*Added by L. 1915, ch. 307.*]

§ 619 **Maintenance by county.** The board of supervisors shall provide for the maintenance of such school, the repair and improvement of the lands and buildings used or occupied thereby, and the equipment thereof with necessary machinery, tools, apparatus and supplies. The cost thereof, and the expenses incurred for such purposes, shall be charges against the county and shall be audited and paid in the same manner as other charges against the county. The maintenance herein provided for shall include the support, instruction, care, board and clothing of pupils and such other expenses as

are necessarily incurred in the operation of the school. [*Added by L. 1915, ch. 307.*]

§ 619-a Reports to board of supervisors; inspection. The board of managers of such school shall report in writing to the board of supervisors of the county when called upon to do so, and shall transmit to the clerk of the board, annually, on or before the thirtieth day of June. Such annual report shall state such facts in respect to the school as the board of managers may deem advisable and as the board of supervisors may require. The board of supervisors may, by a committee or any of its members or appointees, inspect such school, and for such purpose may enter upon the land and into the buildings of such school at all reasonable times. [*Added by L. 1915, ch. 307.*]

§ 619-b Powers of Commissioner of Education and State Department of Education. A school established as provided herein shall be deemed a part of the public school system of the State, and shall be subject to the supervision and control of the Commissioner of Education and the State Department of Education in the same manner as other public schools, and shall not be subject to any of the laws of the State relating to charitable or penal institutions. [*Added by L. 1915, ch. 307.*]

ARTICLE 23

Compulsory Education

- Section 620 Instruction required
- 621 Required attendance upon instruction
 - 622 When a boy is required to attend evening school
 - 623 Instruction elsewhere than at a public school
 - 624 Duties of persons in paternal¹ relation to children
 - 625 Penalty for failure to perform paternal¹ duty
 - 626 Unlawful employment of children and minors
 - 627 Employer must file employment certificates and return certificate to minor or to employment certifying officer
 - 628 Punishment for unlawful employment of children or minors and for children or minors being insubordinate, or disorderly, or unlawfully engaged in the sale or distribution of newspapers, periodicals or magazines
 - 629 Teachers must keep record of attendance
 - 630 School record certificate
 - 631 Issuance of employment certificates, vacation employment certificates, newsboy permit badges
 - 632 Attendance officers

¹ So in original.

Section 633 Arrest of truants

634 Interference with attendance officer

635 Truant schools

636 Enforcement of law and withholding the state moneys by Commissioner of Education

637 Attendance of illiterate minors

638 Certificates of principals or teachers

§ 620 **Instruction required.** The instruction required under this article shall be:

1 At a public elementary school in which at least the nine common school branches of reading, spelling, writing, arithmetic, English language, geography, United States history, civics and hygiene are taught in English.

2 At a public school of higher grade in which the English language and its use and civics are taught in English as part of a regular course of study or of specialized training; or,

3 Elsewhere than a public school upon instruction in the same subjects taught in English, from texts written in English, by a competent teacher. [*Amended by L. 1921, ch. 386, in effect September 1, 1921.*]

§ 621 **Required attendance upon instruction.** 1 Every child within the compulsory school ages as herein prescribed, in proper physical and mental condition to attend school, who resides in a city or school district having a population of four thousand five hundred or more and employing a superintendent of schools, shall regularly attend upon instruction for the entire time during which the schools of such city or district are in session as follows:

a Each child between seven and fourteen years of age.

b Each child between fourteen and sixteen years of age not regularly and lawfully employed. [*Subdivision 1 amended by L. 1917, ch. 563, and L. 1921, ch. 386, in effect September 1, 1921.*]

2 Every such child, residing elsewhere than in a city or school district having a population of four thousand five hundred or more and employing a superintendent of schools, shall attend upon instruction during the entire time that the school in the district shall be in session, as follows:

a Each child between eight and fourteen years of age.

b Each child between fourteen and sixteen years of age not regularly and lawfully engaged in any useful employment or service.

c The period of which any such school shall be in session shall not be less than one hundred and eighty days of actual school. [*Subdivision 2 amended by L. 1913, ch. 511, and L. 1921, ch. 386, in effect September 1, 1921.*]

3 A child within the prescribed ages as provided by this section shall be deemed in proper physical and mental condition to attend upon instruction unless a certificate shall have been issued by the school authorities that the child is not in proper physical and mental condition to so attend. No physical condition which is capable of correction shall avail as a defense under the provisions of this article unless it shall be made to appear that all reasonable measures for the correction of the condition and the suitable instruction of the child have been taken. [*Subdivision 3 as amended by L. 1911, ch. 710 repealed; and subdivision 4 as added by L. 1919, ch. 232 renumbered subdivision 3, by L. 1921, ch. 386, in effect September 1, 1921.*]

§ 622 When a boy is required to attend evening school. [*Section repealed by L. 1919, ch. 531, in effect August 1, 1919.*]

§ 623 Instruction elsewhere than at a public school. If any such child shall so attend upon instruction elsewhere than at a public school, such instruction shall be at least substantially equivalent to the instruction given children of like age at the public school of the city or district in which such child resides; and such attendance shall be for at least as many hours each day thereof as are required of children of like age at public schools; and no greater total amount of holidays or vacations shall be deducted from such attendance during the period such attendance is required than is allowed in such public school to children of like age. Occasional absences from such attendance, not amounting to irregular attendance in the fair meaning of the term, shall be allowed upon such excuses only as would be allowed in like cases by the general rules and practice of such public school.

If a child required to attend upon instruction as provided in this article does not attend at a public, private or parochial school maintained in the city or district in which the parent or guardian of said child resides, such parent or guardian shall upon request furnish satisfactory proof to the local school authorities of said city or district that said child or ward is attending upon lawful instruction elsewhere. [*Amended by L. 1917, ch. 563, in effect May 18, 1917.*]

§ 624 Duties of persons in parental relation to children.
1 Every person in parental relation to a child within the compulsory school ages as prescribed by section 621 of this chapter who is in proper physical and mental condition to attend school, shall cause such child to attend upon instruction, as therein required. [*Subdivision 1 amended by L. 1921, ch. 386, in effect September 1, 1921.*]

2 (a) At the time a child of school age begins to attend upon instruction at a public school or elsewhere, the person in parental relation to such child shall submit to the school authorities or to the person having control or charge of the instruction of such child, as evidence of age, a duly attested transcript of the birth certificate filed according to law with a registrar of vital statistics or other officer charged with the duty of recording births; or a passport; or a duly attested transcript of a certificate of baptism showing the date of birth of such child.

(b) In case no acceptable documentary evidence of age as above required can be produced by the person in parental relation to the child, he shall then make an affidavit showing that such required documentary evidence can not be produced. Such affidavit shall contain the date and place of birth, and the present residence of such child, which affidavit must be taken before an officer of the board of education duly designated by such board for the purpose, and who is hereby authorized and required to administer such oath, and such other oaths as may be necessary by the provisions of this act, and who shall not demand or receive a fee therefor.

(c) Such affidavit shall be filed with the school authorities, and a duly attested transcript thereof shall be furnished upon request to the person having control or charge of the instruction of such child. [*Subdivision 2 amended by L. 1921, ch. 386, in effect September 1, 1921.*]

3 Upon request of the school authorities, the board or department of health shall furnish a duly attested transcript of the birth certificate filed according to law of a child seeking admission to school. Such transcript shall be written in ink or typewritten and shall be kept on file by the school authorities until the child leaves school to take up employment or becomes eighteen years of age. [*Subdivision 3 added by L. 1921, ch. 386, in effect September 1, 1921.*]

§ 625 **Penalty for failure to perform parental duty.** A violation of section 624 shall be a misdemeanor, punishable for the first offense by a fine not exceeding five dollars, or five days' imprisonment, and for each subsequent offense by a fine not exceeding fifty dollars, or by imprisonment not exceeding thirty days, or by both such fine and imprisonment. Courts of special sessions and police magistrates shall, subject to removal as provided in sections 57 and 58 of the Code of Criminal Procedure, have exclusive jurisdiction in the first instance to hear, try and determine charges of violations of this section within their respective jurisdictions. A duly attested

transcript of the record of attendance and absence of a child which has been kept by a teacher, as provided in section 629 of this chapter, shall be accepted as presumptive evidence of the attendance of such child in any proceeding brought under the provisions of this article. [*Amended by L. 1919, ch. 232, in effect April 15, 1919.*]

§ 626 Unlawful employment of children and minors.

A It shall be unlawful when attendance upon instruction is required to employ in any business or service whatever,

1 A child under fourteen years of age,

2 A minor included under the following subdivisions who does not at the time of such employment present an employment certificate issued according to law, namely:

a A minor between fourteen and sixteen years of age,

b After September first, nineteen hundred and twenty-five, in a city having a population of five thousand or more a minor between sixteen and seventeen years of age. [*Subdivision A amended by L. 1921, ch. 386, in effect September 1, 1921.*]

B It shall be unlawful when attendance upon instruction is not required:

1 To employ in any business or service, except as hereinafter provided:

a A child under fourteen years of age.

b A minor between fourteen and sixteen years of age who does not at the time of such employment present a regular employment certificate or a vacation employment certificate issued according to law. A vacation employment certificate shall be valid, however, only for employment on days when attendance upon instruction is not required and only in or in connection with employment in a mercantile establishment or business office or in outdoor work.

2 To employ in the sale or distribution of newspapers, periodicals or magazines or to permit to be employed or engaged in such sale or distribution (*a*) a boy under twelve years of age; (*b*) a girl under sixteen years of age; (*c*) a boy between twelve and sixteen years of age who does not possess a newsboy permit badge issued according to law and not revoked. No such boy shall engage in or be employed in such sale or distribution before six o'clock in the morning nor after eight o'clock in the evening. [*Subdivision B amended by L. 1921, ch. 386, in effect September 1, 1921.*]

C When attendance upon instruction is not required the provisions of this section shall not apply to the employment of children over twelve years of age in farm service or outdoor work not connected with or for a factory or other establishment specified in

section 130 of the labor law and not prohibited or regulated by any provisions of the penal law. [*Subdivision C amended by L. 1921, ch. 386, in effect September 1, 1921.*]

D Every person in parental relation to a child or minor subject to the provisions of this section shall cause such child or minor to comply therewith. [*Subdivision D amended by L. 1921, ch. 386, in effect September 1, 1921.*]

§ 627 Employer must file employment certificates and return certificate to minor or to employment certifying officer. The employer of any minor between fourteen and eighteen years of age in a city or district shall keep and shall file in the place where such minor is employed, the employment certificate or vacation employment certificate of the minor, if such minor is required to obtain such an employment certificate under the provisions of section 626 of this chapter.

Within three days, he shall report to the employment certifying officer the beginning of the minor's employment and upon the surrender of the minor's identification certificate shall return his employment certificate to him and mail his identification certificate to the employment certifying officer, but if the minor terminates his employment without notice or without the surrender of his identification certificate, then the employer shall return at once to the employment certifying officer the minor's employment certificate. In the case of a minor to whom a vacation employment certificate or a general employment certificate for agricultural work only is issued, the employer shall endorse thereon the dates of the beginning and termination of the minor's employment and a description of the work performed. [*Amended by L. 1913, ch. 748; L. 1921, ch. 386; and L. 1922, ch. 464, in effect April 5, 1922.*]

§ 628 Punishment for unlawful employment of children or minors, and for children or minors being insubordinate or disorderly or unlawfully engaged in the sale or distribution of newspapers, periodicals or magazines. 1 Any person, firm or corporation or any officer, manager, superintendent or employee acting therefor who violates the provisions of sections 626 and 627 of this chapter and any person in parental relation to a child or minor included by the provisions of this chapter who does not cause such child or minor to be subordinate and orderly when in attendance upon instruction as required by this chapter and to comply with the provisions of section 626 and 631 of this chapter shall be guilty of a misdemeanor and the punishment therefor shall be for a first offense a fine of not more than fifty dollars; or imprisonment for

not more than ten days; for a second and each subsequent offense, a fine of not more than two hundred dollars or both such fine and imprisonment. A prosecution instituted under this section shall be deemed a bar to prosecution under the provisions of any other statute based on the same state of facts. [*Subdivision 1 amended by L. 1913, ch. 748; L. 1921, ch. 386; and L. 1922, ch. 464, in effect April 5, 1922.*]

2 In case, however, the person in parental relation to such a child or minor establishes to the satisfaction of the court that the child or minor is beyond his control such child or minor shall then be subject to the provisions of section 635 of this chapter, except in respect to unlawful employment, and in the discretion of the school authorities may be proceeded against for violation of this act. [*Subdivision 2 added by L. 1921, ch. 386; and amended by L. 1922, ch. 464, in effect April 5, 1922.*]

3 Attendance officers who are hereby vested with the powers of peace officers for the purpose shall enforce the provisions of this act. [*Subdivision 3 added by L. 1921, ch. 386; and amended by L. 1922, ch. 464, in effect April 5, 1922.*]

§ 629 Teachers must keep record of attendance. An accurate record of the attendance of all children between seven and sixteen years of age shall be kept by the teacher of every school, showing each day by the year, month, day of the month and day of the week, such attendance, and the number of hours in each day thereof; and each teacher upon whose instruction any such child shall attend elsewhere than at school, shall keep a like record of such attendance. Such record shall, at all times, be open to the attendance officers or other person duly authorized by the school authorities of the city or district, who may inspect or copy the same; and every such teacher shall fully answer all inquiries lawfully made by such authorities, inspectors, or other persons, and a wilful neglect or refusal so to answer any such inquiry shall be a misdemeanor.

§ 630 School record certificate. 1 A school record certificate shall be issued to a minor entitled thereto as follows: *a* To a minor between fourteen and fifteen years of age who is a graduate of a public elementary school or parochial school or other school in which the subjects enumerated in section 620 of this chapter are taught as therein required or who holds a preacademic certificate issued by the Regents and who has attended upon lawful instruction for not less than one hundred and thirty days in any of the following periods of twelve months: (1) That between his thirteenth and

fourteenth birthdays; (2) That next preceding graduation; (3) That next preceding his application for the certificate.

b To a minor between fifteen and sixteen years of age who has completed the work prescribed for the first six years of the course of study of a public elementary school, or a parochial school, or a school of equal rank in which the subjects enumerated in section 620 of this chapter are taught as therein required and who has attended upon lawful instruction in the twelve months between his thirteenth and fourteenth birthdays or in the twelve months next preceding his application for said certificate for not less than one hundred and thirty days.

c To a minor between sixteen and seventeen years of age irrespective of his educational attainments and attendance upon instruction.

d Any portion of the one hundred and thirty days' attendance required for the issuance of a school record certificate lacking at the time application for its issuance is made shall, if made up by regular attendance within ninety days thereafter, be regarded as attendance within the prescribed period. [*Subdivision 1 amended by L. 1913, ch. 101; L. 1917, ch. 563; and L. 1921, ch. 386, in effect September 1, 1921.*]

2 The person issuing a school record certificate shall certify the date of birth of the minor, his place of residence, the names of the persons in parental relation to the minor and the other appropriate facts set forth in items *a* and *b* of subdivision one of this section as shown by the school records; but in the case of a minor between sixteen and seventeen years of age, he shall then certify under those items the grade or class reached by the minor; if, however, such a minor is not in attendance upon instruction, or if this and other required information is not readily obtainable then thereupon issuing the school record certificate shall certify the same facts as determined to the best of his ability. [*Subdivision 2 amended by L. 1921, ch. 386, in effect September 1, 1921.*]

3 School record certificate shall be issued only by the following persons:

a In a city of the first class by the principal or chief executive officer of a school.

b In a city or school district having a population of four thousand five hundred or more and employing a superintendent of schools, by the superintendent of schools.

c In all other school districts by the principal teacher of the school.

d During the months of July and August, and at other times in extraordinary and emergency circumstances by one or more public school officials deputized in writing by the superintendent of schools. The school record certificate shall be granted on demand to any minor lawfully entitled thereto. [*Subdivision 3 formerly subdivision 2 in part, amended and renumbered by L. 1921, ch. 386, in effect September 1, 1921.*]

§ 631 Issuance of employment certificates, vacation employment certificates, newsboy permit badges. 1 A general employment certificate shall be valid only for the regular and permanent employment of a minor by the employer named therein except when issued for agricultural work only.

2 A vacation employment certificate and a general employment certificate for agricultural work only shall be valid for the temporary employment of a minor by successive employers.

3 A vacation employment certificate shall be valid for the employment of a minor in a mercantile establishment or business office or in outdoor work when attendance upon instruction is not required but not in a factory nor before morning school hours. It shall be issued at the discretion of the employment certificating officer for a definite period not exceeding five months, but if any such certificate expires between the first day of July and the thirty-first day of August, it shall, notwithstanding, continue in force until the thirty-first day of August of such year.

4 An employment certificate shall not be valid for the employment of a girl under eighteen years of age to deliver messages or articles of any kind outside of the place of her employment.

5 A minor while employed shall keep in his possession the identification certificate issued to him and shall produce it on demand of a representative of the department of labor or of the school authorities.

6 Employment certificates, vacation employment certificates and newsboy permit badges shall be issued only by the following officials: In cities and school districts having a population of four thousand five hundred or more, by the superintendent of schools, elsewhere by the district superintendent; provided that any such superintendent of schools may authorize and deputize in writing one or more public school officials other than attendance officers to act in his stead, as employment certificating officers in accordance with the regulations of the Commissioner of Education. The number of persons so deputized as employment certificating officers, except for the purpose of issuing newsboy permit badges, shall not exceed

the proportion of one for each quarter million of the population or fraction thereof of any such city or school district. A district superintendent under the rules laid down by the Commissioner of Education may deputize in writing such principals of union free schools, school officers, or employees, other than attendance officers as may be necessary to act as employment certificating officers.

7 Procedure. A general employment certificate shall be issued for a minor between fourteen and eighteen years of age in accordance with the following procedure:

A The parent, guardian or custodian of the minor shall make application in person for the issuance of a school record certificate to the principal, chief executive officer of the school which the minor attends or as otherwise provided in section 630 of this chapter.

B The minor shall then present the application of parent, the school record certificate and evidence of age as hereinafter prescribed to the employment certificating officer for examination and approval. If any of these papers are unsatisfactory the employment certificating officer shall reject the applicant. If they are approved and if the minor is under sixteen years of age and is not a graduate of an elementary school course of study, he shall also test the minor as to his ability to read and write simple sentences in the English language, and shall sign and file a statement as to the minor's ability in these respects together with the sentences written by the minor. If the minor fails in the test he shall be rejected, but if he succeeds or if he is not required to take the test, the employment certificating officer shall transmit the evidence of age to the board of health.

C Such board shall designate a medical officer who shall make a thorough physical examination of the minor. He shall record the results of the examination and such other facts concerning the minor's physical condition and history as may be required on the record of physical examination provided for that purpose. If the medical officer shall find that the minor has reached the normal development of a child of his age and is in sound health, he shall then issue to the minor a certificate of physical fitness stating these facts. If he finds the minor to be physically unfit in either of these respects he shall certify these facts and return the evidence of age to the employment certificating officer who shall reject the applicant.

D If the minor receives a certificate of physical fitness and is under sixteen years of age the employment certificating officer shall issue to the minor a statement that an employment certificate will be granted to him upon the presentation of a statement signed by

the prospective employer or by his duly authorized representative that he expects to give the minor present employment and setting forth the character of such employment and the number of hours per day and per week which the minor will be employed and the location of the place of employment.

E Upon the presentation by the minor of the statement signed by the prospective employer or if the minor be more than sixteen years of age upon the receipt of the certificate of physical fitness, the employment certificating officer shall issue to the minor a general employment certificate together with an identification certificate containing the number of the employment certificate and the principal facts entered thereon.

F The employment certificating officer shall sign an employment certificate and the minor to whom it is issued shall sign it in his presence.

8 For the issuance of a general employment certificate for agricultural work only no statement of the prospective employer shall be required; for the issuance of a vacation employment certificate, the school record certificate and the test in reading and writing shall (not)¹ be required, otherwise the foregoing procedure shall be followed.

9 Contents of employment certificate. An employment certificate shall contain the name, place of residence, date of birth, height, color of hair and color of eyes of the minor. Except in the case of a general employment certificate for agricultural work only and a vacation employment certificate it shall also contain the name and place of business of the prospective employer and a description of the work which the minor expects to perform.

10 Reissuance of employment certificates. Any employed minor between fourteen and eighteen years of age for whom an employment certificate is required by the provisions of this chapter, shall obtain a new employment certificate before taking up new employment, except a minor to whom a general employment certificate for agricultural work only or a vacation employment certificate has been issued, and unless he shall be in possession of an employment certificate lawfully issued to him prior to September first, nineteen hundred and twenty-one. He shall be entitled thereto upon the return to the employment certificating officer of the old employment certificate or of his identification certificate and if the minor is between fourteen and sixteen years of age upon the presentation

¹ Word "not" omitted in original.

to such officer of a statement from the prospective employer as hereinbefore provided. But if the employment certificate formerly issued cannot be produced and if the employment certificating officer is satisfied that the minor's application is made in good faith, provided it can be shown that such a certificate had been issued to the minor, then the employment certificating officer may issue to the minor a new employment certificate.

11 Evidence of age. The evidence of age shall show that the child is at least the age required for the issuance of the school record certificate and shall be as follows:

a Birth certificate: passport or baptismal certificate. A certified transcript of the birth certificate filed according to law; a duly certified transcript of a record of baptism or a passport, showing the date of birth of the child.

b Other documentary evidence. If the child appears to the employment certificating officer to be of the required age and can furnish none of the evidence mentioned in subdivision *a* but can furnish other satisfactory documentary evidence of age, such officer may accept such documentary evidence as sufficient as to the age of such child, and shall file a statement showing such facts and the nature of the evidence.

c Physicians' certificates of age. If the child appears in the school records and to the employment certificating officer to be the required age and can furnish no documentary evidence of age, the employment certificating officer may receive an application signed by the child's parent, guardian, or custodian for physicians' certificates as herein provided. The application shall be on file for not less than forty days and shall contain (1) The name, the place and date of birth and the present residence of the child; (2) such further facts as may aid in determining the child's age. If within such period no facts appear to contradict any material statement of such application the officer shall direct the child to appear for physical examination before two physicians who shall be designated by the board of health. If the physicians certify in writing that they have separately examined the child and that the child is at least of the required age, such certificate shall be sufficient evidence of age. If their opinions do not concur the child shall be examined by a third physician similarly designated and the concurring opinions shall be accepted as evidence of the age of the child.

d The employment certificating officer shall require evidence of age in the order designated in this subdivision and shall not accept the evidence permitted in paragraph *b* or *c* of this subdivision unless

he receives and files in addition a statement signed by the child's parent, guardian or custodian that he has made every effort to obtain the evidence specified in the preceding paragraph or paragraphs and that none can be procured.

12 Fee for making physical examinations. Except in a city of the first class and of the second class, a fee not exceeding fifty cents shall be paid to the physician designated by the board of health for the physical examination required by the provisions of this section and this fee shall be a charge against the city, town or village where the child resides.

13 Newsboy permit badge. *a* When the schools are in session a newsboy permit badge shall be issued only on the personal application of the parent, guardian or custodian to the principal of the school the boy attends and the certificate of such principal that the boy is of normal development and physically fit for such employment¹ and is twelve years of age or upwards as shown by the school records, and when the schools are not in session upon the similar certification as complete as may be of the employment certificating officer, who in either case shall file the certificate.

b The newsboy permit badge shall be worn in plain sight whenever the boy to whom it was issued is engaged in the work it authorizes him to do.

14 Revocation of employment certificates and newsboy permit badges. An employment certificate or a newsboy permit badge may be revoked for cause by the superintendent of schools or the district superintendent of schools within their respective jurisdictions.

15 Any person who makes a false statement in or in relation to any employment certificate as to any matters required by this act or in any affidavit, record, transcript or certificate therein provided for, is guilty of an offense, punishable in each case by a fine of not more than a hundred dollars or by imprisonment for not more than sixty days, or by both such fine and imprisonment.

16 The Commissioner of Education is hereby authorized to prescribe the form and content of all certificates and newsboy permit badges required by this chapter except that in the case of the record of physical examination, the approval of the Commissioner of Health shall also be required, and in the case of the employment certificate the approval of the Industrial Commissioner. [*Amended by L. 1913, ch. 748; L. 1921, ch. 386; and L. 1922, ch. 464, in effect April 5, 1922.*]

¹ So in original.

§ 632 Attendance officers. 1 The school authorities of each city, union free school district, or common school district whose limits include in whole or in part an incorporated village, shall appoint and may remove at pleasure one or more attendance officers of such city or district, and shall fix their compensation and may prescribe their duties not inconsistent with this article and make rules and regulations for the performance thereof; and the superintendent of schools shall supervise the enforcement of this article within such city or school district.

2 The town board of each town shall appoint, subject to the written approval of the school commissioner of the district, one or more attendance officers, whose jurisdiction shall extend over all school districts in said town, and which are not by this section otherwise provided for; and shall fix their compensation, which shall be a town charge; and such attendance officers, appointed by said board, shall be removable at the pleasure of the school commissioner in whose commissioner district such town is situated.

§ 633 Arrest of truants. 1 The attendance officer may arrest without a warrant any child between seven and sixteen years of age who is a truant from instruction upon which he is lawfully required to attend within the city or district of such attendance officer. He shall forthwith deliver the child so arrested to a teacher from whom such child is then a truant, or, in case of habitual and incorrigible truants, shall bring them before a police magistrate for commitment to a truant school as provided in section 635.

2 The attendance officer shall promptly report such arrest and the disposition which he makes of such child, to the school authorities of the said city or district where such child is lawfully required to attend upon instruction.

3 A truant officer in the performance of his duties may enter, during business hours, any factory, mercantile or other establishment within the city or school district in which he is appointed and shall be entitled to examine employment certificates or registry of children employed therein on demand.

§ 634 Interference with attendance officer. Any person interfering with an attendance officer in the lawful discharge of his duties and any person owning or operating a factory, mercantile or other establishment who shall refuse on demand to exhibit to such attendance officer the registry of the children employed or the employment certificate of such children shall be guilty of a misdemeanor.

§ 635 Truant schools. 1 The school authorities of any city or school district may establish schools, or set apart separate rooms

in public school buildings, for children between seven and seventeen years of age, who are habitual truants from instruction upon which they are lawfully required to attend, or who are insubordinate or disorderly during their attendance upon such instruction, or irregular in such attendance. Such school or room shall be known as a truant school; but no person convicted of crimes or misdemeanors, other than truancy, shall be committed thereto. [*Subdivision 1 amended by L. 1921, ch. 386, in effect September 1, 1921.*]

2 School authorities may provide for the confinement, maintenance and instruction of any child who is an habitual truant from instruction upon which he is lawfully required to attend, or is insubordinate or disorderly during attendance upon such instruction, or is irregular¹ in such attendance in such schools; and they or the superintendent of schools in any city or school district, may, after reasonable notice to such child and the persons in parental relation to such child, and an opportunity for them to be heard, and with the consent in writing of the persons in parental relation to such child, order such child to attend such school, or to be confined and maintained therein, under such rules and regulations as such authorities may prescribe, for a period not exceeding two years; but in no case shall a child be so confined after he is seventeen years of age. [*Subdivision 2 amended by L. 1917, ch. 563, and L. 1921, ch. 386, in effect September 1, 1921.*]

3 Such authorities may order such a child to be confined and maintained during such period in any private school, orphans' home or similar institution controlled by persons of the same religious faith as the persons in parental relation to such child, and which is willing and able to receive, confine and maintain such child, upon such terms as to compensation as may be agreed upon between such authorities and such private school, orphans' home or similar institution.

4 If the person in parental relation to such child shall not consent to either of such orders said person shall be proceeded against in court under section 625 of this chapter by the school authorities or such officer as they may designate. In case the person in parental relation to such child establishes to the satisfaction of the court that such child is beyond his control such child shall be proceeded against as a disorderly person, and upon conviction thereof, if the child was lawfully required to attend a public school, the child shall be sentenced to be confined and maintained in such truant school

¹ So in original [word misspelled].

for a period not exceeding two years; or if such child was lawfully required to attend upon instruction otherwise than at a public school, the child may be sentenced to be confined and maintained for a period not exceeding two years in such private school, orphans' home or other similar institution, if there be one, controlled by persons of the same religious faith as the persons in parental relation to such child, which is willing and able to receive, confine and maintain such child for a reasonable compensation. Such confinement shall be conducted with a view to the improvement and to the restoration as soon as practicable, of such child to the institution elsewhere, upon which he may be lawfully required to attend.

4-a An habitual truant and a child who, being subject to the provisions of this article, has been lawfully suspended or expelled from school, and is not receiving equivalent instruction elsewhere, as provided by section 623 of this chapter, are hereby declared to be ungovernable children. Any such child may be apprehended by a truant officer of the school district or city where the child resides, or by any peace officer, and brought before a police magistrate having jurisdiction. Notice shall thereupon be given to the child's parent, guardian, or other person standing in parental relation to the child, and upon the submission of satisfactory proof that the child is an habitual truant or that, being subject to this article, he has been lawfully suspended or expelled from school and is not receiving instruction elsewhere, the magistrate may commit such child to a truant school maintained by such district or city, or if no such truant school is maintained, to a private school, orphans' home or other similar institution if there be one, controlled by persons of the same religious faith as the persons in parental relation to such child, which is willing and able to receive, confine and maintain such child for a reasonable compensation. [*Subdivision 4-a added by L. 1917, ch. 563, in effect May 18, 1917.*]

5 The authorities committing any such child, and in cities and districts having a superintendent of schools such superintendent shall have authority, in his discretion, to parole at any time any truant so committed by them.

6 Every child lawfully suspended from attendance upon instruction for more than one week, shall be required to attend such truant school during the period of such suspension.

7 The school authorities of any city or school district, not having a truant school, may contract with any other city or district having a truant school, for the confinement, maintenance and instruction therein of children whom such school authorities might require to

attend a truant school, if there were one in their own city or district.

8 Industrial training shall be furnished in every such truant school.

9 The expense attending the commitment and costs of maintenance of any truant residing in any city, or district, employing a superintendent of schools shall be a charge against such city, or district, and in all other cases shall be a county charge.

§ 636 Enforcement of law and withholding the state moneys by Commissioner of Education. 1 The Commissioner of Education shall supervise the enforcement of this law and he may withhold one-half of all public school moneys from any city or district, which, in his judgment, wilfully omits and refuses to enforce the provisions of this article, after due notice, so often and so long as such wilful omission and refusal shall, in his judgment, continue.

2 If the provisions of this article are complied with at any time within one year from the date on which said moneys were withheld, the moneys so withheld shall be paid over by said Commissioner of Education to such district or city, otherwise forfeited to the State.

§ 637 Attendance of illiterate minors. 1 Every minor, between sixteen and twenty-one years of age, who does not possess such ability to speak, read and write the English language, as is required, for the completion of the fifth grade of the public or private schools of the city or school district in which he resides, shall attend some day or evening school or some school maintained by an employer as hereinafter provided in subdivision 6 of this act, in the city or district in which he resides throughout the entire time such school is in session; provided that no such minor be required to attend, if the Commissioner of Health, or the executive officer of the board or department of health of the city, town, village or district, where such minor resides, or an officer thereof designated by such board, department or commissioner shall deem such minor to be physically or mentally unfit to attend.

2 Any minor subject to the provisions of this section, who wilfully violates any provisions of this section, shall be punished by a fine of not exceeding five dollars.

3 Every person having in his control any minor subject to the provisions of this section shall cause such minor to attend a school as hereby required; and if such person fails for six sessions within a period of one month to cause such minor to so attend school, unless the Commissioner of Health or the executive officer of the board or department of health of the city, town, village or district

where such minor resides or an officer thereof designated by such board, department or commissioner shall certify that such minor's physical or mental condition is such as to render his attendance at school harmful or impracticable, such person shall, upon complaint by a truant officer and conviction thereof, be punished by a fine of not more than twenty dollars.

4 Whoever induces or attempts to induce such minor to absent himself unlawfully from school or employs such minor except as is provided by law, or harbors such who, while school is in session, is absent unlawfully therefrom, shall be punished by a fine of not more than fifty dollars.

5 The employer of any minor subject to the provisions of this section shall procure from such minor and display in the place where such minor is employed the weekly record of regular attendance upon a school and it shall be unlawful for any person to employ any minor subject to the provisions of this section until and unless he procures and displays said weekly record as herein provided. It shall be the duty of the teacher or principal of the school upon which he (such minor) attends to provide each week such minor with a true record of attendance.

6 Any employer may meet the requirements of this act by conducting a class or classes for teaching English and civics to foreign-born in shop, store, plant or factory, under the supervision of the local school authorities, and any minor subject to the provisions of this act may satisfy the requirement by attendance upon such classes. [*Added by L. 1918, ch. 415, in effect May 1, 1918.*]

§ 638 **Certificates of principals or teachers.** Certificates issued by any principal or teacher of schools as to the attendance or nonattendance of any person who should attend such school shall be presumptive evidence of the facts therein stated. [*Added by L. 1919, ch. 303, in effect May 3, 1919.*]

ESTABLISHMENT OF HOME SCHOOLS IN CITIES OF THE SECOND CLASS

L. 1922, ch. 465, in effect April 5, 1922

§ 1 **Establishment of home schools.** The common council of any city of the second class may adopt a resolution by a majority vote establishing a home school for the purpose of giving instructions in the trades, industrial, agricultural and homemaking subjects in addition to instruction in public school subjects to children of the city and other children not more than eighteen years nor less than eight years of age who may be admitted thereto as herein-

after provided. Such school shall be known as the Home School of (Name of city establishing school.)

§ 2 **Acquisition of lands and erection of buildings.** Upon the adoption of the resolution as provided in the foregoing section the city, through its properly constituted officers having power and jurisdiction therein, shall lease or purchase land in some convenient, accessible place in the county in which such city is located and not less than six miles from the center of the city to be used for the purpose of such school. Such land may be acquired by gift, purchase or condemnation. The land when so acquired shall be held in the name of the city for the benefit of such school. Upon acquisition of such land the city shall erect the necessary buildings and suitably equip them for use. Such city may also provide for the improvement of existing buildings and make such repairs and alterations upon the buildings upon the land used for the purposes of the school as may be necessary for the maintenance and operation thereof.

§ 3 **Board of managers.** The board of managers of such school shall consist of not less than five members to be appointed by the mayor of such city and of which board the superintendent of schools in any such city shall be one member *ex-officio*. Members of the board other than the said superintendent shall be appointed from resident taxpayers of the city who shall serve for terms of four years commencing upon the first day of January succeeding the appointment. Such terms will be so arranged that the terms of no two of the members so appointed shall expire in the same year, and for this purpose the terms of members first appointed hereunder shall be as follows: In case one member shall be appointed the term shall be four years; in case two members are appointed the term shall be four and two years respectively; in case three members are appointed the term shall be four, three and two years; in case four members shall be appointed the terms shall be four, three, two and one year respectively. Such term shall commence on the first day of January succeeding the appointment and their successors shall be appointed for a full term of four years as above provided. Appointments to fill vacancies shall be for the unexpired portion of the terms. The members of the board shall serve without compensation. They shall receive their necessary expenses incurred in the performance of their duties. The amount of such expenses shall be charged against the city and paid in the same manner as other city charges. The board shall organize by the election of one of its members as chairman and another as secretary.

§ 4 Powers and duties of managers. The board of managers of such school shall be responsible for the operation and maintenance of the school; employ a superintendent and such teachers and assistants as may be required for the operation and maintenance of the school; fix compensation of such superintendent, teachers and assistants within the amount made available therefor by the board of estimate and apportionment of such city; prescribe rules and regulations for the management of the school and for the purpose of carrying into effect the object thereof; provide for the detention, maintenance and instruction of all children who are admitted to the school. Such board shall on or before the first day of January each year furnish to the mayor estimates in writing of the amount of expenditures for the next fiscal year. All expenses and appropriations for such school shall be subject to the provisions of sections 73, 74, 75, 76 and 77 of second class cities law, and of any and all other provisions of said law applicable thereto.

§ 5 Further powers and duties of board of managers. The board of managers shall have full power to discharge or parole at any time any child admitted to such school. A child under sixteen years of age committed to the school by a court and paroled for good conduct may be arrested and detained in the school for violation of the terms of his parole.

§ 8 Powers of superintendent and discipline of school. The superintendent of the school shall, subject to the regulations of the board of managers:

1 Have the general management of the school, land, buildings and equipment thereof, and devote his entire time to its affairs;

2 Supervise and direct the methods of instruction and the performance of duties by the teachers, assistants and employees of such school;

3 Be responsible for the welfare of the pupils of the school, see that the regulations and directions of the board of managers are carried into effect;

4 Prescribe rules for the government and discipline of the pupils of the school and cause such rules to be enforced. Discipline shall be maintained by the honor system so far as practicable. Close or solitary confinement shall not be used excepting when necessary for the maintenance of proper discipline;

5 Protect and care for the property of the school;

6 Give special attention to the proper instruction, detention, restraint, discipline, comfort, physical and moral welfare of the pupils of the schools and perform such other duties as may be

required of him by the board of managers with a view of carrying out the provisions of this article.

7 Course of instruction. The board of managers shall prescribe the course of instruction to be followed in such school, subject to the approval of the Commissioner of Education. Such instruction shall include instruction in agriculture, mechanic arts, trades and homemaking and in the duties, responsibilities and privileges of citizenship. The provisions of this chapter and of the regulations of the Education Department relating to vocational instruction in the public schools shall apply to such school so far as they do not conflict with the provisions of this article and may be made applicable thereto.

8 State aid. There shall be annually apportioned to such school from the moneys appropriated by the state legislature for the support of the public schools of the state the sum of one thousand dollars and an additional sum of two hundred dollars for each teacher employed therein for a period of thirty-six weeks during each school year, whose entire time is given to the instruction of pupils in such school. No such apportionment shall be made unless there are at least fifteen pupils enrolled and actually in attendance at such school during such period of thirty-six weeks, and unless such school maintains an organization and a course of study, and is conducted in a manner approved by the Commissioner of Education.

§ 9 Children admitted to such school. Children not more than eighteen nor less than eight years of age may be admitted to or received in such school as follows:

1 Upon the application of the parents or guardians having the legal custody and control of such children accompanied by the written consent of such parents and guardians;

2 Truants, incorrigible pupils or coming within any of the descriptions of children mentioned in section 635 of the Education Law upon commitment thereto either by the school authorities or by a court having jurisdiction thereof;

3 Coming within any of the descriptions of children mentioned in sections 485 and 486 of the Penal Law upon commitment thereto by a court;

4 Children under twelve years found guilty of juvenile delinquency;

5 Children over twelve and under sixteen years of age found guilty of juvenile delinquency for the first time and for an offense of a grade not higher than misdemeanor.

Children resident in the city establishing such school duly committed thereto shall be received therein. The board of managers may in their discretion and upon such terms as to payment of expenses as they see fit, admit children resident in the county in which said city is situated or resident in any adjoining county not having a second class city.

§ 10 **Jurisdiction of courts.** Courts having jurisdiction of children shall have power to commit children to the school who are receivable therein as set forth in the foregoing section. Commitments by such courts shall be in accordance with the provisions of the Penal Law and Code of Criminal Procedure applicable thereto. The commitment shall not be for any fixed period of detention. Such detention shall be conducted with a view to the improvement and to the restoration, as soon as practicable, of the child so committed to its home, if after due investigation such home is found to be satisfactory. The provisions of section 486 of the Penal Law as to commitments to institutions shall apply fully to commitments to the school.

§ 11 **Transfer of pupils.** The board of managers shall have full power to transfer to other institutions any child committed by a court found to be incorrigible, not amenable to proper discipline and training of the school or feeble-minded, in the manner and by the methods prescribed and set forth in section 486 of the Penal Law.

§ 12 **Quarantine.** A pupil committed to the school either by court or school authorities upon being received shall be kept separate and apart for a period of not less than seven days. During this time a complete physical and mental examination of such child shall be made by qualified physicians. Such physicians shall make reports in writing to the superintendents stating fully the results of such examinations; such reports shall be kept on file by the superintendent in proper and systematic order.

During the period of such quarantine the superintendent and teachers shall give special attention to the pupil with a view of obtaining knowledge of the child and gaining his confidence.

§ 13 **Agreement with parents and guardians to pay expense of maintenance; compulsory support.** The board of managers may make an agreement with the parents or guardian of a child in such school for the payment of an amount therein specified for the instruction and maintenance of such pupil. An application for the admission of a child with the consent of the parents or guardian shall not be granted unless suitable provision be made for the

clothing of such child. The amount agreed to be paid for instruction, maintenance and clothing shall be secured to the satisfaction of the board of managers. Such board shall ascertain by investigation the financial ability of parents, guardians and other persons legally liable for the support of pupils admitted to such school upon commitment, and may demand of such parents, guardians or persons the payment of an amount reasonably sufficient to pay all or a portion of the cost of instruction, maintenance, and clothing of such pupils. The board may proceed against such parents, guardians or persons, by proper suit or proceeding in a court of competent jurisdiction for the recovery of the amount agreed or required to be paid, as herein provided. The amount so recovered, after the payment of the proper costs and expenses of such suit or proceeding, shall be paid into the treasury of the city, and shall be applied to the payment of the cost of the instruction, maintenance and clothing of such pupils. Such action at law shall be brought in the name of the city by the corporation council thereof.

This provision shall in no way affect the power of the committing court to order payment as provided in section 921-*b* of the Code of Criminal Procedure.

Children committed either by court or school authorities of the city shall be a charge upon such city. Children so committed from outside of the city shall be a charge upon the city, incorporated village or township from which committed.

§ 14 Maintenance by city. The board of estimate and apportionment shall provide for the maintenance of such school, the repair and improvement of the lands and buildings used or occupied thereby, and the equipment thereof with necessary machinery, tools, apparatus and supplies. The cost thereof, and the expenses incurred for such purposes, shall be charged against the city and shall be audited and paid in the same manner as other charges against the city. The maintenance herein provided for shall include the support, instruction, care, board and clothing of pupils and such other expenses as are necessarily incurred in the operation of the school.

§ 15 Report of superintendent. The superintendent of the school shall report annually to the mayor in accordance with the provisions of section 23 of the second class cities law. Such report shall be countersigned by a majority of the board of managers. The mayor shall have power to inspect the school at any time, and may appoint a committee of citizens who shall have power to inspect such school and for such purpose may enter upon the lands and into the buildings of such school at all reasonable times.

§ 16 Powers of Commissioner of Education and State Department of Education. A school established as provided herein shall be deemed a part of the public school system of the State, and shall be subject to the supervision and control of the Commissioner of Education and the State Department of Education in the same manner as other public schools, and shall not be subject to any of the laws of the State relating to charitable or penal institutions.

ARTICLE 24

School Census

Section 650 School census in cities of the first class, except the city of New York

651 School census in cities not of the first class

652 School census in school districts

653 Penalty for withholding information

654 Payment of expenses

§ 650 School census in cities of the first class, except the city of New York. A permanent census board is hereby established in each city of the first class, except the city of New York. In the city of New York provision shall be made by the board of education for taking a school census in connection with the work of enforcing the Compulsory Education Law. Such permanent census board shall consist of the mayor, the superintendent of schools, the police commissioner or officer performing duties similar to those of a police commissioner. The mayor shall be the chairman of such board. Such board shall have power to make such rules and regulations as may be necessary to carry out the provisions of this article. Such board shall have power to appoint a secretary and such clerks and other employees as may be necessary to carry out the provisions of this article and to fix the salaries of the same. Such board shall ascertain through the police force, the residences and employments of all persons between the ages of four and eighteen years residing within such cities and shall report thereon from time to time to the school authorities of such cities. Under the regulations of such board, during the month of October 1909, it shall be the duty of the police commissioners in such cities of the first class to cause a census of the children of their respective cities to be taken. Thereafter such census shall be amended from day to day by the police, precinct by precinct, as changes of residence occur among the children of such cities within the ages prescribed in this article and as other persons come within the ages

prescribed herein and as other persons within such ages shall become residents of such cities, so that said board shall always have on file a complete census of the names and residences of the children between such ages and of the persons in parental relation thereto. It shall be the duty of persons in parental relation to any child residing within the limits of said cities of the first class to report at the police station house of the precinct within which they severally reside, the following information:

1 Two weeks before any child becomes of the compulsory school age the name of such child, its residence, the name of the person or persons in parental relation thereto, and the name and location of the school to which such child is sent as a pupil.

2 In case a child of compulsory school age is for any cause removed from one school and sent to another school, or sent to work in accordance with the labor law, all the facts in relation thereto.

3 In case the residence of a child is removed from one police precinct to another police precinct, the new residence and the other facts required in the two preceding subdivisions.

4 In case a child between the ages of four and eighteen becomes a resident of one of said cities of the first class for the first time the residence and such other facts as the census board shall require. Such census shall include all persons between the ages of four and eighteen years, the day of the month and the year of the birth of each of such persons, their respective residences by street and number, the names of their parents or guardians, such information relating to illiteracy and to the enforcement of the law relating to child labor and compulsory education as the school authorities of the State and of such cities shall require and also such further information as such authorities shall require. [*Amended by L. 1914, ch. 480.*]

§ 651 **School census in cities not of the first class.** The board of education of each city of the second class and of each city of the third class shall constitute a permanent census board in such city. Such board shall, under its regulations, cause a census of the children in its city to be taken and to be amended from day to day so that there shall always be on file with such board a complete census giving the facts and information required in the census provided for in section 650 of the Education Law in cities of the first class. All persons required to give information or make reports under the provisions of section 650 of the Education Law to authorities of cities of the first class shall be required to give

similar information or make similar reports under regulations of the board of education in a city of the second class or a city of the third class. [*Amended by L. 1917, ch. 567, in effect May 18, 1917.*]

§ 652 **School census in school districts.** The trustee or board of trustees of every school district shall annually on the thirtieth day of August cause a census of all children between the ages of five and eighteen to be taken in duplicate in their respective school districts, and one copy thereof filed with the teacher on the first day of school and the other copy filed with the district superintendent on or before the fifteenth day of September. Such census shall include the information required from cities as provided in this article. [*Amended by L. 1919, ch. 100, in effect March 27, 1919.*]

§ 653 **Penalty for withholding information.** A parent, guardian or other person having under his control or charge a child between the ages of four and eighteen years who withholds or refuses to give information in his possession relating to such child and required under this article, or any such parent, guardian or other person who gives false information in relation thereto, shall be liable to and punished by a fine not exceeding twenty dollars or by imprisonment not exceeding thirty days.

§ 654 **Payment of expenses.** The money required for the purpose of carrying this article into effect shall be paid by the cities and school districts respectively, included in the provisions of this article, but, in cities in which a permanent census board as provided in section 650 of this chapter is not established and maintained, except the city of New York, and in school districts, such moneys shall be paid for the services rendered in the taking of the school census, on the certificate of the State Commissioner of Education that such census has been satisfactorily taken. [*Amended by L. 1914, ch. 480.*]

ARTICLE 25

Textbooks

- Section 670 Power to designate textbooks
- 671 Requisites for change
- 672 Penalty for violation
- 673 Free textbooks in union free school districts
- 674 Textbooks containing seditious or disloyal matter

§ 670 **Power to designate textbooks; purchase of textbooks and supplies for sale or rental.** 1 In the several cities and union

free school districts of the State, boards of education or such body or officer as perform the functions of such boards, shall designate textbooks to be used in the schools under their charge.

2 In the common school districts in the State the textbooks used in the schools therein shall be designated at an annual school meeting by a two-thirds vote of all the legal voters present and voting at such school meeting.

3 In the several cities and union free school districts of the State, boards of education or other school authorities may purchase textbooks and supplies and either rent or sell the same to the pupils attending the public schools in such cities and union free school districts upon such terms and under such rules and regulations as may be prescribed by such boards of education or other school authorities. [*Amended by L. 1918, ch. 379, in effect April 30, 1918.*]

§ 671 **Requisites for change.** 1 When a textbook shall have been designated for use in a union free school district or city as provided in subdivision 1 of the preceding section, it shall not be lawful to supersede such textbook by any other book within a period of five years from the time of such designation except upon a three-fourths vote of the board of education, or of such body or officer as performs the function of such board.

2 When a textbook shall have been designated in any common school district as provided in subdivision 2 of the preceding section it shall not be lawful to supersede such textbook except upon a three-fourths vote of the legal voters present and voting upon such proposition at an annual meeting of such district.

§ 672 **Penalty for violation.** Any person violating any of the provisions of this article shall be liable to a penalty of not less than fifty dollars nor more than one hundred dollars for every such violation, to be sued for by any taxpayer of the school district, and recovered before any justice of the peace and when collected, to be paid to the collector or treasurer for the benefit of said school district.

§ 673 **Free textbooks in union free school districts.** 1 The qualified voters of any union free school district present at any annual school meeting or at any special school meeting duly and legally called for the purpose, shall have power, by a majority vote, to be ascertained by taking and recording the ayes and noes, to vote a tax for the purchase of all textbooks used, or to be used, in the schools of the district.

2 If such tax shall be voted it shall be the duty of the board of education of such district, within ninety days thereafter, to purchase and furnish free textbooks to all the pupils attending the schools in such district. Such board of education shall have power to establish such rules and regulations concerning the use by the pupils of such textbooks, and the care, preservation and custody thereof as it shall deem necessary.

§ 674 Textbooks containing seditious or disloyal matter. No textbook in any subject used in the public schools in this State shall contain any matter or statements of any kind which are seditious in character, disloyal to the United States or favorable to the cause of any foreign country with which the United States is now at war. A commission is hereby created, consisting of the Commissioner of Education and of two persons to be designated by the Regents of The University of the State of New York, whose duty it shall be on complaint to examine textbooks used in the public schools of the State, in the subjects of civics, economics, English, history, language and literature, for the purpose of determining whether such textbooks contain any matter or statements of any kind which are seditious in character, disloyal to the United States or favorable to the cause of any foreign country with which the United States is now at war. Any person may present a written complaint to such commission that a textbook in any of the aforesaid subjects for use in the public schools of this State or offered for sale for use in the public schools of this State contains matter or statements in violation of this section, specifying such matter or statements in detail. If the commission determine that the textbook against which complaint is made contains any such matter or statements, it shall issue a certificate disapproving the use of such textbook in the public schools of this State, together with a statement of the reasons for its disapproval, specifying the matter found unlawful. Such certificate of disapproval of a textbook, with a detailed statement of the reasons for its disapproval, shall be duly forwarded to the boards of education or other boards or authorities having jurisdiction of the public schools of the cities, towns or school districts of this State, and after the receipt of such certificate the use of a textbook so disapproved shall be discontinued in such city, town or school district.

Any contract hereafter made by any such board of education or other school authorities for the purchase of a textbook in any of such subjects, which has been so disapproved, shall be void. Any school officer or teacher who permits a textbook in any of such

subjects, which has been so disapproved, to be used in the public schools of the State, shall be guilty of a misdemeanor. [*Added by L. 1918, ch. 246, in effect April 17, 1918.*]

ARTICLE 26

Physiology and Hygiene

Section 690 Instruction regarding nature of alcoholic drinks

691 Enforcement of last section

§ 690 **Instruction regarding nature of alcoholic drinks.** 1 The nature of alcoholic drinks and other narcotics and their effects on the human system shall be taught in connection with the various divisions of physiology and hygiene, as thoroughly as are other branches in all schools under state control, or supported wholly or in part by public money of the State, and also in all schools connected with reformatory institutions.

2 All pupils in the above-mentioned schools below the second year of the high school and above the third year of school work computing from the beginning of the lowest primary, not kindergarten, year, or in corresponding classes of ungraded schools, shall be taught and shall study this subject every year with suitable textbooks in the hands of all pupils, for not less than three lessons a week for ten or more weeks, or the equivalent of the same in each year, and must pass satisfactory tests in this as in other studies before promotion to the next succeeding year's work; except that, where there are nine or more school years below the high school, the study may be omitted in all years above the eighth year and below the high school, by such pupils as have passed the required tests of the eighth year.

3 In all schools above-mentioned, all pupils in the lowest three primary, not kindergarten, school years or in corresponding classes in ungraded schools shall each year be instructed in this subject orally for not less than two lessons a week for ten weeks, or the equivalent of the same in each year, by teachers using textbooks adapted for such oral instruction as a guide and standard, and such pupils must pass such tests in this as may be required in other studies before promotion to the next succeeding year's work. Nothing in this article shall be construed as prohibiting or requiring the teaching of this subject in kindergarten schools.

4 The local school authorities shall provide needed facilities and definite time and place for this branch in the regular courses of study.

5 The textbooks in the pupils' hands shall be graded to the capacities of fourth year, intermediate, grammar and high school pupils, or to corresponding classes in ungraded schools. For students below high school grade, such textbooks shall give at least one-fifth their space, and for students of high school grade, shall give not less than twenty pages to the nature and effects of alcoholic drinks and other narcotics. This subject must be treated in the textbooks in connection with the various divisions of physiology and hygiene, and pages on this subject in a separate chapter at the end of the books shall not be counted in determining the minimum. No textbook on physiology not conforming to this article shall be used in the public schools.

6 All Regents' examinations in physiology and hygiene shall include a due proportion of questions on the nature of alcoholic drinks and other narcotics, and their effects on the human system.

§ 691 Enforcement of last section. 1 In all normal schools, teachers' training classes and teachers institutes, adequate time and attention shall be given to instruction in the best methods of teaching this branch, and no teacher shall be licensed who has not passed a satisfactory examination in the subject and the best methods of teaching it. On satisfactory evidence that any teacher has wilfully refused to teach this subject, as provided in this article, the Commissioner of Education shall revoke the license of such teacher.

2 No public money of the State shall be apportioned by the Commissioner of Education or paid for the benefit of any city until the superintendent of schools therein shall have filed with the treasurer or chamberlain of such city an affidavit, and with the Commissioner of Education a duplicate of such affidavit, that he has made thorough investigation as to the facts, and that to the best of his knowledge, information and belief, all the provisions of this article have been complied with in all the schools under his supervision in such city during the last preceding legal school year.

3 Nor shall any public money of the State be apportioned by the Commissioner of Education or by school commissioners, or paid for the benefit of any school district, until the president of the board of trustees, or in the case of common school districts the trustee or some one member of the board of trustees, shall have filed with the school commissioner having jurisdiction an affidavit that he has made thorough investigation as to the facts

and that to the best of his knowledge, information and belief, all the provisions of this article have been complied with in such district, which affidavit shall be included in the trustees' annual report.

4 It shall be the duty of every school commissioner to file with the Commissioner of Education an affidavit in connection with his annual report, showing all districts in his jurisdiction that have and those that have not complied with all the provisions of this article, according to the best of his knowledge, information and belief, based upon a thorough investigation by him as to the facts.

5 Nor shall any public money of the State be apportioned or paid for the benefit of any teachers' training class, teachers institute or other school mentioned herein until the officer having jurisdiction or supervision thereof shall have filed with the Commissioner of Education an affidavit that he has made thorough investigation as to the facts and that to the best of his knowledge, information and belief, all the provisions of this article relative thereto have been complied with.

6 The principal of each normal school in the State shall at the close of each school year file with the Commissioner of Education an affidavit that all the provisions of this article applicable thereto have been complied with during the school year just terminated and until such affidavit shall be filed no warrant shall be issued by the Commissioner of Education for the payment by the treasurer of any part of the money appropriated for such school.

7 It shall be the duty of the Commissioner of Education to provide blank forms of affidavit required herein for use by the local school officers, and he shall include in his annual report a statement showing every school, city or district which has failed to comply with all the provisions of this article during the preceding school year.

8 On complaint by appeal to the Commissioner of Education by any patron of the schools mentioned in the last preceding section or by any citizen that any provision of this article has not been complied with in any city or district, the Commissioner of Education shall make immediate investigation, and on satisfactory evidence of the truth of such complaint, shall thereupon and thereafter withhold all public money of the State to which such city or district would otherwise be entitled, until all the provisions of this article shall be complied with in said city or district, and shall exercise his power of reclamation and deduction under section 491 of this chapter.

ARTICLE 26-a

[Article added by L. 1916, ch. 567, in effect May 15, 1916]

Discipline and Physical Training

- Section 695 Instruction in physical training and kindred subjects
- 696 Rules of Regents
- 697 State aid for teachers employed
- 698 Use of armories for physical training

§ 695 **Instruction in physical training and kindred subjects.** All male and female pupils above the age of eight years in all elementary and secondary schools shall receive as part of the prescribed courses of instruction therein such physical training under the direction of the Commissioner of Education as the Regents may determine, during periods which shall average at least twenty minutes in each school day. Pupils above such age attending the public schools shall be required to attend upon such prescribed courses of instruction.

The board of education or trustees of every school district in a city and every union free school district regularly employing twenty or more teachers shall employ a teacher or teachers qualified and duly licensed under the regulations of the Regents to give such instruction; in every other district of the State, they shall require such instruction to be given by the teacher or teachers regularly employed to give instruction in other subjects or by a teacher or teachers qualified and duly licensed under the regulations of the Regents. The boards of education or trustees of two or more contiguous districts in the same supervisory district, however, may join in the employment of a teacher qualified and duly licensed under the regulations of the Regents to give such instruction; and the salary of such teacher and the expenses incurred on account of such instruction shall be apportioned by the district superintendent among such districts according to the assessed valuation thereof, and as so apportioned shall be a charge upon each of such districts. Similar courses of instruction shall be prescribed and maintained in private schools in the State, and all pupils in such schools over eight years of age shall attend upon such courses; and if such courses are not so established and maintained in any private school, attendance upon instruction in such school shall not be deemed substantially equivalent to instruction given to children of like ages in the public school or schools of the city or district in which the

child resides. [*Amended by L. 1918, ch. 442 and L. 1921, chs. 211 and 389, in effect July 1, 1921.*]

§ 696 **Rules of Regents.** It shall be the duty of the Regents to adopt rules determining the subjects to be included in courses of physical training provided for in this article, the period of instruction in each of such courses, the qualifications of teachers, and the attendance upon such courses of instruction. [*Added by L. 1916, ch. 567 and amended by L. 1921, chs. 211 and 389, in effect July 1, 1921.*]

§ 697 **State aid for teachers employed.** The Commissioner of Education, in the annual apportionment of state school moneys, shall apportion therefrom to each city and school district on account of courses of instruction as provided in this article, established and maintained in the schools of such city or district during the school year or any part thereof, a sum equal to one-half of the salary paid to each teacher qualified and duly licensed under the regulations of the Regents to give instruction in such courses, but the entire amount apportioned on account of a single teacher during a school year shall not exceed six hundred dollars. Such apportionments shall be made out of moneys to be appropriated therefor, subject to the provisions of law relative to apportionments of public money to the public schools of the State. Such apportionments shall not be made unless such courses of instruction shall be approved by the Commissioner of Education and the instruction therein shall meet the standards prescribed and conform to the provisions of this article and the rules of the Regents of the University in respect thereto. If two or more districts shall jointly employ a teacher thus qualified to give such courses of instruction, the Commissioner of Education shall apportion a like amount on account of the salary paid to the teacher, which shall be apportioned to the school districts in accordance with the amount required to be paid by each district for the maintenance of such courses of instruction. [*Amended by L. 1918, ch. 442.*]

§ 698 **Use of armories for physical training.** The physical training hereinbefore provided for, may be given, when practicable, in any armory of the State where such armory is within convenient distance from the school, and at such times and in such manner as not to interfere with the regular military uses of such armory. The commanding officer in charge of any such armory shall, upon application made by any board of education or trustees of the several cities and school districts within the State, permit access to

any such armory, for the purposes herein mentioned. [*Added by L. 1919, ch. 112, in effect March 27, 1919.*]

ARTICLE 26-b

[*Added by L. 1917 ch. 210, in effect April 19, 1917*]

Section 700 Instruction in the humane treatment of animals and birds

§ 700 **Instruction in the humane treatment of animals and birds.** The officer, board or commission authorized or required to prescribe courses of instruction shall cause instruction to be given in every elementary school under state control or supported wholly or partly by public money of the State, in the humane treatment and protection of animals and birds and the importance of the part they play in the economy of nature. Such instruction shall be for such period of time during each school year as the Board of Regents may prescribe and may be joined with work in literature, reading, language, nature study or ethnology. Such weekly instruction may be divided into two or more periods. A school district shall not be entitled to participate in the public school money on account of any school or the attendance at any school subject to the provisions of this section, if the instruction required hereby is not given therein. The Commissioner of Education shall, pursuant to this act, cause the consideration of the humane treatment of animals and birds to be included in the program of teachers' institutes. [*Added by L. 1917, ch. 210, in effect April 19, 1917.*]

ARTICLE 26-c

[*Article added by L. 1918, ch. 241, in effect April 17, 1918*]

Instruction in Patriotism and Citizenship

Section 705 Courses of instruction in patriotism and citizenship

706 Rules prescribing courses; inspection and supervision; enforcement

§ 705 **Courses of instruction in patriotism and citizenship.** In order to promote a spirit of patriotic and civic service and obligation and to foster in the children of the State moral and intellectual qualities which are essential in preparing to meet the obligations of citizenship in peace or in war, the Regents of The University of the State of New York shall prescribe courses of

instruction in patriotism and citizenship, to be maintained and followed in all the schools of the State. The boards of education and trustees of the several cities and school districts of the State shall require instruction to be given in such courses, by the teachers employed in the schools therein. All pupils attending such schools, over the age of eight years, shall attend upon such instruction.

Similar courses of instruction shall be prescribed and maintained in private schools in the State, and all pupils in such schools over eight years of age shall attend upon such courses. If such courses are not so established and maintained in a private school, attendance upon instruction in such school shall not be deemed substantially equivalent to instruction given to pupils of like age in the public schools of the city or district in which such pupils reside. [*Added by L. 1918, ch. 241, in effect April 17, 1918.*]

§ 706 Rules prescribing courses; inspection and supervision; enforcement. The Regents of The University of the State of New York shall determine the subjects to be included in such courses of instruction in patriotism and citizenship, and the period of instruction in each of the grades in such subjects. They shall adopt rules providing for attendance upon such instruction and for such other matters as are required for carrying into effect the objects and purposes of this article. The Commissioner of Education shall be responsible for the enforcement of this article and shall cause to be inspected and supervise the instruction to be given in such subjects. The Commissioner may, in his discretion, cause all or a portion of the public school money to be apportioned to a district or city to be withheld for failure of the school authorities of such district or city to provide instruction in such courses and to compel attendance upon such instruction, as herein prescribed, and for a noncompliance with the rules of the Regents adopted as herein provided. [*Added by L. 1918, ch. 241, in effect April 17, 1918.*]

ARTICLE 27

The Flag

Section 710 Purchase and display of flag

711 Rules and regulations

712 Commissioner of Education shall prepare program

713 Military drill excluded

§ 710 Purchase and display of flag. It shall be the duty of the school authorities of every public school in the several cities and

school districts of the State to purchase a United States flag, flag-staff and the necessary appliances therefor, and to display such flag upon or near the public school building during school hours, and at such other times as such school authorities may direct.

§ 711 **Rules and regulations.** The said school authorities shall establish rules and regulations for the proper custody, care and display of the flag, and when the weather will not permit it to be otherwise displayed, it shall be placed conspicuously in the principal room in the schoolhouse.

§ 712 **Commissioner of Education shall prepare program.**
1 It shall be the duty of the Commissioner of Education to prepare, for the use of the public schools of the State, a program providing for a salute to the flag and such other patriotic exercises as may be deemed by him to be expedient, under such regulations and instructions as may best meet the varied requirements of the different grades in such schools.

2 It shall also be his duty to make special provision for the observance in the public schools of Lincoln's birthday, Washington's birthday, Memorial day and Flag day, and such other legal holidays of like character as may be hereafter designated by law when the Legislature makes an appropriation therefor.

§ 713 **Military drill excluded.** Nothing herein contained shall be construed to authorize military instruction or drill in the public schools during school hours.

ARTICLE 28

Fire Drills

Section 730 Duty to maintain drills

731 Penalty for neglect

732 Duty to instruct teachers

733 Not applicable to colleges or universities.

§ 730 **Duty to maintain drills.** It shall be the duty of the principal or other person in charge of every public or private school or educational institution within the State, having more than one hundred pupils, or maintained in a building two or more stories high to instruct and train the pupils by means of drills, so that they may in a sudden emergency be able to leave the school building in the shortest possible time and without confusion or panic. Such drills or rapid dismissals shall be held at least once in each month.

§ 731 **Penalty for neglect.** Neglect by any principal or other person in charge of any public or private school or educational institution to comply with the provisions of this article shall be a misdemeanor punishable at the discretion of the court by fine not exceeding fifty dollars; such fine to be paid to the pension fund of the local fire department where there is such a fund.

§ 732 **Duty to instruct teachers.** It shall be the duty of the board of education or school board or other body having control of the schools in any district or city to cause a copy of this article to be printed in the manual or handbook prepared for the guidance of teachers, where such manual or handbook is in use or may hereafter come into use.

§ 733 **Not applicable to colleges or universities.** The provisions of this article shall not apply to colleges or universities.

ARTICLE 29

Arbor Day

Section 750 Arbor Day

751 Manner of observance

752 Prescribed course of exercises

§ 750 **Arbor Day.** The Commissioner of Education shall designate by proclamation, annually, the day to be observed as Arbor Day. [*Amended by L. 1916, ch. 220.*]

§ 751 **Manner of observance.** It shall be the duty of the authorities of every public school in this State to assemble the pupils in their charge on that day in the school building, or elsewhere, as they may deem proper, and to provide for and conduct, under the general supervision of the city superintendent or the school commissioner, or other chief officers having the general oversight of the public schools in each city or district, such exercises as shall tend to encourage the planting, protection and preservation of trees and shrubs, and an acquaintance with the best methods to be adopted to accomplish such results.

§ 752 **Prescribed course of exercises.** The Commissioner of Education may prescribe from time to time a course of exercises and instruction in the subjects hereinbefore mentioned, which shall be adopted and observed by the public school authorities on Arbor Day. Upon receipt of copies of such course sufficient in number to supply all the schools under their supervision, the school com-

missioner or city superintendent aforesaid shall promptly provide each of the schools under his charge with a copy, and cause it to be observed.

ARTICLE 30

Teachers Institute

Section 770 Duties of Commissioner of Education regarding teachers institutes

771 Duties of school commissioners

772 Schools must be closed

773 Penalty for failure to attend or to close schools

774 Teachers must attend; entitled to salaries

775 Payment of expenses

776 Compensation and expenses of teachers attending institute or conference

§ 770 Duties of Commissioner of Education regarding teachers institutes. It shall be the duty of the Commissioner of Education:

1 To appoint a teachers institute once in each year in each school commissioner district of the State, for the benefit and instruction of the teachers in the public schools, and of such as intend to become teachers, with special reference to the presentation of subjects relating to the principles of education and methods of instruction in the various branches of study pursued in the schools. After consultation with the school commissioners, the said Commissioner of Education shall have power to determine the duration of each institute and to designate the time and place of holding the same.

2 To employ suitable persons, at a reasonable compensation, to supervise and conduct the institutes, and, in his discretion, to provide for such additional instruction as he may deem advisable and for the best interests of the schools.

3 To appoint in his discretion an institute for two or more school commissioner districts.

4 To establish such regulations for the government of institutes as he may deem best; and he may establish such regulations in regard to certificates of qualification or recommendation which may be issued by school commissioners as will, in his judgment, furnish incentives and encouragement to teachers to attend the institutes.

5 To visit the institutes, or cause them to be visited by representatives of the Education Department, for the purpose of examining into the course and character of instruction given, and of rendering such assistance as he may find expedient.

§ 771 Duties of school commissioners. It shall be the duty of every school commissioner, subject always to the advice and direction of the Commissioner of Education:

1 To notify all teachers, trustees, boards of education and others known to him who may desire to become teachers under his jurisdiction, of the time when and the place where the institute will be held.

2 To make all necessary arrangements for holding the institute when appointed; see that a suitable room is provided; attend to all necessary details connected therewith; assist the conductor in organization; keep a record of all teachers in attendance and notify the trustees of the number of days attended by the teachers of the various districts, which shall be the basis of pay to such teacher for attendance as hereafter provided.

3 To transmit to the Commissioner of Education at the close of each institute, in such form, and within such time, as such commissioner shall prescribe, a full report of the institute, including a list of all teachers in attendance, the number of days attended by each teacher, with such other information as may be required.

4 To present a full statement of all expenses incurred by him in carrying on the institute, with vouchers for all expenditures made, accompanying the same by an affidavit of the correctness of statements made and of accounts presented.

§ 772 Schools must be closed. 1 All schools in school districts and parts of school districts within any school commissioner districts wherein an institute is held, not included within the boundaries of an incorporated city, except as herein provided, shall be closed during the time such institute shall be in session.

2 The closing of a school within the school commissioner district wherein an institute shall be held, at which a teacher has attended, shall not work a forfeiture of the contract under which such teacher was employed.

3 In all districts having a population of more than five thousand, and employing a superintendent whose time is exclusively devoted to the supervision of the schools therein, the schools may be closed or not at option of the boards of education in such districts.

§ 773 Penalty for failure to attend or to close schools. Wilful failure on the part of a teacher to attend a teachers institute as required, shall be sufficient cause for the revocation of such teacher's license, and a wilful failure on the part of trustees to close their schools during the holding of an institute as required, shall

be sufficient cause for withholding the public moneys to which such districts would otherwise be entitled.

§ 774 **Teachers must attend; entitled to salaries.** 1 Any person under contract to teach in a school in any commissioner district, is required to attend an institute if one is held for that district, even though at the time of such institute the school is not in session, and shall be entitled to receive full salary for the actual time in attendance at such institute.

2 The trustees of every school district are hereby directed to give the teachers employed in their district the whole of the time, while an institute for the school commissioner district in which their school is located is in session, for attendance thereat and shall make no deduction whatever from the salaries of such teachers for the time so spent.

§ 775 **Payment of expenses.** The treasurer shall pay, on the warrant of the Comptroller, to the order of any one or more of the school commissioners, such sum of money as the Commissioner of Education shall certify to be due to them for expenses in holding a teachers institute; and upon the like warrant and certificate shall pay to the order of any persons employed by the Commissioner of Education as additional instructors to conduct, instruct, teach or supervise any such teachers institute.

§ 776 **Compensation and expenses of teachers attending institute or conference.** A public school teacher under contract to teach in a public school who is required pursuant to law or a regulation of the State Department of Education to attend an institute or conference held at a place other than that in which the school is located, in addition to his or her regular salary, shall be paid the sum of one dollar for each day or part of a day actually spent in attendance at such institute or conference, and ten cents a mile for each mile necessarily traveled in going to and returning therefrom. The teacher shall be paid the foregoing sums by the district in which he or she is under contract to teach in the first order drawn after the institute or conference and in the annual report of the trustees of such district the amount or amounts so paid shall be included therein and the same shall be repaid to the district out of the moneys appropriated for the support of common schools and the amount so repaid shall be apportioned and paid to such district by the Commissioner of Education at the same time and in the same manner as other public school moneys are apportioned and paid to such district. [*Added by L. 1919, ch. 109, in effect March 27, 1919.*]

ARTICLE 31

Training Classes

Section 790 Designation of schools for classes

791 Regulations for classes

792 Instruction free

793 School commissioners shall supervise and examine classes; teachers certificates

794 Teachers training schools or classes under superintendents of schools

§ 790 Designation of schools for classes. The Commissioner of Education shall designate the academies and union free schools in which training classes may be organized to give instruction in the science and practice of common school teaching. Such classes shall be distributed among the academies and high schools of the several school commissioner districts of the State and consideration shall be given to the number of school districts in each and the location and character of the institution designated.

§ 791 Regulations for classes. 1 Every academy and union school so designated shall instruct a training class of not less than ten nor more than twenty-five scholars, and every scholar admitted to such class shall continue under instruction not less than thirty-six weeks.

2 Whenever it shall be shown to the satisfaction of the Commissioner of Education that any pupil attending such classes has been prevented from attending the same for the full term of thirty-six weeks, or that for any reason satisfactory to such Commissioner, said classes have not been held for the full term of thirty-six weeks, or have been attended by less than ten members, such Commissioner may excuse such default and allow to the trustees of the academy or union free school in which said classes have been instructed an equitable allowance proportionate to the number of pupils and period of instruction.

3 The Commissioner shall prescribe the conditions of admission to the classes, the course of instruction and the rules and regulations under which said instruction shall be given.

§ 792 Instruction free. Instruction shall be free to all scholars admitted to such classes, who have continued in them the length of time required by the preceding section.

§ 793 School commissioners shall supervise classes. Each class organized in any academy or union school under appointment by the Commissioner of Education for the instruction in the science

and practice of common school teaching, shall be subject to the visitation of the school commissioner of the district in which such academy or union school is situated; and it shall be the duty of said school commissioner to advise and assist the principals of said academies or union schools in the organization and management of said classes.

§ 794 Teachers training schools or classes under superintendents of schools. The board of education or the public school authorities of any city or of any school district having a population of five thousand or more and employing a superintendent of schools, may establish, maintain, direct and control one or more schools or classes for the professional instruction and training of teachers in the principles of education and in the method of instruction for not less than two years.

ARTICLE 32

Normal Schools; State College for Teachers

- Section 810 Normal schools continued
- 811 Local boards
- 812 Powers of local boards
- 813 Bond of treasurer
- 814 Salary of secretary and treasurer
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- 832 New York State College for Teachers
- 833 Board of trustees
- 834 Contracts for the education of children, residing in a city or district in which a state normal school is located
- 835 Industrial teachers' scholarships

§ 810 Normal schools continued. The state normal schools heretofore established at Brockport, Buffalo, Cortland, Fredonia, Geneseo, New Paltz, Oneonta, Oswego, Plattsburg and Potsdam, are continued.

§ 811 Local boards. There shall continue to be a local board of each of said state normal schools, consisting of not less than three nor more than thirteen persons and the members thereof shall hold their offices until removed by the concurrent action of the Chancellor of the University and the Commissioner of Education. A vacancy in any of the said boards shall be filled by appointment by the Commissioner of Education.

§ 812 Powers of local boards. 1 Local boards shall have the immediate supervision and management of said schools, subject, however, to the general supervision of the Commissioner of Education and to his direction in all things pertaining to the school. Said local boards shall have power to appoint one of their number chairman, one secretary and another treasurer of the board. The secretary may also be treasurer.

2 A majority of each of said board shall form a quorum for the transaction of business, and in the absence of any officer of the board, another member may be appointed pro tempore to fill his place and perform his duties.

3 It shall be the duty of such board to make and establish, and from time to time to alter and amend, such rules and regulations for the government of such schools under their charge, respectively, as they shall deem best, which shall be subject to the approval of the Commissioner of Education.

4 They shall also severally transmit through the Commissioner of Education, and subject to his approval and in the form which he directs, a report to the Legislature on the first day of January in each year, showing the condition of the school under their charge during the year next preceding, including, especially, an account in detail of their receipts and expenditures, which shall be duly verified by the oath or affirmation of their chairman and secretary.

§ 813 Bond of treasurer. The treasurer shall give an undertaking to the people of the State for the faithful performance of his trust in an amount fixed by the Commissioner of Education. The undertaking shall be approved by said Commissioner and filed in the office of the Comptroller.

§ 814 Salary of secretary and treasurer. The secretary and the treasurer shall each be paid an annual salary to be fixed by the

local board with the approval of the Commissioner of Education, but the aggregate amount of such salaries shall not exceed four hundred dollars.

§ 815 Local boards shall have management of buildings and property. The local boards of managers of the respective normal schools in this State shall have the custody, keeping and management of the grounds and buildings provided or used for the purposes of such schools, respectively, and other property of the State pertaining thereto, with power to protect, preserve and improve the same.

§ 816 Courses of study. It shall be the duty of the Commissioner of Education to prescribe the courses of study to be pursued in each of said schools.

§ 816-a Department of extension teacher training in the State Normal School at Geneseo in connection with the Craig Colony at Sonyea. The Commissioner of Education shall establish a department of extension teacher training at the State Normal School at Geneseo in connection with the Craig Colony at Sonyea, which department shall conduct all educational activities at the Craig Colony at Sonyea. The members of the teaching staff employed at the Craig Colony schools when this act takes effect shall become a part of the teaching staff of the said normal school, and they and all other teachers, instructors and supervisors hereafter employed in such department shall be employed and classified under the provisions of the law relating to teachers in state normal schools and their salaries shall be fixed as therein provided, with proper deductions for maintenance which shall be furnished by the board of managers of Craig Colony for all such supervisors, instructors, teachers, or students as are assigned to the Craig Colony schools for teaching or observation. All instruction given in the said Craig Colony schools shall be under the direction of the principal of the State Normal School at Geneseo, subject to the supervision of the Commissioner of Education. [*Added by L. 1922, ch. 38, in effect July 1, 1922.*]

§ 817 Teachers, salaries, et cetera. 1 The Commissioner of Education shall determine the number of teachers to be employed and the classification of each position in the State College for Teachers and in each state normal school and the salaries of such teachers shall be subject to the provisions herein contained. The employment of such teachers shall also be subject to his approval.

2 The members of the faculty of the State College for Teachers shall be classified as follows:

- a* President.
- b* Dean.
- c* Dean of women.
- d* Professor.
- e* Assistant professor.
- f* Instructor.
- g* Assistant instructor.

3 The members of the faculty of each of the state normal and training schools shall be classified as follows:

- a* Principal.
- b* Head of department, or supervisor.
- c* Assistant in department.

d Teachers in charge of grades of children in the elementary schools of practice as critic and model teachers.

4 Each member of the faculty of the State College for Teachers and of each of the faculties of the state normal and training schools shall receive an annual salary to be paid in ten equal payments. The first payment shall be made on the first day of October each year and one payment thereafter on the first day of each month up to and including the first day of July.

5 Each person now holding or hereafter appointed to a position under the foregoing classification of the faculty of the said State College for Teachers shall receive the salary provided in the annual appropriation bill for such position, which salary shall be increased annually until the maximum salary as hereinafter provided for such position is reached. No new appointment shall be made at a salary greater than the minimum salary hereinafter provided for the respective position except that not more than two annual increments may be allowed in addition to such minimum salary for unusual training or equivalent experience in other teaching positions, but in no case shall the amount to be paid be in excess of the amount appropriated therefor. For the positions hereinafter named the minimum and maximum salaries and the annual increases shall be as follows:

a President, minimum salary, six thousand dollars; maximum salary, six thousand five hundred dollars; annual increase, two hundred and fifty dollars.

b Dean, minimum salary, four thousand five hundred dollars; maximum salary, five thousand dollars; annual increase, two hundred and fifty dollars.

c Dean of women, minimum salary, two thousand dollars; maxi-

imum salary, three thousand two hundred dollars; annual increase, two hundred dollars.

d Professor, minimum salary, three thousand dollars; maximum salary, four thousand five hundred dollars; annual increase, two hundred and fifty dollars.

e Assistant professor, minimum salary, two thousand dollars; maximum salary, three thousand dollars; annual increase, two hundred dollars.

f Instructor, minimum salary, one thousand five hundred dollars; maximum salary, one thousand nine hundred dollars; annual increase, one hundred dollars.

g Assistant instructor, minimum salary, one thousand two hundred dollars; maximum salary, one thousand five hundred dollars; annual increase, one hundred dollars.

6 Each person now holding or hereafter appointed to a position under the foregoing classification of the faculty of the state normal and training schools shall receive the salary provided in the annual appropriation bill for such position, which salary shall be increased annually as hereinafter provided. No new appointment shall be made at a greater salary than the minimum salary herein provided for the respective positions, except that not more than two annual increments may be allowed in addition to such minimum salary for unusual training or equivalent experience in other teaching positions, but in no case shall the amount to be paid be in excess of the amount appropriated therefor. For the positions hereinafter named the minimum and maximum salaries and the annual increases shall be as follows:

a Principal, minimum salary, four thousand dollars; maximum salary, five thousand dollars; annual increase, two hundred and fifty dollars. A deduction of five hundred dollars shall be made in the salary of a principal for whom the state provides a residence.

b Head of department, or supervisor, minimum salary, two thousand and five hundred dollars; maximum salary, four thousand dollars for not to exceed five positions in any one school, and not more than three thousand and five hundred dollars for the others in such positions; annual increase, two hundred and fifty dollars.

c Assistant in a department, minimum salary, one thousand eight hundred dollars; maximum salary, two thousand six hundred dollars; annual increase, two hundred dollars.

d Teacher in charge of grade as critic or model teacher, minimum salary, one thousand eight hundred dollars; maximum salary,

two thousand six hundred dollars; annual increase, two hundred dollars.

The foregoing classifications shall not apply to part-time teachers, extension teachers, teachers of evening classes or to teachers in summer sessions of the State College for Teachers or of the state normal schools. No person employed under any of the foregoing classifications shall be entitled to the annual increase hereinbefore provided whose service is not meritorious.

7 The Regents of the University shall determine the procedure by which a member of the faculty of one of the institutions herein specified who has reached the maximum salary in his classification may be promoted to the next higher grade on evidence of continued meritorious services; provided, however, that in the State College for Teachers the total number of professors shall not be increased beyond one such professor for each fifty full-time matriculated students; but nothing herein shall be construed to affect the number of such professors and assistant professors employed in such State College for Teachers at the time this act shall take effect. [*Amended by L. 1918, ch. 558; L. 1919, ch. 560; and by L. 1920, ch. 499, in effect July 1, 1920. The sum of \$118,080 was appropriated for the purpose of paying the salaries prescribed in the schedule of salaries provided for by L. 1920, ch. 499.*]

§ 818 Commissioner may perform duties of defaulting local board. During such time as any local board shall fail or refuse to discharge any duty the Commissioner of Education is hereby authorized to discharge such duty of such local boards or any of their officers; and the acts of said Commissioner of Education in the premises shall be as valid and binding as if done by a competent local board or its officers, or with their cooperation.

§ 819 Diplomas. The Commissioner of Education shall prepare suitable diplomas to be granted to the students of such school, who shall have completed one or more of the courses of study and discipline prescribed, and a diploma signed by him, the chairman and secretary of the local board and the principal of the school, shall be of itself a certificate of qualification to teach common schools.

§ 820 Requisites for admission; privileges and duties of pupils.
1 All applicants for admission to a normal school shall be residents of this State, or if not, they shall be admitted only upon the payment of such tuition fees as shall be, from time to time, prescribed by the Commissioner of Education. Applicants shall present such

evidences of proficiency or be subject to such examination as shall be prescribed by said Commissioner.

2 A normal school shall not receive into its academic department any pupil not a resident of the territory, for the benefit or advantage of whose residents the State has pledged itself to maintain such academic department unless such pupil declares it to be her intention to remain in such school to complete the regular normal course.

3 All students duly admitted to the normal department shall be entitled to all the privileges of the school, free from all charges for tuition or for the use of books or apparatus, but every pupil shall pay for books lost by him, and for any damage to books in his possession. Any pupil may be dismissed from the school by the local board for immoral or disorderly conduct, or for neglect or inability to perform his duties.

§ 821 Practice departments in Fredonia school. The local board of control of the state normal school at Fredonia shall have the same powers and privileges in respect to practice departments as boards of education, under subdivision 3 of section 310 and section 317 of this chapter.

§ 822 Special policemen. For the purpose of protecting and preserving such buildings, grounds and other property, and preventing injuries thereto, and preserving order, preventing disturbances, and preserving the peace in such buildings and upon such grounds, the local boards of managers of each of said normal schools shall have power, by resolution or otherwise, to appoint, from time to time, one or more special policemen, and to remove the same at pleasure, who shall be police officers, with the same powers as constables of the town or city where such school is located, whose duty it shall be to preserve order, and prevent disturbances and breaches of the peace in and about the buildings, and on and about the grounds used for said school, or pertaining thereto, and protect and preserve the same from injury, and to arrest any and all persons making any loud or unusual noise, causing any disturbance, committing any breach of the peace, or misdemeanor or any wilful trespass upon such grounds, or in or upon said buildings, or any part thereof and convey such person or persons so arrested, with a statement of the cause of the arrest, before a proper magistrate to be dealt with according to law.

§ 823 Village or city may insure normal school property. Each village and city in this State, wherein is located a state normal and training school, may insure and keep insured, the real and

personal property of such school against loss or damage by fire, when the State refuses to insure, or keep adequately insured, such property. The insurance is to be in the name of the State, and in case of loss, any moneys obtained from such insurance are to be used and disposed of the same as if the State had effected such insurance. The amount of insurance to be carried shall be determined by the municipal authorities of such village or city.

§ 824 **Expense of insurance a village or city charge.** The amount of money necessary to effect and continue such insurance shall be raised annually by such village or city at the same time, and in the same manner, as the ordinary expenses of the village or city are raised.

§ 825 **Deposit of insurance moneys in bank.** Where any loss or damage, against which insurance exists, occurs to the real or personal property of any of the normal and training schools of the State, the moneys realized from such insurance shall be deposited by each company in which such property is insured in a bank to be designated by the State Comptroller, subject to the check of the local board of managers of such school, countersigned by the State Comptroller. Such moneys shall be kept as a separate fund to the credit of the local board of managers of such school, and shall be immediately available to be expended under the direction of such local board of managers, subject to the approval of the Commissioner of Education, to repair or replace, wholly or partially, the real or personal property so damaged or destroyed.

§ 826 **Acceptance of grants and bequests authorized.** The local board of managers of any state normal and training school of this State, may accept, for the State, by and with the consent of the Commissioner of Education the gift, grant, devise or bequest of money or other property, and to¹ apply the same to any purpose, not inconsistent with the general purposes of such school, which shall be prescribed in the instrument by which such gift, grant, devise or bequest shall be made.

§ 827 **Education of Indian youth.** The State Treasurer shall pay, on the warrant of the Comptroller, on bills approved by the Commissioner of Education, from the general fund, such sum as may be appropriated for the support and education of Indian youth in the state normal schools.

§ 828 **Selection of Indian youth.** The selection of such youth shall be made by the Commissioner of Education, from the several

¹ So in original.

Indian tribes located within this State; and in making such selection due regard shall be had to a just participation in the privileges of this article by each of the said several tribes, and, if practicable, reference shall also be had to the population of each of said tribes in determining such selection.

§ 829 **Age of youth and limit of time for support.** Such youth shall not be under sixteen years of age, nor shall any of such youth be supported or educated at said normal schools for a period exceeding three years.

§ 830 **Guardians of youth.** The local board of each normal school shall be the guardians of such Indian youth, during the period of their connection with the school; and shall pay their necessary expenses, as provided in section 827 of this article.

§ 831 **Indian pupils on equality with others.** The Indian pupils selected in pursuance of this article, and attending said normal schools, shall enjoy the same privileges, of every kind, as the other pupils attending said schools, including the payment of traveling expenses, not exceeding ten dollars to each pupil.

§ 832 **New York State College for Teachers.** 1 The State College for Teachers heretofore established at Albany is continued under the name of the New York State College for Teachers and the governing body of said college shall be known as the board of trustees thereof. [*Subdivision 1 amended by L. 1921, ch. 276, in effect April 20, 1921.*]

2 The said State College for Teachers shall be as heretofore, under the supervision, management and government of the Commissioner of Education and the Regents of the University. The said Commissioner and Regents shall, from time to time, make all needful rules and regulations; approve all appointments of teachers and others to be employed therein; approve the admission requirements and the requirements for the various degrees offered by the college; and fix all faculty salaries. The board of trustees of such college may appoint a secretary and a treasurer and any other officer that may in their judgment be needed and fix their compensation. [*Subdivision 2 amended by L. 1913, ch. 511, and L. 1921, ch. 276, in effect April 20, 1921.*]

§ 833 **Board of trustees.** 1 The board of trustees having the care, management and government of said college shall consist of five persons of whom the Commissioner of Education shall be one. Said Commissioner shall be president ex officio of said board. The

other members of such board shall be appointed by said Commissioner subject to the approval of the Regents.

2 In addition to the powers and duties named herein the Commissioner of Education and the board of trustees of said State College for Teachers shall possess all the powers and duties which the said Commissioner and the local boards respectively possess under this article in relation to state normal schools. [*Subdivision 2 amended by L. 1921, ch. 276, in effect April 20, 1921.*]

§ 834 Contracts for the education of children, residing in a city or district, in which a state normal school is located. The Commissioner of Education is authorized to enter into a contract with the board of education of a city or district in which a state normal school is located for the education by the State, for such period of time as may be agreed upon, of all or part of the children of legal school age residing in such city or school district. Before such contract becomes binding, it must be approved by the Board of Regents. Such contract must be executed in duplicate and one contract filed with the Commissioner of Education and the other with the State Comptroller. A board of education in such a city or district is hereby authorized and empowered to enter into such contracts with the said Commissioner of Education and to perform all necessary acts to carry out the purposes of this act. [*Added by L. 1916, ch. 315.*]

§ 835 Industrial teachers' scholarships. The Commissioner of Education is hereby authorized and empowered to award within the appropriation made for such purpose, industrial teachers' scholarships under rules and regulations to be adopted by the Regents of The University of the State of New York, which shall entitle the holders thereof to receive from the State the sum of not more than fifteen hundred dollars each for maintenance and support for the term of one year while in attendance upon the vocational department of a state normal school or schools. Only such men as shall possess satisfactory educational qualifications in the opinion of the Commissioner of Education, and who have had at least five years of successful experience in a trade, industrial or technical occupation, shall be eligible to receive such scholarships. The Regents of The University of the State of New York shall determine from time to time the number of men to be selected from the several trades, industrial or technical occupations in order to meet the need of teachers in the vocational schools. [*Added by L. 1920, ch. 853, and amended by L. 1921, ch. 388, in effect April 30, 1921.*]

ARTICLE 33

Fines, Penalties, Forfeitures and Costs

- Section 850 Disposition of fines for benefit of common schools
- 851 Report and payment of fines
- 852 Disposition of fines for benefit of schools of town, district or city
- 853 Disposition of fine in case of joint district
- 854 Penalty for falsely claiming to represent Commissioner of Education, Regents or other school officer
- 855 Forfeiture of amount of moneys lost by neglect
- 856 Forfeiture of amount of penalty where suit is neglected
- 857 No costs to plaintiffs in certain cases
- 858 Costs, expenses and damages a district charge in certain cases
- 859 Payment of costs, charges and expenses by vote of district meeting
- 860 Appeal to county judge
- 861 Hearing before county judge
- 862 Duty of trustees to carry out order

§ 850 Disposition of fines for benefit of common schools. Whenever, by any statute, a penalty or fine is imposed for the benefit of common schools, and not expressly of the common schools of a town or school district, it shall be taken to be for the benefit of the common schools of the county within which the conviction is had; and the fine or penalty, when paid or collected, shall be paid forthwith into the county treasury, and the treasurer shall credit the same as school moneys of the county, unless the county comprise a city having a special school act, in which case he shall report it to the Commissioner of Education, who shall apportion it upon the basis of population by the last census, between the city and the residue of the county, and the portion belonging to the city shall be paid into its treasury.

§ 851 Report and payment of fines. Every district attorney shall report, annually, to the board of supervisors, all such fines and penalties imposed in any prosecution conducted by him during the previous year; and all moneys collected or received by him or by the sheriff, or any other officer, for or on account of such fines or penalties, shall be immediately paid into the county treasury, and the receipt of the county treasurer shall be a sufficient and the only voucher for such money.

§ 852 Disposition of fines for benefit of schools of town, district or city. Whenever a fine or penalty is inflicted or imposed for the benefit of the common schools of a town or school district,

the magistrate, constable or other officer collecting or receiving the same shall forthwith pay the same to the county treasurer of the county in which the schoolhouse is located, who shall credit the same to the town or district for whose benefit it is collected. If the fine or penalty be inflicted or imposed for the benefit of the common schools of a city having a special school act, or of any part or district of a city, it shall be paid into the city treasury.

§ 853 **Disposition of fine in case of joint district.** Whenever a penalty or fine is imposed upon any school district officer for a violation or omission of official duty, or upon any person for any act or omission within a school district, or touching property or the peace and good order of the district, and such penalty or fine is declared to be for the use or benefit of the common schools of the town or of the county, and such school district lies in two or more towns or counties, the town or county intended by the act shall be taken to be the one in which the schoolhouse, or the schoolhouse longest owned or held by the district is at the time of such violation, act or omission.

§ 854 **Penalty for falsely claiming to represent Commissioner of Education, Regents or other school officer.** It shall be a misdemeanor for any employee, agent or representative of a firm, company or corporation engaged in selling, publishing or manufacturing papers, periodicals, books, maps, charts, school supplies, apparatus or furniture, or any other person engaged or employed in such business to falsely represent to a board of trustees or board of education of a school district or to a teacher employed in a public school in this State or to a superintendent of schools or other school officer that he is an agent, employee, or representative of the Commissioner of Education, the State Education Department, the Regents, or of any other school officer.

§ 855 **Forfeiture of amount of moneys lost by neglect.** Whenever the share of school moneys or any portion thereof, apportioned to any town or school district, or any money to which a town or school district would have been entitled, shall be lost, in consequence of any wilful neglect of official duty by any school commissioner, town clerk, trustees or clerks of school districts, the officer guilty of such neglect shall forfeit to the town, or school district so losing the same, the full amount of such loss with interest thereon.

§ 856 **Forfeiture of amount of penalty where suit is neglected.** Where any penalty for the benefit of a school district, or of the schools of any school district, town, school commissioner district

or county, shall be incurred, and the officer, whose duty it is by law to sue for the same, shall wilfully and unreasonably refuse or neglect to sue for the same, such officer shall forfeit the amount of such penalty to the same use, and it shall be the duty of his successor in office to sue for the same.

§ 857 No costs to plaintiffs in certain cases. 1 In any action against school officers, including supervisors of towns, in respect to their duties and powers under this chapter, for any act performed by virtue of or under the color of their office, or for any refusal or omission to perform any duty enjoined by law, and which might have been the subject of an appeal to the Commissioner of Education, no costs shall be allowed to the plaintiff, in cases where the court shall certify that it appeared on the trial that the defendants acted in good faith.

2 The provision of subdivision 1 of this section shall not extend to suits for penalties, nor to suits or proceedings to enforce the decisions of the Commissioner of Education.

§ 858 Costs, expenses and damages a district charge in certain cases. 1 Whenever the trustees of any school district, or any school district officers, have been or shall be instructed by a resolution adopted at a district meeting to defend any action brought against them, or to bring or defend an action or proceeding touching any district property or claim of the district, or involving its rights or interests, or to continue any such action or defense, all their costs and reasonable expenses, as well as all costs and damages adjudged against them, shall be a district charge and shall be levied by tax upon the district.

2 If the amount claimed by them be disputed by a district meeting, it shall be adjusted by the county judge of any county in which the district or any part of it is situated.

§ 859 Payment of costs, charges and expenses by vote of district meeting. 1 Whenever such trustees or any school district officer shall have brought or defended any such action or proceeding, without any such resolution of the district meeting, and after the final determination of such suit or proceeding, shall present to any regular meeting of the inhabitants of the district, an account, in writing, of all costs, charges and expenses paid by him or them, with the items thereof, and verified by his or their oath or affirmation, and a majority of the voters at such meeting shall so direct, it shall be the duty of the trustees to cause the same to be assessed upon and collected of the taxable property of said district, in the

same manner as other taxes are by law assessed and collected; and, when so collected, the same shall be paid over, by an order upon the collector or treasurer to the officers entitled to receive the same.

2 The provision of subdivision 1 of this section shall not extend to suits for penalties, nor to suits or proceedings to enforce the decisions of the Commissioner of Education.

§ 860 Appeal to county judge. 1 Whenever any officer mentioned in section 859 shall have complied with the provisions of such section and the meeting shall have refused to direct the trustees to levy a tax for the payment of the costs, charges and expenses claimed by him, such officer shall immediately give notice to such meeting that he will appeal to the county judge of the county in which such district is located from the refusal of said meeting to vote a tax for the payment of such claim.

2 Within ten days after the refusal of the meeting to allow such claim such officer shall serve upon the clerk of the district or, if there be no district clerk, upon the town clerk of the town an itemized statement of his claim, duly verified, together with a written notice that on a certain day named therein such officer will present such claim to the county judge for settlement.

3 The clerk upon whom such notice and claim are served shall file the same in his office and such notice and claim shall be subject to the inspection of any of the inhabitants of the school district.

4 The meeting at which notice of the intention of such officer to appeal to the county judge is given or any subsequent district meeting, duly called, may appoint one or more of the legal voters of such district or authorize the trustee to employ counsel to appear before the county judge at the time fixed for a hearing on such claim and protect the rights of the district upon such settlement. The expenses incurred in the performance of this duty shall be a charge upon the district and the trustees upon a presentation of the account of such expenses with proper vouchers therefor shall pay the same from any available funds in the district or include the necessary amount in a tax-list to be levied upon the district.

5 A refusal of the trustees to levy such tax for the payment of such expenses shall be subject to an appeal to the Commissioner of Education.

§ 861 Hearing before county judge. 1 Upon the appearance of the parties, or upon due proof of service of the notice and copy of the account, the county judge shall examine into the matter and hear the proofs and allegations presented by the parties, and decide by order whether or not the the account, or any and what portion

thereof, ought justly to be charged upon the district, with costs and disbursements to such officer.

2 Such costs and disbursements shall not exceed the sum of thirty dollars, and the decision of the county judge shall be final; but no portion of such account shall be so ordered to be paid which shall appear to such judge to have arisen from the wilful neglect or misconduct of the claimant. The account with the oath of the party claiming the same shall be prima facie evidence of the correctness thereof. The county judge may adjourn the hearing from time to time, as justice shall seem to require.

§ 862 Duty of trustees to carry out order. It shall be the duty of the trustees of any school district, within thirty days after service upon them or upon the district clerk of a copy of an order of the county judge and notice thereof to them or any two of them, to cause the same to be entered at length in the book of record of said district, and to raise the amount thereby directed to be paid, by a tax upon the district, to be by them assessed and levied in the same manner as a tax voted by the district.

ARTICLE 33-a

[Added by L. 1917, ch. 786, in effect June 8, 1917]

Board of Education in the Several Cities of the State

- Section 865 Board of education
- 866 Board of education; eligibility; how chosen; term of office; vacancies
- 867 Meetings of board of education
- 868 Powers and duties of board of education
- 869 Superintendent of schools
- 870 Powers and duties of superintendent of schools
- 871 Board of examiners
- 871-a Bureau of compulsory education school census and child welfare
- 872 Appointment of associate, district or other superintendents, teachers, experts and other employees; their salaries, et cetera
- 872-a Retirement of employees of board of education
- 873 Local school board districts
- 874 Bonds of employees
- 875 Buildings, sites, et cetera
- 876 Purchase and sale of real property
- 877 Education budget
- 878 Tax election
- 879 Bond issue
- 880 Funds; custody and disbursement of
- 881 Continuation in office of boards, bureaus, teachers, principals and other employees

§ 865 Board of education. 1 A board of education is hereby established in each city of the State. The educational affairs in each city shall be under the general management and control of a board of education to consist of not less than three and not more than nine members, to be chosen as hereinafter provided, and to be known as members of the board of education. The number of members on the board of education of each city shall be as follows:

a A city having nine members or less on its board of education shall continue to have such number of members on said board as such board contains at the time this law goes into effect.

b A city having a population of one million or more shall have a board of education to consist of seven members.

c In all other cities of the State the number of members of the board of education shall be nine.

2 A board of education in office at the time this law goes into effect except as hereinafter provided shall continue in office and possess the powers and duties of a board of education under this article until its successor shall be chosen as provided herein.

3 Except as otherwise provided in this act the provisions of this act shall apply to and govern the operation and administration of the public school system and other educational affairs in a city which is created after this act goes into effect. The authorities in charge of the operation and administration of the schools and other educational affairs of the school districts included within such city at the time the act creating such city goes into effect shall continue in charge thereof until the first Tuesday in May thereafter. On such first Tuesday in May a board of education consisting of five members shall be elected at the annual school election in accordance with the provisions of this chapter. One member of such board shall be elected for one year, one member for two years, one member for three years, one member for four years, and one member for five years from the said first Tuesday of May. As their terms expire their successors shall be chosen for a full term of five years. [*Added by L. 1917, ch. 786, and amended by L. 1919, ch. 299, in effect May 3, 1919.*]

4 In a city of the third class, created or to be created by the consolidation of two cities situated, respectively, in two adjoining counties, in which, at the time of the creation of such consolidated city, a school district shall be coterminous with the boundaries of one such city and there shall be in the other city a school district wholly within its boundaries but not coterminous therewith, such

districts shall constitute the city school district of such consolidated city, and the board of education thereof shall be a city board of education, within the meaning of this article, but such board shall be constituted and organized as provided in this subdivision. The terms of office of the members of the respective boards of education of the two districts so consolidated shall expire thirty days after the first mayor of such new city takes office. Within such period of thirty days after the first mayor of such new city takes office he shall appoint a board of education for such consolidated district, to consist of five members whose terms of office shall begin thirty days after such mayor takes office. The terms of office of the members of such board of education shall be respectively one, two, three, four and five years, except that the term of office shall end on the first Tuesday in May in each year. As their terms of office expire their successors shall be appointed by the mayor of such city for a full term of five years each. [*Added by L. 1919, ch. 299, in effect May 3, 1919.*]

§ 866 Board of education; eligibility; how chosen; term of office; vacancies. 1 No person shall be eligible to the office of member of a board of education who is not a citizen of the United States and who has not been a resident of the city for which he is chosen for a period of at least three years immediately preceding the date of his election or appointment.

2 In a city having a population of one million or more and divided into boroughs, there shall be a board of education consisting of seven members. Two members of such board shall be residents of the borough having the largest population, two shall be residents of the borough having the second largest population, and one shall be a resident of each of the other boroughs in such city. The mayor shall appoint such members on the first Wednesday in January 1918, and in appointing them shall designate the terms of office of such members so that the term of one member shall expire on the first Tuesday in May 1919; one on the first Tuesday in May 1920; one on the first Tuesday in May 1921; one on the first Tuesday in May 1922; one on the first Tuesday in May 1923; one on the first Tuesday in May 1924; and one on the first Tuesday in May 1925. Their successors shall be chosen for full terms of seven years. Thereafter, as vacancies occur on such board they shall be filled from the several boroughs so that each borough shall always be represented on such board as required under this subdivision. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term.

3 In each city in which the law provides, prior to the time this article goes into effect, that the members of the board of education shall be chosen by vote of the people at an election separate from the general or municipal election, the members of the board of education of that city shall hereafter be elected by the voters at large at the annual school election.

4 In each city in which the law provides, prior to the time this article goes into effect, that the members of the board of education shall be chosen by vote of the people at a general or municipal election, the members of such board of education shall continue to be so chosen by the voters at large at either a general or municipal election, or at both, and for the terms prescribed by such law.

4-a In each city of the State in which, under the laws relative to members of the board of education or school commissioners, in existence prior to June 8, 1917, it was provided that such members or commissioners comprising the board of education of such city, shall be, in part, appointed by the common council of such city, and, in part, elected by the qualified electors of commissioner districts into which such city is divided, the members or commissioners comprising such board of education shall continue to be appointed by the common council, or elected by such commissioner districts, in the manner and for the terms prescribed by such laws, and so much of the said laws as pertains to the number of members of the board of education of such city, the division of the city into commissioner districts, the election of commissioners or members of the board by the qualified electors of such districts, and the appointment of other members or commissioners for the city at large by the common council of such city, shall remain in full force and effect notwithstanding the provisions of the section hereby amended. The provisions of article 7-a of this chapter, as added by chapter 791 of the Laws of 1917, which pertain to the date of school elections in cities, qualifications of electors, the places of holding elections, notices of elections, the preparation of poll lists and the correction therefor, the inspectors of election and the organization of the boards of inspectors in election districts, the nomination of candidates for members of the board and the ballots containing the names of such candidates, the conduct of elections, the canvass of votes, return to the board of education and declaration of results, and the use of voting machines, shall apply, so far as may be, to the election of the members of the board of education in such city by the qualified electors of commissioner districts established as provided by law. [*Subdivision 4-a added by L. 1919, ch. 106, in effect March 27, 1919.*]

4-b In any third class city in which members of the board of education are not elected at an annual school election as provided in article 7-a of this chapter, the common council may by a majority vote submit to the voters at large in such city at any general or municipal election, the question whether members of the board of education in such city shall thereafter be so elected. If a majority of the votes cast at such election be in the affirmative, members of a new board of education to consist of five members shall be elected at an annual school election to be held in such city on the first Tuesday of the following May, for terms of one, two, three, four and five years respectively, and the term of office of each member of the old board of education shall cease and terminate on such first Tuesday in May. As the terms of members of the new board of education expire their successors shall be chosen, at the annual school election to be held in such city, for the full term of five years. [*Subdivision 4-b added by L. 1922, ch. 343, in effect March 29, 1922.*]

5 In each other city of the State members of the board of education shall be appointed from the city at large by the mayor except as otherwise provided herein, but in a city having a population of four hundred thousand or more and less than one million, such appointment shall be subject to confirmation by the council. The members of the board of education in a city having a population of four hundred thousand or more and less than one million shall be appointed by the mayor on January 15, 1918, subject to confirmation by the council, for terms of one, two, three, four and five years from the first Tuesday in May, 1917, and their successors shall be appointed as provided herein for five years.

6 If the number of members on a board of education in a city in which the members of such board are chosen at an annual school, general or municipal election exceeds nine, no person shall be elected to membership thereon as vacancies occur until the number of members on such board shall be less than nine.

7 If the number of members on a board of education in a city in which the members of such board are appointed by the mayor exceeds nine, the term of office of each member of such board shall cease and terminate when this act takes effect, except as otherwise provided herein, and the mayor in each of such cities shall thereupon appoint a board of education to consist of nine members. Such members shall be appointed for the following terms: two members to serve until the first Tuesday in May, 1918; two to serve until the first Tuesday in May, 1919; two until the first

Tuesday in May, 1920; two until the first Tuesday in May, 1921, and one until the first Tuesday in May, 1922. As their terms expire, their successors shall be chosen for a full term of five years.

8 The persons either elected or appointed to membership for a full term on a board of education, and their successors in office, shall be elected or appointed for terms of five years each, except as otherwise provided in this act.

9 In a city having less than five members on its board of education the term of office of such members shall be for the period of time specified in the law in effect prior to the time this act goes into effect. As the terms of office of such members expire their successors shall be chosen for like terms.

10 *a* When vacancies occur in a board of education by expiration of term, prior to the first Tuesday in May, 1921, in a city in which the members of such board are elected at the annual school election held on the first Tuesday in May, such vacancies shall be filled for such terms that the terms of one-fifth, or as near as may be, of all members of such board shall expire on the first Tuesday in May, 1921, and annually thereafter.

b Where such vacancies have been filled by appointment by the mayor as required herein since June 8, 1917, or shall be hereafter so filled, the mayor shall designate the terms for which such persons so appointed are to hold office so that the terms of one-fifth, or as near as may be, of the members of such board shall expire on the first Tuesday in May, 1921 and annually thereafter.

c The persons so elected or appointed shall take office immediately thereafter, except as otherwise provided herein. [*Subdivision a amended by L. 1918, ch. 252, in effect April 17, 1918.*]

11 If a vacancy occurs other than by expiration of term of office in the office of a member of a board of education in a city in which such members are elected at a school, or general, or municipal election, such vacancy shall be filled by appointment by the mayor until the next annual school election is held, and such vacancy shall then be filled at such election for the unexpired portion of such term.

12 If such vacancy occurs in such office in a city in which the members of the board of education are appointed by the mayor, such vacancy shall be filled by appointment by the mayor of such city for the unexpired portion of such term, but in a city having a population of four hundred thousand or more and less than one million, such appointment shall be subject to confirmation by the council. [*Added by L. 1917, ch. 786, in effect June 8, 1917.*]

§ 867 Meetings of board of education. 1 The annual meeting of a board of education shall be held on the second Tuesday in May, at four o'clock in the afternoon, at which meeting the board shall select a president for the ensuing year.

2 Each of such boards shall also fix the day and hour for holding regular board meetings which shall be at least as often as once each month and shall also prescribe a method for calling special meetings of such board. [*Amended by L. 1918, ch. 252, in effect April 17, 1918.*]

§ 868 Powers and duties of board of education. Subject to the provisions of this chapter, the board of education in a city shall have the power and it shall be its duty

1 To perform any duty imposed upon boards of education or trustees of common schools under this chapter or other statutes, or the regulations of The University of the State of New York or the Commissioner of Education so far as they may be applicable to the school or other educational affairs of a city, and not inconsistent with the provisions of this article.

2 To create, abolish, maintain and consolidate such positions, divisions, boards or bureaus as, in its judgment, may be necessary for the proper and efficient administration of its work; to appoint a superintendent of schools, such associate, district and other superintendents, examiners, directors, supervisors, principals, teachers, lecturers, special instructors, medical inspectors, nurses, auditors, attendance officers, secretaries, clerks, janitors and other employees and other persons or experts in educational, social or recreational work or in the business management or direction of its affairs as said board shall determine necessary for the efficient management of the schools and other educational, social, recreational and business activities; and to determine their duties except as otherwise provided herein.

3 To have the care, custody, control and safekeeping of all school property or other property of the city used for educational, social or recreational work and not specifically placed by law under the control of some other body or officer, and to prescribe rules and regulations for the preservation of such property.

4 To purchase and furnish such apparatus, maps, globes, books, furniture and other equipment and supplies as may be necessary for the proper and efficient management of the schools and other educational, social and recreational activities and interests under its management and control. To provide textbooks or other supplies to all the children attending the schools of such cities in which free

textbooks or other supplies are lawfully provided prior to the time this act goes into effect.

5 To establish and maintain such free elementary schools, high schools, training schools, vocational and industrial schools, kindergartens, technical schools, night schools, part-time or continuation schools, vacation schools, schools for adults, open air schools, schools for the mentally and physically defective children or such other schools or classes as such board shall deem necessary to meet the needs and demands of the city.

6 To establish and maintain libraries which may be open to the public, to organize and maintain public lecture courses, and to establish and equip playgrounds, recreation centers, social centers, and reading rooms from such funds as the Education Law or other statutes authorize and the State appropriates for such purposes, and from such other funds as may be provided therefor from local taxation or other sources.

7 To authorize the general courses of study which shall be given in the schools and to approve the content of such courses before they become operative.

8 To authorize and determine the textbooks to be used in the schools under its jurisdiction, but in a city having a board of superintendents, the books thus authorized and determined shall be from lists recommended by such board.

9 To prescribe such regulations and by-laws as may be necessary to make effectual the provisions of this chapter and for the conduct of the proceedings of said board and the transaction of its business affairs for the general management, operation, control, maintenance and discipline of the schools, and of all other educational, social or recreational activities and other interests under its charge or direction.

10 To perform such other duties and possess such other powers as may be required to administer the affairs placed under its control and management, to execute all powers vested in it, and to promote the best interests of the schools and other activities committed to its care. [*Added by L. 1917, ch. 786, in effect June 8, 1917.*]

§ 869 Superintendent of schools, associate superintendents, board of superintendents. The superintendent or an associate superintendent of schools of a city in office when this article goes into effect shall hold his position for the term for which he was chosen and until his successor is chosen. A superintendent or associate superintendent appointed after this article goes into effect shall hold his position in a city of the first class for a period of six years

from the date of his appointment subject to removal for cause and in all other cities subject to the pleasure of the board of education. In a city having a population of one million or more there shall be eight associate superintendents, and the superintendent of schools and such associate superintendents shall constitute a board of superintendents. The superintendent of schools shall be the chairman of such board. A superintendent or an associate superintendent may vacate his position by filing a written resignation with the board of education. No person shall be eligible to the position of superintendent of schools or associate, district or other superintendent of schools or a member of the board of examiners unless he is

1 A graduate of a college or university approved by The University of the State of New York, and has had at least five years' successful experience in the teaching or in the supervision of public schools since graduation; or

2 A holder of a superintendent's certificate issued by the Commissioner of Education under regulations prescribed by the Regents of The University of the State of New York, and has had at least ten years' successful experience in teaching, or in public school administration, or equivalent educational experience approved by the Commissioner of Education. [*Added by L. 1917, ch. 786, in effect June 8, 1917.*]

§ 870 Powers and duties of superintendent of schools. The superintendent of schools of a city shall possess, subject to the by-laws of the board of education, the following powers and be charged with the following duties:

1 To enforce all provisions of law and all rules and regulations relating to the management of the schools and other educational, social and recreational activities under the direction of the board of education, to be the chief executive officer of such board and the educational system, and to have a seat in the board of education and the right to speak on all matters before the board, but not to vote.

2 To prepare the content of each course of study authorized by the board of education, but in a city having a board of superintendents the content of each of such courses shall be prepared and recommended by the board of superintendents, submitted to the board of education for its approval and, when thus approved, the superintendent or board of superintendents, as the case may be, shall cause such courses of study to be used in the grades, classes and schools for which they are authorized.

3 To recommend suitable lists of textbooks to be used in the schools, but in a city having a board of superintendents such board of superintendents shall recommend to the board of education such lists.

4 To have supervision and direction of associate, district and other superintendents, directors, supervisors, principals, teachers, lecturers, medical inspectors, nurses, auditors, attendance officers, janitors and other persons employed in the management of the schools or the other educational activities of the city authorized by this chapter and under the direction and management of the board of education; to transfer teachers from one school to another, or from one grade of the course of study to another grade in such course, and to report immediately such transfers to said board for its consideration and action, but in a city having a board of superintendents such transfers shall be made upon the recommendation of such board; to report to said board of education violations of regulations and cases of insubordination, and to suspend an associate, district or other superintendent, director, supervisor, expert, principal, teacher or other employee until the next regular meeting of the board, when all facts relating to the case shall be submitted to the board for its consideration and action.

5 To have supervision and direction over the enforcement and observance of the courses of study, the examination and promotion of pupils, and over all other matters pertaining to playgrounds, medical inspection, recreation and social center work, libraries, lectures and all the other educational activities and interests under the management, direction and control of the board of education, but in a city having a board of superintendents rules and regulations for the promotion and graduation of pupils shall be made by such board.

6 To issue such licenses to teachers, principals, directors and other members of the teaching and supervising staff as may be required under the regulations of the board of education in cities in which such board requires its teachers to hold qualifications in addition to or in advance of the minimum qualifications required under this chapter. In a city having a board of examiners, such licenses shall be issued on the recommendation of such board. [*Added by L. 1917, ch. 786, in effect June 8, 1917.*]

§ 871 **Board of examiners.** In a city having a population of one million or more there shall be a board of examiners to consist of seven members. No person while in the supervising or teaching service in the city shall serve on such board. It shall be the duty

of the board to hold examinations whenever necessary, to examine all applicants who are required to be licensed or to have their names placed upon eligible lists for appointment in the schools in such city, except examiners, and to prepare all necessary eligible lists. Eligible lists shall not be merged and one eligible list shall be exhausted before nominations are made from a list of subsequent date. No eligible lists, except a principal's eligible list, shall remain in force for a longer period than three years. The board of examiners may employ temporary assistants at a compensation fixed by the board of education. It shall perform such other duties as the board of education may require. [*Amended by L. 1917, ch. 786, and L. 1920, ch. 837, in effect May 20, 1920.*]

§ 871-a Bureau of compulsory education, school census and child welfare. In a city having a population of one million or more there shall be a bureau of compulsory education, school census and child welfare. Said bureau shall consist of a director, an assistant director, a chief attendance officer, and such other supervisors, attendance officers, enumerators, clerks and other employees as may be necessary to carry out the provisions of articles twenty-two, twenty-three and twenty-four of the Education Law, and to perform other and related duties imposed by the provisions of any other statutes or requirements of the board of education. Attendance officers and supervising attendance officers of every grade shall be appointed from eligible lists prepared in the same manner and by the same authority as are eligible lists for teachers and¹ subjects likewise to the provisions of section eight hundred and seventy-two as to tenure of office; but an eligible list for attendance officers in existence when this act takes effect shall be exhausted before nominations are made from an eligible list subsequently established. Those persons who as the result of appointment or assignment are serving in any of the positions hereinbefore described when this act goes into effect shall hold their respective positions during good behavior and efficient and competent service and shall not be removable except for cause after a hearing by a majority vote of the board of education. The director of said bureau shall have power to commit and parole truant and delinquent children in the manner provided by section six hundred and thirty-five of the Education Law but this authority may be delegated in his absence or disability as the board of education shall provide. The superintendent of schools shall have general supervision of the bureau of compulsory

¹ So in original.

education, school census and child welfare. [*Added by L. 1920, ch. 612, in effect May 10, 1920.*]

§ 872 Appointment of district or other superintendents, teachers and other employees; their salaries, et cetera. 1 District superintendents, directors, supervisors, principals, teachers and all other members of the teaching and supervising staff, except associate superintendents and examiners, authorized by section 868 of this article, shall be appointed by the board of education, upon the recommendation of the superintendent of schools, but in a city having a board of superintendents on the recommendation of such board, for a probationary period of not less than one year and not to exceed three years; such period to be fixed by the board of education in its discretion. The service of a person appointed to any of such positions may be discontinued at any time during such probationary period, on the recommendation of the superintendent of schools, and in a city having a board of superintendents on the recommendation of such board, by a majority vote of the board of education.

2 Associate superintendents, examiners and all other employees authorized by section 868 of this article, except as otherwise provided in subdivision 1 of this section, shall be appointed by the board of education.

3 At the expiration of the probationary term of a person appointed for such term, the superintendent of schools, and, in a city having a board of superintendents, such board shall make a written report to the board of education recommending for permanent appointment those persons who have been found competent, efficient and satisfactory. Such persons and all others employed in the teaching, examining or supervising service of the schools of a city, who have served the full probationary period, or have rendered satisfactorily an equivalent period of service prior to the time this act goes into effect shall hold their respective positions during good behavior and efficient and competent service, and shall not be removable except for cause after a hearing by the affirmative vote of a majority of the board. In a city in which teachers have not permanent tenure under the laws in force prior to the time this act goes into effect, such teachers shall be entitled to receive permanent appointments after serving the probationary period fixed by the board of education as herein provided.

4 No principal, supervisor, director, or teacher shall be appointed to the teaching force of a city who does not possess qualifications required under this chapter and under the regulations prescribed

by the Commissioner of Education for the persons employed in such positions in the schools of the cities of the State, but a board of education may prescribe additional or higher qualifications for the persons employed in any of such positions.

5 In a city having a population of four hundred thousand or more, recommendations for appointment to the teaching and supervising service, except for the position of superintendent of schools, associate superintendent or district superintendent, or director of a special branch, principal of or teacher in a training school, or principal of a high school, shall be from the first three persons on appropriate eligible lists prepared by the board of examiners. Eligible lists in force at the time this act takes effect and the relative standing of persons whose names are on said lists shall not be affected by the passage of this act. The board of education, on the recommendation of the superintendent of schools, and in a city having a board of superintendents on the recommendation of such board, shall designate, subject to the other provisions of this chapter, the kind and grades of licenses which shall be required for service as principal, branch principal, director, supervisor or teacher of a special branch, head of department, assistant or any other position of the teaching staff together with the academic and professional qualifications required for each kind or grade of license. No person required to have a license under the provisions of this chapter in order to be employed in a position who does not have such license shall have any claim for salary.

6 The salaries of all members of the supervising and teaching force and of all employees and for all positions authorized under section 868 of this act shall continue to be on the same basis as such salaries and positions are when this article goes into effect, and such salaries shall continue to be regulated and increased in the same manner, by the same provisions of law and under the same conditions as such salaries are regulated and increased under the laws governing such salaries at the time this article goes into effect. Rules and regulations shall be adopted governing excusing of absences and for the granting of leaves of absence either with or without pay. [*Added by L. 1917, ch. 786, in effect June 8, 1917.*]

§ 872-a Retirement of employees of board of education. The board of education in a city having a population of one hundred thousand or more shall have power to establish a retirement system for all civil employees permanently employed by said board other than superintendents and teachers who may now be retired under the provisions of other retirement laws. The board of education

of such city shall adopt appropriate rules and regulations for the government, management and control of the retirement of said employees. Before they become effective such rules and regulations must be approved by the board of estimate and apportionment in a city having such body, and in a city not having such body by the common council or such other officers or bodies as have the management and control of financial affairs similar to that exercised by such board of estimate and apportionment. The board of estimate and apportionment in a city having such body, and in other cities the officers or bodies performing the functions similar to those of a board of estimate and apportionment, shall appropriate annually the sum necessary to pay the expenses of the administration of this act and to also pay such pensions to the employees herein described as they shall be entitled to receive annually under the rules and regulations prescribed by the board of education and approved by the said board of estimate and apportionment or other authorities. The rules and regulations prescribed by the board of education and approved by the board of estimate and apportionment or other authorities named herein shall provide for the annual payment of a pension which shall be a per centum of the average annual personal compensation of an employee for the five years of service immediately preceding his retirement.

Provided however that in a city having a population of one million or over and having a teachers' retirement board the rules and regulations to be established pursuant to this act shall be adopted as follows:

Within thirty days after the passage of this act the board of education of said city shall adopt and submit such rules and regulations to said teachers' retirement board for approval. Said teachers' retirement board shall within thirty days after the submission to it of such rules and regulations transmit to said board of education a statement in writing setting forth which of such rules and regulations it approves and which of such rules and regulations it disapproves if any and the reasons for such disapproval. If said teachers' retirement board shall approve of all of such rules and regulations then such rules and regulations shall immediately become effective and in full force and operation.

If said teachers' retirement board shall disapprove of all or any of such rules and regulations and if said board of education and said teachers' retirement board within thirty days thereafter shall fail to agree upon rules and regulations in place of the rules and regulations so disapproved, then the rules and regulations shall be

submitted by said board of education within ten days after the lapse of said thirty days to the Commissioner of Education of the State of New York who shall have full power to approve, alter or modify the rules and regulations disapproved by said teachers' retirement board, and the action of the Commissioner of Education shall be final, and thereupon the rules and regulations approved by said teachers' retirement board and the rules and regulations as approved, altered or modified by the Commissioner of Education shall immediately become effective and in full force and operation.

Should said teachers' retirement board fail either to approve or to disapprove all or any of such rules and regulations submitted to it as herein provided, then such rules and regulations not approved or not disapproved shall at the expiration of the thirty days immediately following their submission to said teachers' retirement board be deemed to have been approved by said teachers' retirement board and such rules and regulations shall immediately become effective and in full force and operation. Changes, alterations, amendments or modifications in the rules and regulations shall be adopted in the same manner as is provided herein for the adoption of the original rules and regulations.

The board of estimate and apportionment in a city having such body, and in other cities the officers or bodies performing functions similar to those of the board of estimate and apportionment, are hereby authorized and required to direct the issue of special revenue bonds for the purpose of providing such funds as may be necessary for the year nineteen hundred and twenty-one to pay the expenses of the administration of the retirement system authorized by this act and to make effective the rules and regulations adopted as aforesaid, notwithstanding any provisions to the contrary contained in the charter of such city or in any act relating to such city or in any general, special, or local act; and thereafter the financial authorities of said city shall appropriate annually the moneys that may be necessary to pay the expenses of the administration of the retirement system and to carry out and make effective the rules and regulations relating to the retirement system established by authority of this act. [*Added by L. 1918, ch. 496; amended by L. 1920, ch. 500; and L. 1921, ch. 713, in effect May 13, 1921.*]

§ 873 Local school board districts. 1 The local school board districts in a city having a population of one million or more are hereby continued as they exist at the time this article goes into effect subject, however, to the provisions contained herein. The board of education of such city may modify the boundaries of such

districts, consolidate two or more of such districts, and establish new districts.

2 There shall be in each of such districts a local school board of five members appointed by the president of the borough in which such district is located. The board of education shall designate as a member of a local school board one member of the board of education and the city superintendent of schools shall assign one district superintendent to advise with such board.

3 The members of such local school boards in office prior to the time this article goes into effect shall serve for the term for which they were appointed. The full term of office of a member of such board shall be five years. A vacancy on such board shall be filled by the borough president for the unexpired term.

4 Subject to the provisions of this chapter a local school board shall within its district have the power and it shall be its duty to visit the schools at least once every quarter; to make recommendations to the board of education with respect to matters affecting the interests of the schools; subject to the by-laws of the board of education, to transfer teachers from school to school, to excuse absences of teachers, to hear charges against principals or teachers and make recommendations thereon to the board of education, and to perform such other duties as may be required under said by-laws; to provide by-laws regulating the exercise of the powers and duties vested in it, provided such by-laws are not in conflict with the by-laws of the board of education; to elect a secretary and determine his duties. The secretary is hereby authorized to administer oaths and take affidavits in all matters pertaining to the schools in his district, in which a local school board has power to act, and for that purpose shall possess all the powers of a commissioner of deeds, but shall not be entitled to any fees or emoluments thereof. The board of education shall provide for the expenses of a local school board and for its places of meeting. [*Added by L. 1917, ch. 786, in effect June 8, 1917.*]

§ 874 **Bonds of employees.** The board of estimate and apportionment of a city or in a city having no board of estimate and apportionment the body or officer performing the duties performed by a board of estimate and apportionment which may now legally require bonds of such employees may continue to require bonds of such employees in such amount as such board of estimate and apportionment or other body or officer shall determine. In all other cities bonds may be required of such employees by the board of

education. The premiums on such bonds shall be paid by the city. [Added by L. 1917, ch. 786, in effect June 8, 1917.]

§ 875 Buildings, sites et cetera. 1 A board of education is authorized and it shall have power to purchase, repair, remodel, improve or enlarge school buildings or other buildings or sites, and to construct new buildings, subject to such limitations and restrictions and exceptions as are herein provided.

2 Whenever in the judgment of a board of education it is necessary to select a new site, or to enlarge a present site, or to designate a playground or recreation center, or to acquire title to or lease real property for other education purposes authorized by this chapter, such board may take options on property desirable for such purposes but before taking title thereto shall pass a resolution stating the necessity therefor, describing by metes and bounds the grounds or territory desired for each of these purposes, and estimating the amount of funds necessary therefor. An item for such amount if funds are not available for the purchase or lease of such property may be included in the next annual budget if not included in a special budget as herein provided.

3 Whenever in the judgment of a board of education the needs of the city require a new building for school purposes or for recreation or other educational purposes authorized by this chapter, or when in its judgment a building should be remodeled or enlarged, such board shall pass a resolution specifying in detail the necessity therefor and estimating the amount of funds necessary for such purpose. An item for such amount if funds are not available for the construction of such building may be included in the next annual budget if not included in a special budget as herein provided.

4 No site shall be designated except upon a majority vote of a board of education and no building shall be constructed, remodeled or enlarged until the plans and specifications therefor are approved by the board of education.

5 After a site has been selected and plans and specifications for a building thereon have been approved as provided herein, a board of education in a city having a population of more than four hundred thousand but less than one million may, in its discretion, by regulation deliver such plans and specifications to the council which may thereupon, in its discretion, award a contract for the erection of such building in the same manner and in accordance with the provisions of law regulating the awarding of contracts for the construction of municipal buildings of such city.

6 In a city of the second class in which the common council, the board of estimate and apportionment and the board of contract and supply and the commissioner of public works or other city officials, or any one or more thereof, has the authority under the law in force prior to the time this act takes effect to erect, remodel, improve, or enlarge school buildings or to purchase supplies or real property for any school purpose, such officers, board or boards shall continue to possess such powers and duties and to perform such functions.

7 When the real property of a city under the control and management of the board of education is no longer needed for educational purposes in the city, such board shall notify the common council of such fact and in a city having no common council, the council or the commissioners of the sinking fund, and such common council or such council or such commissioners of the sinking fund, as the case may be, may then sell or dispose of such property in the manner in which other real property owned by the city may be sold or disposed of and the proceeds thereof shall be credited to the funds under the control and administration of the board of education in such city, except that in cities where the proceeds of such sales are required by statute, in effect prior to the time this article goes into effect, to be paid to the credit of the sinking fund established and maintained therein, the proceeds of such sales shall continue to be paid to the credit of the sinking fund of such city or cities as required by statute, and except that in a city having a council or a board of estimate and apportionment, such council or board may, by resolution, authorize the use of the proceeds of such sale for other municipal purposes.

8 No contract for the purchase of supplies, furniture, equipment, or for the construction or the alteration or remodeling of any building shall be entered into by a board of education involving an expenditure or liability of more than one thousand dollars unless said board shall have duly advertised for estimates for the same and the contract in each case shall be awarded to the lowest responsible bidder furnishing the security as required by such board. [*Added by L. 1917, ch. 786, in effect June 8, 1917.*]

§ 876 Purchase and sale of real property. The board of education may purchase real property for any of the purposes authorized by law and shall take title thereof in the name of the city, or when the boundaries of a city and a city school district are not coterminus, in the name of the city school district, and when the owner of such property refuses to sell the same or such board

is unable to agree with the owner of such property on the purchase price thereof, it shall have the power and authority to institute such proceedings and take any action necessary to acquire title to such property under and pursuant to the provisions of the condemnation law, city charter, or of any special statute authorizing proceedings to acquire title by right to eminent domain, except that in a city in which the common council, board of contract and supply or other city officers or body are authorized and empowered by law to acquire title to real property for school purposes under the laws in force at the time this act goes into effect, said council, board, officers or body shall continue to possess such powers and shall exercise the same, including the power to condemn real property for said purposes, under the provisions of law relating thereto notwithstanding any of the provisions contained in this act. [*Amended by L. 1918, ch. 252, in effect April 17, 1918.*]

§ 877 Annual estimate. 1 The board of education in each city having a population of less than one million shall prepare annually an itemized estimate for the current or ensuing fiscal year of such sum of money as it may deem necessary for the purposes stated in this section, after crediting thereto the amount anticipated in the next apportionment of school funds from the State and the estimated amount to be received from all other sources. Such itemized estimate in such cities shall be filed at such times and in such manner as city departments or officers are required to submit estimates for such departments or officers. The board of education in each other city shall prepare annually an itemized estimate for the ensuing fiscal year and file the same on or before the first day of September. Such estimate shall be for the following purposes:

a The salary of the superintendent of schools, associate district or other superintendents, examiners, directors, supervisors, principals, teachers, lecturers, special instructors, auditors, medical inspectors, nurses, attendance officers, clerks and janitors and the salary, fees or compensation of all other employees appointed or employed by said board of education.

b The other necessary incidental and contingent expenses including ordinary repairs to buildings and the purchase of fuel and light, supplies, textbooks, school apparatus, books, furniture and fixtures and other articles and service necessary for the proper maintenance, operation and support of the schools, libraries and other educational, social or recreational affairs and interests under its management and direction. The provisions of this section in regard to the purchase of light shall not apply to a city having a population of one million or more.

c The remodeling or enlarging of buildings under its control and management, the construction of new buildings for uses authorized by this chapter and the furnishing and equipment thereof, the purchase of real property for new sites, additions to present sites, playgrounds or recreation centers and other educational or social purposes, and to meet any other indebtedness or liability incurred under the provisions of this chapter or other statutes, or any other expenses which the board of education is authorized to incur.

2 In a city which had, according to the state census of nineteen hundred and fifteen, a population of less than fifty thousand such estimate shall be filed with the clerk of the common council and the common council shall include, except as otherwise provided herein, in the next annual tax and assessment roll of the city the amount specified in such estimate and the same shall be collected in the same manner as other city taxes are collected and shall be placed to the credit of the board of education as herein provided. In each city in which the law provides, prior to the time this article goes into effect, that such assessment shall be included in a school tax and assessment roll, separate and distinct from the annual tax and assessment roll, and at a different time, such assessment shall continue to be included in a school tax and assessment roll, to be prepared and levied at the same time each year as the law provides in respect to said cities prior to the time this article goes into effect. In case more than twenty-five thousand dollars is required to be raised by tax for the purposes specified in paragraph c of subdivision 1 of this section, the common council, or the board of education, or either, may provide for the submission to the voters of the city, at a tax election, the proposition for the expenditure of such sum or may levy a tax to be payable in instalments, for such purposes, and may issue and sell municipal bonds as hereinafter provided. In case the submission is made by the board of education, the election shall be called and held in the manner provided by section 878. In case the submission is made by the common council, the provisions of law regulating tax elections in such cities shall apply to and govern the method of calling and holding such election. In either case the result of the election shall be ascertained and determined by a majority of the votes cast on the proposition submitted. Where the submission is made by the board of education, city bonds may be issued by such board, and where the submission is made by the common council, city bonds may be issued by such common council, in the manner and to the extent provided in sec-

tion 879, subdivision 1. [*Subdivision 2 amended by L. 1922, ch. 346, in effect March 29, 1922.*]

2-a In the city of Lockport such estimate shall be filed with the clerk of the common council and shall be known as the school budget, and the common council shall include the amount specified in such budget in a school tax and assessment-roll, to be entirely separate and distinct from the annual tax and assessment-roll, and the amount provided therein shall be collected at the same time and in the same manner as other city taxes are collected, and shall be placed to the credit of the board of education as herein provided. [*Added by L. 1918, ch. 484.*]

2-b In a city of the third class, created or to be created by the consolidation of two cities situated, respectively, in two adjoining counties, in which, at the time of the creation of such consolidated city, a school district shall be coterminous with the boundaries of one such city, and there shall be in the other city a school district wholly within its boundaries but not coterminous therewith, such estimate shall be filed with the clerk of the common council in the month of January each year and the common council shall cause the amount thereof to be levied as a tax against the property in the city school district of such consolidated city and shall include such amount in the annual city tax and assessment roll and the same shall be collected at the same time and in the same manner as other city taxes and the amount so collected shall be placed to the credit of the board of education as herein provided. [*Added by L. 1919, ch. 299, in effect May 3, 1919.*]

2-c In the city of Niagara Falls such estimate shall be filed with the clerk of the city council on or before March first and shall be known as the school budget, and the city council shall include the amount specified in such budget in a school tax and assessment roll, to be entirely separate and distinct from the annual tax and assessment roll, and the amount provided therein shall be collected, as soon as possible after May first. [*Added by L. 1922, ch. 539, in effect January 1, 1923.*]

3 In a city of the third class in which the common council under statutes in effect prior to the time when this act takes effect, has the power to determine the amount of funds which shall be included in the estimate for the support and maintenance of public schools, and in any such city in which the mayor under such statutes has the power to consider and determine the amounts included in such estimate for the support and maintenance of public schools, such common council and mayor shall have the same power and shall

perform the same duties as are required under the statutes in effect prior to the taking effect of this act, and the provisions of such statutes shall continue in full force and effect notwithstanding the provisions of this act. Nothing in this act shall be construed as conferring upon the common council of a city of the third class the power to determine the amount which shall be used for school purposes, which was not specifically conferred upon the common council of such city under the statutes in effect prior to the taking effect of this act. Where the mayor, under a statute in effect prior to the taking effect of this act, reduces or eliminates items in the estimate for the support and maintenance of public schools in the city, he must return such estimate to the board of education, stating his reasons for making such reductions or eliminations, within ten days after the filing of such estimate, and thereupon the board of education may take action on such estimate and may by a three-fourths vote of the members of the board restore the items so reduced or eliminated, and the estimate shall thereupon become effective and the amounts specified therein shall be levied and collected in the same manner as other city taxes are collected.

4 In a city of the second class in which the board of estimate and apportionment has authority, under the statutes in effect prior to the time this act goes into effect, to determine the amount of funds which shall be included for the support and maintenance of public schools in the estimate to be submitted to the common council, and in a city of the first class having a population of less than four hundred thousand, according to the federal census of 1910, such estimate shall be filed with the mayor. The mayor shall place such estimate before the board of estimate and apportionment at the same time and in the same manner as estimates from city departments or officers are placed before said board of estimate and apportionment, and such estimate shall thereafter be subject to the same consideration, action and procedure as all other estimates from city departments or officers. The said board of estimate and apportionment may increase, diminish or reject any item contained in said estimate, except for fixed charges for which the city is liable. When such estimate is adopted the board of estimate and apportionment shall file it with the common council.

5 The board of education in each other city of the second class shall file such estimate with the mayor. The common council of each city included within the provisions of this subdivision shall include the amount of such estimate in the tax and assessment roll of the city and the same shall be collected and placed to the credit

of the board of education as herein provided, except that a tax for the purposes specified in paragraph *c* of subdivision 1 of this section shall be levied payable in instalments and bonds therefor shall be issued and sold as hereinafter provided.

6 In a city which had, according to the federal census of 1910, a population of four hundred thousand or more but less than one million such estimate shall be filed with the officer authorized to receive other department estimates and the same acted on by such officer and by the council of such city in the same manner and with the same effect as other department estimates. The council is also authorized, in its discretion, to include in such budget a sum for any of the purposes enumerated in paragraph *c* of subdivision 1 of this section, and any further amount for such purposes as may be authorized by a tax election held in such city pursuant to the provisions of this chapter. After the adoption of such budget the council shall cause the amount thereof to be included in the tax and assessment roll of the city and the same shall be collected in the same manner and at the same time as other taxes of the city are collected, and placed to the credit of the board of education.

7 In a city which had, according to the federal census of 1910, a population of one million or more such estimate shall be filed with the board of estimate and apportionment. If the total amount requested in such estimate shall be equivalent to or less than four and nine-tenths mills on every dollar of assessed valuation of the real and personal property in such city liable to taxation, the board of estimate and apportionment shall appropriate such amount. If the total amount contained in such estimate shall exceed the said sum of four and nine-tenths mills on every dollar of assessed valuation of the real and personal property in such city liable to taxation, such estimate shall, as to such excess, be subject to such consideration and such action by the board of estimate and apportionment, the board of aldermen, and the mayor as that taken upon departmental estimates submitted to the board of estimate and apportionment. The board of estimate and apportionment is authorized to make additional appropriations for educational purposes authorized by this chapter. The general school fund shall consist of all moneys raised for the payment of the salaries of all persons employed in the supervising and teaching staff, including the superintendent of schools and all associate, district and other superintendents, members of the board of examiners, attendance officers, supervisor of lectures, lecturers and director and assistant director of the division of reference and research. The special school fund shall contain

and embrace all moneys raised for educational purposes not comprised in the general school fund. The general school fund shall be raised in bulk and for the city at large. The board of education shall administer all moneys appropriated or available for educational purposes in the city, subject to the provisions of law relating to the audit and payment of salaries and other claims by the department of finance.

8 A board of education may, to meet emergencies which may arise, submit a special estimate in which items for extraordinary expenses may be submitted to meet such emergencies. Such estimate shall contain a complete statement of the purposes for which the items are requested and the necessity therefor. The same method of procedure shall be followed in submitting such estimate and such estimate shall be subject to the same consideration and action as is required in the submission, consideration and action upon the regular annual estimate submitted by a board of education. The common council in such a city shall have power to make the appropriations requested by a board of education in such special estimate. The common council of a city of the third class, the common council, the board of estimate and apportionment of a city of the second class and, in a city having a population of four hundred thousand or more and less than one million, according to the federal census of 1910, the council may temporarily borrow the amount appropriated on city certificates of indebtedness or by the issuance of revenue bonds, or other municipal bonds, which certificates of indebtedness or bonds shall be payable at such time and in such manner as shall be provided by general laws or the charter of such city for other certificates of indebtedness or revenue bonds.

9 In cities in which the boundaries of the school district or districts are not coterminous with the city boundaries and in which the board of education, under the provisions of law existing at the time of the passage of this act, is authorized to levy taxes for school purposes, the board of education is hereby authorized and empowered to prepare, fix and determine the education budget for all the purposes set forth in this section, and said board of education shall levy and collect the necessary tax or taxes for all the purposes specified in said budget in accordance with the provisions of the Education Law. In the event the boundaries of said city or cities are hereafter made coterminous with the school district boundaries this provision shall no longer apply.

10 A board of education shall not incur a liability or an expense chargeable against the funds under its control or the city for any

purpose in excess of the amount appropriated or available therefor or otherwise authorized by law.

11 In a city in which, under the statutes in effect prior to the time of the taking effect of this act, it is provided that the estimate of expenditures for the support and maintenance of the public schools of the city shall not be less than a specified per capita sum, based on the number of pupils enrolled in the public schools of the city, the amount authorized or required to be included in the estimate of school expenditures as provided in this act shall not be less than the per capita sum specified in such statute. [*Added by L. 1917, ch. 786, in effect June 8, 1917.*]

§ 878 Tax election. 1 In a city having a population of less than seventy-five thousand, according to the federal census of nineteen hundred and ten, the board of education may call a tax election, by giving notice thereof as notice is required under the Education Law of an annual school election and submit to those qualified to vote at such election a proposition to expend a sum of money in excess of twenty-five thousand dollars for any of the purposes enumerated in paragraph *c* of subdivision 1 of section 877 of this chapter. The provisions of law relating to and governing annual school elections, including inspectors, notices, qualifications of voters, challenges, hours for keeping polls open, penalties, canvass of votes, filing returns, supplying ballots, and all other matters relating to an annual election shall apply to and govern, so far as may be practicable, a tax election except in a city in which the election of members of the board of education is held at the general or municipal election. In such city the law applying to and governing such general or municipal elections shall apply to and govern such tax election. In such a city, where the members of the board of education are appointed, the provisions of article 7-*a*, so far as may be, shall apply to the calling and holding of such election; except that the board of education may adopt the division of the city into election districts theretofore made by the common council, in which case the notice of election need not describe the boundaries of each election district, but it shall be sufficient if such notice specify the schoolhouse or other places wherein such election shall be held; nor shall it be necessary to state in such notice of election that the poll lists have been filed, as provided in section 212; provided, however, that in cities having a population of more than fifty thousand by the last preceding census the secretary or clerk of the board of education shall, prior to such election, prepare a poll list for each election district and file the same for public inspec-

tion in his office not less than ten days prior to the election. [*Subdivision 1 amended by L. 1922, ch. 346, in effect March 29, 1922.*]

2 In such a city in which the members of the board of education are elected at the general or municipal election, a tax election for like purposes may be held by direction of the board of education. The provisions of law regulating such general or municipal elections in such cities shall apply to and govern the method of calling and holding tax elections in said cities. [*Added by L. 1917, ch. 786, in effect June 8, 1917.*]

3 In the city of Oswego the common council shall continue to have power, upon the request of the board of education, to call and hold taxpayers' elections to vote upon the question of issuing bonds of the city, under sections 46 and 47 of the charter of such city, for the purposes enumerated in paragraph *c* of subdivision 1 of section 877 of this chapter, in the same manner, and with the same force and effect, as prior to the eighth day of June, 1917, and to issue such bonds for such purposes, or any of them, pursuant to the provisions of such charter, provided a majority of such taxpayers voting at such election approve of such issue. [*Subdivision added by L. 1919, ch. 176, in effect April 10, 1919.*]

4 In the city of Poughkeepsie the common council shall continue to have power, upon the request of the board of education, to call and hold taxpayers' elections to vote upon the question of issuing bonds of the city under sections ninety-nine and one hundred of the charter of said city, for the purposes enumerated in paragraph *c* of subdivision one of section eight hundred and seventy-seven of this chapter, in the same manner, and with the same force and effect, as prior to the eighth day of June, nineteen hundred and seventeen, and to issue such bonds for such purposes or any of them, pursuant to the provisions of such charter, provided a majority of the taxpayers voting at such election approve of such issue. [*Subdivision 4 added by L. 1920, ch. 498, in effect May 4, 1920.*]

§ 879 **Bond issue.** 1 When the common council or the voters of a city authorize an appropriation to be raised by a tax in instalments for any of the purposes enumerated in paragraph *c* of subdivision 1 of section 877 of this chapter, city bonds shall be issued in the same manner and under the same provisions as other bonds are or may be issued by such city. The principal and interest of such bonds shall be paid out of moneys raised by tax therefor in the same manner as other school moneys are raised, when such bonds and the interest thereon shall become due and payable. In a city having a population of four hundred thousand or more but

less than one million, according to the federal census of 1910, such bonds shall be issued by the council.

2 In a city of the second class and in a city of the first class having a population of less than four hundred thousand, according to the federal census of 1910, the common council and the board of estimate and apportionment, or other municipal authorities who were authorized and empowered under the laws in force prior to the eighth day of June, 1917, to determine upon the necessity of issuing bonds for any of the purposes enumerated in paragraph *c* of subdivision 1 of section 877 of this chapter, shall continue to possess such power and may authorize, issue and sell bonds for any of the purposes so enumerated, in the same manner and with the same force and effect as prior to the said eighth day of June, 1917. [*Amended by L. 1918, ch. 252, in effect April 17, 1918.*]

3 In a city having a population of four hundred thousand or more but less than one million, the council of such city may, by a vote of four-fifths of its members, authorize from time to time the issuance of bonds of said city to defray the expense of the construction, improvement and equipment of school buildings or the purchase or acquisition of school sites, which expense shall not have been included in the budget, in such amounts and payable at such times and places and having such rates of interest, not exceeding six per centum per annum, as said council may determine, interest to be paid semiannually, said bonds, however, to be due in not more than fifty years from their date and to be sold for not less than their par value and accrued interest. Such bonds may be made payable in equal proportions during a number of successive years not exceeding a period of fifty years from their issuance, as the council shall determine. Such bonds shall be issued and sold by the authorities of the city in the same manner that bonds for other municipal purposes are issued and sold and the proceeds of the sale of such bonds shall be paid into the treasury of the city and placed to the credit of the board of education. As such bonds become due the municipal authorities of the city shall include in the tax levy, and assess upon the property of the city, the amount necessary to pay such bonds and interest thereon.

4 In a city having a population of one million or more, the board of estimate and apportionment may in its discretion annually cause to be raised such sums of money as may be required for the purposes enumerated in subdivision *c* of section 877 of this act, in the manner provided by law for the raising of money for such purposes. [*Added by L. 1917, ch. 786, in effect June 8, 1917.*]

5 In a city in which the boundaries of the school district or districts are not coterminous with the city boundaries, and in the city school district of the city of Jamestown taxes may be raised in instalments and district bonds issued for any of the purposes enumerated in paragraph *c* of subdivision 1 of section 877 of this chapter, in the manner provided and under the conditions prescribed by the Education Law for the levy and collection of taxes in instalments and the issue and sale of bonds of union free school districts.

All bonds of the union free school district of the city of Jamestown, as so designated by chapter 279 of the laws of eighteen hundred and eighty-seven, issued by the board of education of such district under the provisions of such act prior to June eight, nineteen hundred and seventeen, and now outstanding, or hereafter to be issued for school purposes, shall be the bonds of the city school district of the city of Jamestown, and shall not be reckoned as a part of the city debt. [*Subdivision 5 added by L. 1918, ch. 252; and amended by L. 1920, ch. 367; and L. 1922, ch. 224, in effect March 24, 1922.*]

§ 880 Funds; custody and disbursement of. 1 Public moneys apportioned to a city by the State and all funds raised or collected by the authorities of a city for school purposes or to be used by the board of education for any purposes authorized in this chapter, or any other funds belonging to a city and received from any source whatsoever for similar purposes, shall be paid into the treasury of such city and shall be credited to the board of education.

2 Such funds shall be disbursed only by authority of the board of education and upon written orders drawn on the city treasurer or other fiscal officer of the city. Such orders shall be signed by the superintendent of schools and the secretary of the board of education or such other officers as the board may authorize. Such orders shall be numbered consecutively and shall specify the purpose for which they are drawn and the person or corporation to whom they are payable.

3 It shall be unlawful for a city treasurer or other officer having the custody of city funds to permit the use of such funds for any purpose other than that for which they are lawfully authorized and such funds shall not be paid out except on audit of the board of education and the countersignature of the comptroller, and in a city having no comptroller by an officer designated by the officer or body having the general control of the financial affairs of such city. The board of education of such city shall make, in addition to such classification of its funds and accounts as it desires for its

own use and information, such further classification of the funds under its management and control and of the disbursements thereof as the comptroller of the city, or the officer or body having the general control of the financial affairs of such city, shall require, and such board shall furnish such data in relation to such funds and their disbursements as the comptroller or such other financial officer or body of the city shall require. [*Added by L. 1917, ch. 786, in effect June 8, 1917.*]

§ 881 Continuation in office of boards, bureaus, teachers, principals and other employees, et cetera. Except as otherwise provided herein the boards, bureaus, teachers, principals, supervisors, superintendents, heads of departments, assistants to principals, examiners, supervisor of lectures, directors and all other officers and employees of the school system or of boards of education of the several cities of the State, lawfully appointed or assigned before this act takes effect, shall continue to hold their respective positions for the term for which they were appointed or until removed as provided in subdivision 3 of section 872 of this article.

2 If a board of education abolishes an office or position and creates another office or position for the performance of duties similar to those performed in the office or position abolished, the person filling such office or position at the time of its abolishment shall be appointed to the office or position thus created without reduction in salary or increment, provided the record of such person has been one of faithful, competent service in the office or position he has filled.

3 If an office or position is abolished or if it is consolidated with another position without creating a new position, the person filling such position at the time of its abolishment or consolidation shall be placed upon a preferred eligible list of candidates for appointment to a vacancy that may thereafter occur in an office or position similar to the one which such person filled without reduction in salary or increment, provided the record of such person has been one of faithful, competent service in the office or position he has filled. The names of such persons shall be placed upon such preferred list in the order in which their services have been thus discontinued. [*Added by L. 1917, ch. 786, in effect June 8, 1917.*]

Effect of City School Law; Repeal

L. 1917, ch. 786, § 2: City school district. Each city in which the school district boundaries are coterminous with the city boundaries is hereby declared to be a city school district. In a city in which the city boundaries

and the school district boundaries are not coterminous the school district boundaries shall remain as they existed prior to the time this act takes effect and until such time as such school district boundaries may be changed as provided by law. In each city where the school district boundaries are not coterminous with the city boundaries the school district which contains the whole or the greater portion of the inhabitants of the city shall be the city school district of said city and shall be subject to the provisions of this act.

§ 3 **Repeal of inconsistent provisions; effect of repeal.** All acts or parts of acts, general or special, inconsistent with the provisions of this act are hereby repealed. The repeal of the acts specified in the schedule hereto annexed, or of such inconsistent acts or parts of such acts, shall not affect any right existing or accrued or any liability incurred prior to the passage of this act, and all acts or parts of acts, general or special, not specifically repealed by this act and not inconsistent with the provisions of this act shall remain in full force and effect.

§ 4 **Pending actions or proceedings; existing rules.** The repeal of a law or any part of it specified in the annexed schedule and any provision of this act shall not affect pending actions or proceedings brought by or against the board of education of a city, or by or against a city, in respect to the public schools thereof, under or in pursuance of any of the provisions of the laws hereby repealed, but the same may be prosecuted or defended in the same manner and for the same purpose by the board of education of the city under the provisions of this chapter as though such laws had not been repealed. The rules and regulations adopted by a board of education in pursuance of any law hereby repealed shall continue in full force and effect notwithstanding such repeal, until the same are modified, amended or repealed by the board of education as provided in this chapter. Nothing in this act shall affect titles to school property, but such property may be held either in the name of the city school district or of the board of education, as provided in this act or in any other act relating to titles to such property.

§ 5 **Time of taking effect.** This act shall take effect immediately.

§ 6 **Laws repealed.** Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is hereby repealed.

[Schedule of laws repealed is omitted.]

ARTICLE 33-b

[Article added by L. 1919, ch. 645, in effect May 19, 1919; amended generally by L. 1920, ch. 680, in effect May 10, 1920.]

Salaries of the Members of the Supervising and Teaching Staff in City Schools

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| Section 882 | Powers of boards of education as to salaries |
| 883 | Salaries in cities of the first class having a population of one million or over |
| 883-a | Special provisions as to certain high schools |
| 884 | Salaries in cities of the first class having a population of less than one million |
| 885 | Salaries in cities of a population of fifty thousand and less than one hundred and fifty thousand |

Section 886	Salaries in cities of a population of less than fifty thousand
886-b	Salaries in union free school districts
887	Boards to fix salaries
888	Salaries and increments
889	Schedule to be filed

§ 882 Powers of board of education as to salaries. The board of education of each city of the State shall adopt by-laws fixing the salaries of the superintendent of schools, associate, district or other superintendents, members of the board of examiners, if any, directors, inspectors, supervisors, principals, teachers, lecturers, special instructors and of all other members of the supervising and the teaching staff. Such by-laws shall establish uniform schedules of salaries for all members of the supervising and teaching staff in each city. The salaries and salary increments so fixed for principals and teachers by the by-laws of the board of education of each city, on and after January 1, 1920, shall be not less than those prescribed in the following sections of this article. [*Added by L. 1919, ch. 645.*]

§ 883 Salaries in cities of the first class having a population of one million or over. The schedules adopted by the board of education, in a city of one million inhabitants or more, shall not discriminate between the salaries and salary increments of members of the teaching staff in such schools because of the sex of said members notwithstanding any provision of the charter of such city inconsistent herewith. On and after August first, nineteen hundred and twenty, such salaries and increments shall be not less than those prescribed in the following schedules:

A. ELEMENTARY SCHOOLS

Schedule A-1. All teachers of kindergarten to six-b classes: First year, not less than one thousand and five hundred dollars; annual increment, not less than one hundred and twenty-five dollars; number of annual increments, not less than eleven.

Schedule A-2. All teachers or seven-a to nine-b classes: First year, not less than one thousand nine hundred dollars; annual increment, not less than one hundred and fifty dollars; number of annual increments, not less than nine.

Schedule A-3. All teachers of special subjects in the day elementary schools and all teachers teaching classes, in such schools, for which a special license is required; same as schedule a-two.

Schedule A-4. Assistants to principal (heads of departments): First year, not less than three thousand four hundred dollars; annual

increment, not less than one hundred dollars; number of annual increments, not less than two.

Schedule A-5. Principals of day elementary schools, and heads of model schools; principals of schools for the deaf, for the crippled; principals of continuation, prevocational, parental, or probationary schools; principals of intermediate (junior high) schools: First year, three thousand seven hundred and fifty dollars; annual increment, two hundred and fifty dollars; number of increments, four.

Schedule A-6. Teacher clerks: First year, twelve hundred dollars; annual increment, one hundred dollars; number of increments, six.

B. HIGH SCHOOLS AND TRAINING SCHOOLS

Schedule B-1. Assistant teachers, including teachers of cooking, sewing and physical training, model teachers and critic teachers: First year, one thousand nine hundred dollars; annual increment, one hundred and fifty dollars; number of annual increments, twelve.

Schedule B-2. First assistants: First year, three thousand two hundred dollars; annual increment, two hundred dollars; number of annual increments, five.

Schedule B-3. Clerical, laboratory, library and placement and investigation assistants: First year, one thousand four hundred dollars; annual increment, one hundred dollars; number of annual increments, ten.

Schedule B-4. Principals of training and high schools having twenty-five or more classes: First year, five thousand five hundred dollars; annual increment, two hundred and fifty dollars; number of annual increments, two.

The board of education of such city shall adopt schedules and schedule conditions to become effective on and after the first day of August, nineteen hundred and twenty, which schedules and schedule conditions shall fix the compensation or salaries of the members of the teaching and supervising staffs, as specified and required in the foregoing schedules, and shall also fix the compensation or salaries of all other members of the teaching and supervising staffs and of other employees of the board of education, whether on a per annum or on a non-per annum basis, including, in addition to those falling within the foregoing schedules, the superintendent of schools, all associate, district or other superintendents, members of the board of examiners, assistant examiners, directors, assistant directors, inspectors, supervisors, special instructors, special teachers, administrative assistants, clerical assistants, librarians, attendance officers, secretaries, auditors, clerks, teacher

clerks and all officers and employees of said board of education, notwithstanding any provision to the contrary contained in the charter of such city or in any act relating to such city or in any general, special or local act. The schedules and schedule conditions so to be adopted, fixing the salaries of such members of the teaching and supervising staffs and other employees as do not fall within the foregoing schedules, shall provide that on and after the first day of August, nineteen hundred and twenty, the compensation, salaries and salary increments to be paid to each of said persons shall be not less than the compensation or salaries fixed for each of said persons by the schedules and schedule conditions adopted by said board of education as filed with the Commissioner of Education prior to the first day of April, nineteen hundred and twenty, plus the following amounts: not less than thirty per centum of all compensation or salary of each of said persons, as so fixed in such schedules and schedule conditions, if such compensation or salary earnable during any one year does not exceed two thousand dollars; not less than twenty per centum of the compensation or salary of each of said persons, as so fixed in such schedules and schedule conditions, if such compensation or salary earnable during any one year exceeds two thousand dollars, but does not exceed four thousand dollars; and not less than ten per centum of the compensation or salary of each of said persons, as so fixed in such schedules and schedule conditions, if such compensation or salary earnable during any one year exceeds four thousand dollars. Any provision in any schedule or schedule condition which postpones the full operation of said schedules beyond the first day of August, nineteen hundred and twenty, shall be of no effect and any provision of law which authorizes such postponement beyond the first day of August, nineteen hundred and twenty, is hereby repealed and the compensation, salaries and salary increments in the schedules to be adopted pursuant to the provisions of this act shall become fully operative and shall be paid on and after said first day of August, nineteen hundred and twenty, subject, however, to provisions of law relating to approval of service as satisfactory. [*Added by L. 1919, ch. 645; amended by L. 1920, ch. 680, in effect May 10, 1920.*]

C. COLLEGES

On and after the first day of June, nineteen hundred and twenty-one, the compensation and salaries of the officers of administration and instruction and other employees of any public institution of higher learning, conferring degrees and subject to the provisions of

this law relative to colleges, and in which the compensation and salaries of such person are paid directly or indirectly out of moneys appropriated by the board of estimate and apportionment or like financial authority of such city of one million inhabitants or more, shall not be less than those prescribed in the following schedules:

Schedule C-1. Fellows: minimum of five hundred dollars per annum and maximum of one thousand dollars per annum.

Schedule C-2. Tutors: minimum of one thousand dollars per annum and maximum of two thousand dollars per annum.

Schedule C-3. Clerical, library, laboratory and investigation assistants: minimum of one thousand four hundred dollars per annum and maximum of two thousand four hundred dollars per annum.

Schedule C-4. Instructors: minimum of two thousand dollars per annum and maximum of three thousand five hundred dollars per annum.

Schedule C-5. Assistant professors and the secretary to the president or the secretary of the college: minimum of three thousand dollars per annum and maximum of four thousand five hundred dollars per annum.

Schedule C-6. Associate professors: minimum of four thousand five hundred dollars per annum and maximum of five thousand five hundred dollars per annum.

Schedule C-7. Lecturers: minimum of two thousand dollars per annum and maximum of five thousand dollars per annum.

Schedule C-8. Curator and auditor: minimum of four thousand dollars per annum and maximum of six thousand dollars per annum.

Schedule C-9. Professors: minimum of five thousand dollars per annum and maximum of eight thousand dollars per annum.

Schedule C-10. Dean of a faculty, librarian, and secretary of a faculty: minimum of two hundred dollars per annum and maximum of five hundred dollars per annum in addition to the salaries of their instructional ranks.

Schedule C-11. The president: minimum of ten thousand dollars per annum and maximum of twelve thousand five hundred dollars per annum.

Schedule C-12. Services on an hourly basis of compensation: persons appointed by the trustees to positions in the evening and summer session with compensation on an hourly basis, shall be compensated for each hour of such service at a rate not less than one one-thousandth of the annual salary for their respective grades as established in accordance with the provisions of the other schedules herein.

Schedule C-13. Other positions: the compensation, salaries and salary increments of employees of such institutions of higher learning, appointed by the trustees to positions other than those designated in the foregoing schedules, shall be not less than those that have been or may be fixed and adopted by the board of education of such city pursuant to the provisions of chapter six hundred and eighty of the laws of nineteen hundred and twenty, for civil service employees other than executive officers performing like service under said board of education.

The board of trustees of each such institution of higher learning shall adopt schedules and schedule conditions to become effective not later than the first day of June, nineteen hundred and twenty-one, which schedules and schedule conditions shall fix the compensation or salaries of the members of the teaching and supervising staffs and other employees according to the provisions of this subdivision, but they shall not include in such schedules and schedule conditions any provision which postpones the full operation of such schedules beyond the first day of June, nineteen hundred and twenty-one. The said trustees shall make appointments to the various grades and positions provided for in the schedules herein authorized and they shall, at such times as they may elect, make promotions from grade to grade, grant salary increments which they may legally establish within the minimum and maximum limits of the various schedules adopted by said trustees, and appoint persons to temporary or part time service. The said trustees shall make up their pay-roll budgets in amounts sufficient to cover compensation for all persons appointed by them, at rates in accordance with the provisions of this subdivision, and a reserve sum upon which to draw for the compensation of minor, temporary employees; but in making their appointments and in preparing the salary budgets of their institutions, they shall not, without the consent by majority vote of the board of estimate and apportionment or like financial authority of said city, in any one year; (a) include a total sum for incumbents under schedule C-nine in excess of twenty-five per centum of the total salary provision in said budget for all incumbents under schedules C-one to C-eleven, both inclusive; (b) include in the salary budget an item in excess of one thousand dollars to be used to pay for the services of persons appointed to temporary, minor positions. The board of estimate and apportionment or like financial authority of such city shall, in addition to providing and making appropriation for all other requirements of such institution of higher learning, appropriate annually and at other

times when necessary an amount or amounts sufficient to pay the salaries fixed in accordance with the provisions of this subdivision, and shall pay such salaries to the persons employed in such institutions. The trustees of said institution shall apply all amounts so appropriated solely for the payment of salaries fixed as herein provided to persons holding positions in such institution. The provisions of this subdivision shall be carried into full force and effect notwithstanding any provision to the contrary in the charter of such city or in any act relating to such city or in any general, special or local act; and any provision of law which authorizes the postponement of the full operation of the salary schedules provided in this subdivision, beyond the first day of June, nineteen hundred and twenty-one, is hereby repealed and the compensation, salaries and salary increments in the schedules adopted as herein provided shall become fully operative on and after the first day of June, nineteen hundred and twenty-one, subject, however, in each case, to provisions of law, if any, relating to the approval of service as satisfactory. No present salary shall be lowered by the operation of this subdivision.

[*Subdivision C added by L. 1921, ch. 120, in effect March 28, 1921.*]

§ 883-a **Special provisions as to certain high schools.** In a city of the first class having a population of one million or more inhabitants, the board of trustees, officers or bodies having appropriate jurisdiction shall adopt schedules and schedule conditions to become effective on and after the first day of August, nineteen hundred and twenty, fixing the compensation or salaries of principals, assistants, teachers, instructors, clerical assistants and all persons employed in the management, administration or supervision of a high school or a model school in said city, in which high school or model school the compensation or salaries of said persons are paid directly or indirectly out of moneys appropriated by the board of estimate and apportionment or like financial authority in said city, and in which the minimum curriculum or course of study is established or is subject to approval by the board of education of said city or by the board of Regents of the State of New York, and which is maintained in every respect as a public high school or model school. Such schedules shall provide for compensation, salaries and salary increments to be paid to each of said persons which shall be not less than those fixed and adopted by the board of education of said city pursuant to the provisions of this act, for principals, teachers, instructors, clerical assistants and employees

performing like services in the high schools and model schools under the jurisdiction of said board of education. The board of estimate and apportionment or like financial authority of such city shall, in addition to any other appropriation provided for by law for such school, appropriate annually for such school an amount sufficient to pay the increases in salaries provided for in this section, and the money so appropriated shall be used for the payment of said increases in salaries. [*Added by L. 1920, ch. 680, in effect May 10, 1920.*]

§ 884 **Salaries in cities of the first class having a population of less than one million.** In a city of the first class having a population of less than one million the board of education shall adopt schedules and schedule conditions to become effective on and after the first day of August, nineteen hundred and twenty, which schedules and schedule conditions shall fix the compensation or salaries of the members of the supervising and teaching staff in said city. The schedules and schedule conditions so to be adopted shall provide that on and after the first day of August, nineteen hundred and twenty, the annual compensation or salary paid to each member of the supervising and teaching staff in said city shall be not less than four hundred dollars in advance of the compensation or salary fixed in the schedules adopted by said board of education prior to and in effect on the first day of March, nineteen hundred and twenty, as the same shall appear in the schedules filed in the office of the State Commissioner of Education, provided that on and after the said first day of August, nineteen hundred and twenty, the minimum compensation or salary paid to any member of the supervising and teaching staffs in the junior high schools of said city shall be not less than one thousand six hundred dollars per annum. The schedules and schedule conditions so to be adopted shall provide further that on and after the said first day of August nineteen hundred and twenty, the annual increments in each and every schedule which has a fixed minimum compensation or salary and a maximum compensation or salary, shall be not less than one hundred dollars nor less than one-eighth of the difference between such minimum compensation or salary and that maximum compensation or salary to which a member of the supervising and teaching staff employed under such schedule shall be automatically carried. Nor shall the number of said annual increments in any schedule be less than eight. [*Added by L. 1919, ch. 645; amended by L. 1920, ch. 680, in effect May 10, 1920.*]

§ 885 Salaries in cities of a population of fifty thousand and less than one hundred and fifty thousand. On and after the first day of August, nineteen hundred and twenty, the salaries and salary increments of members of the supervising and teaching staff in cities of a population of fifty thousand and less than one hundred and fifty thousand and the salary and salary increments and contracts for compensation of members of the supervising and teaching staff of union free school districts located wholly within the boundaries of such cities shall be not less than those prescribed in the following schedules:

A. ELEMENTARY SCHOOLS

Schedule A-1. Teachers of kindergarten and first to eighth year classes: first year, one thousand one hundred dollars; number of annual increments, not less than eight.

B. HIGH SCHOOLS

Schedule B-1. Teachers: first year, one thousand three hundred dollars; number of annual increments, not less than eight. [*Added by L. 1919, ch. 645; amended by L. 1920, ch. 680, in effect May 10, 1920.*]

§ 886 Salaries in cities of a population of less than fifty thousand. On and after the first day of August, nineteen hundred and twenty, the salaries and salary increments and the contracts for compensation of members of the supervising and teaching staff in cities of a population of less than fifty thousand and in union free school districts authorized by law to have superintendents of schools shall be not less, nor provide for less, than those prescribed in the following schedules:

A. ELEMENTARY SCHOOLS

Schedule A-1. Teachers of kindergarten and first to eighth year classes: first year, one thousand dollars; number of annual increments, not less than eight.

B. HIGH SCHOOLS

Schedule B-1. Teachers: first year, one thousand one hundred and fifty dollars; number of annual increments, not less than eight. [*Added by L. 1919, ch. 645, amended by L. 1920, ch. 680, in effect May 10, 1920.*]

§ 886-b **Salaries in union free school districts.** On and after the first day of August, nineteen hundred and twenty, the salaries and salary increments and the contracts for compensation of members of the supervising and teaching staff in union free school districts having an academic department or high school approved by the Commissioner of Education, other than those provided for in the preceding section, shall be not less, nor provide for less, than those prescribed in the following schedules:

A. ELEMENTARY SCHOOLS

Schedule A-1. Teachers of kindergarten and first to eighth year classes: first year, eight hundred dollars; number of annual increments, not less than eight.

B. HIGH SCHOOLS

Schedule B-1. Teachers: first year, nine hundred dollars; number of annual increments, not less than eight. [*Added by L. 1920, ch. 680, in effect May 10, 1920.*]

§ 887 The board of education in each city of the State shall fix the salaries and annual salary increments of all members of the supervising and teaching staffs and of all principals, teachers, supervisors or other employees, whose salaries are not fixed by the provisions of this act. The board of education in each city may also, in its discretion, increase the minimum salaries and salary increments of any members of the supervising and teaching staffs or other employees, whose salaries are not fixed by the provisions of this act. [*Added by L. 1919, ch. 645.*]

§ 888 **Salaries and increments.** 1 A member of the supervising and the teaching staff in such schools serving under a schedule which provides for annual increments shall receive for any given year of service the salary and the increment provided in said schedule for the year which corresponds to his year of service, unless his services for the year immediately preceding have been declared by a majority vote of the board of education or board of superintendents of a city, to be unsatisfactory, after opportunity to be heard.

2 The salary, including the annual increment, to which a present member of such teaching staff shall be entitled under any salary schedule existing on the date of the passage of this act, shall not be reduced by reason of the operation of the schedules of salaries set

forth in this article, or by reason of any other provision contained in this article.

Notwithstanding any other provision of this article boards of education in cities located in a county having a population of over four hundred thousand and adjoining a city having a population of one million or more shall fix the minimum salaries and not less than eight annual increments of the supervising and teaching staff in said cities and file the same with the Commissioner of Education as provided in this act. The minimum salaries so fixed shall not be less than those paid in said cities at the time of the passage of this act.

3 The schedule of salaries provided for in this act shall take effect and become operative as follows:

a In all cities having a population of less than one million, on the first day of January 1920.

b In a city having a population of one million or more, the board of education shall pay to each member of such supervising and teaching staff, until and including May thirty-first, nineteen hundred and twenty, a salary which shall be at a rate not less than that which said member was receiving on the thirty-first day of December, nineteen hundred and nineteen, and in addition thereto one-third of the difference between such salary to the said thirty-first day of May, nineteen hundred and twenty, and the amount of salary to which said member would be entitled for the period expiring on the said thirty-first day of May, nineteen hundred and twenty, under the schedules and schedule conditions made in conformity with the provisions of this article. From and after June first, nineteen hundred and twenty, the board of education shall pay to each member of such teaching and supervising staff, a salary which shall be not less than that to which such member is entitled under the schedules and schedule conditions made in conformity with the provisions of this article, and on and after such date the said schedule and schedule conditions shall be in full force and effect. [*Added by L. 1919, ch. 645, subdivision 3-b amended by L. 1920, ch. 73, in effect March 23, 1920.*]

§ 889 **Schedule to be filed.** A copy of the schedules and schedule conditions approved by the board of education of each city together with a copy of such changes in schedules and schedule conditions as are made in conformity with this article, certified by the secretary of the board, shall, within thirty days after the adoption thereof, be filed in the office of the State Commissioner of Education. [*Added by L. 1919, ch. 645.*]

ARTICLE 34

Appeals or Petitions to Commissioner of Education

Section 890 Appeals or petitions to Commissioner of Education and other proceedings

891 Powers of Commissioner upon appeals of¹ petitions, et cetera

892 Filed papers and copies thereof

§ 890 Appeals or petitions to Commissioner of Education and other proceedings. Any person conceiving himself aggrieved may appeal or petition to the Commissioner of Education who is hereby authorized and required to examine and decide the same; and the Commissioner of Education may also institute such proceedings as are authorized under this act and his decision in such appeals, petitions or proceedings shall be final and conclusive, and not subject to question or review in any place or court whatever. Such appeal or petition may be made in consequence of any action:

1 By any school district meeting;

2 By any school commissioner and other officers, in forming or altering, or refusing to form or alter, any school district, or in refusing to apportion any school moneys to any such district or part of a district;

3 By a supervisor in refusing to pay any such moneys to any such district;

4 By the trustees of any district in paying or refusing to pay any teacher, or in refusing to admit any scholar gratuitously into any school or on any other matter upon which they may or do officially act;

5 By any trustees of any school library concerning such library, or the books therein, or the use of such books;

6 By any district meeting in relation to the library or any other matter pertaining to the affairs of the district.

7 By any other official act or decision of any officer, school authorities, or meetings concerning any other matter under this chapter, or any other act pertaining to common schools. [*Section renumbered by L. 1918, ch. 252.*]

§ 891 Powers of Commissioner upon appeals or petitions, et cetera. The Commissioner, in reference to such appeals, petitions or proceedings, shall have power:

1 To regulate the practice therein.

¹ So in original.

2 To determine whether an appeal shall stay proceedings, and prescribe conditions upon which it shall or shall not so operate.

3 To decline to entertain or to dismiss an appeal, when it shall appear that the appellant has no interest in the matter appealed from, and that the matter is not a matter of public concern, and that the person injuriously affected by the act or decision appealed from is incompetent to appeal.

4 To make all orders, by directing the levying of taxes or otherwise, which may, in his judgment, be proper or necessary to give effect to his decision. [*Section renumbered by L. 1918, ch. 252.*]

§ 892 **Filed papers and copies thereof.** The Commissioner shall file, arrange in the order of time, and keep in his office, so that they may be at all times accessible, all the proceedings on every appeal or petition to him under this article, including his decision and orders founded thereon; and copies of all such papers and proceedings, authenticated by him under his seal of office, shall be evidence equally with the originals. [*Section renumbered by L. 1918, ch. 252.*]

ARTICLE 35

Orphan Schools

Section 900 Schools of orphan asylums

901 Rules subject to supervision of school authorities

902 Annual reports

§ 900 **Schools of orphan asylums.** The schools of the several incorporated orphan asylum societies in this State, other than those in the city of New York, shall participate in the distribution of the school moneys, in the same manner and to the same extent, in proportion to the number of children educated therein, as the common schools in their respective cities or districts. The schools of said societies shall be subject to the rules and regulations of the common schools in such cities or districts, but shall remain under the immediate management and direction of the said societies as heretofore.

§ 901 **Rules subject to supervision of school authorities.** Every such asylum may make all laws, rules and regulations relative to the education and discipline of their inmates, as a majority of the trustees thereof at their annual meetings shall think fit and proper; but such laws, rules and regulations shall not be repugnant to the laws of this State in its policy in reference to public and primary instruction, and shall be subject at all times to the inspection and supervision of the several educational officers of the

different villages, towns or cities in which such orphan asylums may be located.

§ 902 **Annual reports.** An annual report shall be made and sworn to by the presiding officer of any such asylum, stating the number of inmates thereof, the time spent by them in pursuing studies therein, in what studies they shall have been instructed, and the manner in which the public funds distributed to it shall have been expended, which shall be filed with the Commissioner of Education.

ARTICLE 36

Schools for Colored Children

[Text of article omitted.]

ARTICLE 37

Indian Schools

[Text of article omitted.]

ARTICLE 38

Instruction of Deaf-Mutes and of the Blind

[Text of article omitted.]

ARTICLE 39

New York State School for the Blind

[Text of article omitted.]

ARTICLE 39-a

[Added by L. 1917, ch. 559, in effect May 18, 1917]

Physically Defective Children

§ 1020 **Physically defective children.** 1 The board of education of each city and of each union free school district, and the board of trustees of each school district shall, within one year from the time this act becomes effective, ascertain, under regulations prescribed by the Commissioner of Education and approved by the Regents of the University, the number of children in such city or district under the age of eighteen years who are deaf, blind, so crippled or otherwise so physically defective as to be unable to attend upon instruction in regular classes maintained in public schools.

2 The board of education of each city and of each union free school district in which there are ten or more children who are deaf, blind, crippled or otherwise physically defective shall establish such special classes as may be necessary to provide instruction adapted to the mental attainments and physical conditions of such children. Provided, however, that in each city or union free school district in which schools for the deaf, blind, crippled or otherwise physically defective now exist or may hereafter be established, which are incorporated under the laws of the State and are found by the board of education to be adequate to provide instruction adapted to the mental attainments and physical conditions of such children, the board of education shall not be required to supply additional special classes for the children so provided for.

The board of education of such cities or union free school districts is hereby authorized and empowered to contract with such schools for the education of such children in special classes therein. [*Amended by L. 1918, ch. 378, in effect April 30, 1918.*]

3 The board of education of each city and of each union free school district, and the board of trustees of each school district, which contains less than ten children who are deaf, blind, crippled or otherwise physically defective, is hereby authorized and empowered to contract with the board of education of another city or school district for the education of such children in special classes organized in the schools of the city or district with which such contract is made. [*Added by L. 1917, ch. 559, in effect May 18, 1917.*]

ARTICLE 40

Cornell University

[*Text of article omitted.*]

ARTICLE 40-a

[*Article 40-a, added by L. 1917, ch. 207, in effect April 19, 1917*]

Agricultural Schools

Section 1040 Courses of study; instruction

1041 Recommendations as to appropriations; expenditures

§ 1040 **Courses of study; instruction.** The instruction of pupils attending the schools of agriculture established under the provisions of articles 41, 41-a, 42, 42-a, 43 and 45-a of this chapter shall be under the general supervision of the Commissioner of Education. The Commissioner of Education is hereby authorized to

approve the courses of study to be followed in such schools of agriculture and in the extension work carried on by such schools, including the training of teachers of agriculture. Such directions shall be given by the Commissioner to the board of directors or trustees, as the case may be, of each agricultural school, and such board of directors or trustees shall, upon receiving such directions as to such courses of study, cause the same to be followed and the subjects therein prescribed to be taught in such schools. [*Added by L. 1917, ch. 207, in effect April 19, 1917.*]

§ 1041 **Recommendations as to appropriations; expenditures.** The Commissioner of Education shall recommend annually to the Legislature the amount of appropriations approved by him as necessary for the maintenance of such agricultural schools and for carrying into effect the purposes for which they were established. The amounts appropriated for the support and maintenance of such schools shall be paid out by the State Treasurer upon the warrant and audit of the Comptroller and upon vouchers approved by the Commissioner of Education. The provisions of this article shall not apply to the New York State College of Agriculture at Cornell University. [*Added by L. 1917, ch. 207, in effect April 19, 1917.*]

ARTICLE 41

State School of Agriculture at Saint Lawrence University

[*Text of article omitted.*]

ARTICLE 41-a

[*Added by L. 1913, ch. 675*]

State School of Agriculture and Domestic Science at Delhi

[*Text of article omitted.*]

ARTICLE 42

State School of Agriculture at Alfred University

[*Text of article omitted.*]

ARTICLE 42-a

[*Added by L. 1911, ch. 852*]

State School of Agriculture at Cobleskill

[*Text of article omitted.*]

ARTICLE 43**State School of Agriculture at Morrisville***[Text of article omitted.]***ARTICLE 43-a***[Added by L. 1910, ch. 441]***Retirement Fund for Teachers in State Institutions***[Text of article omitted.]*

Under the provisions of chapter 568 of the Laws of 1921, entitled "An Act to provide a more uniform retirement plan for state employees under the provision of the New York State employees' retirement fund system and to repeal certain acts and parts of acts providing for other retirement systems," teachers in the State College for Teachers and the state normal schools shall be considered as teachers subject to the provisions of article 43-b of the Education Law. This act repeals article 43-a as added by chapter 441 of the Laws of 1910, to take effect July 1, 1921, except as to employees now covered by said article, and as to them it shall take effect July 1, 1925. It is further provided that the pensions of all pensioners drawing pensions under the repealed act on June 30th of the year of repeal shall be continued and paid out of any funds accumulated under such law, and that the amount required in addition to continue the pensions of such pensioners shall be paid by the State of New York by annual appropriations made therefor from the general fund. Chapter 104 of the Laws of 1922 amends chapter 568 of the Laws of 1921 and permits teachers employed in the State Agricultural and Industrial School to become eligible for membership in the State Teachers Retirement Fund System.

ARTICLE 43-b*[Inserted by L. 1920, ch. 503, in effect August 1, 1921]***State Teachers' Retirement Fund for Public School Teachers**

Section	1100	Definitions
	1101	Establishment of retirement system
	1102	Membership of system
	1103	Retirement board; members; terms of office
	1104	Election of elected members of board
	1105	Vacancies in board; meetings; oaths of office; quorum; expenses
	1106	Officers of board; custody of funds
	1107	Investment of funds; interest; accounts; reports
	1108	Statements of teachers' service; determination of service creditable; service certificates
	1109	Superannuation retirement
	1109-a	Disability retirement
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- Section 1109-*d* Benefits to participants in old retirement fund
- 1109-*e* Funds enumerated
- 1109-*f* Annuity savings fund; contributions and payments
- 1109-*g* Annuity reserve fund; pension accumulation fund
- 1109-*h* Pension reserve fund
- 1109-*i* Expense fund
- 1109-*j* Duties of employer
- 1109-*k* Collection of contributions
- 1109-*l* Discontinuance of local district pension systems
- 1109-*m* Transfer of contributions between retirement systems
- 1109-*n* State supervision
- 1109-*o* Exemption from taxation
- 1109-*p* Protection against fraud

§ 1100 Definitions. The following words and phrases used in this article shall have the following meanings unless a different meaning is plainly required by the context:

(1) "Retirement system" shall mean the New York State teachers' retirement system provided for in section eleven hundred and one of this article.

(2) "Retirement board" shall mean the retirement board provided by section eleven hundred and three of this article.

(3) "Employer" shall mean the State of New York, the city, the village, school district board or trustee, or other agency of and within the State by which a teacher is paid.

(4) "Teacher" shall mean any regular teacher, special teacher, including any school librarian or physical training teacher, principal, vice-principal, supervisor, supervisory principal, director, superintendent, city superintendent, assistant city superintendent, district superintendent, school commissioner and other member of the teaching or professional staff of any class, public school, vocational school, truant reformatory school or parental school and of any or all classes of schools within the State of New York, including schools on the Indian reservation, conducted under the order and superintendence of and wholly or partly at the expense of the New York State Education Department or of a duly elected board of education, board of school directors or board of trustees of the State or of any city or school district thereof, provided that no person shall be deemed a teacher within the meaning of this article who is not so employed for full time outside vacation periods. The word, "teacher," shall also include any person employed in the State Education Department who at the time he entered such employment, or within one year prior thereto, was a teacher within the foregoing definition, or who is engaged in such department in the performance of duties pertaining to instructional services. In

all cases of doubt, the retirement board shall determine whether any person is a teacher as defined in this article.

(5) "Present teacher" shall mean any teacher who was a teacher on or before the first day of August, nineteen hundred and twenty-one, whose membership in the retirement system created by this act has been continuous and

(a) who became a member of the retirement system created by this act on or before the first day of August nineteen hundred and twenty-two; or

(b) who was a member of a local district pension system on or before the first day of August, nineteen hundred and twenty-one, who continued thereafter to be a member until he, with the membership of such local district pension system, became a member of the retirement system created by this act.

(6) "New entrant" shall mean any teacher who is a member of the retirement system except a present teacher.

(7) "Contributor" shall mean any member of the retirement system who has an account in the annuity savings fund as provided by this article.

(8) "Beneficiary" shall mean any person in receipt of a retirement allowance or other benefit as provided by this article.

(9) "Regular interest" shall mean interest at four per centum per annum compounded annually.

(10) "Accumulated contributions" shall mean the sum of all the amounts deducted from the compensation of a contributor, and credited to his individual account in the annuity savings fund together with regular interest thereon.

(11) "Final average salary" shall mean the average annual compensation earnable as a teacher during the five years of service immediately preceding his date of retirement.

(12) "Annuity" shall mean the annual payments for life derived from contributions made by contributor as provided in this article. All annuities shall be paid in equal monthly instalments.

(13) "Pension" shall mean the annual payments for life derived from payments made by an employer as provided in this article. All pensions shall be paid in equal monthly instalments.

(14) "Retirement allowance" shall mean the pension plus the annuity.

(15) "Annuity reserve" shall mean the present value of all payments to be made on account of any annuity, or benefit in lieu of any annuity, computed upon the basis of such mortality tables as shall be adopted by the retirement board with regular interest.

(16) "Pension reserve" shall mean the present value of all payments to be made on account of any pension, or benefit in lieu of any pension, computed upon the basis of such mortality tables as shall be adopted by the retirement board with regular interest.

(17) "Retirement fund" shall mean the state teachers' retirement fund for public school teachers of the State of New York as created by chapter one hundred and forty of the laws of nineteen hundred and ten, chapter four hundred and forty-nine of the laws of nineteen hundred and eleven, chapter forty-four of the laws of nineteen hundred and fourteen and chapter one hundred and three of the laws of nineteen hundred and nineteen.

(18) "Local district pension system" shall mean any teachers' retirement system or other arrangement for the payment of pensions or annuities to teachers exclusive of the retirement fund, created in any city or school district of this State prior to the first day of August, nineteen hundred and twenty-one.

§ 1101 **Establishment of retirement system.** (1) The retirement system shall be established on the first day of August, nineteen hundred and twenty-one, and shall be known as the "New York State teachers' retirement system."

(2) The retirement system so created shall have the powers and privileges of a corporation, and under its corporate name all of its business shall be transacted, all funds invested, all warrants for money drawn and payments made, and all cash and securities and other property shall be held.

§ 1102 **Membership of system.** (1) The membership of the retirement system shall consist of the following:

(a) All teachers who were teachers on or before the first day of August, nineteen hundred and twenty-one, who shall file with the retirement board applications for membership, except those specifically excluded under subdivision four of this section.

(b) All teachers who were not teachers on or before the first day of August, nineteen hundred and twenty-one, except those specifically excluded under subdivision four of this section.

(2) The retirement board may, in its discretion, deny the right to become members to any class of teachers whose compensation is only partly paid by the employer or who are serving on a temporary or any other than a per annum basis, and it may also, in its discretion, make optional with members in any such class their individual entrance into membership.

(3) The membership of any person in the retirement system shall cease if he shall be continuously absent without pay for a

period of more than two years, or if in any five-year period after he last became a member, he shall render less than two years of service as a teacher, or upon the withdrawal by a contributor of his accumulated deductions as provided in this article or upon retirement on a pension, or at death.

(4) Teachers who are members or who become members of a local district pension system maintained under the laws of the State from appropriations or contributions made wholly or partly by an employer shall be excluded from membership in this retirement system. But should more than two-thirds of all the teachers participating in such local district pension system apply for membership in the retirement system created by this article by a petition duly signed and verified, approved by their employers and filed with the retirement board, all the teachers included in the membership of such local district pension system shall become members of the retirement system created by this article at such time within three months after the filing of such petition as the retirement board shall designate. Thereupon, the local district pension system of which they were members shall be dissolved and discontinued as provided in section eleven hundred and nine-*l* of this article.

§ 1103 Retirement board; members; terms of office. (1) The general administration and responsibility for the proper operation of the retirement system and for making effective the provisions of this article is hereby vested in a retirement board which shall be organized immediately after the appointment of its members. The retirement board shall from time to time establish rules and regulations for the administration and transaction of its business and for the control of the funds created herein and shall perform such other functions as are required for the execution of the provisions of this article.

(2) The retirement board shall consist of seven members as follows:

(a) One member, who is not an employee of the State, who shall be an executive officer of a bank authorized to do business in this State, elected by the Board of Regents of The University of the State of New York to serve for a term of three years. Following the completion of the initial term, the stated term of service of such member shall be three years.

(b) Two administrative officers of the New York State school system, appointed by the Commissioner of Education, one to serve for two years and one to serve for three years. Members of the present State teachers' retirement fund board shall be deemed to

be administrative officers of the New York State school system within the meaning of this provision. Following the completion of the initial terms, the stated terms of service of such members shall be three years.

(c) The Comptroller of the State of New York or one member appointed by him who shall serve until his successor is appointed.

(d) Three members elected from among the members of the retirement system, one to serve for one year, one for two years, one for three years. Following the completion of the initial terms, the stated terms of service of such members shall be three years.

§ 1104 **Election of elected members of board.** An annual convention of the members of the retirement system shall be held at twelve o'clock noon on the Monday immediately preceding Thanksgiving in the same city as the annual convention of the New York State Teachers Association, or in the absence of such convention, in the State Education Building at Albany, beginning with the year nineteen hundred and twenty-one, for the purpose of electing members of the board of retirement of the retirement system. Said convention shall be composed of delegates selected as hereinafter provided from each territory constituting the jurisdiction of a district superintendent, of a village or city superintendent, which territory shall constitute a territorial unit of representation in the assembly of delegates. Said convention shall be called to order by a member of the retirement board designated by said board, and shall organize by the election of a chairman and a secretary. Each territorial unit shall be entitled to be represented in such convention by one delegate for each two hundred members of the retirement system in said unit and one delegate for any fraction over one hundred; provided, that each unit shall be entitled to at least one delegate. Said delegate shall be elected by the vote of a majority of the members of the retirement system voting at a meeting held for the purpose of electing such delegates. Said meeting for the election of delegates shall be held at such convenient place as shall be selected by the superintendent of the territory. Notice of the time and place of said meeting shall be issued by said superintendent at least ten days before the date of said meeting. Said meeting shall organize by the election of a chairman and secretary. Said secretary shall, within five days after said meeting, forward to the retirement board of the retirement system a certificate containing the names and addresses of the delegates elected to the annual convention, and shall furnish the delegates elected with a certificate of their election. In case of a vacancy in the

delegation from any unit, the remaining delegates from such unit may fill such vacancy by appointing a member in said unit, who shall possess the qualifications hereinbefore prescribed for delegates to such convention. A majority of all the delegates entitled to seats in said convention shall constitute a quorum for the transaction of business.

§ 1105 Vacancies in board; meetings; oaths of office; quorum; expenses. (1) A vacancy occurring during the term of an appointed member shall be filled for the unexpired term by the appointment of a successor in the same manner as his predecessor. A vacancy occurring during a term in the case of an elected member shall be filled, until the next annual convention of delegates, by the Commissioner of Education and shall be filled for the unexpired term by the delegates at the next annual convention in addition to the regular election.

(2) Until the election of three members of the system to serve on the board, the members elected by the Board of Regents and appointed by the Commissioner of Education, and the State Comptroller or the member appointed by him, are empowered to perform the duties of the retirement board. Such members shall be appointed within six weeks after this article takes effect.

(3) The board shall meet annually in the Education Building at Albany on the second Wednesday in January and shall have stated meetings at the same place at least one in each three months as determined by the regulations of the board.

(4) Each member of the retirement board shall, within ten days after his appointment or election, take the constitutional oath of office and cause the same to be filed in the office of the secretary of state.

(5) A majority of the members of the retirement board shall constitute a quorum for the transaction of any business.

(6) The members of the retirement board shall serve without compensation, but they shall be reimbursed from the expense fund for all actual necessary expenses and for any loss of salary or wages they may suffer through serving on the retirement board.

§ 1106 Officers of board; custody of funds. (1) The retirement board shall elect from its membership a president and vice-president, and shall have power to employ a secretary and to secure the services of such technical and administrative employees as may be necessary for the transaction of the business of the retirement system. The compensation of all persons engaged by the retirement board and all other expenses of the board necessary for the proper

operation of the retirement system shall be paid at such rates and in such amounts as the retirement board shall approve.

(2) The counsel of the State Education Department shall be the legal adviser of the retirement board.

(3) The Treasurer of the State of New York shall be custodian of the funds of the retirement system. Disbursements from the funds of the retirement system shall be made by the treasurer only upon authorization by the retirement board by resolution duly adopted at a meeting of the board by a majority of its members.

(4) The Treasurer of the State shall give a separate and additional bond in such amount as may be fixed from time to time by the governor for the faithful performance of the duties of such treasurer as custodian of the funds of the retirement system provided for herein. Such bond shall be deposited with the Secretary of State and kept in his office.

(5) The treasurer shall furnish annually to the retirement board a sworn statement of the amount of the funds in his custody belonging to the retirement system.

§ 1107 Investment of funds; interest; accounts; reports.

(1) The members of the retirement board shall be the trustees of the several funds created by this article, and shall determine from time to time what part of the moneys belonging to the retirement system shall be invested. When such board shall determine upon the investment of any moneys or upon the conversion or sale of any securities, it shall, by resolution duly adopted by a majority vote of the members of the board, direct the treasurer to so invest the moneys or convert or sell the securities. Investments shall be made only in securities in which the trustees of a savings bank may invest the moneys deposited therein as provided by section one hundred and forty-six of the banking law. It shall be the duty of the treasurer to collect the interest thereon as the same becomes due and payable and also the principal thereof and place the same when so collected to the credit of the retirement system.

(2) The retirement board shall annually allow regular interest on the mean amount for the preceding year in each of the funds created by this article, excepting the expense fund. The amount so allowed shall be payable to said funds and shall be annually credited thereto by the retirement board. All interest earned upon the entire amount of the funds belonging to the retirement system shall be used for this purpose, unless the amount so earned is in excess of the requirements, in which case the excess amount shall

be credited to the pension accumulation fund. Any deficiency in the amount required to cover the interest requirements of the funds, exclusive of the pension accumulation fund, shall be paid from the pension accumulation fund.

(3) Except as herein provided, no member nor employee of the retirement board shall have any interest direct or indirect in the gains or profits of any investment made by the board nor as such directly or indirectly receive any pay or emolument for his services. And no member nor employee of the said board directly or indirectly, for himself or as an agent or partner of others, nor a corporation of which he is an officer, stockholder or member, shall borrow any of its funds or deposits or in any manner use the same except to make such current and necessary payments as are authorized by the board; nor shall any member or employee of said board become an endorser or surety or become in any manner an obligor for moneys loaned by or borrowed of the board.

(4) The retirement board shall provide for maintenance of an individual account with each member showing the amount of the member's contributions and the interest accumulations thereon. It shall collect and keep in convenient form such data as shall be necessary for the preparation of the required mortality and service tables, and for the compilation of such other information as shall be required for the actuarial valuation of the assets and liabilities of the various funds created by this article. Upon the basis of the mortality and service experience of the members and beneficiaries of the system, the retirement board from time to time shall adopt the tables to be used for valuation purposes and for determining the amount of annuities to be allowed on the basis of the contributions of members.

(5) At such times as the retirement board may deem it necessary and at least once within the first three years of the operation of this article and each quinquennial period thereafter, the retirement board shall have prepared by a competent actuary familiar with retirement systems, a report showing a complete valuation of the present and prospective assets and liabilities of the various funds created by this article with the exception of the expense fund. The actuary shall make an investigation of the mortality and service experience of the members of the retirement system and shall report fully upon its conditions with such recommendations as he shall deem advisable for the information of the retirement board in the proper operation of the retirement system.

(6) The records of the retirement board shall be open to public inspection.

(7) The retirement board shall publish annually a report showing the condition of the various funds created by this article, certifying to the accumulated cash and securities of the funds and giving an account of the operation of the system.

§ 1108 **Statements of teachers' service; determination of service creditable; service certificates.** (1) Under such rules and regulations as the retirement board shall adopt, each present teacher shall file a detailed statement of all service as a teacher and service in a similar capacity in other states rendered by him prior to the first day of August, nineteen hundred and twenty-one, for which he claims credit, and of such other facts as the retirement board may require for the proper operation of the retirement system.

(2) Each new entrant shall file a detailed statement of service as a teacher and service in a similar capacity in other states rendered by him prior to so becoming a member together with a statement as to the number of years on account of which he desires to contribute and as to such other facts as the retirement board may require for the proper operation of the system.

(3) The retirement board shall fix and determine by appropriate rules and regulations how much service in any year is the equivalent of a year of service, but in computing such service or in computing average compensation, it shall credit no period of more than a month's duration, during which a member was absent without pay, nor shall more than one year of service be credited for all service in any calendar year.

(4) Subject to the above restrictions and to such other rules and regulations as the retirement board shall adopt, said board shall verify as soon as practicable the statement of service submitted.

(5) Upon verification of the statement of service submitted, the retirement board shall issue to the member a prior service certificate certifying to the aggregate length of such prior service as a teacher and to the aggregate length of such service in a similar capacity outside of the State. In such prior service certificate, a present teacher shall be credited up the nearest number of years and months with all service as a teacher prior to August first, nineteen hundred and twenty-one, and with all service not exceeding ten years in a similar capacity in other states. In such prior service certificate, a new entrant shall be credited in full up to the nearest number of years and months with all service as a teacher not exceeding ten years, rendered before becoming a member and with such service

in a similar capacity outside of New York State for which he desires to contribute provided the amount of such service credited together with the service credited him as a teacher shall not exceed ten years.

(6) So long as membership continues, a prior service certificate shall be final and conclusive for retirement purposes as to such service unless thereafter modified by the retirement board upon application made by the member within one year after the date of issuance or modification of a prior service certificate or upon the discovery by the retirement board of an error or fraud. When membership ceases, such certificate shall be void. Should membership be resumed by the teacher, such teacher shall enter the system as a new entrant, except as provided by subdivision five of section eleven hundred and nine-a of this article.

(7) At retirement, the total state service credited a member shall consist of the service as a teacher rendered by him since he last became a member, and, if he has a prior service certificate which is in full force and effect, the service as a teacher certified on such certificate. The total service credited a member shall consist of the service rendered by him as a teacher since he last became a member and if he has a prior service certificate which is in full force and effect for all service certified on such certificate.

§ 1109 **Superannuation retirement.** (1) Retirement upon a superannuation allowance shall be made under the following conditions:

(a) A member who has completed twenty-five years of total state service and who has attained the age of sixty, or a member who has completed thirty-five years of total service may retire from service if he files with the retirement board a statement duly attested setting forth at what date subsequent to the execution and filing thereof he desires such retirement and if during the year immediately preceding the filing of such statement he shall have been a teacher. The retirement board shall retire said member as of the date so specified by the member or as of such other time within thirty days thereafter as the retirement board may find advisable.

(b) Any member who has attained age seventy may be retired at his own request or at the request of his employer if he or his employer files with the retirement board a statement duly attested setting forth at what time subsequent to the execution and filing thereof retirement is desired, and if during the year immediately preceding the filing of such statement he shall have been a teacher. The retirement board shall retire said member as of the date so

specified or as of such other time within thirty days thereafter as the retirement board may find advisable.

(2) Upon superannuation retirement a member shall receive a superannuation retirement allowance which shall consist of:

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, and

(b) A pension of one-quarter ($1/4$) of his final average salary or if his total service is less than twenty-five years, a pension of one one-hundredth ($1/100$) of his final average salary multiplied by the number of years of total service, and

(c) If the member be a present teacher, a further pension of one one-hundred and fortieth ($1/140$) of his final average salary multiplied by the number of years of total service certified on his prior service certificate, and

(d) A further pension, of such amount as shall be required to bring the total retirement allowance of members with twenty-five or more years of state service up to four hundred dollars per annum.

§ 1109-a **Disability retirement.** (1) Retirement on account of disability shall be made under the following conditions: A member who has completed at least fifteen years of total state service may be retired on account of disability either upon the application of his employer or upon his own application or that of a person acting in his behalf, if during the year immediately preceding his application, he shall have been in the service of the State as a teacher and if the retirement board, after a medical examination of said member, made at the place of his residence within the State or other place mutually agreed upon, by a physician or physicians designated by said board shall determine upon the basis of a report submitted by said physician or physicians that the said member is physically or mentally incapacitated for the performance of duty and that said member ought to be retired.

(2) On retirement for disability, a member shall receive a superannuation retirement allowance if his state service is twenty-five or more years and he has attained age sixty or if his total service is thirty-five or more years; otherwise, he shall receive a disability retirement allowance which shall consist of:

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement; and

(b) A pension of one-fifth ($1/5$) of his final average salary, with the exception that in no case shall the rate of such pension exceed four-fifths ($4/5$) of the rate of pension to which he might have been entitled had retirement been deferred until the age of

seventy as provided under paragraph *b* of subdivision one of section eleven hundred and nine; and

(*c*) If he be a present teacher, a further pension of one one-hundred and fortieth ($1/140$) of his final average salary multiplied by the number of years of total service certified on his prior service certificate.

(3) Once each year during the first five years following the retirement of the teacher on a disability allowance the retirement board may, and upon his application shall, require any disability beneficiary to undergo medical examination by a physician or physicians designated by the retirement board, said examination to be made at the place of residence of said beneficiary or other place mutually agreed upon. Should any disability beneficiary refuse to submit to a medical examination, his retirement allowance shall be discontinued until his withdrawal of such refusal, and should such refusal continue for one year, all his rights in and to his pension shall be forfeited.

(4) Should the physician or physicians designated by the retirement board report and certify to the retirement board that such disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference between his retirement allowance and his final average salary, and should the retirement board concur in such report, then the amount of his pension shall be reduced to an amount which, when added to the amount earnable by him, together with his annuity shall equal the amount of his final average salary. Should his earning capacity be later changed, then the amount of his pension may be further altered; provided, that the new pension shall not exceed the amount of the pension originally granted nor an amount which when added to the amount earned by the beneficiary, together with his annuity equals the amount of his final average salary. A beneficiary restored to active service at a salary less than the final average salary or upon the basis of which he was retired shall not become a member of the retirement system while receiving a reduced pension.

(5) Should a disability beneficiary be restored to active service at a salary as great as his final average salary, his retirement allowance shall cease, and he shall again become a member of the retirement system, and his annuity reserve shall be transferred from the annuity reserve fund to the annuity savings fund and credited to his individual account as a part of his accumulated contributions in the latter fund, and he shall contribute to the said fund thereafter in the same manner and at the same rate as he paid prior to his

disability. His prior service certificate on the basis of which his service was computed at the time of his retirement shall be renewed and shall again be in full force and effect, and in addition, upon his subsequent retirement, he shall be credited with all his service as a member subsequent to the period covered by his prior service certificate.

§ 1109-b **Withdrawal and death benefits.** Benefits upon withdrawal and death shall be payable as follows:

(a) A member who withdraws from service or ceased to be a teacher for any cause other than death or retirement shall be paid on demand the accumulated contributions standing to the credit of his individual account in the annuity savings fund.

(b) Should a contributor die before retirement, his accumulated contributions shall be paid to his estate or to such person as he shall have nominated by written designation duly executed and filed with the retirement board.

§ 1109-c **Optional allowances.** At the time of his retirement, any member may elect to receive his benefits in a retirement allowance payable throughout life or he may on retirement elect to receive the actuarial equivalent at that time of his retirement allowance in a lesser retirement allowance, payable throughout life with the provision that:

Option 1. If he die before he has received in payments the present value of his retirement allowance as it was at the time of his retirement, the balance shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board.

Option 2. Upon his death, his retirement allowance shall be continued through the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement.

Option 3. Upon his death, one-half of his retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement.

Option 4. Some other benefit or benefits shall be paid either to the member or to such person or persons as he shall nominate provided such other benefit or benefits, together with the lesser retirement allowance, shall be certified by the actuary to be of equivalent actuarial value to his retirement allowance and shall be approved by the retirement board.

§ 1109-d **Benefits to participants in old retirement fund.** All annuities of annuitants on the rolls of the retirement fund on the thirty-first day of July, nineteen hundred and twenty-one, shall be paid thereafter from the pension accumulation fund created by this article. The amount of the annuity of any annuitant on the rolls of such retirement fund, at such time, who retired on a full annuity shall be not less than one-half of his final average salary, and not less than four hundred dollars per annum; nor shall the allowance of any annuitant on such roll retired for disability be less than a proportionate amount of such minima based on the annuitant's years of service.

§ 1109-e **Funds enumerated.** The funds created are:

- (a) the annuity savings fund.
- (b) the annuity reserve fund.
- (c) the pension accumulation fund.
- (d) the pension reserve fund, and
- (e) the expense fund.

§ 1109-f **Annuity savings fund; contributions and payments.** The annuity savings fund shall be the fund in which shall be accumulated the deductions made from the compensation of contributors. Contributions to and payments from the annuity savings fund shall be made in the following manner:

(1) Each employer shall deduct from the compensation of each contributor on each and every payroll of such contributor for each and every payroll period subsequent to the date upon which such contributor became a member an amount equal to four per centum of such contributor's earnable compensation. But no employer shall make any deduction for annuity purposes from the compensation of a member who has completed at least thirty-five years of total service, or who has attained the age of sixty and completed at least twenty-five years of total state service, if such member elects not to contribute.

(2) In determining the amount earnable by a contributor in a payroll period, the retirement board may consider the rate of compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deductions from compensation for any period less than a full payroll period if a teacher was not a contributor on the first day of the payroll period, and to facilitate the making of deductions, it may modify the deduction required of any contributor by such an amount as shall not exceed one-tenth of one per centum of the compensation upon the basis of which said deduction is to be made.

(3) In addition to the deductions from compensation hereinbefore required, any contributor may redeposit in the annuity savings fund by a single payment an amount equal to the total amount which he withdrew therefrom as provided in this article, or he may deposit therein by a single payment an amount computed to be sufficient, together with the retirement allowance otherwise provided, to provide for him a total retirement allowance of one-half of his final average salary upon superannuation retirement. Such additional amounts so deposited shall become a part of his accumulated contributions.

(4) The accumulated contributions of a contributor returned to him upon his withdrawal or paid to his estate or designated beneficiary in the event of his death as provided in this article shall be paid from the annuity savings fund.

(5) Upon the retirement of a contributor his accumulated contributions shall be transferred from the annuity savings fund to the annuity reserve fund.

§ 1109-g Annuity reserve fund; pension accumulation fund.

(1) The annuity reserve fund shall be the fund from which shall be paid all annuities and all benefits in lieu of annuities.

(2) The pension accumulation fund shall be the fund in which shall be accumulated all reserves for the payment of all benefits with the exception of the annuities provided by the accumulated contributions of members. Contributions to and payments from the pension accumulation fund shall be made as follows:

(a) On account of each teacher who is a member of the retirement system there shall be paid annually beginning with the first day of August, nineteen hundred and twenty-one, into the pension accumulation fund by employers, a certain percentage of the earnable compensation of each of such members of the retirement system to be known as the "normal contribution" and a further percentage known as the "deficiency contribution." The rates per centum of such contributions shall be fixed on the basis of the liabilities of the retirement system as shown by actuarial valuations. Until the first valuation, the normal contribution shall be two and six-tenths per centum of the members' salaries and the deficiency contribution shall be two and five-tenths per centum of members' salaries.

(b) On the basis of regular interest and of such mortality and other tables as shall be adopted by the retirement board, the actuary engaged by the retirement board to make each valuation required by this article during the period over which the deficiency contribu-

tion is payable, immediately after making such valuation, shall determine the uniform and constant percentage of the earnable compensation of the average new entrant, who is a contributor, which if contributed on the basis of the compensation of such contributor throughout his entire period of active service, would be sufficient to provide at the time of his retirement the total amount of his pension reserve. The rate per centum so determined shall be known as the "normal contribution" rate. After the deficiency contribution has ceased to be payable, the normal contribution shall be the rate per centum of the earnable salary of all contributors obtained by deducting from the total liabilities of the pension fund the amount of the funds in hand to the credit of that fund and dividing the remainder by one per centum of the present value of the prospective future salaries of all contributors as computed on the basis of the mortality and service tables adopted by the retirement board and on the basis of regular interest. The normal rate of contribution shall be determined by the actuary after each valuation and shall continue in force until a new valuation and certification.

(c) Immediately succeeding the first valuation made subsequent to August first, nineteen hundred and twenty-two, the actuary engaged by the retirement board shall compute the rate per centum of the total compensation of all contributors during the preceding school year which is equivalent to four per centum of the amount of the total pension liability on account of all contributors and beneficiaries not dischargeable by the aforesaid normal contribution made on account of such contributors during the remainder of their active service. The contribution derived by deductions at the rate per centum, so determined or at a rate increased therefrom as hereinafter provided shall be known as the "deficiency contribution."

(d) The total amount payable annually by all employers into the pension accumulation fund shall be certified by the retirement board to the Commissioner of Education and such amount shall equal the sum of the rates per centum known as the normal contribution rate and the deficiency contribution rate of the total compensation earnable by all contributors during the preceding school year, provided that the amount of each annual deficiency contribution shall be at least three per centum greater than the preceding annual payment. The aggregate of all such payments by employers shall be sufficient, when combined with the amounts in the pension accumulation fund, to provide the pensions payable out of the fund during the year then current, and if not, the additional amount so required shall be collected by means of an increased contribution which shall continue

in force for the period of one year, anything to the contrary notwithstanding.

(e) The deficiency contribution shall be discontinued as soon as the accumulated reserve in the pension accumulation fund shall equal the present value, as actuarially computed and approved by the retirement board, of the total liability of such fund less the present value, computed on the basis of the normal contribution rate then in force, of the normal contributions to be received on account of teachers who are at that time contributors.

(f) All pensions with the exception of those payable to new entrants shall be paid from the pension accumulation fund and benefits provided under section eleven hundred and nine-d shall be paid from the pension accumulation fund.

(g) All moneys and securities to the credit of the retirement fund on the first day of August, nineteen hundred and twenty-one, shall be paid by the state treasurer into the pension accumulation fund.

(h) Upon the retirement of a new entrant, an amount equal to his pension reserve shall be transferred from the pension accumulation fund to the pension reserve fund.

§ 1109-h **Pension reserve fund.** The pension reserve fund shall be the fund from which shall be paid the pensions to new entrants on account of which reserves shall be transferred from the pension accumulation fund. Should any disability pension payable from said fund be canceled, the pension reserve thereon shall thereupon be transferred from the pension reserve fund to the pension accumulation fund. Should the pension of a disability beneficiary be reduced as a result of an increase in his earning capacity, the amount of the annual reduction in his pension shall be paid annually into the pension accumulation fund during the period of such reduction.

§ 1109-i **Expense fund.** The expense fund shall be the fund from which the expense of the administration of the retirement system shall be paid exclusive of amounts payable as retirement allowances and as other benefits provided herein. Contributions shall be made to the expense fund as follows:

(a) The retirement board shall determine annually the amount required to defray such expense in the ensuing fiscal year and shall certify such amount to the Commissioner of Education who shall apportion to each employer a proportionate part thereof as provided under subdivision (2) of section eleven hundred and nine-k. Each employer shall make payment for the amount so apportioned to him

in the same way as he shall make other payments provided for by this article.

(b) The sum of thirty thousand dollars is hereby appropriated from the moneys in the retirement fund for the expense of establishing, organizing and starting the operation of the retirement system and of establishing an office therefor. The sum shall be credited to the expense fund.

§ 1109-j Duties of employer.

(1) Each employer shall keep such records and from time to time shall furnish such information as the retirement board in the discharge of its duties may require.

(2) Upon the employment of any teacher to whom this article may apply, he shall be informed by his employer of his duties and obligations in connection with the retirement system as a condition of his employment. Every teacher accepting employment shall be deemed to consent and agree to any deductions from his compensation required herein and to all other provisions of this article.

(3) Notwithstanding any other law, rule or regulation affecting the salary, pay, compensation, other prerequisites or tenure of any teacher to whom this article applies, or shall apply, and notwithstanding that the minimum salary, pay, compensation or other prerequisites, provided by law for such teacher shall be reduced thereby, payment less said deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for service rendered by such member during the period covered by such payment.

(4) During September of each year, or at such other time as the retirement board shall approve, each employer shall certify to the retirement board the names of all teachers to whom this act applies.

(5) Each employer shall on the first day of each calendar month or at such less frequent intervals as the retirement board may approve, notify the retirement board of the employment of new teachers, removals, withdrawals and changes in salary of members that shall have occurred during the month preceding or the period covered since the last notification.

§ 1109-k Collection of contributions.

(1) The collection of members' contributions shall be as follows:

(a) Each employer shall cause to be deducted on each and every payroll of a contributor for each and every payroll period subsequent to the first day of August, nineteen hundred and twenty-one, the contribution payable by such contributor as provided in this article. Each employer shall certify to the treasurer of said employer

on each and every payroll a statement as voucher for the amounts so deducted.

(b) The treasurer of each employer on receipt from the employer of the voucher for deductions from the salaries of teachers as provided in this article shall transmit monthly or at such times as the retirement board shall designate the amount specified in such voucher to the secretary of the retirement board. The secretary of the retirement board after making record of all such receipts shall transmit them to the Treasurer of the State of New York for use according to the provisions of this article.

But nothing in this section shall prevent the retirement board from modifying the method of collecting the contribution of members so that employers may retain the amounts so deducted and have a corresponding amount deducted from the appropriation for the support of common schools otherwise payable to them.

(2) The collection of employers' contributions shall be made as follows:

(a) Upon the basis of each actuarial determination and appraisal provided herein, the retirement board shall annually prepare and certify to the Commissioner of Education a statement of the total amount necessary to be paid by all employers for the ensuing fiscal year to the pension accumulation and expense funds as provided under subdivision two of section eleven hundred and nine-g of this article.

(b) The Commissioner of Education shall include in the certificate which he files with the State Comptroller showing the amount of state funds apportioned to each county for the support of common schools, a statement showing the amount to be contributed by each employer in each of such counties as required under this article. The amount to be contributed by each employer, except those who contribute under the provisions of subdivision four of section eleven hundred and nine-l, shall be an amount equal to the normal and deficiency contribution on account of the compensation or salaries paid by such employer during the preceding school year.

(c) The Comptroller shall issue his warrant to the State Treasurer directing such treasurer to credit to the pension accumulation fund and expense fund respectively, from the appropriation for the support of common schools the amounts required to be made as contributions to such funds by the employers as shown by the certificate of the Commissioner of Education filed with him as directed in paragraph (b) of this subdivision.

(d) The Comptroller in issuing his warrant to the State Treasurer for payment to each county of that portion of the moneys apportioned for the support of common schools and payable on or before March first of each year, shall deduct therefrom an amount equal to the amount required to be contributed by employers of such county, as shown by the certificate of the Commissioner of Education of this State filed with the Comptroller as required by paragraph (b) of this subdivision.

(e) In order to meet the financial requirements of this article, employers who obtain funds directly by taxation are hereby authorized and directed to levy annually such additional taxes as are required to provide the funds deducted from the amounts apportioned to such employers from the appropriation of the State for the support of the common schools.

§ 1109-1 **Discontinuance of local district pension systems.** Should the members of a local district pension system merge with the retirement system as provided under subdivision four of section eleven hundred and two of this article, such local district pension system shall be discontinued as follows:

(1) The retirement board created by this article shall employ an actuary to value the assets to be received and liabilities to be incurred by the retirement system hereby created in the event of such merger. The actuary so employed shall be an actuary also approved by the employer in whose district the local district pension system is operated, and the expense of the valuation shall be paid by such employer.

(2) The actuary shall compute the present value of the total liabilities to be assumed by the retirement system on account of teachers in service in the local district pension system and on account of pensioners on the rolls of such local district pension system. He shall also compute the present value of the prospective amount to be received by reason of the payment of the normal contributions by the employer as provided under paragraph (b) of subdivision two of section eleven hundred and nine-g of this article, on behalf of the active teachers of such local system in the event of the contemplated merger. From the present value of such total liability, the actuary shall deduct the present value of the normal contributions. From the amount remaining, the actuary shall deduct the present value of all moneys and securities of such system, and the remainder, if any, shall be known as the "accrued liability."

(3) The actuary shall then determine the amount of a local deficiency contribution which, payable annually without regard to the payroll of contributors and increasing by three per centum of

itself each year, until the year in which the deficiency contribution as provided under paragraph (c) of subdivision two of section eleven hundred and nine-g of this article, payable by other employers who had no local district pension system, may be expected to be discontinued, shall have a present value equal to this accrued liability.

(4) The increasing contributions as determined by the actuary shall be paid by such employer on account of the contributors in his service instead of the deficiency contribution computed as otherwise provided in this article, anything to the contrary therein notwithstanding. Such employer shall contribute by means of a deduction from the school moneys apportioned to him, the amount of this deficiency contribution together with the amount of the normal contribution on account of the contributors in his employ and the amount of his proportionate share of the contribution required for the expense fund until the deficiency contribution on account of all employers shall cease to be payable. Thereafter, his contribution shall be made on the same basis as are contributions of all other employers.

(5) In the event of merger, the moneys and securities to the credit of the local district pension system not exceeding an aggregate amount equal to the total liability to be assumed by the retirement system on account of such local district pension system in excess of the normal contributions, shall be transferred to the pension accumulation fund and the pensions then payable by the local district pension system shall thereafter be paid from the pension accumulation fund. The pensions of the active members of the local district pension system and of the new entrants shall thereafter be payable as are the pensions of other members of the retirement system. The amount of the excess, if any, of the moneys and securities of the local district pension system over and above such total liabilities in excess of the normal contributions shall be transferred to the teachers' annuity savings fund and shall be credited pro rata to the active teachers of such local district pension system on the basis of the amounts of their previous contributions to the local district pension system, provided, however, that in case such method of distribution shall not be found practicable by the retirement board, the board may use such other method of apportionment as may seem fair and equitable to the board. The amount so credited in any case shall be considered as a part of the teachers' accumulated contributions.

§ 1109-m Transfer of contributions between retirement systems. (1) Any contributor, withdrawing from the retirement system and at such time giving notice to the retirement board

of his intention of becoming within one year a member of another teachers' retirement system which is being operated on an actuarial basis either under the laws of this State or under the laws of another state, provided in the latter case the system has a provision similar to this provision permitting reciprocal transfer, may, upon depositing within one year his accumulated contributions in such other retirement system, apply to the retirement board for a transfer from the pension accumulation fund to the corresponding fund of such other retirement system of the amount of his pension reserve as of the time when he withdrew his contributions from the annuity savings fund, and the retirement board shall transfer to such other retirement system the amount of such reserve, provided credit for a pension benefit of equivalent actuarial value to the amount of reserve transferred shall be given the teacher in the other retirement system and that the retirement board is satisfied that the retirement system to which said transfer is made is on a solvent basis.

(2) Any contributor entering the retirement system after having withdrawn from another retirement system and having given notice at the time of withdrawal to the retirement board of such system of his intention of becoming within one year a member of the retirement system may deposit in the annuity savings fund the amount of his accumulated contributions withdrawn from such other retirement system. Within one year of such deposit, the pension reserve to his credit in such other retirement system, if such other retirement system is operated upon an actuarial basis under the laws of this State, shall be transferred, and if such other system is operated upon an actuarial basis under the laws of another state, may be transferred to the pension accumulation fund. Notwithstanding anything to the contrary, in this article, such contributor shall be classified in this retirement system as a present teacher or as a new entrant accordingly as he would have been classified had the service rendered in the other retirement system been rendered while a member of this retirement system, and he shall be given a prior service certificate showing a period of service such that the liability incurred by the retirement system on his account by reason of prior service shall be equal in amount to the amount of the reserve so transferred, provided that in no case shall such a contributor who is classified as a new entrant be given less credit in his prior service certificate than he would have received had no reserve been transferred on his account.

§ 1109-n State supervision. The operation of the retirement system shall be subject to the supervision of the State Department of Insurance.

§ 1109-o Exemption from taxation. The right of a teacher to a pension, an annuity, or a retirement allowance, to the return of contributions, any benefit or right accrued or accruing to any person under the provisions of this article, and the moneys in the various funds created hereunder, are hereby exempt from any state or municipal tax, and shall not be subject to execution, garnishment, attachment or any other process whatsoever, and shall be unassignable except as in this article specifically provided.

§ 1109-p Protection against fraud. Any person who shall knowingly make any false statement, or shall falsify or permit to be falsified any record or records of this retirement system in any attempt to defraud such system as a result of such act, shall be guilty of a misdemeanor, and shall be punishable therefor under the laws of the State of New York. Should any change or error in records result in any employee or beneficiary receiving from the retirement system more or less than he would have been entitled to receive had the records been correct, then, on the discovery of any such error, the retirement board shall correct such error, and, as far as practicable, shall adjust the payments in such a manner that the actuarial equivalent of the benefit to which he was correctly entitled shall be paid.

ARTICLE 44

Libraries

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§ 1110 **State Library, how constituted.** All books, pamphlets, manuscripts, records, archives and maps, and all other property appropriate to a general library, if owned by the State and not placed in other custody by law, shall be in charge of the Regents and constitute the State Library.

§ 1111 **State medical library.** The state medical library shall be a part of the New York State Library under the same government and regulations and shall be open for consultation to every citizen of the State at all hours when the State Library is open and shall be available for borrowing books to every accredited physician residing in the State of New York, who shall conform to the rules made by the Regents for insuring proper protection and the largest usefulness to the people of the said medical library.

§ 1112 **Manuscript and records "on file."** Manuscript or printed papers of the Legislature, usually termed "on file," and which shall have been on file more than five years in custody of the Senate and Assembly clerks, and all public records of the State not placed in other custody by a specific law shall be part of the State Library and shall be kept in rooms assigned and suitably arranged for that purpose by the trustees of public buildings. The Regents shall cause such papers and records to be so classified and arranged that they can be easily found. No paper or record shall be removed from such files except on a resolution of the Senate and Assembly withdrawing them for a temporary purpose, and in case of such removal a description of the paper or record and the name of the person removing the same shall be entered in a book provided for that purpose, with the date of its delivery and return.

§ 1113 **State Library, when open; use of books.** The State Library shall be kept open not less than eight hours every week

day in the year except the legal holidays known as Independence day, Thanksgiving day and Christmas day, and members of the Legislature, judges of the Court of Appeals, justices of the Supreme Court and heads of state departments may borrow from the Library books for use in Albany, but shall be subject to such restrictions and penalties as may be prescribed by the Regents for the safety or greater usefulness of the Library. Under such rules and conditions as the Regents may prescribe the State Library may lend its books and printed material for a limited time to other individuals and institutions conforming to said rules and conditions. Such service shall be free to residents of this State as far as practicable but the Regents may, in their discretion, charge a proper fee to nonresidents or for assistance of a personal nature or for other reason not properly an expense to the State, but which may be authorized for the accommodation of users of the Library. [*Amended by L. 1921, ch. 385, in effect April 30, 1921.*]

§ 1114 **Duplicate department.** The Regents shall have charge of the preparation, publication and distribution, whether by sale, exchange or gift, of the colonial history, natural history and all other state publications not otherwise assigned by law. To guard against waste or destruction of state publications, and to provide for the completion of sets to be permanently preserved in American and foreign libraries, the Regents shall maintain a duplicate department to which each state department, bureau, board or commission shall send not less than five copies of each of its publications when issued, and after completing its distribution, any remaining copies which it no longer requires. The above, with any other publications not needed in the State Library, shall be the duplicate department, and rules for sale, exchange or distribution from it shall be fixed by the Regents, who shall use all receipts from such exchanges or sales for expenses and for increasing the State Library.

§ 1115 **Transfers from state officers.** The librarian of any library owned by the State, or the officer in charge of any state department, bureau, board, commission or other office may, with the approval of the Regents, transfer to the permanent custody of the State Library or Museum any books, papers, maps, manuscripts, specimens or other articles which, because of being duplicates or for other reasons, will in his judgment be more useful to the State in the State Library or Museum than if retained in his keeping.

§ 1116 **Other libraries owned by the State.** The report of the State Library to the Legislature shall include a statement of the total number of volumes or pamphlets, the number added during

the year, with a summary of operations and conditions, and any needed recommendation for safety or usefulness for each of the other libraries owned by the State, the custodian of which shall furnish such information or facilities for inspection as the Regents may require for making this report. Each of these libraries shall be under the sole control now provided by law, but for the annual report of the total number of books owned by or bought each year by the State, it shall be considered as a branch of the State Library and shall be entitled to any facilities for exchange of duplicates, interlibrary loans or other privileges properly accorded to a branch.

§ 1117 **Public and association libraries and museums.** 1 All provisions of this section and of sections 1118 to 1134 inclusive shall apply equally to libraries, museums, and to combined libraries and museums, and the word "library" shall be construed to mean reference and circulating libraries and reading rooms. [*Subdivision 1 amended by L. 1921, ch. 385, in effect April 30, 1921.*]

2 The term "public" library as used in this chapter shall be construed to mean a library, other than professional, technical or public school library, established for free public purposes by official action of a municipality or district or the legislature, where the whole interests belong to the public; the term "association" library shall be construed to mean a library established and controlled, in whole or in part, by a group of private individuals operating as an association, corporation, or as trustees under the provisions of a will or a deed of trust; and the term "free" as applied to a library shall be construed to mean a library maintained for the benefit and free use on equal terms of all the people of the community in which the library is located. [*Subdivision 2 added by L. 1921, ch. 385; and amended by L. 1922, ch. 345, in effect March 29, 1922.*]

§ 1118 **Establishment of a public library.** By majority vote at any election, or at a meeting of the electors duly held, any county, city, village, town, school district or other body authorized to levy and collect taxes; or by vote of its board of supervisors any county, or by vote of its common council or by action of a board of estimate and apportionment or other proper authority any city, or by vote of its board of trustees any village, or by vote of its town board any town, or any combination of such voting bodies, may establish a public library with or without branches, and may raise money by tax to equip and maintain such library or libraries or to provide a building or rooms for its or their use; and any such municipality or district may acquire real or personal property for library purposes by gift, grant, devise, bequest or condemnation and may take,

buy, sell, hold and transfer either real or personal property and administer the same for public library purposes. Whenever twenty-five taxpayers shall so petition the question of providing library facilities shall be voted on at the next election or meeting at which taxes may be voted, provided that due public notice of the proposed action shall have been given. [*Amended by L. 1919, ch. 298, and L. 1921, ch. 385, in effect April 30, 1921.*]

§ 1118-a **Contracts.** Any authority named in section 1118 may grant money for the support of free association libraries provided such libraries are registered by the Regents; or may share the cost of maintaining a public library or libraries as agreed with other municipal or district bodies; or may contract with the trustees of a free library registered by the Regents, or with any municipal or district body having control of such a library, to furnish library privileges to the people of the municipality or district for whose benefit the contract is made, under such terms and conditions as may be stated in such contract. The amount agreed to be paid for such privileges under such contract shall be a charge upon the municipality or district and shall be paid in the same manner as other municipal or district charges. [*Added by L. 1921, ch. 385, in effect April 30, 1921.*]

§ 1118-b **County libraries.** By majority vote of any election, or by vote of its board of supervisors, any county may establish a county public library with or without branches and may levy annually and cause to be collected, as are other general taxes, a tax of not more than one mill nor less than one-third of a mill upon each dollar of the assessed valuation of the taxable property of such county, except that the tax shall not be less than one-half of a mill where the assessed valuation of the county is less than one hundred million dollars, to equip and maintain such library and branches or to provide buildings or rooms for its or their use; provided, however, that any incorporated city, village, town or school district contributing to the support of a free library registered by the Regents, by annual taxation to a total amount equivalent to that which would be raised under the proposed county library tax in such city, village, town or school district, or which is receiving such amount annually for library purposes from invested funds or from a combination of invested funds and annual taxation, may, by majority vote at election or at a meeting of the electors duly held, or by vote of its common council any city, claim exemption from such county library tax; and such city, village, town or school dis-

trict shall not participate in the benefits of such county public library unless by contract as provided in section 1118-*a*, or until it shall elect to be included in the county tax levy for such county public library maintenance and shall make official notification of such action to the county board of supervisors. The chief administrative office of a county public library shall be located in the county seat unless another city or village in the county exceeds such county seat in population by more than twenty per centum according to the latest federal census or state enumeration in which event the county library shall be located in the largest city or village of such county and shall not thereafter be removed to another city or village by reason of a change in population. In lieu of establishing and maintaining a county public library as hereinbefore provided a county may enter into a contract for library service with any free library registered by the Regents, upon such terms and conditions as may be agreed upon, and the amount agreed to be paid for such privileges shall be a binding charge on the county and shall be raised in the same manner, and with the same provisions for exemption, as hereinbefore provided for a county public library. Whenever twenty-five taxpayers shall so petition, the question of providing library facilities shall be voted on at the next election at which taxes may be voted, provided that due public notice of the proposed action shall have been given. [*Added by L. 1921, ch. 385; and amended by L. 1922, ch. 345, in effect March 29, 1922.*]

§ 1119 **Acceptance of conditional gift.** By majority vote at any election or at a meeting of the electors, duly held, any municipality or district or by three-fourths vote of its council any city, or any library or any designated branch thereof if so authorized by such vote of a municipality, district or council, or any combination of such voting bodies, may accept gifts, grants, devises or bequests for library purposes or for kindred affiliated educational, social and civic agencies on condition that a specified annual appropriation shall thereafter be made for the maintenance of a library or branches thereof, or of such kindred affiliated agencies, by the municipality or district or combination so authorizing such acceptance, or upon such other conditions as may be stipulated in the terms of the gift. Such acceptance when approved by the Regents of the University under seal and recorded in its book of charters shall be a binding contract, and such municipality or district shall levy and collect yearly in the manner prescribed for other taxes the amount stipulated and shall maintain any so accepted gift, grant, devise or bequest intact and make good any impairment thereof,

and shall comply with all other conditions set forth in the stated terms of the gift. [*Amended by L. 1919, ch. 298, and L. 1921, ch. 385, in effect April 30, 1921.*]

§ 1130 **Subsidies.** [*Repealed by L. 1921, ch. 385, in effect April 30, 1921.*]

§ 1121 **Closing of museum; admission fee during certain hours.** The trustees of any institution supported under this chapter by public money, in whole or in part, may, so far as consistent with free use by the public at reasonable or specified hours, close any of its museum collections at certain other hours, for study, to meet the demands of special students or for exhibition purposes, and may charge an admission fee at such hours, provided that all receipts from such fees shall be paid into the treasury and be used for the maintenance or enlargement of the institution.

§ 1122 **Library taxes.** Taxes, in addition to those otherwise authorized, may be voted for library purposes by any authority named in section 1118 and shall, unless otherwise directed by such vote, be considered as annual appropriations therefor till changed by further vote and shall be levied and collected yearly, or as directed, as are other general taxes; provided, however, that in any municipality or district in which the assessed valuation of the taxable property is one million dollars or less the rate of library tax shall not exceed two mills on each dollar; that in any municipality or district in which the assessed valuation of the taxable property is more than one million dollars and less than two million dollars, the rate of library tax shall not exceed one and one-half mills on each dollar; that in any municipality or district in which the assessed valuation of the taxable property is two million dollars or over the rate of library tax shall not exceed one mill on each dollar. All moneys received from taxes or other sources for library purposes shall be kept as a separate library fund by the treasurer of the municipality or district making the appropriation and shall be expended only under direction of the library trustees on properly authenticated vouchers, except that money received from taxes for the support of a free association library shall be paid over to the treasurer of the official body maintaining such library upon the written demand of its directors or trustees. [*Amended by L. 1918, ch. 113, and L. 1921, ch. 385, in effect April 30, 1921.*]

§ 1123 **Trustees.** 1 Public libraries established by action of the voters or their representatives shall be managed by trustees who shall have all the powers of trustees of other educational insti-

tutions of the university as defined in this chapter; provided that the number of trustees shall be five; that in cities they shall be appointed by the mayor and confirmed by the common council, in counties they shall be appointed by the county board of supervisors, in villages they shall be appointed by the village board of trustees, in towns they shall be appointed by the town board, and in school districts they shall be elected by the legal voters; that the first trustees shall determine by lot the year in which the term of office of each trustee shall expire and that a new trustee shall be elected or appointed annually to serve for five years. The charter of any public library granted prior to April thirtieth, nineteen hundred and twenty-one, which provides for trustees, their terms of office and method of election or appointment in a manner differing from that hereinbefore provided, shall remain in full force and effect until the Regents, upon application of the library trustees, shall amend the charter to conform to the provisions of law in effect when such amendment is made. [*Subdivision 1 amended by L. 1918, ch. 113; L. 1921, ch. 385; and L. 1922, chs. 113 in effect March 11, 1922 and 345, in effect March 29, 1922.*]

2 No person who is a member of any municipal council or board authorized by this section to appoint public library trustees in any municipality shall be eligible for the office of such public library trustee in such municipality. [*Subdivision 2 added by L. 1921, ch. 385, in effect April 30, 1921.*]

3 Regular meetings of a board of public library trustees shall be held at least quarterly, and such board shall fix the day and hour for holding such meetings. [*Subdivision 3 added by L. 1921, ch. 385, in effect April 30, 1921.*]

§ 1124 **Incorporation.** Within one month after taking office the first board of trustees of any such public library shall apply to the Regents for a charter in accordance with the vote establishing the library. [*Amended by L. 1921, ch. 385, in effect April 30, 1921.*]

§ 1125 **Use of public libraries.** Every library established under section 1118 of this chapter shall be forever free to the inhabitants of the municipality or district which establishes it, subject always to rules of the library trustees who shall have authority to exclude any person who wilfully violates such rules; and the trustees may, under such conditions as they think expedient, extend the privileges of the library to persons living outside such municipality or district. [*Amended by L. 1921, ch. 385, in effect April 30, 1921.*]

§ 1126 Reports. Every museum or library, other than a school library, which enjoys any exemption from taxation or receives state aid or other privilege not usually accorded to business corporations shall make the report required by section 58 of this chapter, and such report shall relieve the institution from making any report now required by statute or charter to be made to the Legislature or to any department, court or other authority of the State. These reports shall be summarized and transmitted to the Legislature by the Regents with the annual reports of the University. [*Amended by L. 1921, ch. 385, in effect April 30, 1921.*]

§ 1127 Injuries to property. Whoever intentionally injures, defaces or destroys any property belonging to or deposited in any incorporated library, reading-room, museum or other educational institution, shall be punished by imprisonment in a state prison for not more than three years, or in a county jail for not more than one year, or by a fine of not more than five hundred dollars, or by both such fine and imprisonment.

§ 1128 Detention. Whoever wilfully detains any book, newspaper, magazine, pamphlet, manuscript or other property belonging to any public or incorporated library, reading-room, museum or other educational institution, for thirty days after notice in writing to return the same, given after the expiration of the time which by the rules of such institution, such article or other property may be kept, shall be punished by a fine of not less than one nor more than twenty-five dollars, or by imprisonment in the jail not exceeding six months, and the said notice shall bear on its face a copy of this section.

§ 1129 Transfer of libraries. By vote similar to that required by section 1118 of this chapter any municipality or district or combination of districts, or by action of its trustees at a meeting duly held any association library, incorporated or registered by the Regents may, when such vote or action has been duly approved by the Regents, transfer, conditionally as provided in section 1119 of this chapter, or otherwise, the ownership and control of its library with all its property, real and personal, or any part thereof, to any municipality, or district, or institution providing for free library service; and the trustees or body making the transfer shall thereafter be relieved of all responsibility pertaining to property thus transferred. [*Amended by L. 1921, ch. 385; and L. 1922, ch. 345, in effect March 29, 1922.*]

§ 1130 Local neglect. If the local authorities of any library supported wholly or in part by state money fail to provide for the

support of such library and the public usefulness of its books, the Regents shall in writing notify the trustees of said library what is necessary to meet the State's requirements, and on such notice all said library's rights to further grants of money or books from the State shall be suspended until the Regents certify that the requirements have been met; and if said trustees shall refuse or neglect to comply with such requirements within sixty days after service of such notice, the Regents may remove them from office and thereafter all books and other library property wholly or in part paid for from state moneys shall be under the full and direct control of the Regents who, as shall seem best for public interests, may appoint new trustees to carry on the library, or may store it, or distribute its books to other libraries. [*Amended by L. 1921, ch. 385, in effect April 30, 1921.*]

§ 1131 **Library extension service.** By such means, in such manner and upon such conditions as the Regents may prescribe they shall make provision for a library extension service for the promotion, organization and supervision of free libraries; for supplying information, advice, assistance or instruction on any matter pertaining to library methods or practice or to the establishment, equipment, organization or administration of libraries, for the acquisition, preparation and circulation of traveling libraries and other educational material; for aiding and encouraging study clubs; and for the employment of all suitable efforts to bring within the reach of all the people of the State, and awaken their desire for, increased opportunities and facilities for reading and study. [*Amended by L. 1921, ch. 385, in effect April 30, 1921.*]

§ 1132 **Advice and instruction from State Library officers.** [*Repealed by L. 1921, ch. 385, in effect April 30, 1921.*]

§ 1133 **Apportionment of money for grants to libraries.** Such sum as shall have been appropriated by the Legislature for grants to libraries shall be paid annually by the treasurer, on the warrant of the comptroller, from the income of the United States deposit fund, according to an apportionment to be made by the Regents for the benefit of free libraries in accordance with Regents' rules and authenticated by their seal; provided that none of such sum shall be spent for books except those approved or selected and furnished by the Regents; that from such sum each free circulating library complying with Regents' requirements shall receive an apportionment of one hundred dollars annually except that no library shall receive an amount greater than that provided for the same purpose from local sources; that for any part of the appor-

tionment not payable directly to the library trustees the Regents shall file with the comptroller proper vouchers showing that it has been spent in accordance with law for books for free libraries or for proper expenses incurred for their benefit; and that books paid for by the State shall be subject to return to the Regents whenever a library shall neglect or refuse to conform to the ordinances under which it secured them. [*Amended by L. 1921, ch. 385; and L. 1922, ch. 345, in effect March 29, 1922.*]

§ 1134 **Abolition.** Any library established by public vote of any municipality or district, or by vote of the common council of any city, or by vote of the board of trustees of any village, or by action of school authorities, or under section 1118 of this chapter, may be abolished by majority vote at an election, or at a meeting of the electors duly held, provided that due public notice of the proposed action shall have been given. If any such library is abolished its property shall be used first to return to the Regents, for the benefit of other free association or public or school libraries in that locality, the equivalent of such sums as it may have received from the State or from other sources as gifts for public use. After such return any remaining property may be used as directed in the vote abolishing the library, but if the entire library property does not exceed in value the amount of such gifts it may be transferred to the Regents for public use, and the trustees shall thereupon be free from further responsibility. No abolition of a public library shall be lawful till the Regents grant a certificate that its assets have been properly distributed and its abolition completed in accordance with law. [*Amended by L. 1921, ch. 385, in effect April 30, 1921.*]

§ 1135 **Use and care of school library.** The school library shall be a part of the school equipment and shall be kept in the school building at all times. Such library shall be devoted to the exclusive use of the school except as otherwise provided by the rules of the Commissioner of Education and except in a district where there is no free library, in which case such school library shall be a circulating library for the use of the residents of the district.

The Commissioner of Education shall prescribe rules regulating

1 The purchase, recording, safekeeping and loaning of books in school libraries, and the use of such books by pupils and teachers in the public schools.

2 The conditions under which books in a school library may be used by the public in a district in which a free library is situated.

3 The management of school libraries and their use as circulating libraries by the residents of the districts in which they are situated.

4 The contents and submission of reports of school librarians, teachers and other school authorities as to school libraries. [*Amended by L. 1914, ch. 51, and L. 1921, ch. 385, in effect April 30, 1921.*]

§ 1135-a **Librarians of school libraries.** In a city or a union free school district maintaining an academic department or high school the board of education may employ, and fix the compensation of, a person to act as school librarian who may be engaged for all or a part of the time in performance of the duties of the position as may be directed by the said board. The person so employed may be the librarian of the free library. If possessed of the qualifications prescribed by the Commissioner of Education a teacher's quota shall be apportioned to such city or union free school district on account of the employment of such librarian. In all other districts the trustees or board of education may appoint a competent person to act as librarian. In case of a failure of a city or union free school district maintaining an academic department or high school to employ a librarian as above provided, the teacher of English in such school shall be the librarian. In case of a failure to appoint a librarian in any other district the teacher, or if there be more than one teacher the principal teacher, shall act as librarian. The trustees or board of education shall report to the Commissioner of Education the name and address of the person employed or appointed as librarian. [*Added by L. 1914, ch. 51, and amended by L. 1921, ch. 385, in effect April 30, 1921.*]

§ 1136 **Existing rules continued in force.** All existing provisions of law and rules established by the Commissioner of Education for the management of public school libraries shall hold good as to the management of such school libraries till altered by or in pursuance of law. [*Amended by L. 1921, ch. 385, in effect April 30, 1921.*]

§ 1137 **Authority to raise and receive money for school library.** Each city and school district in the State is hereby authorized to raise moneys by tax in the same manner as other school moneys are raised, or to receive moneys by gift or devise, for starting, extending or caring for the school library.

§ 1138 **Authority to transfer school library property to a free library.** The board of education in any city or union free school district or the electors of any other district, by legal vote duly approved by the Regents may give to any free library any of the

books or other public school library property not required in such school library, provided such free library is registered by the Regents and situated in such city or district; and the school authorities or body making the transfer shall thereafter be relieved of all responsibility pertaining to the property so transferred. [*Amended by L. 1921, ch. 385, in effect April 30, 1921.*]

§ 1139 **Transfer of property not in charge of librarian.** [*Repealed by L. 1921, ch. 385, in effect April 30, 1921.*]

§ 1140 **Provision for change to free public library.** [*Repealed by L. 1921, ch. 385, in effect April 30, 1921.*]

§ 1141 **Penalty for disobedience to library law, rules or orders.** The Commissioner of Education is hereby authorized to withhold its share of public school moneys from any city or district which uses school library moneys for any other purpose than that for which they are provided, or for any wilful neglect or disobedience of the law or the rules or orders of said Commissioner in the premises.

ARTICLE 45-a

Court Libraries

[*Text of article omitted.*]

ARTICLE 45-A

[*Added by L. 1912, ch. 319, and amended by L. 1919, ch. 266*]

State Institute of Applied Agriculture on Long Island

[*Text of article omitted.*]

ARTICLE 46

[*Article added by L. 1913, ch. 424*]

Divisions of History and Public Records

[*Text of article omitted.*]

ARTICLE 46

[*Added by L. 1913, ch. 676*]

The New York-American Veterinary College

[*Text of article omitted.*]

¹ So in original.

ARTICLE 47

[*Inserted by L. 1920, ch. 760, in effect May 13, 1920*]

Rehabilitation

Section	1200	Short title
	1201	Definitions
	1202	Limitation of article
	1203	State advisory commission for the rehabilitation of handicapped persons
	1204	Power of commission
	1205	Duty of the industrial commission
	1206	Duty of department of health
	1207	Application for rehabilitation
	1208	Duty of the department of education
	1209	Gifts and donations
	1210	Acceptance of law of the United States

§ 1200 **Short title.** This article shall be known and may be cited as "The Rehabilitation Law."

§ 1201 **Definitions.** As used in this article the terms:

1 "Physically handicapped person" shall mean any person who, by reason of a physical defect or infirmity, whether congenital or acquired by accident, injury or disease, is or may be expected to be totally or partially incapacitated for remunerative occupation.

2 "Rehabilitation" shall mean the rendering of a person physically handicapped fit to engage in a remunerative occupation.

3 "Residing in the State of New York" shall mean any citizen of the United States or any person who has declared his intention of becoming a citizen who is and has been domiciled within the State for one year or more.

4 "Commission" shall mean the advisory commission for the rehabilitation of physically handicapped persons.

§ 1202 **Limitation of article.** This article shall not apply to:

1 Aged or helpless persons requiring permanent custodial care, or blind persons under the care of the State Commission for the Blind; or

2 Any person in any state institution or confined in any correctional or penal institution; or

3 Epileptic or feeble-minded persons or to any person who in the judgment of the Commissioner of Education, may not be susceptible of rehabilitation; or

4 Persons of the age of fourteen years and under.

§ 1203 **State advisory commission for the rehabilitation of handicapped persons.** There is hereby created an advisory commission for the rehabilitation of physically handicapped persons, to

be composed of the Commissioner of Education, who shall be chairman, of a member of the State Industrial Commission to be designated annually by the Governor, and of the Commissioner of Health. Any member of the commission may designate an officer in his department to represent him on the commission and the acts of such officer shall be deemed to be the acts of the person who designated him. The Commissioner of Education shall designate the officer of the Department of Education charged with the administration of this act to act as secretary to the commission.

§ 1204 **Power of commission.** The commission shall have power:

1 To prepare a plan for cooperation between the Industrial Commission and the Department of Education which shall be submitted to the Industrial Commission and to the Board of Regents of the University.

2 To arrange any differences that may arise between departments charged with any duties under this act;

3 To arrange for such therapeutic treatment as may be necessary for the rehabilitation of any physically handicapped persons who have registered with the Department of Education, except persons who are entitled to such treatment under the workmen's compensation law.

4 To provide maintenance cost during actual training for physically handicapped persons registered for rehabilitation, except persons entitled to maintenance under the workmen's compensation law; provided, that when the payment of maintenance costs is authorized by the commission, it shall not exceed ten dollars per week, and the period during which it is paid shall not exceed twenty weeks, unless an extension of time is granted by unanimous vote of the commission.

5 To arrange for cooperation between the bureau of employment of the Department of Labor and the Department of Education in securing employment for handicapped persons to the end that duplication be avoided.

6 To make all necessary rules and regulations for the purpose of carrying out this article which affect more than one department

§ 1205 **Duty of the industrial commission.** The Industrial Commission shall:

1 Report to the Department of Education all reports made to it of cases of injuries received by employees which may result in rendering the person, in the judgment of the Industrial Commission, in need of rehabilitation.

2 Cooperate with the Department of Education in carrying out this article.

§ 1206 **Duty of Department of Health.** The Department of Health shall:

1 Arrange with all public private hospitals, clinics, and dispensaries and with practising physicians to send to the Department of Education prompt and complete reports of any persons under treatment in such hospitals, clinics, or dispensaries, or by such physicians, for any injury or disease that may render them physically handicapped.

2 Arrange with health officers to send to the Department of Education prompt and complete reports to any persons who in the course of their official duties they find to be suffering from any injury or disease that may render them physically handicapped, if such persons have not already been reported.

3 Make physical examinations of any persons applying for or reported as needing rehabilitation, except persons reported by the Industrial Commission.

§ 1207 **Application for rehabilitation.** Any physically handicapped persons residing within the State may apply to the Department of Education for advice and assistance regarding his rehabilitation.

§ 1208 **Duty of the Department of Education.** It shall be the duty of the Department of Education:

1 To provide that all persons reported to it or making application to it as physically handicapped shall be promptly visited by its representative who shall report upon their condition to the Department, which shall then determine whether the person is susceptible of rehabilitation. Any person found susceptible shall be acquainted with the rehabilitation facilities offered by the State and the benefits of entering upon remunerative work at an early date. Any person who chooses to take advantage of the rehabilitation facilities shall be registered with the Department and a record kept of every such person and the measures taken for his rehabilitation. The Education Department shall proffer to any such person counsel regarding the selection of a suitable vocation and an appropriate course of training, and shall initiate definite plans for beginning rehabilitation as soon as the physical condition of the person permits.

2 To arrange for special training courses in the public schools in the State, in selected occupations for physically handicapped persons.

3 To arrange with any private or commercial educational institution for training courses in selected occupations for physically handicapped persons.

4 To arrange with any public or private establishment or any employer for training courses in selected occupations of physically handicapped persons.

5 To arrange for social service for the visiting of physically handicapped persons and of their families in their homes during the period of treatment and training and after its completion, to give advice regarding any matter that may affect rehabilitation.

6 To aid physically handicapped persons in securing such employment as will facilitate their training or will be suitable to their condition.

7 To procure and furnish at cost to physically handicapped persons artificial limbs and other orthopedic and prosthetic appliances, to be paid for in instalments, when such appliances can not be otherwise provided. The proceeds of the sale thereof shall be paid to the Treasurer of the State and shall be held by him in a special fund for the purposes of this subdivision. Payments from this fund shall be made at the direction of the Commissioner of Education.

8 To make surveys with the cooperation of the Industrial Commission and the Department of Health, to ascertain the number and conditions of physically handicapped persons within the State.

9 To make such studies as may be helpful for the operation of this act.

10 To cooperate with any department of the government of the State of New York or with any county or other municipal authorities within the State, or with any private agency, in the operation of this act.

§ 1209 **Gifts and donations.** The Department is authorized to receive gifts and donations for the purpose of this article which may be offered unconditionally. All money received as gifts or donations shall be paid to the State Treasurer and shall constitute a special fund to be used under the direction of the Department for the purpose of this act. A full report of all such gifts and donations, together with the names of the donors, the amounts contributed by each and all disbursements therefrom shall be submitted annually to the Legislature as part of the report of the Department.

§ 1210 **Acceptance of law of the United States.** The State of New York, through its legislative authority:

1 Accepts the provisions of any law of the United States making appropriation to be apportioned among the states for vocational rehabilitation of disabled persons;

2 Empowers and directs the Board of Regents of the University, hereby designated the New York State board for vocational education, to cooperate with such agency as the federal government shall designate to carry out the purposes of such law;

3 Appoints the State Treasurer as custodian of all money given to the State by the United States under the authority of such law, and such money shall be paid out in the manner provided by such act for the purposes therein specified;

4 Authorizes the Board of Regents of the University as the state board for vocational education and the Industrial Commission to formulate a plan of cooperation in accordance with this act, which shall be effective when approved by the Governor of the State. [*Added by L. 1920, ch. 760, in effect May 13, 1920. The sum of \$75,000 was appropriated by the Legislature to carry out the provisions of this article.*]

ARTICLE 48

[*Former article 46 (§§ 1190-92) was renumbered article 47 (§§ 1200-2), by L. 1913, chs. 424 and 676; and again renumbered article 48 (§§ 1250-1252), by L. 1920, ch. 760.*]

Laws Repealed; Saving Clause; When to Take Effect

Section 1250 Laws repealed

1251 Saving clause

1252 When to take effect

§ 1250 **Laws repealed.** Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is hereby repealed. [*Section renumbered by L. 1913, ch. 424, also erroneously renumbered by L. 1913, ch. 676.*]

§ 1251 **Saving clause.** Nothing herein contained shall be construed to impair or in any manner affect or change any special law touching the schools or school system of any city or incorporated village unless the same is so stated. [*Section renumbered by L. 1913, ch. 424, also erroneously renumbered by L. 1913, ch. 676.*]

§ 1252 **When to take effect.** This chapter shall take effect immediately. [*Section renumbered by L. 1913, ch. 424, also erroneously renumbered by L. 1913, ch. 676.*]

[*Schedule of laws repealed omitted.*]

APPENDIX

PENAL PROVISIONS RELATING TO SCHOOLS AND SCHOOL OFFICERS

Penal Law (L. 1909, ch. 88)

§ 246 **Use of force not unlawful in certain cases.** To use or attempt, or offer to use, force or violence upon or toward the person of another is not unlawful in the following cases:

4 When committed by a parent or the authorized agent of any parent, or by any guardian, master, or teacher, in the exercise of a lawful authority to restrain or correct his child, ward, apprentice or scholar, and the force or violence used is reasonable in manner and moderate in degree.

§ 405 **Unlawfully entering building.** A person who, under circumstances or in a manner not amounting to a burglary, enters a building, or any part thereof, with intent to commit a felony or a larceny, or any malicious mischief, is guilty of a misdemeanor.

§ 889 **Forgery in third degree.** A person who, with intent to defraud or to conceal any larceny or misappropriation by any person of any money or property:

1 Alters, erases, obliterates, or destroys an account, book of accounts, record, or writing, belonging to, or appertaining to the business of, a corporation, association, public office or officer, partnership, or individual; or,

2 Makes a false entry in any such account or book of accounts; or,

3 Wilfully omits to make true entry of any material particular in any such account or book of accounts, made, written, or kept by him or under his direction,

Is guilty of forgery in the third degree.

§ 1470 **Disturbing lawful meetings.** A person, who, without authority of law, wilfully disturbs any assembly or meeting, not unlawful in its character, is guilty of a misdemeanor.

§ 1824 **Attempting to prevent officers from performing duty.** A person who attempts, by means of any threat or violence, to deter or prevent an executive officer from performing any duty imposed upon such officer by law, is guilty of a misdemeanor.

§ 1825 **Resisting officer.** A person who knowingly resists by the use of force or violence, any executive officer, in the performance of his duty, is guilty of a misdemeanor.

§ 1836 **Officer refusing to surrender to successor.** A person who, having been an executive or administrative officer, wrongfully refuses to surrender the official seal, or any books or papers appertaining to his office, upon the demand of his lawful successor, is guilty of a misdemeanor.

§ 1837 **Administrative officers.** The various provisions of the preceding sections of this article which relate to executive officers apply to administrative officers, in the same manner as if administrative and executive officers were both mentioned.

§ 1838 **Injury to records and misappropriation by ministerial officers.** A sheriff, coroner, clerk of a court, constable or other ministerial officer, and every deputy or subordinate of any ministerial officer, who:

1 Mutilates, destroys, conceals, erases, obliterates or falsifies any record or paper appertaining to his office; or,

2 Fraudulently appropriates to his own use or to the use of another person, or secretes with intent to appropriate to such use, any money, evidence of debt or other property intrusted to him in virtue of his office,

Is guilty of felony.

§ 1841 Provision as to neglect of duty. A public officer, or person holding a public trust or employment, upon whom any duty is enjoined by law, who wilfully neglects to perform the duty, is guilty of a misdemeanor. This and section 1840 do not apply to cases of official acts or omissions the prevention or punishment of which is otherwise specially provided by statute.

§ 1865 Misappropriation and falsification of accounts by public officers. A public officer, or deputy, or clerk of any such officer, and any other person receiving money on behalf of, or for account of the people of this State, or of any department of the government of this State, or of any bureau or fund created by law, and in which the people of this State are directly or indirectly interested, or for or on account of any city, county, village or town, who:

1 Appropriates to his own use, or to the use of any person not entitled thereto, without authority of law, any money so received by him as such officer, clerk or deputy, or otherwise; or,

2 Knowingly keeps any false account, or makes any false entry or erasure in any account of, or relating to, any money so received by him, or,

3 Fraudulently alters, falsifies, conceals, destroys or obliterates any such account; or,

4 Wilfully omits or refuses to pay over to the people of this State or their officer or agent authorized by law to receive the same, or to such city, village, county or town, or the proper officer or authority empowered to demand and receive the same, any money received by him as such officer, when it is his duty imposed by law to pay over, or account for, the same.

Is guilty of a felony.

§ 1866 Violations of law by public officers. An officer or other person mentioned in the last section who wilfully disobeys any provision of law regulating his official conduct, in cases other than those specified in that section is guilty of a misdemeanor, punishable by a fine not exceeding one thousand dollars, or imprisonment not exceeding two years, or both.

§ 1868 Officials not to be interested in sales, leases or contracts. A public officer or school officer who is authorized to sell or lease any property, or to make any contract in his official capacity, or to take part in making any such sale, lease or contract, who voluntarily becomes interested individually in such sale, lease or contract, directly or indirectly, except in cases where such sale, lease or contract, or payment under the same, is subject to audit or approval by the Commissioner of Education, is guilty of a misdemeanor.

§ 1871 School district trustee not to draw draft on supervisor in certain cases. A school district trustee who issues an order or draws a draft on a supervisor or collector for any money, unless there is at the time sufficient money in the hands of such supervisor or collector belonging to the district to meet such order or draft, is guilty of a misdemeanor.

§ 2050 Injury to public record. A person who, wilfully and unlawfully removes, mutilates, destroys, conceals, or obliterates a record, map, book, paper, document, or other thing, filed or deposited in a public office or with

any public officer by authority of law, is punishable by imprisonment for not more than five years, or by a fine of not more than five hundred dollars, or by both.

§ 2321 Making false statement in reference to taxes. A person, who, in making any statement, oral or written, which is required or authorized by law to be made as the basis of imposing any tax or assessment, or of an application to reduce any tax or assessment, wilfully makes, as to any material matter, any statement which he knows to be false, is guilty of a misdemeanor.

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