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THE  
SCHOOL LAWS  
AND  
SCHOOL LAND LAWS  
OF  
NEBRASKA,

AS REVISED AND AMENDED IN

1903.

WITH EXPLANATORY NOTES, CITATIONS, SUPREME COURT DECISIONS, AND OFFICIAL DECISIONS OF THE STATE SUPERINTENDENT

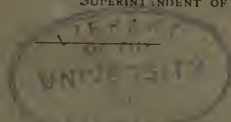
FOR THE

USE OF SCHOOL OFFICERS.

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BY WILLIAM K. FOWLER,

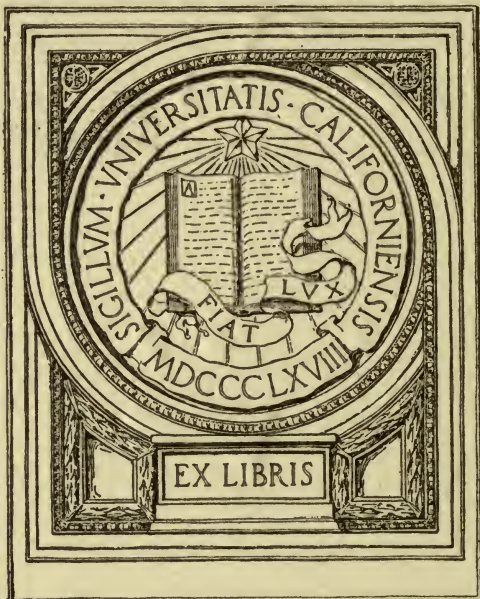
SUPERINTENDENT OF PUBLIC INSTRUCTION.



LINCOLN, NEBRASKA.

1903

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UNIV. OF CALIFORNIA

BY WILLIAM K. FOWLER,  
SUPERINTENDENT OF PUBLIC INSTRUCTION.

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## PREFACE.

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The new laws have been incorporated under appropriate subdivisions, and properly indexed, so that no difficulty will be experienced in finding them. Those that were passed without an emergency clause and therefore do not go into effect until July 9, 1903, are mentioned in a footnote. If amendatory, the law of 1901 should be consulted until July 9, 1903.

The subject of each section is printed in bold faced type. Many important Supreme Court decisions relating to school matters and official decisions of this department have been added. It is hoped that these features will commend this edition to all who may find occasion to use it.

*Wm. N. Fowler.*

*Superintendent of Public Instruction.*





# BUSINESS CALENDAR.

## I.—DISTRICT MEETINGS.

	PAGE
1. Time of holding (annual meeting) last Monday of June.....	22
2. Place of holding.	
(a) In schoolhouse, if there be one, or,	
(b) In some other suitable place <i>in the district</i> .	
3. Special meeting.....	22
(a) By whom and how called.	
(b) Object of meeting must be stated.	
(c) Fifteen days notice necessary.....	23
4. Notice of meeting. ....	23
(a) Posted in three public places in the district.	
(b) Posted fifteen days before date of meeting.	
(c) State the day, hour, and place of meeting.	
5. Qualifications of voters at district meetings.....	23
(a) The voter (man or woman) must be twenty one years of age.	
(b) The voter (man or woman) must have resided in the district for a period of forty days immediately preceding the meeting.	
(c) The voter (man or woman) must be the owner of real estate in the district, or must own personal property that was assessed in his (or her) own name at the last annual assessment, or must have children of school age residing in the district.	
(d) Challenge.	
6. Business that may be transacted only at an annual district meeting.	24
(a) Change the location of schoolhouse site.	
(b) Determine the number of mills on the dollar of assessed valuation to be levied for all purposes (not to exceed twenty-five mills)—except for the payment of bonded indebtedness.....	25
(c) Determine the number of mills (not exceeding ten) on the dollar of assessed valuation to be expended for building, purchase, or lease of schoolhouse, when there are no bonds voted for such purpose . . . . .	25
(d) Give directions for the expenditure of the building fund....	25
(e) Determine the length of time school shall be taught in the district the ensuing year, subject to the provisions of section 14, subdivision 2; and whether the money apportioned or voted for the support of the school therein shall be applied to the winter or summer term or a certain portion to each . . . . .	26
(f) Regular election of necessary officers must be <i>by ballot</i> . (Officers can be elected at special meetings only to fill vacancies)	27
(g) Require the director to present an itemized estimate of the amounts necessary to be expended during the ensuing year for school purposes, also a statement of all orders drawn on the county treasurer and on the district treasurer.....	31

- (h) The minutes of the meeting should be read, corrected (if necessary), and approved by a vote of the meeting. The minutes must contain a clear statement of every item of business transacted at the meeting. . . . . 34
- (i) Shall vote on the question of the establishment of an adjunct district in the county for free high school privileges. . . . . 44
7. Business that may be transacted at either an annual or special district meeting.
- (a) Adjourn for the purpose of *designating* schoolhouse site. . . . . 24
- (b) Direct purchasing or leasing of an appropriate site. . . . . 24
- (c) Direct building, hiring, or purchasing a schoolhouse . . . . . 24
- (d) Transfer money from one fund of the district to another, after the purpose for which it was raised has been accomplished, and after all debts for which the fund is liable have been discharged. . . . . 26
- (e) Direct by a two-thirds vote the sale of any schoolhouse, site, building, or other property belonging to the district, when no longer needed for the use of the district. . . . . 26
- (f) Direct and provide for the prosecution or defense of any proceeding in which the district may be an interested party. . . . . 27
- (g) Elect officers to fill vacancies. . . . . 41
- (h) May direct, by a two-thirds vote, the school board to contract with a neighboring district for instruction of pupils. . . . . 39

## II.—DISTRICT BOARD.

1. Report taxes voted at the annual meeting. . . . . 36
2. Have general care of the school, classify the scholars, and provide a course of study by consent and advice of county superintendent. . . . . 37
3. Determine rates of tuition of non-resident pupils. . . . . 37
4. Suspend or expel pupils. . . . . 39
5. Purchase or lease site; build, hire, or purchase schoolhouse when directed by voters . . . . . 39
6. Have care and custody of schoolhouse and other property. . . . . 40
7. Fill vacancy by appointment. . . . . 41
8. Contract with neighboring district. . . . . 39
9. Provide transportation . . . . . 39
10. Make claim for high school tuition and report cost of attendance. . . . . 44
11. Shall present at annual meeting statement in writing of receipts and expenditures, funds on hand and estimate for ensuing year. . . . . 43
12. Appoint truant officer and physician. . . . . 103, 104
13. Provide and care for outhouses. . . . . 40
14. Close school for Institute. . . . . 61

## III.—MODERATOR.

1. File acceptance of office. . . . . 27
2. Countersign all orders and warrants. . . . . 29
3. Preside at district meetings. . . . . 29
4. Order arrest of disorderly person at district meeting. . . . . 30
5. Approve treasurer's bond. . . . . 30
6. Contract with teacher. . . . . 32
7. Shall submit to voters at annual meeting question of establishment of adjunct district in county for free high school privileges . . . . . 44

## IV.—TREASURER.

1. File official bond within ten days after election. . . . . 30
2. Apply for and receive moneys from the county treasurer. . . . . 31
3. Pay district moneys on the order of the director, countersigned by the moderator. . . . . 31

	PAGE
4. Record receipts and disbursements.....	31
5. Report at annual meeting receipts and disbursements.....	31
6. Turn over to successor official books, papers, and funds....	31
7. Appear for the district in suits brought by or against it.....	31
8. Contract with the teacher.....	32

V.—DIRECTOR.

1. Report taxes voted at the annual meeting. The report must be signed by all the officers of the board, and delivered to the county clerk (a duplicate to the county superintendent), by the first Monday in July.....	25, 35
2. File acceptance of office.....	27
3. Draw and sign all orders and warrants.....	31, 34
4. Shall be clerk of district board and district meetings.....	32
5. Record all proceedings of the district.....	32
6. Preserve copies of reports to the county superintendent.....	32
7. Contract with teachers, with consent and advice of the moderator and treasurer or one of them, or under their direction.....	32
8. Notify the county superintendent of contract with teacher.....	33
9. Take census, together with the names of all the taxpayers in the district, within ten days before the last Monday in June.....	33, 92
10. Present to the annual meeting an estimate of expenses and probable amount of taxes for the ensuing year.....	34
11. Report to the annual meeting the business transactions of the board for the past year.....	34
12. Give notice of annual meeting at least fifteen days before the last Monday in June.....	34
13. Report to the county superintendent within ten days after the annual meeting.....	35
14. Furnish the annual meeting a statement of the aggregate assessed valuation of the taxable property in the district.....	36
15. Approve monthly report of teacher.....	58
16. Report to teacher list of children between 7 and 15.....	104
17. Require report of attendance of children.....	103
18. Give notice to parent or guardian.....	104
19. Make complaint against parent or guardian.....	105
20. Shall act as truant officer, when.....	104

VI.—TEACHER.

1. Must have certificate.....	32, 40, 57, 79
2. Examination.....	51, 58, 79
3. Make monthly report to the director.....	58
4. Fill out term summary and send copy to the county superintendent..	58
5. Must attend Institute.....	62

VII.—COUNTY SUPERINTENDENT.

1. Form new districts and change district boundaries.....	13, 20, 74
2. Notify taxable inhabitant of the formation of a new district.....	16
3. Divide district property upon the formation of a new district....	17, 18
4. Sell schoolhouse when ordered by the district.....	18
5. Report to county clerk and county treasurer change in district boundaries, and keep in the office of the county clerk a map of the school districts of the county.....	19
6. Determine site for schoolhouse in new district.....	24
7. Appoint district officers.....	28, 41
8. Apply for writ of mandamus against district officers.....	29

	PAGE
9. Administer oaths for the purpose of attesting school reports and the administration of the school law .....	36
10. Notify director to transfer pupils to adjoining districts, and notify the county clerk of said transfer.....	38
11. Examine all candidates as teachers for the public schools.....	51
12. May endorse certificates in force in any other county.....	51
13. May revoke certificate.....	51, 52, 62
14. May act as third officer in district having but two legal voters . . . .	21
15. Grant certificates to teachers in such forms as shall be prescribed by the state superintendent.....	51
16. Receive all blanks and communications from the state superintendent, and dispose of same.....	54
17. Keep a record of all certificates granted and annulled by him.....	53
18. Visit each of the schools in his county at least once in each year, and consult with teachers and district boards.....	53
19. Promote the improvement of the schools in his county by public lectures, teachers' institutes, etc.....	53
20. Examine district reports and return same for correction when necessary.....	54
21. Report to the state superintendent when required, and be subject to rules and instructions prescribed by the state superintendent.....	54
22. Notify the district officers of report due and not received.....	54
23. Report to the superintendent of the institute for the blind and to the superintendent of the institute for the deaf and dumb.....	54
24. Must attend normal institute in his district.....	61
25. Apportion state school funds to the districts of his county within twenty days after warrant is received from state auditor.....	64
26. Appoint appraisers of schoolhouse site, condemned . . . . .	69
27. Assist in appraisal of claims or assets in division of districts within metropolitan cities.....	112
28. File official bond of \$3,000. (See sections 5 and 19, chapter 10, Compiled Statutes of Nebraska.)	
29. Issue students' certificates for free high school privileges.....	43
30. Notify teachers of institute.....	61
31. Notify school boards to close school during institute.....	61
32. Certify vote of adjunct district, if affirmative, to county clerk.....	45

# The Provisions of the Constitution of the State of Nebraska Relative to Education.

## ARTICLE VIII.—EDUCATION.

SECTION 1.—Board of educational lands and funds.—The governor, secretary of state, treasurer, attorney general, and commissioner of public lands and buildings shall, under the direction of the legislature, constitute a board of commissioners for the sale, leasing, and general management of all lands, and funds set apart for educational purposes, and for the investment of school funds in such manner as may be prescribed by law.

SEC. 2.—Property, how used.—All lands, money, or other property, granted or bequeathed, or in any manner conveyed to this state for educational purposes, shall be used and expended in accordance with the terms of such grant, bequest, or conveyance.

SEC. 3.—Permanent school fund.—The following are hereby declared to be perpetual funds for common school purposes, of which the annual interest or income only can be appropriated, to-wit:

*First*—Such per centum as has been or may hereafter be granted by congress on the sale of lands in this state.

*Second*—All moneys arising from the sale or leasing of sections number sixteen and thirty-six in each township in this state, and the lands selected or that may be selected in lieu thereof.

*Third*—The proceeds of all lands that have been or may hereafter be granted to this state, where, by the terms and conditions of such grant, the same are not to be otherwise appropriated.

*Fourth*—The net proceeds of lands and other property and effects that may come to the state, by escheat or forfeiture, or

SEC. 1. Authority to invest a portion of the fund cannot be conferred by legislative enactment upon the treasurer. 40 Neb., 298.

SEC. 3. Cited 5 Neb., 203.

from unclaimed dividends, or distributive shares of the estates of deceased persons.

*Fifth*—All moneys, stocks, bonds, lands, and other property now belonging to the common school fund.

SEC. 4.—Temporary school fund.—All other grants, gifts, and devises that have been or may hereafter be made to this state, and not otherwise appropriated by the terms of the grant, gift, or devise, the interest arising from all the funds mentioned in the preceding section, together with all the rents of the unsold school lands, and such other means as the legislature may provide, shall be exclusively applied to the support and maintenance of common schools in each school district in the state.

SEC. 5.—Fines and licenses.—All fines, penalties, and license moneys arising under the general laws of the state shall belong and be paid over to the counties respectively where the same may be levied or imposed, and all fines, penalties, and license moneys arising under the rules, by-laws, or ordinances of cities, villages, towns, precincts, or other municipal subdivisions less than a county, shall belong and be paid over to the same respectively. All such fines, penalties, and license moneys shall be appropriated exclusively to the use and support of common schools in the respective subdivisions where the same may accrue.

SEC. 6.—Common schools.—The legislature shall provide for the free instruction, in the common schools of this state, of all persons between the ages of five and twenty-one years.

SEC. 7.—Distribution of income.—Provisions shall be made by general law for an equitable distribution of the income of the fund set apart for the support of the common schools among the several school districts of the state, and no appropriation shall be made from said fund to any district for the year in which school is not maintained at least three months.

SEC. 8.—Educational lands—Price.—University, agricultural college, common school, or other lands, which are now held, or may hereafter be acquired by the state for educational purposes, shall not be sold for less than seven dollars per acre, nor less than the appraised value.

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SEC. 4. 5 Neb., 103, 206. 15 Id., 610. 16 Id., 630.  
 SEC. 5. 5 Neb., 310, 516. 8 Id., 31, 162. 9 Id., 184, 352, 404. 11 Id., 557. 14 Id., 479. 17 Id., 224. 27 Id., 64. 28 Id., 254. 29 Id., 238, 348.  
 Where a liquor license has been issued and is thereafter canceled without fault of the licensee, he is entitled to a repayment *pro tanto* of the sum paid for the unexpired time. 51 Neb. 853.  
 SEC. 7. 5 Neb., 104.

**SEC. 9.—Funds to remain inviolate.**—All funds belonging to the state for educational purposes, the interest and income whereof only are to be used, shall be deemed trust funds held by the state, and the state shall supply all losses thereof that may in any manner accrue, so that the same shall remain forever inviolate and undiminished; and shall not be invested or loaned except on United States or state securities, or registered county bonds of this state; and such funds, with the interest and income thereof, are hereby solemnly pledged for the purposes for which they are granted and set apart, and shall not be transferred to any other fund for other uses.

**SEC. 10.—University.**—The general government of the University of Nebraska shall, under the direction of the legislature, be vested in a board of six regents, to be styled the Board of Regents of the University of Nebraska, who shall be elected by the electors of the state at large, and their term of office, except those chosen at the first election as hereinafter provided, shall be six years. Their duties and powers shall be prescribed by law, and they shall receive no compensation, but may be reimbursed their actual expenses incurred in the discharge of their duties.

**SEC. 11.—No sectarian instruction.**—No sectarian instruction shall be allowed in any school or institution supported in whole or in part by the public funds set apart for educational purposes; nor shall the state accept any grant, conveyance, or bequest of money, lands, or other property, to be used for sectarian purposes.

**SEC. 12.—Reform schools.**—The legislature may provide by law for the establishment of a school or schools for the safe keeping, education, employment, and reformation of all children under the age of sixteen years who, for want of proper parental care, or other cause, are growing up in mendicancy or crime.

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SEC. 9. Cited 15 Neb., 610, 634. 16 Id., 630. 25 Id., 660. 39 Id., 353. 41 Id., 277.  
SEC. 10. 5 Neb., 426. 17 Id., 612.





# THE SCHOOL LAWS OF NEBRASKA.

AN ACT to establish a system of public instruction for the State of Nebraska, 1881, as since amended, together with subsequent enactments relative thereto.

## SUBDIVISION I.—SCHOOL DISTRICTS.

1. School district defined.
2. Name and style.
3. New districts from unorganized territory.
4. New districts from organized districts.
5. Notice of formation.
6. Notice to voters.
7. Return of notice.
8. Record of notice.
9. Division of property.
10. Bonded indebtedness.
11. Assessment by county board.
12. Money paid to new district.
13. Sale of schoolhouse.
14. Division of proceeds.
15. Division of teachers' fund.
16. Unbonded indebtedness.
17. Changes in boundaries reported. Map of districts. Tax list adjusted.
18. Arbitration.
19. Mode of proceeding.
20. The award.
21. Fees of arbitrators.
22. Joint districts.
23. Less than three voters in district.
24. Same—Annexation to adjoining district.
25. Same — Dissolution — Procedure — Funds.
26. Debts—Taxes.
27. Superintendent—Bond.
28. Same—Report.
29. Same—Compensation.

SECTION 1.—“School district” defined.—The term school district as used in this chapter is declared to mean the territory under the jurisdiction of a single school board authorized by this chapter. The term school shall be construed to mean a school under the jurisdiction of a school board authorized by this chapter.

SEC. 2.—Body corporate.—Every duly organized school district shall be a body corporate, and possess all the usual powers of a corporation for public purposes, by the name and style of “school district number . . . ., of . . . . county,” and in that name may sue and be sued, purchase, hold, and sell such personal and real estate as the law allows.

SEC. 3.—New districts.—Each organized county not already divided into school districts, or any part of such counties

SEC. 2. See sec. 3, subdivision 3. No cause of action will accrue to school district, as a corporation, against county superintendent for the manner in which he may exercise his discretion in changing the boundaries of districts. 23 Neb., 661. See 11 Id., 285. 12 Id., 241. 22 Id., 205. 23 Id., 254. 30 Id., 363.

SEC. 3. Territory not hitherto organized into school districts may be divided, at the discretion of the county superintendent.

Districts should be limited in extent by the distance that scholars are able to attend school. 9 Neb., 366. County superintendent has exclusive original jurisdiction. 35 Neb., 400. 51 Id., 570.

not so divided, shall be divided by the county superintendent into as many school districts as may be necessary.

**SEC. 4 — Change in boundaries.**—New districts may be formed from other organized districts, and boundaries of existing districts may be changed, under the following conditions only:

*First*—Discretion of county superintendent to create a new district.—The county superintendent shall have discretionary power to create a new district from other organized districts upon a petition signed by one-third of the legal voters in each district affected.

*Second*—Discretion of county superintendent to change boundaries.—The county superintendent shall have discretionary power to change the boundaries of any district upon petitions signed by one-half of the legal voters in each district affected. He shall also have discretionary power to annex to any existing district any territory not organized into districts, upon petitions signed by one-half of the legal voters in the said district and in the said territory proposed to be annexed.

*Third*—Shall not refuse the petition of two-thirds.—The county superintendent shall not refuse to change the boundary line of any district, or to organize a new district, when he shall be asked to do so by a petition from each school district affected signed by two-thirds of all the legal voters in such district, nor to annex to an existing district any territory not organized into districts when asked so to do by petitions signed by two-thirds of the legal voters of the said existing district and the said territory proposed to be attached. A notice of said petition, containing

**SEC. 4.** Discretion of county superintendent. 23 Neb., 659. 25 Id., 200. Discretion of county superintendent will not be controlled by mandamus; appeal lies from his decision to district court. 25 Neb., 405. Cited 13 Id., 648. Notices indispensable. Contents of affidavit; time and place should appear. 31 Neb., 424. When territory is to be attached written notice and petition should be given. 28 Neb., 485. Proviso in paragraph 7 confined to what immediately precedes it. Notice in accordance with paragraph 3 necessary. 9 Neb., 331. 39 Id., 391.

As many petitions must be presented as there are districts affected. Before making the division, the county superintendent should employ all the legitimate means within his reach to satisfy himself that a legal majority of the voters in the district have signed a petition; and it would be well to move deliberately in the matter, allowing all parties interested opportunity to know what is proposed to be done.

The law does not provide for striking off a part of a district without annexing it to some other.

The superintendent may require the signer to erase his name from one of the papers if the same name appear upon different papers. When petitions asking contrary things are presented, the county superintendent should do nothing till some course is agreed upon by petitioners.

Where several districts are consolidated, the new district not only becomes invested with all property rights of the former, but also becomes answerable for their debts. 15 Neb., 1.

an exact statement of what changes in district boundaries are proposed, and when the petition is to be presented to the county superintendent, shall be posted in three public places, one of which places shall be upon the outer door of the schoolhouse, if there be one, in each district affected, or territory not organized into districts proposed to be attached to an existing district, at least ten (10) days prior to the time of presenting the petition to the county superintendent; *Provided*, That changes affecting cities shall be made upon the petition of the board of education of the district or districts affected.

*Fourth*—Two districts made from one.—Two districts may be made from one by the county superintendent upon a petition from each district proposed, signed by a majority of the voters in each district proposed. One district may be discontinued, and its territory attached to other adjoining districts, upon petitions signed by one-half of the legal voters in each district affected.

*Fifth*—List of voters.—A list or lists of all the legal voters in each district (or territory) affected, made under the oath of a resident of each district (or territory) affected, together with an oath of a resident of each district (or territory), that the legal notice provided for in the third clause of this section has been properly posted, shall be given to the county superintendent when the petition is presented. By legal voters is herein meant all who are legal voters at an election for school district officers.

*Sixth*—New district, when formed.—No new district shall be formed between the first Tuesday of April and the first day of October.

*Seventh*—Extent of district.—No new district shall be formed containing less than four (4) sections of land, nor shall any district be reduced by division or otherwise so as to contain less than that amount, unless the district so formed, or the part of a district remaining after division, shall have an assessed valuation of property of not less than fifteen thousand (\$15,000) dollars; *Provided*, That when streams or water courses make it impracticable to form districts containing four sections, then the county superintendent may form districts with less than four sections without regard to valuation. When streams of water make it impracticable for children to attend school in their own district, the county superintendent shall have authority, and it shall be his duty when requested by the parents or guardians of such children, to attach to adjoining districts such

territory as he may deem necessary for the purpose of giving said children school privileges. When a district is reduced in size by the annexation of a part of its territory to a city district as provided by law, or when a portion of a district is cut off from school privileges by a river's changing its channel, so that such part remaining after such annexation or the said portion so cut off by change of a river channel shall contain less than two sections of land and fewer than twenty (20) persons of school age, the county superintendent shall have authority, and it shall be his duty to attach such remainder or portion to adjoining districts, provided this can be so done that no pupil in such remainder or portion shall be more than two and one-half miles from the nearest schoolhouse in the district in which such pupil is so placed.

*Eighth*—Petitions filed.—The county superintendent shall file in his office all petitions that have been granted for change of boundaries or for the formation of new districts, and such petition shall be *prima facie* evidence of the boundaries of districts; and all conflicting records of boundaries shall be made to correspond with the petitions so filed.

SEC. 5.—Notice to taxable inhabitant.—Whenever the county superintendent of any county shall form a new district, it shall be the duty of the said superintendent to deliver to a taxable inhabitant of such district a notice in writing of the formation of such district, describing its boundaries, and specifying the time and place of holding the first meeting, which notice, with the fact of such delivery, shall be entered upon the record by the superintendent.

SEC. 6.—Notice to voters.—The said notice shall also direct such inhabitant to notify every qualified voter of such district, either personally or by leaving a written notice at his or her place of residence, of the time and place of holding said meeting, at least five days before the time appointed therefor; and it shall be the duty of each inhabitant to notify the qualified voters of said district accordingly.

SEC. 7.—Return of notice.—The said inhabitant, when he shall have notified the qualified voters as required in said

SEC. 5. The record should contain a minute detail of all proceedings in relation to the formation of the new district and of the amount justly due the new from the old district out of which it may have been formed. 6 Neb., 545.

SEC. 6. Every qualified voter should be notified; but failure to notify one or more would not invalidate the action of the meeting unless fraud could be shown. [See section 8.] For definition of "qualified voter." see sections 4 and 5 of subdivision II.

notice, shall endorse thereon a return, showing such notification with the date or dates thereof, and deliver such notice and return to the chairman of the meeting.

SEC. 8.—Record of notice, return, and organization.—The said chairman shall deliver such notice and return to the director chosen at such meeting, as hereinafter provided, who shall record the same at length in a book, to be provided by him at the expense of the district, as a part of the records of such district, which record shall be *prima facie* evidence of the facts therein set forth and of the legality of all proceedings in the organization of the district prior to the first district meeting, but nothing in this section contained shall be so construed as to impair the effect of the record kept by the county superintendent as evidence.

SEC. 9.—Division of district property.—When a new district is formed in whole or in part from one or more districts possessed of a schoolhouse or other property, the county superintendent, at the time of forming such new district, or as soon thereafter as may be, shall ascertain and determine the amount justly due to such new district from any district or districts out of which it may have been in whole or in part formed, which amount shall be ascertained and determined as nearly as practicable according to the relative value of the taxable property in the respective parts of such former district or districts at the

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SEC. 9. The division of school districts and school property is one of the most important and delicate of the superintendent's duties, always to be performed with care and deliberation. The division of property should be made when the district is divided, or as soon as possible thereafter. Where there are debts, which must be paid by the old district, they should be taken into account in the division of property. The superintendent must use his best judgment in estimating the value of school property, keeping in mind that the law requires him to "ascertain and determine the amount justly due" to the new district. Section 11 states clearly how this money is to reach the treasury of the new district.

In applying sections 9 and 11 to the division of a district which is bonded, it must be remembered that the bonds are of the nature of a mortgage on all the land and property of the original district, and that this incumbrance cannot be removed from any part of it by the division. 54 Neb., 17L.

When the division of a district has been completed by a county superintendent, his successor cannot re-open and adjust it again; but a superintendent who finds out that he has made a serious mistake may correct such mistake within reasonable time.

To divide a joint district the same formalities are requisite as in any other. A petition should be presented to the superintendent of each county affected.

Debts of a district cannot be divided and apportioned without the consent of creditors.

After the division, the old district has no authority to use property or funds to which the new one is entitled. 4 Neb., 267. Where there is no finding or determination whatever by the superintendent as to property of any kind retained by a district out of which a new district was formed, his certificate to the county clerk, stating the amount of tax to be levied on the old district to be paid to the new when collected, is a nullity. 6 Neb., 539. Certificate of superintendent of amount found due, sufficient to authorize levy of tax. 12 Neb., 327. See also, 13 Id., 170. 17 Id., 177. 19 Id., 485.

time of such division, and the fact that such schoolhouse or other property is not paid for shall not deprive such new district of its proportionate share of the value thereof; *Provided*, That such new district shall remain bound for such indebtedness to the same extent as though the new district had not been formed; unless in case of indebtedness not bonded the same shall be adjusted as hereinafter provided.

SEC. 10.—Amount due in installments.—If such old district shall be subject to any bonded indebtedness, and the amount to which such new district shall be entitled on account of any such property shall not exceed its proportionate share of such bonded indebtedness, the amount to which such new district shall be entitled as aforesaid shall be apportioned so as to come due in installments proportionately at such times as the original indebtedness shall become due to the creditors of the old district.

SEC. 11.—Certificate of amount due.—The amount of such proportion, when so ascertained and determined, shall be certified to by the county superintendent to the county clerk, who shall present the said amount to the county board at the session next succeeding, whose duty it shall be at the proper time or times to assess the same upon the taxable property of the district retaining the schoolhouse or other property of the former district, in the same manner as if the same had been authorized by a vote of such district, and the money so assessed shall be placed to the credit of the new district.

SEC. 12.—When collected, such amount shall be paid over to the treasurer of the new district, to be applied to the use thereof in the same manner, under the direction of its proper officers, as if such sum had been voted and raised by said district for building a schoolhouse or other district purposes.

SEC. 13.—Sale of schoolhouse.—Whenever, by the division of any district, the schoolhouse or site thereof shall no longer be conveniently located for school purposes, and shall not be desired by the district in which it may be situated, the county superintendent of the county in which such schoolhouse and

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SEC. 11. The action of the district is not required to levy the tax thus made necessary, and it is beyond its control. The county commissioners are the proper persons to levy it.

The whole amount need not be levied at once, but may be put into two or more levies.

SEC. 13. For errors of judgment and mistakes in the performance of this onerous duty the superintendent is not pecuniarily responsible, unless there is evidence of fraud. The superintendent should take ample time and acquaint himself fully with the facts.

site shall be located may, when ordered by the district, advertise and sell the same at public or private sale and apportion the proceeds; *Provided*, That when sold at private sale, such sale shall not be binding until approved by the district interested.

SEC. 14.—*Division of money.*—The money arising from the sale of schoolhouse and site, or otherwise, except teachers' fund, shall be divided among the several districts created in whole or in part from the divided districts as nearly as practicable in proportion to the taxable property of the districts formed in whole or in part by such division.

SEC. 15.—*Teachers' fund.*—Money on hand belonging to the teachers' fund of said district shall be divided in proportion to the number of scholars in each district at the time of said division. The money designated in this and the preceding section shall be divided at once, and not in the manner provided in section 11 of this subdivision.

SEC. 16.—*Unbonded indebtedness.*—Whenever a new district shall be organized from the territory of a former district, and there shall be any indebtedness of such former district which shall not be bonded, such unbonded indebtedness shall be taken into account in estimating the sum due from the old to the new district on account of schoolhouse or other property, and such new district shall be entitled to only the value of its proportionate share of such property after deducting its like share of such indebtedness.

SEC. 17.—*Report of change in boundaries.*—Every change in district boundary lines must be reported as soon as made to the county clerk and the county treasurer by the county superintendent; and the county superintendent shall keep in the office of the county clerk a map of the school districts of the county, which map shall be revised as often as the boundary lines of districts are changed, or new districts formed. The county superintendent shall also report to the county treasurer the necessary changes to be made upon the tax lists of the

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SECS. 14 and 15. Money on hand when a district is divided is to be treated as follows: The teachers' fund, including proceeds of tax for teachers' wages and the state apportionment, according to section 15; that is, in proportion to the number of children in the district at the time of division. The remaining funds (both in county and district treasury) will be divided according to section 14; that is, in proportion to the taxable property of the districts concerned.

When a county superintendent has ordered money paid by one district to another, and the district neglects or refuses to pay it, the treasurer of the district to which the money is due may apply to the court for a mandamus to compel the officers of the delinquent district to pay the money.

SEC. 16. Where several districts are consolidated, the new district not only becomes invested with the property rights of the former but also becomes answerable for their debts. 51 Neb., 1.

county. Upon receiving said notification, it shall be the duty of the county treasurer to adjust the tax list of the county in accordance with the change of district boundaries, so that the uncollected taxes levied upon property that has been transferred to another school district shall, when collected, be placed to the credit of the district to which such property has been transferred.

**SEC. 18.—Unsatisfactory division.**—Whenever a district is dissatisfied with the division of school property made by the county superintendent, the points in dispute may be referred to three disinterested persons, no one of whom shall be a resident of either district interested in the matter at issue, one to be chosen by the school board of each district, and these two to choose a third, and the decision of any two of them shall be final.

**SEC. 19.—Arbitration.**—The manner of proceeding shall be substantially as follows: The district desiring an arbitration shall make a demand in writing of the county superintendent within ten days after said superintendent has made his award. The county superintendent shall notify the other district or districts, and direct them to choose arbitrators. The county superintendent shall appoint a time and place for the hearing, at which the arbitrators shall proceed immediately to hear and determine the matter at issue according to justice and right, taking all the circumstances into consideration.

**SEC. 20.—Award.**—The award of arbitrators shall be in writing, and shall be filed with the county superintendent, and shall be final; *Provided*, That if no award is made by the committee within thirty days from the day of arbitration, the division made by the county superintendent shall be legal and valid.

**SEC. 21.—Fees of arbitrators.**—The fees for such arbitrators shall be as follows: Each person engaged as arbitrator shall receive two dollars per day during the time necessarily occupied, to be paid equally by the districts.

**SEC. 22.—Joint districts.**—That when persons living in two or more counties desire to form a school district, it shall be the duty of the superintendents of the respective counties to authorize the said persons to organize such district, and the reports contemplated in this chapter shall be made to the superintendents of each county, parts of which form the district, of such property or children as may be within the limits of each such organized county.



## [DISMEMBERED DISTRICTS.]

SEC. 23.—Less than three voters in district.—In case the number of legal voters in any district becomes less than three, the county superintendent shall act as the third officer of such district.

SEC. 24.—Same—Annexation to adjoining district.—When for a continuous period of one year a district shall have less than two legal voters residing therein, the county superintendent may, in his discretion, annex the said district to one or more adjoining districts, upon petitions signed by a majority of the legal voters of such adjoining district or districts.

SEC. 25.—Same—Dissolution—Procedure—Funds.—When for a continuous period of one year a district shall have less than two legal voters residing therein, it shall be lawful, upon a petition being presented for that purpose by the resident voter of said district, or by the county superintendent of the county in which said district is situated, for any court of competent jurisdiction of said county to authorize the county superintendent of the county in which said district is located to close up the affairs of said district. Twenty days previous to any action on the part of the county superintendent, notice of such action on the part of the court shall be made public in some legal newspaper circulating in said county. The said county superintendent thus authorized shall have power, and it shall be his duty to take possession of all school property belonging to said district. If there be funds belonging to said district in the hands of the county treasurer, the county superintendent shall proceed to pay off the indebtedness of the district, issuing orders upon the county treasurer for the payment of such indebtedness. If there be no funds in the hands of the county treasurer to the credit of said district, the county superintendent shall, on order of the court, advertise and sell at public auction the school property of said district, placing the money thus obtained in the hands of the county treasurer to the credit of aforesaid district, and issue orders upon it as above.

SEC. 26.—Debts—Taxes.—If any indebtedness still remain unpaid, the board of county commissioners of said county shall determine the rate of taxation necessary to pay such indebtedness, and shall cause such taxes to be levied upon all property in the said district and collected as other taxes.

SEC. 27.—Superintendent, Bond.—Before entering upon such duties, the county superintendent shall execute a good and

sufficient bond to the people of the State of Nebraska, to be approved by the judge of said court, in double the amount of the value of all property which in the opinion of the court shall be entrusted to his care.

SEC. 28.—**Same—Report.**—It shall be the duty of the county superintendent to file an itemized report in said court, showing the disposition of all property and money received by him in the said transaction, and said report shall be a part of the official records of said court.

SEC. 29.—**Same—Compensation.**—For performing the duties hereby imposed, it shall be lawful for the court to award to the county superintendent such compensation as in its judgment shall be just and right; and such amount and costs of court shall be a claim against said district.

## SUBDIVISION II.—DISTRICT MEETINGS.

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| <ol style="list-style-type: none"> <li>1. Annual meeting. School year.</li> <li>2. Special meeting.</li> <li>3. Notice.</li> <li>4. Qualifications of voters.</li> <li>5. Proceedings in case of challenge.</li> <li>6. Votes rejected. False oath, penalty.</li> <li>7. Challenge, when entertained.</li> <li>8. Adjourned meeting to designate site. Change of site.</li> <li>9. Site chosen by county superintendent, when.</li> </ol> | <ol style="list-style-type: none"> <li>10. Providing funds for site of buildings.</li> <li>11. Voting tax.</li> <li>12. Building fund.</li> <li>13. Building fund, how expended. Transfer of funds.</li> <li>14. Length of term.</li> <li>15. Sale of property.</li> <li>16. Prosecution and defense of suits.</li> </ol> |
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SECTION 1.—**Annual meeting.**—The annual school meeting of each school district shall be held at the schoolhouse, if there be one, or at some other suitable place within the district, on the last Monday of June of each year. The officers elected as hereinafter provided shall take possession of the office to which they have been elected upon the second Monday of July, and the school year shall commence with that day.

SEC. 2.—**Special meeting.**—Special meetings may be called by the district board, or any one of them, on the written request of any five legal voters of the district, by giving the notice required in the next succeeding section; and in all notices of special meetings the object of the meeting shall be stated,

SEC. 1. No authority to adjourn election. 15 Neb., 447. Cited 33 Id., 335. See, also, 32 Id., 370.

SEC. 2. The names of the five persons who made the request for the call should be recorded in the minutes. The district officers may constitute three of the five. When a special meeting adjourns to another time, new notices should be put up; but a failure to do this would not render the adjourned meeting illegal.

An annual or special meeting held in the evening (after night) would not be illegal. One copy of the notice of school district meetings should be posted upon the schoolhouse door.

and no business shall be transacted at such meetings except such as is mentioned in the call.

SEC. 3.—Notice, contents.—All notices of annual or district meetings, after the first meeting has been held as aforesaid, shall state the day, hour, and place of meeting (which place shall be within the district), and shall be given at least fifteen days previous to such meeting by posting up copies thereof in three public places within the district; but no annual meeting shall be deemed illegal for want of such notice.

SEC. 4.—Voters, qualifications.—Every person, male or female, who has resided in the district forty days and is twenty-one years old and who owns real property or personal property that was assessed in the district in his or her name at the last annual assessment, or who has children of school age residing in the district, shall be entitled to vote at any district meeting or school election held in any district, village, or city; *Provided*, That all electors at school elections held in cities where registration of voters is required shall comply with the provisions of such registration law before they shall be entitled to vote.

SEC. 5.—Challenge.—If any person offering to vote at a school district meeting shall be challenged as unqualified by any legal voter in such district, the chairman presiding at such meeting shall declare to the person challenged the qualifications of a voter, and if such person shall state that he or she is qualified, and the challenge shall not be withdrawn, the said chairman shall administer to him or her an oath in substance as follows: "You do solemnly swear (or affirm) that you are twenty-one years of age, that you have resided in this school district for forty days last past, that you own real property in the district, or personal property that was assessed in your name [in this district] at the last assessment or have children of school age residing in the district, so help you God." And every person taking such oath shall be permitted to vote on all questions proposed at such meeting.

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SEC. 4. In general, where a man lives or claims his home, and where he enjoys the privilege of a resident citizen, may be considered his place of residence. In all cases a man must prove his intention as to the place of his residence; if he remove his family and goods from the district, and it can be proved that he intends to claim his residence in some other place, he is no longer a resident of the district. A homesteader can have no residence except in the district in which his homestead is located. Justice Maxwell says: "That place will be considered the residence of a person in which his habitation is fixed, without any present intention of removing therefrom, and to which, whenever he is absent, he has the intention of returning."

Women may vote and hold office in school district. 15 Feb., 447.

**SEC. 6.—Rejection of vote.**—If any person so challenged shall refuse to take such oath, his or her vote shall be rejected, and any person who shall willfully take a false oath, or make a false affirmation under the provisions of the preceding section shall be deemed guilty of perjury, and be punished accordingly.

**SEC. 7.—Challenge.**—When any question is taken in any other manner than by ballot, a challenge immediately after the vote has been taken, and previous to an announcement of the vote by the chair, shall be deemed to be made when offering to vote, and treated in the same manner.

**SEC. 8.—Site.**—The qualified voters in the school district, when lawfully assembled, shall have power to adjourn from time to time, as may be necessary, to designate a site for a schoolhouse, by a vote of two-thirds of those present, and to change the same by a similar vote at any annual meeting; *Provided*, That in any school district where the schoolhouse is located three-fourths of a mile or more from the center of such district, such schoolhouse site may be changed to a point nearer the geographical center of the district by a majority vote of those present at any such school meeting.

**SEC. 9.—Same.**—When no site can be established by such inhabitants aforesaid, the county superintendent of the county in which the district is situated shall determine where such site shall be, and his determination shall be certified to the director of the district, and shall be final, except that such decision may be changed by the county superintendent on a written request of two-thirds of the qualified voters of the district.

**SEC. 10.—Purchase or lease of house.**—The said qualified voters shall also have power, at any annual or special meeting, to direct the purchasing or leasing of any appropriate site, and the building, hiring, or purchasing of a schoolhouse, and the amount necessary to be expended the succeeding year, and to vote a tax on the property of the district for the payment of the same. Not to conflict with section two (2).

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**SEC. 8.** The "three-fourths of a mile" mentioned in the proviso in this section should be measured on a straight line joining the schoolhouse and the geographical center of the district. A school site may be changed at an annual meeting only. Cited *Wilber vs. Wooley*, 44 Neb., 739 (62 N. W. Reporter, 1095).

By act of congress (March 3, 1873), it was enacted that a person occupying a homestead or pre-emption shall have the right to transfer by warranty, against his own acts any part of his homestead or pre-emption for a site for a schoolhouse; and this shall not vitiate his title.

**SEC. 10.** Contracts for the erection of schoolhouses should be made with reference to funds on hand. 4 Neb., 360. The board cannot bind the district by an increased expenditure beyond the amount authorized by the district. 10 Neb., 242. Cited 32 Id., 354.

Building committee. 45 Neb., 239.

Building contracts. 51 Neb., 237. 51 Id., 740.

**SEC. 11.—Mills levied.**—The legal voters at any annual meeting shall determine by vote the number of mills on the dollar of the assessed valuation which shall be levied for all purposes—except for the payment of bonded indebtedness—which number shall be sufficient to maintain a school in the manner and for the time provided in section 14 of this subdivision, but not exceeding twenty-five mills in any one year. *Provided*, that in districts having four children or less of school age the levy shall not exceed the sum of four hundred dollars (\$400.00) in any year; and in districts having more than four and less than sixteen children of school age, the levy shall not exceed the sum of fifty dollars (\$50.00) per child in addition to the above. The tax so voted shall be reported by the district board to the county clerk, and shall be levied by the county board and collected as other taxes.

**SEC. 12.—Building fund.**—The legal voters may also, at such meeting, determine the number of mills, not exceeding ten mills on the dollar of assessed valuation, which shall be expended for the building, purchase, or lease of a schoolhouse in said district, when there are no bonds voted for such purpose, which amount shall be reported, levied, and collected as in the preceding section; *Provided*, That the aggregate number of mills voted shall not exceed twenty-five (25) mills.

**SEC. 13.—Building fund, how expended.**—The tax levied and collected, as provided by the preceding section, shall be expended under the direction of the district made at the annual meeting, or in the absence of such direction, then such tax shall be expended as the district board of the district may direct. Money remaining in the treasury after the purpose for which it was raised has been accomplished, and after all debts for which

**SEC. 11.** The annual meeting votes the tax, the county board or clerk levies it. Cited 4 Neb., 307. 11 Id., 360. 12 Id., 255. 9 Id., 331. Unauthorized levy. 19 Id., 485.

**SEC. 13.** Moneys derived from state funds, and apportioned by county superintendent, can be legally used for no purpose except to pay teachers' wages. School officers who use any part of such funds for any other purpose become personally responsible to the district for the amount thus used, and are liable to be prosecuted for malfeasance in office. As regards money raised by district tax; (1) When the district has directed the manner in which this tax shall be expended, the officers are bound to follow such direction. The fact that the district at a meeting voted a tax for a particular purpose is held to be "direction" as regards the money derived from that specific part of the tax. (2) When the district has not specified any particulars in voting the tax, nor directed the board in any manner as to the disbursement of the school funds, then the district officers may pay out the funds as called for, and at their discretion (except the state apportionment, as mentioned above). When money has been raised for building purposes, or any other specific purpose, and has not been expended, the district at any meeting may transfer such money to any other fund. The building fund cannot be legally transferred to the teachers' fund as long as there are debts due against the district for building expenses. Funds derived from the state cannot be legally transferred from the teachers' fund in any manner whatever. (See last part of section 1, subdivision XI, and last clause of section 5, article VIII, of the constitution.)

The "direction spoken of in this section is general, and not special; it cannot descend to all the details of school management. Cited 9 Neb., 331. 19 Id., 562. 22 Id., 354.

the fund is liable have been discharged, may be transferred to any other fund of the district, at any district meeting.

**SEC. 14.—Length of term.**—They shall also determine at each annual meeting the length of time a school shall be taught in the district the ensuing year, which shall not be less than three months by a legally qualified teacher in a district having less than twenty pupils of school age, nor less than six months in districts having between twenty and seventy-five pupils, inclusive, nor less than nine months in districts having more than seventy-five pupils. They may also determine and instruct the district officers as to the different length of the terms of school, and the seasons of the year in which the same shall be taught; and the district officers shall see that school is actually taught therein by a licensed teacher in conformity to such instructions and for not less than the length of time herein required. No district shall receive any portion of the state funds unless school shall have been actually taught therein for the length of time required by this act; *Provided*, that in case of epidemic sickness prevailing to such an extent that the school board in any district shall deem it advisable to close any or all schools within the district, or if on account of the destruction of the school house, it shall be impossible to continue the school, such closing of school shall not prevent it from drawing its proper share of the state apportionment. Such sickness, or destruction of the school house, shall be sworn to by the district board, and the oath filed with the county superintendent within ten days after the annual school meeting. *Provided further*, That no district shall be deprived of its proportionate share of state school funds when it shall appear by the affidavit of the district board, to be made and filed, as aforesaid, that the district has in good faith raised and expended the maximum tax allowed by law and the funds so raised have been insufficient to maintain a school for the time herein provided.

**SEC. 15.—Sale of district property.**—Said qualified voters shall also, at any annual or special meeting, authorize and direct by a two-thirds vote the sale of any schoolhouse, site, building, or other property belonging to the district when the same shall no longer be needed for the use of the district; and

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**SEC. 14.** The things mentioned in section 14 must be determined at the annual meeting, and if not then determined must be left to the board.

The penalty which the law inflicts upon a district for not keeping up schools is the forfeiture of the next year's apportionment.

The teacher's pay goes on while the school is closed by order of the board so long as he holds himself in readiness to go on with the school.

It must be clear that in consequence of such epidemic (or destruction of house) no school could be taught, and that the failure was not caused by mere neglect. [Maxwell's Practice.]

It is the duty of the county superintendent to see that no district in his county receives credit for school taught by one who does not hold a valid certificate.

If a district, at the annual meeting, leave the length of term of school to the discretion of the school board, it can be compelled to make good the reasonable

when real estate is sold the district may convey the same by deed, signed by the moderator of the district, and such deed, when acknowledged by such officer to be the act of the district, may be recorded in the office of the recorder of deeds of the county in which the real estate is situated, in like manner as other deeds.

SEC. 16.—Prosecution and defense.—They may also give such directions and make such provisions as they shall deem necessary in relation to the prosecution or defense of any proceeding in which the district may be a party or interested.

### SUBDIVISION III.—DISTRICT OFFICERS.

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| <ol style="list-style-type: none"> <li>1. Officers elected by ballot.</li> <li>2. First year of term.</li> <li>3. Acceptance.</li> <li>4. Organization.</li> <li>5. New notice.</li> <li>6. Appointment of officers.</li> </ol> | <ol style="list-style-type: none"> <li>7. Organization.</li> <li>8. Presumed legally organized.</li> <li>9. Term of officers.</li> <li>10. Officer may teach upon petition of two thirds.</li> <li>11. Mandamus.</li> </ol> |
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SECTION 1.—Election of officers.—The qualified voters of every new district, when assembled pursuant to legal notice, and all existing districts at their annual meetings, shall elect by ballot, from the qualified voters of such district, a moderator for three years, a director for two years, and a treasurer for one year; and at the expiration of their respective terms of office, and regularly thereafter, their several successors shall be elected for the term of three years each, and all officers so elected shall hold their offices till their successors are elected or appointed and qualified; *Provided*, That officers of existing organized districts shall continue and discharge the duties of their several offices until the expiration of the same.

SEC. 2.—First year of term.—When a new district is organized and officers elected at any other time than at the annual meeting, the time intervening between the date of such organization and the beginning of the next school year shall constitute the first year in the term of such officers.

SEC. 3.—Acceptance.—Within ten days after their election, these several officers shall file with the director a written

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SEC. 1. The newly elected director should file his acceptance with his predecessor, or, if he had none, it should be written out and kept with the papers in his office.

District officers must be elected by ballot. No authority to adjourn annual meeting for the election of officers. 15 Neb., 44.

SEC. 3. An officer elected or appointed should not fail to file a written acceptance with the director; a verbal acceptance is not enough; but it is held that the entrance upon and the discharge of the duties of the office is a sufficient acceptance. The filing of his bond by the treasurer elect is held to be the same in effect as a formal written acceptance. See 30 Neb., 360.

acceptance of the offices to which they shall have been respectively elected, which shall be recorded by said director.

SEC. 4.—Organization.—Every such school district shall be deemed duly organized when any two of the officers, elected at the first meeting, shall have filed their acceptance as aforesaid.

SEC. 5.—New notice.—In case the inhabitants of any district shall fail to organize the same, in pursuance of such notice as aforesaid, the said county superintendent shall give a new notice in the manner hereinbefore provided, and the same proceeding shall be had thereon as if no previous notice had been delivered.

SEC. 6.—Appointment by county superintendent.—In all cases where the county superintendent of any county shall form a school district therein, and where no election for school district officers shall be held therein, it shall be the duty of the county superintendent of the county in which such district is situated, to appoint the officers of such district from the legal voters thereof, which officers thus appointed shall severally file with the director a written acceptance of the offices to which they shall have been appointed, which shall be recorded by the director.

SEC. 7.—Organization.—Every such school district shall be deemed duly organized whenever any two of the officers thus appointed shall have filed their acceptance as aforesaid, and such school districts and its officers shall be entitled to all the rights, privileges, and immunities, and be subject to all the duties and liabilities conferred upon school districts by law.

SEC. 8.—Presumption of legal organization.—Every school district shall, in all cases, be presumed to have been legally organized when it shall have exercised the franchises and privileges of a district for the term of one year.

SEC. 9.—Term of office.—District officers appointed to fill vacancies shall hold their office until the beginning of the next school year. Officers elected at a special meeting shall serve

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SEC. 4. In organizing a new district, great care should be taken to have all the steps legal, and to preserve full, clear, and accurate record of all the proceedings, since, during the first year after the district is organized, any charge of illegality in its formation must be met by reference to the records of its organization, and by section 8, subdivision I, such records are made *prima facie* evidence of the facts therein set forth. But after a district has been transacting regular business for a year, according to section 8, subdivision III, it is then held to be a legal district.

SEC. 8. Cited 42 Neb., 499.



for the remainder of the unexpired term, and until their successors are elected and qualified.

SEC. 10.—**Officer as teacher.**—No person holding a school district office shall be employed to teach in the district of which he is an officer, unless upon a petition signed by two-thirds of the legal voters of the district, which petition shall be filed with the papers of the district. The contract of such officer shall be made by the other members of the district board.

SEC. 11.—**Refusal to sign or pay orders.**—Whenever a director or moderator refuses to sign orders on the treasurer, or the treasurer thinks best to refuse the payment of orders drawn upon him, the difficulty shall be referred for adjudication to the county superintendent, who shall proceed at once to investigate the matter, and if he finds that the officer complained of refuses through contumacy or for insufficient reasons, it shall be the duty of the superintendent, on behalf of the district, to apply to the proper court for a writ of mandamus to compel the officer to perform his duty.

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#### SUBDIVISION IV.—DISTRICT OFFICERS, POWERS AND DUTIES.

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| <ol style="list-style-type: none"> <li>1. Moderator, preside, sign orders, elected pro tem.</li> <li>2. Moderator, order withdrawal or arrest of disorderly person.</li> <li>3. Penalty for disturbing meeting.</li> <li>4. Treasurer, bond, approval, filing.</li> <li>5. Treasurer receive and pay out funds.</li> <li>6. Treasurer, record, reports.</li> <li>7. Treasurer, appears for district.</li> <li>8. Treasurer, insufficient bond.</li> <li>9. Director, clerk.</li> <li>10. Director, keep record.</li> </ol> | <ol style="list-style-type: none"> <li>11. Director, contract with teachers, notice of school.</li> <li>12. Director, census.</li> <li>13. Director, supplies, repairs.</li> <li>14. Director, estimate of expenses, statement of orders drawn, minutes of meeting.</li> <li>15. Director, notice of district meeting.</li> <li>16. Director, draw all orders.</li> <li>17. Director, report to county superintendent.</li> <li>18. County superintendent authorized to administer oaths.</li> <li>19. Statement of assessed valuation.</li> </ol> |
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SECTION 1.—**Moderator, duties of.**—The moderator shall have power, and it shall be his duty, to preside at all meetings of the district, to countersign all orders upon the treasurer for money to be disbursed by the district, and all warrants of the director on the county treasurer for moneys raised for district purposes, or apportioned to the district by the county

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SEC. 11. This, however, will not prevent a party in a proper case from bringing an action in his own name. Cited 19 Neb., 565; 32 Id., 354; 35 Id., 655.

SEC. 1. When the moderator refuses to sign orders legally issued by the director, he can be compelled to do so by mandamus. (See section 11, subdivision III.)

When the moderator is absent from a district meeting, one should be appointed. The director is clerk of the meeting, and has no right to preside in the absence of the moderator.

superintendent, and to perform such other duties as may be required of him by law. If the moderator be absent from any district meeting, the qualified voters present may elect a suitable person to preside at the meeting.

SEC. 2.—**Arrest of disorderly person.**—If at any district meeting any person shall conduct himself or herself in a disorderly manner, and, after notice of the moderator or person presiding, shall persist therein, the moderator or person presiding may order him or her to withdraw from the meeting, and on his or her refusal, may order any constable, or any other person or persons to take him or her into custody until the meeting shall be adjourned.

SEC. 3.—**Fine for disturbing meeting.**—Any person or persons who shall refuse to withdraw from such meeting on being so ordered as provided in the preceding section, or who shall willfully disturb such meeting shall, on conviction thereof, be fined in a sum not exceeding twenty dollars, which fine shall be paid into the school fund of the district.

SEC. 4.—**Bond of treasurer.**—The treasurer of each district shall, within ten days after the election, execute to the county and file with the director a bond of not less than five hundred dollars in any instance, nor less than double the amount of money as near as can be ascertained, to come into his hands as treasurer and at any one time, with sufficient sureties, to be approved by the director and moderator, conditioned for the faithful discharge of the duties of his office; such bond when approved shall be filed by the director in the office of the county clerk of the county wherein the school district is situated; and if the treasurer shall fail to execute such bond, his office shall be declared vacant by the district board and the board shall immediately appoint a treasurer, who shall be subject to the same conditions and possess the same powers as if elected to that office.

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SECS. 2 and 3. For penalty for disturbing any school, society, or meeting convened for improvement in music, letters, or for social improvement, see Criminal Code, Compiled Statutes.

SEC. 4. The treasurer should not be allowed to draw money from the county treasurer till he has filed his bond. The other members of the board should not be sureties on the treasurer's bond. A school treasurer may hold other offices, county or precinct. When a board allows a treasurer, whose bond has not been approved, to handle public funds, the members of the board become individually liable for any loss that may occur. District treasurers are reminded that to use or lend any part of the public money in their hands is an offense which, if proven against them, renders them liable to fine and imprisonment. (See Compiled Statutes.) The treasurer must file his bond with the director, and the director must file it with the county clerk. The director should keep a record of both filings. A district treasurer elected to succeed himself must file a new bond. 52 Neb., 1.

**SEC. 5.—Receipt and disbursement.**—It shall be the duty of the treasurer of each district to apply for and receive from the county treasurer all school moneys apportioned to the district or collected for the same by said county treasurer, upon order of the director, countersigned by the moderator, and to pay over on the order of the director, countersigned by the moderator of such district, all moneys received by him.

**SEC. 6.—Treasurer's record.**—The treasurer shall keep a book furnished by the district, in which he shall enter all the moneys received and disbursed by him, specifying particularly the source from which money has been received, and to what fund it belongs, and the person or persons to whom, and the object for which the same has been paid out. He shall present to the district, at each annual meeting, a report in writing, containing a statement of all moneys received by him during the preceding year, and of the disbursements made by him, with the items of such disbursements, and exhibit the vouchers therefor, and at the close of the term of his office shall settle with the district board, and shall hand over to his successor said books and all receipts, vouchers, orders, and papers coming into his hands, as treasurer of the district, together with all moneys remaining in his hands as such treasurer.

**SEC. 7.—Treasurer, appear for district.**—It shall also be the duty of the treasurer to appear for and on behalf of the district in all suits brought by or against the same, whenever no other directions shall be given by the qualified voters in the district meeting, except in suits in which he is interested adversely to the district; and in all such cases the director shall appear for such district, if no other directions shall be given as aforesaid.

**SEC. 8.—Insufficient bond.**—Whenever by the failure of his

**SEC. 5.** This money may be drawn from the county treasury at any time. (See section 1.)

It is the right and duty of the district treasurer to draw and hold funds collected by the county treasurer to the credit of the district. 22 Neb., 52.

School district funds can be paid out legally *only* on the order of the director, countersigned by the moderator.

The county treasurer has no right to receive orders drawn by the director in favor of any one but the district treasurer, who is the only person authorized to receive district money from the county treasurer, and he should pay no order until countersigned by the moderator. 11 Neb., 283.

A school district has no authority to release its treasurer from liability for money lost or misapplied by him. 10 Neb., 296. Cited 19 Id., 494, 565.

**SEC. 6.** The district treasurer should settle with the district at the annual meeting, and the terms and items of this settlement should be recorded in full.

**SEC. 7.** Action on a demand belonging to the district must be brought in the name of the district. 11 Neb., 283. When the action is not brought by the treasurer the petition should state the cause. 10 Neb., 263. Cited 12 Id., 241.

**SEC. 8.** Duties devolving upon the moderator and director by this section can only be performed by those two officers acting in conjunction. 22 Neb., 51.

Collection of taxes for payment of loss of funds in insolvent bank. 51 Neb.,

sureties, or otherwise, the official bond of the district treasurer becomes, in the opinion of the other members of the board, insufficient to protect the district from loss, it shall be the duty of the director and moderator to demand additional security, or a new bond of the treasurer. If the treasurer refuse or neglect to procure a satisfactory bond and present it to the other members for approval within ten days after said demand, the said moderator and director may declare his office vacant, and proceed to call a district meeting to elect a new treasurer to fill the unexpired term;

*Provided*, That nothing in this section shall be construed to interfere with the liabilities of principal and sureties in such bond or the rights of sureties as defined by law regulating official bonds.

SEC. 9.—**Director, clerk.**—The director shall be clerk of the district board and of all district meetings when present, but if he shall not be present, the qualified voters may appoint a clerk for the time being, who shall certify the proceedings to the director to be recorded by him.

SEC. 10.—**Director's record.**—The director shall record all proceedings of the district in a book furnished by the district, to be kept for that purpose, and preserve copies of all reports made to the county superintendent, and safely preserve and keep all books and papers belonging to his office.

SEC. 11.—**Teacher's contract.**—The director, with the consent and advice of the moderator and treasurer, or one of them, or under their direction, if he shall not concur, shall contract with and hire qualified teachers for and in the name of the dis-

SEC. 10. It is to this record alone that resort must be had to ascertain what the district has done, what taxes it has voted, etc. 4 Neb., 307.

SEC. 11. The district, at the annual meeting, may determine whether a summer or winter school shall be taught (see section 14, subdivision II), but it is the business of the board to choose the teacher, and the director should make the formal contract with the person so chosen. If the director refuses to make the contract it may be made by the other two members of the board.

A school board may direct the school to be closed on Thanksgiving, the Fourth of July, or similar occasions, and not require the teacher to make up the time.

The school board is the proper party to fix the wages of teachers—the district meeting cannot do it.

Unless a teacher agrees on his contract to build fires and sweep the school-house, he cannot be compelled to do so.

A district board cannot make a legal contract—one that will bind the district—with a teacher who does not hold a valid certificate, and members of the board will be personally liable to the district for money paid to a teacher who is not legally qualified. 13 Neb., 52.

A teacher is legally qualified to teach in a joint district, who holds a certificate from the superintendent of either county in which such district lies.

If the contract is signed by one who is a director *de facto* it will bind the district. 9 Neb., 56. Contract by director and treasurer valid. 13 Neb., 69. 35 Id., 655. Breach of contract. 31 Neb., 501.

district, which contract shall be in writing and shall have the consent of the moderator and treasurer, or one of them, endorsed thereon, and shall specify the wages per week or month as agreed by the parties, and a duplicate thereof shall be filed in his office;

*Provided*, That if the director shall refuse to make and sign such contract, when directed so to do by the moderator and treasurer, then it may be made and signed by the moderator and treasurer. The director shall notify the county superintendent at the time the contract is made, of the length of the proposed term of school, when the school will begin and of the name of the teacher. And no money belonging to the district shall be paid for teaching to any but legally qualified teachers.

*Provided, further*, That a contract made before the annual meeting, in order to be legal, must be signed by two members whose terms of office do not expire with the school year in which such contract is made.

*Provided, further*, That no such contract with a teacher shall be valid unless agreed to either by all the members of the district board or by two members of such board who are not related to the fourth degree to the said teacher and whose terms of office extend beyond the date of the term of school contracted for.

**SEC. 12.—Census.**—Within ten days previous to the annual district meeting, the director shall take the census of his district, and make a list in writing of the names of all the children belonging thereto, between the ages of five and twenty-one years, together with the names of all the tax-payers in the district. In case of the absence or inability of the director, such census shall be taken by the moderator or treasurer, or such person as they may appoint, and a copy of such list, verified by the oath of the person taking such census, by affidavit appended to or endorsed thereon, setting forth that it is a correct list of the names of all children belonging to the district between the ages of five and twenty-one years, and that it was taken within ten days preced-

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**SEC. 12.** The census can be legally taken at no other time than this. No special census report can be called for.

Marriage will not exclude from the census list persons otherwise entitled to be enumerated. No stated length of time is required that children must live in a district before they are counted in the census. Children brought into a district within the ten days during which the census can be taken, if already counted in the district from which they came, should be listed in the district to which they have come, and stricken from the other.

The home of a child is usually with its parents or guardians, but may be elsewhere. A child of school age who, *bona fide*, resides in a district for other than school purposes, is entitled to school privileges, and its name should be included in the school census.

ing the annual meeting, shall be returned with the annual report of the director to the county superintendent; *Provided*, That in cities of the first and second class, thirty (30) days shall be allowed for taking said census, said census to be completed before July 1.

SEC. 13.—*Supplies, repairs.*—The director shall, with the concurrence of the moderator and treasurer, or either of them, provide the necessary appendages for the schoolhouse, and keep the same in good condition and repair during the time school shall be taught in said schoolhouse, and shall keep an accurate account of all expenses incurred by him as director. Such account shall be audited by the moderator and treasurer, and on their written order shall be paid out of the general school fund.

SEC. 14.—*Estimate of expenditures.*—He shall present at each annual meeting an itemized estimate of the amounts necessary to be expended during the ensuing year for school purposes, and for the payment of the services of any school district officer; but no tax for these purposes shall be voted at any special meeting. He shall also present to the annual meeting a statement of all orders drawn on the county treasurer, and the amount of each, and of all orders on the district treasurer, and the amount of each, for what purpose and to whom given. Before adjournment of each annual meeting the director shall read the minutes of the meeting and have the same corrected and approved by a majority vote of said meeting.

SEC. 15.—*Notice of district meeting.*—He shall give the prescribed notice of the annual district meetings, and all such special meetings as he shall be required to give notice of, in accordance with the provisions of this chapter, one copy of which for each meeting shall be posted on the outer door of the schoolhouse, if there be one.

SEC. 16.—*District orders.*—He shall draw and sign all orders upon the treasurer for all moneys to be disbursed by the district, and all warrants upon the county treasurer for moneys raised for district purposes, or apportioned to the district by the

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SEC. 14. If the districts desire to pay their school officers, they must at the annual meeting make provision for so doing.

SEC. 16. School district orders are subject to same defense against a *bona fide* holder for value as against the payee. 4 Neb., 359. Cited 19 Id., 564. 32 Id., 370. A writ of mandamus cannot issue to the treasurer of a school district requiring payment by him of an order payable by its terms at a fixed time in the future, and in the meantime drawing interest at a rate per centum defined by the terms of the order itself. 39 Id., 570. Moderator must countersign all proper orders. 35 Neb., 655.

The school board has no authority to draw and accept orders on a fund which the district has proposed, but not yet raised. 4 Neb., 360.

county superintendent, and present the same to the moderator, to be countersigned by him, and no warrant shall be issued until so countersigned. No warrant shall be countersigned by the moderator until the amount for which the warrant is drawn is written upon its face. The moderator shall keep a record, in a book furnished by the district, of the amount, date, purpose for which drawn, and name of person to whom issued, of each warrant countersigned by him.

SEC. 17.—**Report of census.**—The director shall, within ten days after the annual district meeting, deliver to the county superintendent, to be filed in his office, a report under oath, showing the whole number of children belonging to the district between the ages of five and twenty-one years according to the census taken aforesaid; and any district board neglecting to take the enumeration and make a return of the same shall be liable to said district for all school moneys which such district may lose by such neglect.

Within ten days after the annual district meeting, the director shall report to the county superintendent, to be filed in his office, a report under oath, showing:

1st. The number attending school during the year under five, and also the number over twenty-one years of age.

2d. The whole number that have attended school during the year.

3d. The whole number in the district between the ages of eight [seven] and fourteen [fifteen] years, inclusive.

4th. The whole number in the district between the ages of eight [seven] and fourteen [fifteen] years, inclusive, that have attended school not less than twelve weeks during the school year.

5th. The length of time the school has been taught during the year by a qualified teacher, the length of time taught by each teacher, and the wages paid to each.

6th. The total number of days all scholars between the ages of five and twenty-one years have attended school during the year.

7th. The amount of money received from the county treasurer during the year, and the amount of money expended by the district during the year.

8th. The number of mills levied for all school purposes.

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SEC. 17. The penalty incurred by a failure to report correctly the items in the first paragraph of this section applies equally to the others. Should the director not send in a complete report, it is the duty of the county superintendent to return it for correction. The report must be made under oath. See section 10, subdivision 11.

9th. The kind of books used in the school.

10th. Number of children to whom text-books are furnished, and kind of books.

11th. The amount of bonded indebtedness.

12th. Such other facts and statistics as the superintendent shall direct.

SEC. 18.—County superintendent administer oaths.—For the purpose of attesting school reports and other purposes connected with the administration of the school law, county superintendents are hereby authorized to administer the required oaths.

SEC. 19.—Statement of assessed valuation.—It shall be the duty of the director to furnish, for the use of the annual meeting of each year, a statement of the aggregate assessed valuation of all property in the district, and the amount of taxes, as near as may be, that will be collected for the use of the district.

#### SUBDIVISION V.—DISTRICT BOARD, POWERS AND DUTIES.

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| <ul style="list-style-type: none"> <li>1. District board, how constituted, quorum, meetings of.</li> <li>2. Report of taxes voted.</li> <li>3. General care of school, course of study.</li> <li>4. Non-resident pupils.</li> <li>4a. Attendance at nearer school.</li> <li>4b. Transportation of pupils.</li> <li>4c. Instruction in neighboring district.</li> <li>5. Suspension of pupils.</li> <li>6. Purchase, lease, and sale of site.</li> </ul> | <ul style="list-style-type: none"> <li>6a. Outhouses.</li> <li>7. Title to site.</li> <li>8. Payment of school moneys.</li> <li>9. Care and custody of school property.</li> <li>10. Office shall become vacant, when.</li> <li>11. Vacancies, how filled.</li> <li>12. County Superintendent to fill vacancies, when.</li> <li>13. Officer cannot contract with district.</li> </ul> |
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SECTION 1.—District board—Quorum—Meeting.—The moderator, director, and treasurer shall constitute the district board, and in all meetings of the board two members shall constitute a quorum for the transaction of business. Meetings of the board may be called upon the agreement of two members, but all members shall have notice of the time and place of meeting.

SEC. 2.—Report of taxes voted.—Immediately after the an-

SEC. 1. A contract entered into and signed by persons styling themselves as director and moderator of a school district is their individual contract and not binding on the district. 4 Neb., 254. The action of a majority of the board will not bind the district without notice to or participation therein of the other members. Id.

A contract with a teacher is an exception to this rule. 13 Neb., 69. 35 Id., 655.

SEC. 2. Taxes were voted by a district while comprising three townships. Before the levy  $2\frac{1}{2}$  townships were detached. *Held*, Taxes should be levied on the district as it existed at the time of the levy. 9 Neb., 336. But where such taxes were levied in the district as it existed at the time they were voted and collected from property therein, *held*, that the new district could recover from the old the amount collected in its territory. Id. When a district board refuses to act, it may be compelled to perform its lawful duties by a writ of mandamus. 11 Neb., 859.



nual district meeting, and not later than the first Monday in July, said board shall make and deliver to the county superintendent, and also to the county clerk of each county in which any part of the district is situated, reports in writing, under their hands, of all taxes voted by the district during the current school year, to be levied on the taxable property of the district, and to be collected by the county treasurer at the same time and in the same manner as the state and county taxes are collected; and when collected, to be paid over to the treasurer of the proper district on the order of the director, countersigned by the moderator of said district. It shall be the duty of the county clerk to levy such taxes, if voted according to law.

SEC. 3.—General care of school.—The district school boards shall have the general care of the schools, and shall have the power to cause pupils to be taught in such branches and classified in such grades or departments as may seem best adapted to a course of study which the school boards of any county shall establish by the consent and advice of the county superintendent thereof, and the school board of each district shall cause a record of the advancement in each branch of study of all the pupils to be kept in a book to be provided for this purpose; and it is hereby made the duty of each district board, or of one of their number empowered by the board, to attend all meetings called by the county superintendent for the purpose of adopting or revising a course of study for the advancement of district schools, of making rules and regulations as they may think necessary for the government and health of the pupils, and of devising such means as may seem best to secure regular attendance and progress of children at school.

SEC. 4.—Non-resident pupils.—Said board may also admit to the district school non-resident pupils, and may determine the rates of tuition of such pupils and collect the same in advance, but no tuition shall be charged such children as are or may be by law allowed to attend such school without charge.

SEC. 4a.—Attendance at a nearer school.—That when children of school age reside with their parents or guardians more

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SEC. 3. The board may discharge a teacher who, for any cause, is found *incompetent*. 6 Neb., 173. Cited 31 *Id.*, 552.

SEC. 4. The residence of a pupil is usually with his parents, if living, but may be elsewhere. Children sent into the district just to board and attend school are not residents.

SEC. 4a. A person whose children and taxes have been transferred to an adjoining district for school purposes, does not thereby become a legal voter of such adjoining district.

than one and one-half miles from the schoolhouse in their own district, and at least one-half mile nearer to the schoolhouse in an adjoining district, said distances to be measured by the shortest route possible upon section lines or traveled roads open to the public, such children may have school privileges in the said adjoining district instead of in the district of their residence, under the following conditions, to-wit: The parent or guardian of such children shall, at or before each annual meeting, notify the county superintendent of each district affected, using such form of notice as the state superintendent shall prescribe, which notice shall state the distances as herein provided, and shall be attested by the signature of a legal voter and taxpayer of the district in which said children or wards reside, and the signature of a majority of the members of the school board of the district in which said children or wards desire school privileges, in addition to the signature of such parent or guardian; and said county superintendent shall notify the director of each district to transfer such person, together with such children or wards, to said adjoining district for school purposes for the year next ensuing, and it shall be the duty of said county superintendent to see that the said children or wards are enumerated in the said adjoining district and not in the district of their residence. The county superintendent shall notify the county clerk of the said transfer, and the said county clerk shall be empowered, and it is hereby made his duty, to place the school taxes, except for the payment of existing bonds or interest on the same, of the said parents or guardians and of the real estate on which they reside, not exceeding a quarter section of land, for the year next ensuing, in the said adjoining district instead of the district of their residence, basing such school taxation upon the levy for school purposes in said adjoining district, and the assessed valuation of the property of such parents or guardians and said real estate as determined by the proper officers, and the said taxes shall be collected as provided by law for other taxes.

*Provided*, That when such transfer shall have been made, such children shall continue to have school privileges in said adjoining district until their parents or guardians shall, in writing, notify the county superintendent of their desire to be again transferred to the district of their residence, or shall remove from said real estate; in either event, the county superintendent shall notify the county clerk of such re-transfer, and the taxes of said parent or guardian and real estate shall again be placed in the district of their residence.

SEC. 4b.—Transportation of pupils.—That a board of education of a city, or a board of trustees of a high school district, by a two-thirds vote of the entire board, or a district board of any school district in this state when authorized by a two-thirds vote of those present at any annual or special meeting, is hereby empowered to make provision for the transportation of pupils residing within said district to any other school [within said district] to which said pupils may lawfully attend, whenever the distance from such school shall render it impracticable for said pupils to attend without transportation.

SEC. 4c.—Instruction in neighboring district.—That a board of trustees of a high school district, or a district board of a school district in this state, when authorized by a two-thirds vote of those present at any annual or special meeting, is hereby empowered to contract with the district board of any neighboring district for the instruction of [all] pupils residing in the first named district in schools maintained by the neighboring district, and to make provision for the transportation of said pupils to the above named school of the neighboring district under the conditions named in the preceding section; *Provided*, That school districts thus providing instruction for their children in neighboring districts shall be considered as maintaining a school as required by law; *Provided, further*, That the teacher of the last named school shall keep a separate record of attendance of all pupils from the first named district and make a separate report to the director of said district.

SEC. 5.—Suspension of pupils.—They may authorize or order the suspension or expulsion from the school, whenever in their judgment the interests of the school demand it, of any pupil guilty of gross misdemeanors or persistent disobedience, but such suspension shall not extend beyond the close of the term.

SEC. 6.—Site, purchase, lease, and sale.—They shall purchase or lease such site for a schoolhouse as shall have been designated by the district, in the corporate name thereof, and shall build, hire, or purchase such schoolhouse out of the fund provided for that purpose, and shall make sale and conveyance of any site or other property of the district, when lawfully directed by the qualified voters at any annual or special meeting.

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SEC. 5. This section gives school boards authority to suspend pupils. There is no law for referring such questions to a special district meeting, and it will save acrimony if the board, after consulting with the teacher or teachers, will settle all such matters with the least possible public disturbance.

The right to suspend or expel vests in the board, but may be exercised by the teacher in emergencies, with immediate reference to the board for final action.

SEC. 6. Building committee. 45 Neb., 239.

**SEC. 6a.—Outhouses.**—It shall be the duty of school district boards to provide on every schoolhouse site, and keep in good repair and in clean and healthful condition, at least two separate water closets or privies, located on those portions of the site the farthest from the main entrance to the schoolhouse, and as far from each other as the surrounding condition will permit; *Provided*, That where adequate and separate interior closets are provided and maintained in good repair and healthful condition, the foregoing condition of this act shall not apply.

**SEC. 7.—Title to site.**—The district shall not in any case build a stone or brick schoolhouse upon any site, without having first obtained a title in fee to the same; and, also, that they shall not in any case build a frame schoolhouse on any site for which they have not a title in fee, without the privilege to move the same when lawfully directed to do so by the qualified voters of the district at any annual or special meeting.

**SEC. 8.—Payment of school moneys.**—The district board shall apply and pay over all school moneys belonging to the district in accordance with the provisions of law regulating the same, as may be directed by the district, but no school money apportioned to any school district shall be appropriated to any other use than the payment of teachers' wages; and no part thereof shall be paid to any teacher who shall not have received a certificate as required in this chapter, before the commencement of his or her school.

**SEC. 9.—Care and custody of school property.**—The said board shall have the care and custody of the schoolhouse and other property of the district, except so far as the same shall be confided to the custody of the director.

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**SEC. 9.** This section has given rise to much controversy, and many disputed points still remain unsettled. The following opinions seem to be well founded:

1. The schoolhouse was erected for school purposes, and cannot legally be used for any other purpose that will interfere with its use for this.

2. A room in a schoolhouse not needed for school purposes may be leased for any purpose not injurious to the school, or a detriment to the usefulness of the other parts of the building for school purposes; but the contract for such lease cannot extend beyond the close of the school year.

3. The right to determine whether a schoolhouse shall be used for other than school purposes belongs to the voters of the district when assembled in a lawful manner; but when the district has not acted on the subject the board has control until some action is taken by the district. But neither board nor district has any right to allow the schoolhouses to be used in such a way as to interfere with the school.

4. If the voters of the district wish to use the schoolhouse for meetings of various kinds, there seems to be no good reason why they may not so use it so long as they do not interfere with the school work. The decisions of the supreme courts of Indiana, Illinois, Iowa, and many other states confirm this view. Kansas, New Jersey, and West Virginia confer upon the trustees, by statute, the right to use the house for such purposes. In the absence of any decision by our own courts the above rulings will govern this department.

SEC. 10.—Vacancy in district office.—Every school district office shall become vacant by the death, resignation, or removal from office, or removal from the district of the incumbent, or by his absence from the district for a continuous period of sixty days at one time.

SEC. 11.—Appointment to fill vacancy.—The said board shall have power to fill by appointment any vacancy that may occur in their number, and it shall be their duty to fill such vacancy after its occurrence; *Provided*, That in case said board shall, from any cause, fail to fill such vacancy, the same may be filled by election at a special school district meeting called for that purpose, by the qualified voters present, which meeting shall be called in the same manner and be subjected to the same regulations as other special district meetings.

SEC. 12.—Appointment by county superintendent.—When, by a division of a district, not more than one officer is left in the old district, the county superintendent shall appoint, to fill the vacant offices, suitable persons, who shall hold their offices until the second Monday in July after the next annual meeting, and until their successors are elected and qualified.

SEC. 13.—Officer cannot contract with district.—No school officer shall be party to any school contract for building or furnishing supplies, except in his official capacity as a member of the board.

### SUBDIVISION VI.—HIGH SCHOOL DISTRICTS, FREE ATTENDANCE, AND EDUCATION OF PAUPER CHILDREN.

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| <ol style="list-style-type: none"> <li>1. Organization of district.</li> <li>2. Board, organization of.</li> <li>3. Classification of scholars.</li> <li>4. Statement of receipts, etc.</li> <li>5. Free high school attendance.</li> <li>6. Common school, high schools defined.</li> <li>7. Boards must report.</li> <li>8. Adjunct district.</li> <li>9. Rural high school.</li> <li>10. Proposition submitted.</li> <li>11. Officers shall certify.</li> </ol> | <ol style="list-style-type: none"> <li>12. Terms for adjoining district.</li> <li>13. Trustees of rural high school.</li> <li>14. Same.</li> <li>15. Same.</li> <li>16. Same.</li> <li>17. Expense of rural high school.</li> <li>18. Bond issue.</li> <li>19. Same.</li> <li>20. Funds heretofore paid, etc.</li> <li>21. Education of pauper children.</li> <li>22. Tuition.</li> </ol> |
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#### SECTION 1.—Organization of district.—Any district contain-

SEC. 10. When a school officer resigns, and his resignation is accepted, he cannot withdraw it and again resume the office. The only way to remove a school district officer is by a proper action before a court of competent jurisdiction.

SEC. 1. In the formation of a high school district, it is necessary to reorganize and elect an entire new set of trustees.

The change from a primary to a high school district can be made only by a vote at the annual district meeting.

The official terms of the old board expire on the second Monday of July following the election of the new board of trustees. 17 Neb., 556,

ing more than one hundred and fifty children, between the ages of five and twenty-one years, may elect a district board consisting of six trustees; *Provided*, The district shall so determine at an annual meeting by a vote of a majority of the voters attending such meeting. When such change in the district board shall have been voted, the voters at such annual meeting shall proceed immediately to elect two trustees for the term of one year, two for the term of two years, and two for the term of three years, and annually thereafter two trustees shall be elected, whose terms of office shall be three years, and until their successors shall have been elected and qualified.

**SEC. 2.—Board, organization of.**—Within ten days after their election, such trustees shall file with the directors a written acceptance of the office to which they have been elected, and shall annually elect from their own number a moderator, a director, and a treasurer, and for cause may remove the same, and may appoint others of their own members in their places, who shall perform the duties prescribed by law for such officers in the primary school districts in this state, except as hereinafter provided. The trustees shall have power to fill any vacancy that may occur in their number till the next annual meeting. Whenever in any case the trustees shall fail, through disagreement or neglect, to elect the officers named in this section within twenty days next after their annual meeting, the county superintendent of the county in which such district makes its annual report shall appoint the said officers from the members of said trustees.

**SEC. 3.—Classification of scholars.**—Said trustees shall have power to classify and grade the scholars in such district, and cause them to be taught in such schools and departments as they may deem expedient; to establish in such district a high school when ordered by a vote of the district at any annual meeting, and to determine the qualifications for admission to such schools; to employ all teachers necessary for the several schools of said district; to prescribe courses of study and text-books for the use of said schools; and to make such rules and regulations as they may think needful for the government of the schools and for the preservation of the property of the district, and also to determine the rates of tuition to be paid for non-resident pupils attending any school in said district except non-resident pupils attending the high school without charge.

SEC. 4.—Statement of receipts and expenditures—Estimate—Taxes.—The said trustees shall present at each annual meeting a statement in writing of all receipts and expenditures on behalf of the district for the preceding year, and of all funds then on hand, and an estimate of the amounts necessary to be raised by the district, in addition to the money to be received from the primary school fund and other sources, for the support of the schools of said district for the ensuing year, and for incidental expenses thereof; and the said district may, at the annual meeting, vote such sums, to be raised by tax upon the taxable property of said district, as may be required to maintain the several schools thereof for the year.

[FREE HIGH SCHOOLS.]

SEC. 5.—Free attendance at high schools.—That all regularly organized public high schools determined by the state superintendent of public instruction to be properly equipped as to teachers, appliances and course of study, and located in districts whose school boards shall have voted to open such high schools for the instruction of non-resident pupils under the provisions of this act, shall be open to attendance by any person of school age residing outside of the district, and resident of the adjunct district as hereinafter defined, of the same county, whose education cannot profitably be carried further in the public school of the district of his residence; such attendance shall be without charge of tuition to the pupil except as hereinafter provided; *Provided*, Such pupil must have a certificate signed by the county superintendent, that said pupil has completed the common school course prescribed by the state superintendent for work below the high school; *Provided, further*, such non-resident pupils shall be subject in all respects to the same rules and restrictions as those which govern resident pupils attending such high school and attend the nearest high school of approved grade whose course of study such pupils have not completed in the county of their residence; *Provided, further*, When any high school shall be unable to furnish accommodations to any more non-residents without constructing or renting additional buildings, the board of education may refuse admission to such pupils.

SEC. 6.—Common schools and high schools defined.—It shall be the duty of the state superintendent of public instruction to determine annually what high schools in this state meet the requirements of the preceding section and are subject to the provisions of this act. Schools having no more than eight grades or years of study shall, for the purposes of this act, be

deemed common schools, and schools having more than eight grades shall be deemed high schools.

SEC. 7.—School boards must report cost and attendance.—The school board of each school district in this state whose high school is attended by pupils under the provisions of this act shall, at the close of each school year, report in such form as the state superintendent may prescribe, to the county board of each county in which such pupils are resident, the name of each pupil non-resident of the district attending such high school from such county and the length of time of attendance of each such pupil in weeks as hereinafter specified, the total cost of maintaining such high school for that year, the total number of pupils both resident and non-resident attending such school, the average number of weeks as hereinafter specified that each pupil attended such school, and the cost per pupil per week of maintaining such school; and the county board shall, at its first regular meeting after the filing of such report, allow said district the sum of seventy-five cents for each non-resident pupil reported for each week during any part of which said non-resident pupil shall have been in attendance, and order a warrant to be drawn on the fund raised under the provisions of section 4 of this act of such county for such sum, and the teacher's register shall be *prima facie* evidence of the attendance of pupils set forth in said report; *Provided*, That when the actual cost of maintaining such high school per pupil per week shall be less than seventy-five cents per week, then the sum paid to said district for non-resident pupils shall be such actual cost, and when the cost of maintaining such high school shall exceed seventy-five cents per pupil per week, the parent or guardian of each non-resident pupil shall pay such excess for each pupil.

SEC. 8.—Meeting expense and establishment of adjunct district.—For the purpose of meeting the expense contemplated by this act, all of the territory of each county in this state not included in any high school district may be constituted as an independent taxing district to be known as the adjunct district of such county; the common school districts or parts of districts included in such adjunct district shall be the voting precincts of said adjunct districts; it is hereby made the duty of the moderator of each common school district in this state to submit the question of the establishment of an adjunct district in the county in which it is located to a vote of the legal voters of his district at the annual meeting of said district next occurring



after the taking effect of this act, and to certify the result of such vote to the county superintendent. In districts which include a part of two or more counties, the vote of the electors resident in each county shall be separately taken and certified to the proper superintendent. If a majority of the votes cast in any county on said question shall be in favor of the establishment of an adjunct district, the county superintendent shall certify such fact to the county clerk, and the county board of such county shall thereafter annually levy a tax of not to exceed two mills on the dollar of assessed valuation of such adjunct district, and the tax collected thereunder shall be a special fund to pay tuition of non-resident pupils under the terms of this act. If the vote provided for in this section in any county shall be against such adjunct district, the question may again be submitted at any subsequent annual meeting of the common school districts embraced in said proposed adjunct district, and any adjunct district may be discontinued by a majority vote of its electors taken in the manner above provided for its establishment.

[RURAL HIGH SCHOOLS.]

SEC. 9.—Rural high school.—Any two or more adjoining school districts in any county in this state, which are not able or do not deem it expedient to maintain a school of more than eight (8) grades may unite for the purpose of forming one high school district and maintaining one high school as hereinafter provided.

SEC. 10.—Proposition submitted at annual or special meeting.—The proposition so to unite shall be submitted to the regular annual meeting of each district proposed to be joined in such high school-district, or at a special meeting called for the purpose, as provided in subdivision two (2) of chapter seventy-nine (79) of Compiled Statutes, and shall require for its adoption a majority of all the qualified voters present at such meeting in each of the districts proposed to be so joined for high school purposes.

SEC. 11.—Officers shall certify to county superintendent.—When any two or more adjoining school districts in any county shall have voted to unite for high school purposes, the officers thereof shall certify the fact to the county superintendent of said county, who shall thereupon give to such high school district so formed an appropriate name, not borne by any other school district or high school district in said county, and it shall thereafter be known by such name as the . . . . . High School District of . . . . . County, Nebraska. Where the majority of

votes are cast for such a union of districts, and such high school is established, no district can withdraw its support from the union without the mutual consent of all the districts expressed by the majority vote of each.

SEC. 12.—Terms for adjoining district to unite.—After any such high school district has been established, if any adjoining common school district shall, by a majority vote of the qualified voters therein, at any annual or special meeting, express a desire to unite with, and be included in such high school district for the benefits thereof, it may be done; providing, this proposition is accepted by a majority vote of all qualified voters at an annual or special meeting in a majority of the school districts so united, or if but two districts, in each. Notice of such acceptance, by the president of the high school district to the moderator of said common school district, shall operate as official proclamation of the incorporation of said common school district in and part of the high school district.

SEC. 13.—Trustees of rural high school—Powers and duties.—The directors for the time being of the several school districts so joined for high school purposes, provided the number of such districts shall exceed two, shall be the trustees and governing body of such high school district. If the number of such districts shall be two only, the said trustees shall annually choose a third person, having the qualifications of a member of the school board in one or the other of the respective school districts to be a trustee of said high school district, who shall within ten days after his election file with such trustees or one of them a written acceptance of said office. Such trustees shall annually, subsequent to the annual meetings of the school districts so united for high school purposes, elect from their number a chairman and a clerk and shall at the same time elect a treasurer who may or may not be one of their number. They shall also have power to fill any vacancy that may occur in their number or in any of said offices till the same can be regularly filled.

SEC. 14.—Same.—Said trustees shall have all the power of school boards of school districts in this state with reference to the lease, purchase, acquisition or disposition of buildings, sites and property for school purposes, provided that where the provisions of subdivision five (5) of chapter seventy-nine (79) of the Compiled Statutes require the consent or authority or direction of the school district, the said trustees must be authorized by the votes of meetings of a majority of the districts so united, or if said districts are two only, of each of them.

SEC. 15.—Same.—The powers and duties of the chairman, clerk, and treasurer respectively, of such board of trustees, shall be the same, as near as may be, as those of the moderator, director and treasurer, respectively, of a school district, as fixed in subdivision four (4) of chapter seventy-nine (79) of the Compiled Statutes, except that no census of such high school district shall be required to be taken, and that contracts with teachers shall require the sanction of a majority of such trustees.

SEC. 16.—Same.—The trustees shall establish and maintain a high school in said district at such place as they may deem most expedient, and to that end shall, with the advice and approval of the county superintendent, have the authority to determine the qualifications for admission to such high school, to employ all necessary teachers, to prescribe courses of study and text-books, to determine the rate of tuition to be paid by non-resident pupils attending any such high school, and to make such rules and regulations as they may think needful for the government of such school and for the preservation of the property of such high school district. *Provided*, That such course of study shall conform to the general course of study and gradation prescribed by the state superintendent of public instruction, which he is hereby authorized to prescribe for all high schools maintained under the provisions of this act.

SEC. 17.—Expense of maintaining rural high schools.—The expenses of maintaining such high schools shall be borne by the several school districts united for the purpose, in proportion to their assessed valuation. To that end, the trustees shall, prior to each annual school district meeting, prepare an estimate of the sums required for the maintenance of such high school during the coming year, and the share to be borne by each school district, and the number of mills necessary to be levied in each of said districts so united to meet its said share, and shall further certify said estimate, the amount of said share and the amount of said required levy to each of said district's meetings. In case the meetings in a majority of the districts so united, or in case there are but two, in each, shall reject such estimates, the trustees shall at once give ten (10) days notice by posting the same upon the door of each school house in each of said districts and in three other of the most conspicuous places in each district, of a meeting of all the qualified voters of each of the districts so united for high school purposes at some accessible place within the limits of said high school districts, for

the purpose of settling the amount required to maintain such high school, the share of each district, and the number of mills required to be levied. At such meeting, the chairman of said board of trustees shall preside and the clerk shall record its proceedings. Said meeting shall fix, by a majority vote of the qualified voters of said several districts present, the amount necessary to be raised, the share of each district, and the levy necessary in each district to meet said share, and the clerk shall thereupon forthwith certify the number of mills so fixed upon to be levied in each district to the county board. In case, however, said estimates so prepared by said trustees, shall not be acted upon at said district meeting or shall not be rejected as above provided, then said trustees shall certify the same as by them originally fixed to said county board; the tax so fixed shall be levied in each school district by the said county board and collected as other county taxes, and the proceeds thereof shall be turned over to the treasurer of said high school district, except the principal sum of bonds for the erection of a building as hereinafter provided shall in no year be suffered to exceed seventy-five (75) per cent of the aggregate expense of maintaining all the common schools of said districts so united for high school purposes.

**SEC. 18.—Bond issue.**—When authorized by a two-thirds majority vote of all qualified voters present at an annual or special meeting in a majority of the school districts so united, or if there be but two districts so united, in each, said trustees may issue and negotiate the bonds of said high school district for the purpose of raising money to provide for the erection and furnishing or the improvement of a high school building. The bonds so issued shall not when added to the aggregate of the bonded indebtedness of the several school districts so united for high school purposes exceed ten (10) per cent of the aggregate assessed valuation of the said several school districts as shown by the last preceding assessment.

**SEC. 19.—Same.**—Said bonds shall conform to and their payment, cancellation, refunding and the application of the proceeds thereof shall be governed by and as provided for in the several provisions of sections six (6) to eleven (11) inclusive, thirteen (13), fifteen (15) to eighteen (18) inclusive, and twenty (20) to twenty-two (22) inclusive, of subdivision fifteen (15) of chapter seventy-nine (79) of the Compiled Statutes, as near as may be.

[DISTRIBUTION OF FUNDS.]

**SEC. 20.—Funds heretofore paid into county treasury for free high schools.**—That all funds which have heretofore been

paid into the treasury of any county for the maintenance of free high schools for non-resident pupils, shall be paid to the school districts of such county which have maintained free high schools for non-resident pupils, proportionately to the number of such non-resident pupils instructed and the length of time each pupil received such free instruction.

*Provided*, That where pupils from one county have received such free instruction in a school located in another county, the district furnishing such free instruction shall share in the distribution of funds herein provided for, in the same proportion as the districts of the county making such distribution.

#### EDUCATION OF PAUPER CHILDREN.

SEC. 21.—That where children of school age and of sound mind shall be confined in any poor house of this state it shall be the duty of the county board, where the same can be done, to make arrangements with the officers of the school district wherein said poor house is located, or with some school district adjacent, to have the children so chargeable to the county attend school at such time and place, and to have and receive such textbooks and instruction as shall be provided for other children attending in said school district or districts.

SEC. 22.—*Tuition*.—It shall be the duty of the county board, upon the report of the officers of the school district wherein arrangements have been made for the education of the children confined in the poor house, to draw a warrant on the general fund of the county, payable to the treasurer of the said school district; *Provided*, however, The county shall not be liable for more than its proportionate share of the expenses for textbooks, fuel, and teachers' wages.

## SUBDIVISION VII.—COUNTY SUPERINTENDENT.

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| <ol style="list-style-type: none"> <li>1. Election and term of office.</li> <li>2. Salary.</li> <li>3. Teachers' examination.</li> <li>4. Endorsement of county certificates.</li> <li>5. Form of certificates prescribed by state superintendent.</li> <li>6. Definition of kinds of certificates.</li> <li>7. Revocation of certificate.</li> <li>8. Visit schools.</li> <li>8a. Examine applicants for state normal.</li> <li>8b. Questions.</li> </ol> | <ol style="list-style-type: none"> <li>9. Blanks received from state superintendent.</li> <li>10. Examine district reports.</li> <li>11. Subject to rules of state superintendent.</li> <li>12. Vacancy filled by county board.</li> <li>13. Notice of delinquent report.</li> <li>14. Report to superintendents of asylums for the blind and for the deaf.<br/>(See sec. 18, subdivision IV.)</li> </ol> |
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**SECTION 1.—Election term.**—There shall be a county superintendent in each organized county, whose term of service shall be two years, and who shall be elected at the same time and in the same manner as other county officers. It shall be the duty of the county clerk to notify the state superintendent of the election of the county superintendent at the time said election is ascertained.

**SEC. 2.—Salary.**—The county commissioners, or a majority of them, present at the first regular session of each year, shall determine the compensation to be paid to the county superintendent, but such compensation shall not be less than twelve hundred dollars per annum in counties having a school population of four thousand or more; and not less than one thousand dollars per annum in counties having a school population of twenty-five hundred and less than four thousand; and not less than eight hundred dollars per annum in counties having a school population of fifteen hundred and less than twenty-five hundred; and in counties having a school population less than fifteen hundred, a per diem of not less than four dollars or more than five dollars for each day actually employed in the duties of his office, but the total compensation in this class shall not exceed eight hundred (\$800.00) dollars per annum. The number of days necessary for the duties of his office shall be determined by the county superintendent, but the number of days so employed shall not be less than two times the number of districts in such county, and one day for each precinct thereof for the examination of teach-

**SEC. 1.** The law does not provide for a deputy county superintendent, and action by such person is not legal. If the person elected county superintendent cannot act, he should resign and allow another to be appointed. The powers and duties of the county superintendent of public instruction are derived entirely from the statute. He can exercise only such powers as are especially granted or incidentally necessary to carry the same into effect. Any proceedings on his part beyond the scope of his authority, or where he has no jurisdiction, are absolutely void. 6 Neb., 539.

**SEC. 2.** When the compensation of the county superintendent has been fixed by the commissioners as provided by law, it remains unchanged until altered by the same board at the time prescribed by the statute.

In effect July 9, 1903.

ers. The superintendent shall file in the office of the county clerk a sworn statement of his account.

**SEC. 3.—Teachers' examination.**—The county superintendent shall examine all persons offering themselves as teachers for the public schools, and shall attend at the county seat upon the third Saturday in each month in the year, for that purpose; and at such other times and places as he may select, by giving not less than five days' notice in some paper published in his county; or, if there be no paper published in such county, then he shall cause to be posted up in three public places in the precinct where such examination is to take place, not less than five days prior to such examination, a notice of the time or [and] place thereof. Any certificate granted at any other time or place than those specified above shall be null and void. And any county superintendent who shall violate the provisions of this section shall, upon conviction of the same, be fined in any sum not less than twenty-five dollars.

**SEC. 4—Endorsement of county certificate.**—The county superintendent may endorse a certificate in force in any other county of this state, or of any other state, without examination, and said endorsement shall render the said certificate valid in his county for such time as the superintendent may determine, not exceeding two years from the date of said endorsement, but in no instance for a longer time than said certificate was originally intended; *Provided*, That the superintendent shall have power to revoke said certificate for the same causes and in like manner as those granted by himself.

**SEC. 5.—Form of certificate prescribed by state superintendent.**—He shall at his discretion grant certificates, in such form as shall be prescribed by the state superintendent of public instruction, licensing as teachers all persons whom on thorough and full examination he shall deem qualified in respect to professional interest, good moral character, learning and ability to instruct and govern a school; but no certificate shall be granted to any person who shall not pass a satisfactory examination in orthography, reading, penmanship, geography, arithmetic, physiology, English composition, English grammar

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SEC. 4. Cited 19 Neb., 496.

SEC. 5. Where circumstances render it desirable, a third grade certificate may be granted for less than six months, but not for *more*. A teacher should have a valid certificate before commencing a school, and the contract made with the board contains the plain implication that he will keep himself technically qualified by obtaining a new certificate before the old one expires. The law makes no provision for dating back a certificate. There is no provision made for teaching any other than the English language in our schools.

and United States history; *Provided*, That no person shall be entitled to receive more than two (2) third grade certificates; *Provided, further*, That the county superintendent may refuse to issue a certificate to any teacher who fails or refuses to attend the teachers' institute.

SEC. 6.—Grades of certificates.—There shall be three grades of certificates to teachers to be granted by the county superintendent, in his discretion, to-wit: The certificate of the third grade shall be granted to persons who shall have passed satisfactory examination in the branches specified in the above section, which certificate shall license the holder thereof to teach in some special district and shall not continue in force for more than six months. The certificate of the second grade may be granted to any person of approved learning and character who, in addition to the branches specified in the above section, shall pass a satisfactory examination in civil government, bookkeeping, the elements of agriculture, including a fair knowledge of the structure and habits of the common plants, insects, birds and quadrupeds, blackboard drawing, and theory and art of teaching, which certificate shall be valid throughout the county for one year, unless sooner revoked. The certificate of the first grade shall be granted to no person who has not taught at least one year, with approved ability and success, and who shall not pass a satisfactory examination in all the branches required to obtain a second grade certificate, and in algebra, geometry, botany, and natural philosophy, which certificate shall be valid throughout the county in and for which it was granted for two years, unless sooner revoked. *Provided*, That the part of this section relating to the elements of agriculture, to-wit: the words "the elements of agriculture, including a fair knowledge of the structure and habits of the common plants, insects, birds and quadrupeds," shall not be in force until on and after July 1st, 1903.

SEC. 7.—Revocation of certificate.—The county superintendent, or any authority or corporation authorized to grant certificates to teachers, may revoke any such certificate for any reason which would have justified the withholding thereof when the same was given, as for gross negligence of duty, or for incompetency or immorality, which reasons shall not be spread on the records unless requested by the teacher; but no certificate shall be revoked without notice by the superintendent, and an opportunity to explain or defend his conduct, if he desires such opportunity. No certificate shall be revoked except by the au-



thority granting it, but the county superintendent shall report to the authority granting said certificate the fact that it should be revoked, giving his reasons therefor. The superintendent shall keep a record of all certificates granted and annulled by him, with the grade, date, and duration of each, and shall deliver such record, with all other books and papers belonging to his office, to his successor.

**SEC. 8.—Visit schools.**—It shall be the duty of the county superintendent to visit each of the schools of his county at least once in each year; to examine carefully into the discipline and modes of instruction, and into the progress and proficiency of the pupils, and to make a record of the same, and to counsel with the teachers and district boards as to the course of study to be pursued, and for the improvement of the instruction and discipline of the school; to note the condition of the schoolhouse and appurtenances thereto, and to suggest place for new schoolhouses to be erected, and for warming and ventilating the same, and the general improvement of the schoolhouse and grounds; to promote by public lectures and teachers' institutes, and by such other means as he may devise for the improvement of the schools in his county, and the elevation of the character and qualifications of the teachers thereof; to consult with the teachers and school boards to secure general and regular attendance of the children of his county upon the public schools.

**SEC. 8a.—Examination of applicants for admission to State Normal.**—The county superintendent shall at the time of his regular examination for the licensing of teachers on the third Saturday of April and on the third Saturday of July of each year and on such other day or days in said months as he may appoint, conduct an examination of applicants for admission to the state normal school located at Peru, Nebraska, or other normal schools that may be established.

**SEC. 8b.—Questions, by whom prepared.**—The lists of questions used in such examinations of applicants for admission to the state normal school shall be prepared by the state superintendent of public instruction and the faculty of the said state normal school, transmitted under seal to the several county superintendents, who shall place them before the applicants under the same conditions as to time and supervision as in the examination of teachers for license to teach. At the close of such examinations the county superintendent shall collect the papers prepared by the applicants and shall transmit them under seal

to the state superintendent of public instruction, with a certified list of the applicants preparing such papers. All necessary expenses connected with the conduct of the examinations and the transmission of the papers shall be paid by the said state normal school or other normal schools that may be established.

SEC. 9.—Blanks and communications received from state superintendent.—It shall be the duty of the county superintendent to receive all such blanks and communications as may be directed to him by the state superintendent of public instruction, and to dispose of the same in the manner directed by the state superintendent.

SEC. 10.—Examine district reports.—The county superintendent shall examine into the correctness of the reports of the district boards, and may, when necessary, require the same to be amended, and shall indorse his approval on such as he shall find correct, and transmit duplicates thereof, together with such other information as may be required of him, to the state superintendent of public instruction, when required by said state superintendent.

SEC. 11.—County superintendent subject to rules and instructions of state superintendent—Report of county superintendent.—The county superintendents shall be subjected to such rules and instructions as the state superintendent of public instruction may from time to time prescribe; and they shall report annually to the superintendent of public instruction, at such times as he may direct, of the official labors performed, and of the general condition and management of the schools under their charge, and such other information as may be required of them by said superintendent.

SEC. 12.—Vacancy in office, how filled.—Whenever, by death, resignation, or removal, or otherwise, the office of superintendent shall become vacant, the county board shall have power to fill such vacancy.

SEC. 13.—Notice, report due.—Should any district neglect to send in the reports required by section 2, subdivision 5 of this chapter, by the first Monday in July, it shall be the duty of the county superintendent to notify the officers of such district that the report is due, and should be sent at once.

SEC. 14.—Report to superintendents of blind and deaf.—The county superintendent shall report on or before the first

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SEC. 13. In effect July 9, 1903.

SEC. 14. Cited 43 Neb., 134.

Tuesday in September of each year, to the superintendent of the blind asylum, the name, age, residence, and post-office address of every person blind to such an extent as to be unable to acquire an education in the common schools, and who resides in the county in which he is superintendent, and also to the superintendent of the Nebraska institute for the deaf and dumb, the name, age, and post-office address of every deaf and dumb person between the ages of five and twenty-one years, who resides within his county, including all such persons as may be deaf to such an extent as to be unable to acquire an education in the common schools. [See chapters 22 and 42, Compiled Statutes.]

### SUBDIVISION VIII.—STATE SUPERINTENDENT.

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| <ol style="list-style-type: none"> <li>1. Office.</li> <li>2. Normal institutes.</li> <li>3. Visit schools.</li> <li>4. Decide disputes in law.</li> <li>5. Forms for reports.</li> <li>6. Print school laws.</li> </ol> | <ol style="list-style-type: none"> <li>7. Report annually to the governor.</li> <li>8. Cause report to be printed.</li> <li>8a. Deputy.</li> <li>8b. Salary.</li> <li>9. Apportionment of state funds.</li> </ol> |
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**SECTION 1.—Office.**—The superintendent of public instruction shall keep an office, which shall be furnished for him at the seat of government of the state, and he shall keep all books and papers pertaining to his office therein, subject at all times to the examination of the governor or auditor of state, or a committee from either branch of the legislative assembly.

**SEC. 2.—Normal institutes.**—He shall organize teachers' normal institutes at such times and places as he shall deem practicable. He shall, as far as practicable, attend said institutes and provide proper instructors for the same, and in other ways seek to improve the efficiency of teachers, and advance the cause of education in the state.

**SEC. 3.—Visit schools.**—He shall visit such schools as he may have it in his power to do, and witness and advise with teachers and school officers upon the manner in which they are conducted.

**SEC. 4.—Decide disputed points.**—He shall decide disputed points in school law, and all such decisions shall be held to have the force of law till reversed by the courts.

**SEC. 5.—Forms for reports.**—He shall prescribe forms for making all reports and regulations for all proceedings under the general school laws of the state.

**SEC. 6.—School laws.**—He shall cause to be printed, in pamphlet form, the school laws and laws relating to the school lands,

with blank forms prescribed by him, and furnish each county superintendent with a sufficient number to supply the district officers within his jurisdiction.

**SEC. 7.—Report annually to the governor.**—He shall annually, on the first day of January, submit to the governor of the state a full report of the operations of his office during the year, which report shall contain a statement of the school funds of the state, and an account of the receipts and expenditures for the purpose of schools, a statement of the condition of the common schools and other educational institutions chartered or fostered by the state, embracing the number of schools of the several grades, the number and average compensation of the teachers, the names and compensations of county superintendents, the number of pupils attending the several schools, the enumeration of youth by counties, the value of schoolhouses, sites, apparatus, and furniture; a statement of such plans as he may devise for the better management of the school funds, and the school system, and such other statements as he may deem expedient to communicate relating to his office and popular education.

**SEC. 8.—Report to be printed.**—He shall cause his report to be printed by the state printing board, and shall deliver at the commencement of each regular session of the legislature fifty copies thereof to the senate, and one hundred fifty copies to the house of representatives, and shall transmit one copy to each county and city superintendent of schools in the state, and one to each state superintendent of public instruction of other states.

**SEC. 8a.—Deputy.**—The superintendent of public instruction of the state of Nebraska shall have power to appoint a deputy superintendent of public instruction, and the said deputy may do and perform, in the absence or inability of the superintendent of public instruction, all the acts and duties that may be authorized and required to be performed by the superintendent of public instruction; and the superintendent shall be responsible for all the official acts of his deputy.

**SEC. 8b.—Salary.**—Said deputy shall receive a salary of fifteen hundred (\$1,500) dollars per annum, to be paid by warrant of the auditor of public accounts on the treasurer, said warrant to be drawn monthly.

**SEC. 9.—Apportionment of school funds.**—He shall, semi-annually, on or before the third Monday in June and the last Monday in December, make an apportionment of the funds which are in the treasury and which are applicable to the support of

schools, which apportionment shall be based upon the enumeration of youth reported to the state superintendent by the county superintendents.

### SUBDIVISION IX.—THE TEACHER.

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| <ul style="list-style-type: none"> <li>1. Qualifications of teacher.</li> <li>1a. Graduates University of Nebraska, etc.</li> <li>1b. Same—Confirmation of certificates.</li> <li>2. Monthly report.</li> <li>3. Length of month.</li> <li>4. Professional certificate.</li> <li>4. Proviso, lapse of certificate.</li> <li>4. Proviso 2d, certificate without examination.</li> </ul> | <ul style="list-style-type: none"> <li>5. Branches required for professional certificate.</li> <li>5a. Scientific temperance instruction.</li> <li>6. Examination in same.</li> <li>7. College and normal graduates.</li> <li>8. Same.</li> <li>9. Same—Defined.</li> <li>10. Extent of act.</li> </ul> |
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**SECTION 1.—Qualifications of teacher.**—No person shall be accounted a qualified teacher, within the meaning of the school law, who has not a certificate in force from a county superintendent, or one as provided for in subdivision XIV., section 19, of this chapter (subdivision XIV., Schools in Cities), or a certificate or diploma from a state normal school of Nebraska, a certificate from the state superintendent of public instruction, or a diploma from a state normal school of another state, approved by the state superintendent of this state; but such approval shall not be given until the holder of said diploma presents proof of successful teaching for one year in Nebraska, and presents a first grade county certificate given in this state.

**SEC. 1a.—Graduates University of Nebraska or other incorporated schools of this state.**—That all graduates of the University of Nebraska holding the degree of bachelor of arts or bachelor of science, and in addition thereto, certificates authorized by the board of regents showing that such graduates have completed the course of instruction prescribed by the regents and faculty of said university for the special training and instruction of teachers, and such other graduates as hold the same degrees from any college or university duly incorporated under the laws of the state of Nebraska, who, in the judgment of the state superintendent of public instruction, have completed in their respective institutions an equivalent of the courses in the state university, for said degrees prescribed by the regents and faculty of said university, shall be accredited as qualified teachers within the meaning of the school law of this state; and all

**SEC. 1.** Teacher may be discharged for incompetency or other sufficient cause at will of majority of board. 6 Neb., 173. Teacher employed for nine months, working eight, not teaching the nine through neglect of officers of district, *held*, entitled to pay for that month. 13 Neb., 54. Cited 19 Id., 496.

such graduates shall have equal privileges, upon equal conditions, with graduates from any and all other educational institutions within this state under the school law thereof. Said certificates are hereby declared to be valid as certificates of the first grade to teach in the public schools of the state of Nebraska for a period of three years from their date.

SEC. 1b.—Same—Confirmation of certificates.—After three years of actual teaching, the certificates of the graduates of the University of Nebraska or of any other college or university mentioned or described in section 1a of this act shall be countersigned by the state superintendent of public instruction upon satisfactory evidence that the services of the applicant have been successful; *Provided*, That said counter-signature may be cancelled and its legal effect annulled by the superintendent of public instruction upon satisfactory evidence of disqualification; *Provided, further*, That such certificates shall be subject to the provisions for lapsing set forth in section 4, subdivision 9 of chapter 79 of the Compiled Statutes of Nebraska for the year 1899.

SEC. 2.—Report monthly.—Every teacher shall make a monthly return to the director of the district of the number of pupils attending his or her school, the names and ages of each, the days attending, the studies pursued, and no teacher will be entitled to receive pay in full for a term's service till the term summary is properly filled out and approved by the director.

SEC. 3.—Length of month.—In the absence of any agreement between the director and teacher to the contrary, twenty days shall constitute a school month.

SEC. 4.—Professional certificates.—Permanent teachers of high character and broad scholarship, and who have a successful experience, may, upon examination by the state superintendent, or by a committee of three competent teachers appointed by him, receive a professional state certificate, which shall authorize the holder to teach in any public school in the state, without further examination;

Lapse of certificate.—*Provided*, That no life certificate shall be in force after its holder shall permit a space of three years

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SEC. 2. The teacher's register should be approved by the director at the close of each month; and an order for the pay of the teacher should not be drawn until the register has been submitted to and approved by the director. A duplicate of the classification record and term summary should be forwarded to the county superintendent at the close of each term.

A teacher who fails or neglects to make out a report ought not to be allowed to teach, and should have his certificate revoked.

to lapse without following some educational pursuit, unless said certificate be endorsed by the acting state superintendent;

**Certificate without examination.**—*Provided further,* That graduates of colleges and universities of good standing, who have received a certificate of the first grade in this state, and who shall have taught in any high school in the state with ability and success for at least three years, shall be entitled to a professional certificate without further examination.

**SEC. 5.—Branches.**—The branches required for a professional state certificate shall be the following, to-wit: Written arithmetic, United States history, reading and elocution, English grammar, common and physical geography, with map drawings, physiology, algebra, natural philosophy, chemistry, composition and rhetoric, bookkeeping, plane geometry, plane trigonometry, geology, zoology, botany, English literature, general history, intellectual philosophy, civil government and school laws, and the theory and art of teaching.

**SEC. 5a.—Scientific temperance instruction.**—Provisions shall be made by the proper local school authorities for instructing the pupils in all schools supported by public money, or under state control, in physiology and hygiene, with special reference to the effects of alcoholic drinks and other stimulants and narcotics, upon the human system.

**SEC. 5b.—Examination.**—No certificate shall be granted to any person to teach in the public schools of the state of Nebraska after the first day of January, eighteen hundred and eighty-six, who has not passed a satisfactory examination in physiology and hygiene, with special reference to the effects of alcoholic drinks and other stimulants and narcotics upon the human system.

**SEC. 6.—College and normal graduates.**—When any college, university, or normal school shall have a course of study equal in extent and similar in subjects to the elementary course of the state normal school, and shall have full and ample equipment and a faculty of instructors fully competent to give satisfactory instruction in the branches contained in said course, any graduate from such course shall be granted by the state superintendent a state certificate of the same tenor and effect as the certificate to teach issued to the graduates from the elementary course of the state normal school.

**SEC. 7.—Same.**—When any college, university, or normal school in this state shall have a course of study equal in extent and

similar in subjects to the higher course in the state normal school and shall have full and ample equipment and a faculty of instructors fully competent to give satisfactory instruction in the branches contained in said course, the graduates from such course shall be granted by the state superintendent a state certificate of the same tenor and effect as the certificate to teach issued to the graduates from the higher courses of the state normal school.

**SEC. 8.—Same defined.**—The determination of the question as to what institutions are entitled to the privileges set forth in this act shall be in the hands of the state superintendent. Provided that no educational institutions shall be entitled to the privileges conferred by sections 6 and 7 of this subdivision unless the following requirements have been fulfilled:

First—Such institution shall be incorporated under the laws of the state of Nebraska.

Second—Said incorporation shall have at least fifty thousand dollars invested, or available for use in the school.

Third—Said incorporation shall employ not fewer than five teachers who shall put in full time in giving instruction in the branches of study required to be taught by the provisions of this subdivision.

Fourth—The state superintendent shall by personal inspection satisfy himself that any institution desiring recognition under this law has fully complied with the requirements set forth in this act.

**SEC. 9.—Extent of act.**—The provisions of this bill shall not apply to graduates of any school approved by the state superintendent who were graduated prior to the passage of this act.

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#### SUBDIVISION X.—TEACHERS' INSTITUTES.

1. Kinds of institute.
2. Duty to attend institute.
3. Institute fund.
4. Same.

5. Disbursement of fund.
6. Notice of institute.
7. May revoke certificate.

**SECTION 1.—Kinds of institutes.**—For the purpose of allowing teachers an opportunity to improve themselves in the art of teaching and to promote uniform methods of instruction in the public schools of the state, county teachers' institutes shall be organized and conducted annually by the county superintendents; *Provided*, That two or more county superintendents with the approval of and in conjunction with the state superin-



tendent of public instruction may organize and conduct joint institutes at such time and place and for such length of term as they may deem practicable in lieu of the county institute.

**SEC. 2.—Duty to attend institutes.**—It shall be the duty of county superintendents and teachers to attend the institute of their county, or district in case of joint institutes, at least one week for the purpose of comparing notes, planning and outlining the work of the current or coming school year and to study methods of school work and the science and art of teaching.

**SEC. 3.—Institute fund.**—For the purpose of defraying the expense of these institutes there is hereby appropriated the entire institute funds of the county or counties for which the institute is organized and conducted, or so much of said fund as may be necessary; *Provided*, That in the case of joint institutes the expense shall be borne by the institute fund of the counties represented *pro rata* according to the number of teachers in attendance from each county.

**SEC. 4.—Same.**—To form a fund to defray the expense of institutes, each teacher examined for a certificate, or who has a certificate renewed or endorsed, or who has a certificate or diploma registered by the county superintendent, shall pay the sum of one dollar to the county superintendent; and at the time of the institute each person in attendance may be required to pay an additional sum not to exceed one dollar per week as an institute enrollment fee; to which sum thus raised the county commissioners shall add each year the sum of twenty-five dollars from the general fund of the county, and if they deem it desirable they may increase the amount to any sum not to exceed one hundred dollars. The county superintendent shall make a semi-annual statement under oath to the county commissioners of all moneys received by him for the institute fund and of all moneys disbursed by him from said fund.

**SEC. 5.—Disbursement of fund.**—All disbursements from the institute fund shall be upon the order of the county superintendent and upon bills approved by him, which bills shall be filed in his office.

**SEC. 6.—Notice of institute.**—The county superintendent shall notify all teachers, and the board of all school districts in his county of the time when the institute will begin and all common schools shall be closed during the continuance of the institute.

SEC. 7.—May revoke certificate for non-attendance at institute.—The county superintendent may at his discretion revoke the certificate of or refuse to grant a certificate to any teacher who fails or refuses to attend the county or joint institute. Should graduates from the elementary course of the state normal school refuse to attend such institute it shall be the duty of the county superintendent to report said refusal to the principal of the normal school who shall revoke the certificate of said normal graduate; *Provided*, That the county superintendent may excuse experienced teachers from such attendance when application is made before the opening of the institute and satisfactory reasons for absence are given in writing by such teachers.

### SUBDIVISION XI.—SCHOOL FUNDS.

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| <ol style="list-style-type: none"> <li>1. Common school fund.</li> <li>2. Collection of.</li> <li>3. Apportionment to counties.</li> <li>4. Apportionment to districts.</li> <li>5. Apportionment to new district.</li> <li>6. Fractional districts.</li> <li>7. Record of apportionment.</li> <li>8. No fees for receiving or paying.</li> <li>9. Misuse of funds.</li> <li>10. Certificate of financial and census reports.</li> <li>11. Interest on warrants.</li> <li>12. Warrants, when payable.</li> <li>13. Warrant register.</li> </ol> | <ol style="list-style-type: none"> <li>14. Endorsement of warrants when presented.</li> <li>15. Separate package for each warrant—notice.</li> <li>16. Receipts by city treasurer.</li> <li>17. Treasurer's duties.</li> <li>18. Failure to keep books—penalty.</li> <li>19. Inspection of books.</li> <li>20. Failure to notify—penalty.</li> <li>21. Failure to register or pay.</li> <li>22. Duplicate for lost warrant.</li> <li>23. Investment of sinking fund.</li> <li>24. Same.</li> <li>25. Same—cities.</li> <li>26. Same—school districts.</li> </ol> |
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SECTION 1.—Common school fund.—For the purpose of affording the advantages of free education to all the youth of this state, the state common school fund, in addition to the funds derived from the sale of school lands and interest thereon, and fines and forfeitures, as provided by statutes and the constitution, shall be further increased by annual levy and assessment of not to exceed  $1\frac{1}{2}$  mills upon the dollar valuation on the grand list of the taxable property of the state; and the amount so levied and assessed shall be collected in the same manner as other state taxes, and when collected, shall be semi-annually distributed to the several counties of this state, in proportion to the enumeration of scholars, and be applied exclusively to the payment of teachers' wages.

SEC. 2.—County treasurer collect fines, etc.—The county

SEC. 7. A county superintendent should not revoke a teacher's certificate on a partial hearing, but should act in such matters only after a full hearing of the evidence for and against such revocation.

SEC. 1. See section 75, chapter 77, Compiled Statutes. Cited 5 Neb., 102, 303. 14 Id., 477. Occupation tax. 17 Neb., 219. 19 Id., 191. 27 Id., 64.

SEC. 2. Cited 5 Neb., 309. 9 Id., 352, 403. 40 Id., 293.

treasurer shall collect, or cause to be collected, the fines and all moneys for school purposes in his county, and take all proper measures to secure to each district its full amount of school funds, and all county treasurers shall report to the state treasurer and state auditor semi-annually, on or before the third Monday of April and the first Monday of November, and at such other times as the auditor may require, a statement showing the whole amount of moneys collected on account of state, county, and district school tax, and from all other sources respectively, noting the interest separately, and the amount received on account of licenses and fines, and from all other sources from which school funds are derived, together with a statement showing the amount paid out, to whom, and on what account, and at the same time the county treasurer shall pay over to the state treasurer all funds and moneys, from whatever source derived, belonging to the general school fund in his hands and make a settlement thereof with the state treasurer.

SEC. 3.—State treasurer make exhibit of school moneys.—The state treasurer shall, semi-annually, on or before the third Monday in May and the first Monday in December, make a complete exhibit of all moneys belonging to the school fund of this state, as returned to him from the several counties, together with the amount derived from other sources, and deliver the same duly certified to the state superintendent; and within twenty days thereafter the state superintendent shall make the apportionment of said funds to such counties according to the *pro rata* enumeration of scholars in each county last returned from the county superintendent, and certify the apportionment of each to the county superintendent of the proper county and to the state auditor, who shall draw a warrant on the state treasurer in favor of the various counties for the amount so specified by the state superintendent.

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SECS. 3 and 4. The enumeration of pupils, on which this apportionment is based, must be made within ten days preceding the last Monday in June. See section 12, subdivision 4. The constitution of 1875 (article VIII, section 7) provides that "no apportionment shall be made from said fund to any district for the year in which school is not maintained at least three months." Where the new district is formed in whole or in part from unorganized territory which could have no school the year before, such a district must have at least three months' school previous to the time of taking annual census of children and report the same to the county superintendent before it can draw state funds. Money cannot be apportioned to counties unless the county superintendent makes a report.

In order that a district be entitled to share in the apportionments made in December and June of each school year, the following conditions are necessary: The amount of school specified in section 14, of subdivision 2, must have been taught in the district in the school year, which ended with the second Monday of the preceding July; the census must have been made at the proper time; and the proper reports must have been made to the county superintendent. See sections 12 and 17, of subdivision 4, and section 10, of subdivision 11.

**SEC. 4.—Apportionment of funds to districts.**—The several county superintendents shall immediately, and within twenty days after receiving such apportionment, and after adding thereto all moneys received by the county treasurer on account of fines and licenses, apportion the entire amount as follows, to-wit: One-fourth of the whole amount to be distributed equally to the several districts in the county, and the remaining three-fourths of the whole to be distributed to the several districts in his county *pro rata*, according to the enumeration of scholars last returned by the directors of the various districts, and no district, city, or village which shall have failed to sustain a school for the length of time required by section 14, subdivision II., of this chapter, shall be entitled to receive any portion of the fund.

**SEC. 5.—New districts.**—When a district is formed from other districts where during the preceding school year school had been kept open the term required by law, such new district will be held and deemed to have had school the lawful time, and apportionment shall be made to it accordingly.

**SEC. 6.—Fractional districts.**—In making the “one-fourth” apportionment each fractional district shall receive one-half as much as a full district.

**SEC. 7.—Record of apportionment.**—The county superintendent shall, immediately after making such apportionment, enter the same in a book kept for that purpose, and shall furnish the county treasurer with a certified copy of such apportionment, and each of the directors in the respective districts in his county a certificate, showing the amount due such district, which amount shall be subject to the order of the director on the county treasurer when properly countersigned by the moderator.

**SEC. 8.—No fees for receiving or paying.**—County treasurers are not allowed to charge a per cent for receiving and disbursing the state school appropriation.

**SEC. 9.—Misuse of funds.**—School district treasurers are forbidden to lend or use any part of the school moneys which may be in their hands, under penalty of fine and imprisonment, under the provisions of the statute regarding embezzlement.

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SEC. 4. Money in the county treasury, whether derived from fines or licenses, or from the state, should all be apportioned in the same manner, viz., one-fourth equally among the districts, three-fourths *pro rata*.

Money derived from a license issued by the authorities of an incorporated city or village authorized to grant licenses goes into the school fund of that city or village; all other license moneys go into the school fund of the county. See 29 Neb., 348.

SEC. 7. The county treasurer is not authorized to pay out county school fund until it has been apportioned by the county superintendent. 11 Neb., 233.

SEC. 9. See section 6783, of the Compiled Statutes, 1895.

SEC. 10.—Certificate of financial and census reports.—Hereafter before a school district treasurer shall be allowed to draw the state apportionment from the county treasurer, he must present a certificate from the county superintendent setting forth that such district has had the legal number of months' school, has made the census report properly, and has made the proper financial report.

SEC. 11.—Interest.—All warrants or orders hereafter issued by the proper authorities of any county, city, town, school district, or other municipal subdivision less than a county, shall draw interest from and after the date of their presentation for payment at the rate of seven per cent per annum. All warrants hereafter issued by the proper authorities of the state shall draw interest at the rate of five per cent per annum from the date of their presentation for payment. No bonds hereafter issued by any county, city, township, precinct, or school district shall draw interest at a rate exceeding seven per cent per annum.

SEC. 12.—Warrants, when payable.—All warrants upon the state treasurer, the treasurer of any county, city, school district, or other municipal corporation shall be paid in the order of their presentation therefor.

SEC. 13.—Warrant register.—The treasurer of this state, and the treasurer of every county, city, school district, or other municipal corporation, shall keep a warrant register, which register shall show, in columns arranged for that purpose, the number, date, and amount of each warrant presented and registered, as hereinafter provided, the particular fund upon which the same is drawn, the date of presentation, the name and address of the person in whose name the same is registered, the date of payment, the amount of interest and the total amount paid thereon, with the date when notice to the person in whose name such warrant is registered is mailed as hereinafter provided.

SEC. 14.—Endorsement.—It shall be the duty of every such treasurer, upon the presentation of any warrant for payment in the presence of such person, to enter such warrant in his warrant register for payment in the order of its presentation, and upon every warrant so presented and registered he shall endorse "registered for payment," with the date of such registration, and shall sign such endorsement; *Provided*, That all

SEC. 11. Section 10, chapter 44, Compiled Statutes, 1895.

SECS. 12, 13, 14. Sections 1, 2, and 3, chapter 93, Compiled Statutes, 1895.

warrants outstanding at the time this áct takes effect shall be presented for payment or registration by August first (1st), 1891, shall not draw interest after such date unless so presented.

**SEC. 15.—Separate package for each warrant—Notice.—**It shall be the duty of every such treasurer to put aside in a separate and sealed package, the money for the payment of each registered warrant, in the order of its registration, as soon as money sufficient for the payment of such warrant is received to the credit of the particular fund upon which the same is drawn. Such package shall be endorsed with the number and description of such warrant, and the name and address of the person in whose name the same is registered, and interest upon such warrant shall thereupon cease, and such treasurer shall by mail immediately notify the person in whose name the same is registered, and shall endorse the date of the mailing of such notice upon such sealed package.

**SEC. 16.—Receipts by city treasurer.—**The treasurer of every city or incorporated town, shall make duplicate receipts for all sums which shall be paid into his office, which receipts shall show the source from which such funds are derived, and shall by distinct lines and columns show the amount received to the credit of each separate fund, and whether the same was paid in cash, in warrants, or otherwise; one of which duplicates the treasurer shall deliver to the person making such payment, and the duplicate thereof he shall retain in his office.

**SEC. 17.—Treasurer's duties—Cash book—Register.—**Every such treasurer shall daily, as moneys are received, foot the several columns of his cash book, and of his register, and carry the amounts forward, and at the close of each year, in case the amount of money received by such treasurer is insufficient to pay the warrants registered, he shall close the account for that year in such register, and shall carry forward the excess.

**SEC. 18.—Failure to keep books—Penalty.—**Any such treasurer who shall fail regularly to enter upon his cash book the amounts so received and receipted for, or who shall fail to keep his cash book footed from day to day, as required by this act, for the space of three days, shall forfeit for each offense the sum of one hundred dollars, to be recovered in a civil action on his official bond, by any person holding a warrant drawn on such treasurer, one-half to the person bringing such action, and one-half to the school fund of the county in which such action is brought.

SEC. 19.—**Inspection of books.**—The cash book, register, and retained receipts of every such treasurer, shall at all times be open to the inspection of any person in whose name any warrants are registered and unpaid.

SEC. 20.—**Failure to notify—Penalty.**—Any treasurer who shall for the period of five days after moneys in amount sufficient to pay any registered warrant in its order have been received, fail to mail notice thereof to the person registering such warrant, shall forfeit to such person ten per cent, on the amount of such warrant, and ten per cent additional for every thirty days thereafter, during which such failure shall continue.

SEC. 21.—**Failure to register or pay—Penalty.**—Any such treasurer, who shall fail to register any warrant, in the order of its presentation therefor, or shall fail to pay the same in the order of its registration, shall be liable on his official bond to each and every person, the payment of whose warrant or warrants is thereby postponed, in the sum of five hundred dollars, to be recovered in a civil action, one-half of which shall go to the person bringing such action, and one-half to the school fund of the county in which such action is brought.

SEC. 22.—**Duplicate for lost warrant.**—Whenever it shall be made to appear to the satisfaction of any officer, authorized by law to issue warrants, that any warrant issued by him has been lost and destroyed, such officer shall have authority to issue a duplicate thereof, numbered the same as the original, with the word "duplicate" written or printed in red ink across the face thereof; *Provided*, That no such duplicate warrant shall be issued until the party applying for the same shall make affidavit that he was the owner of the original warrant, and shall also file with such officer an indemnity bond with good and sufficient security conditioned to refund any money by him or his assigns received on such duplicate in case of presentation and payment of the original by the treasurer upon whom the same is drawn, whether upon a genuine endorsement thereon or otherwise.

SEC. 23.—**Investment of sinking fund.**—When any warrant issued by the proper authorities of any county, township, city, town, or school district shall have been presented for payment and the same is not paid for want of funds, it shall be lawful for, and is hereby made the duty of such treasurer upon and under the direction of the board of county commissioners, or supervisors of such county, to purchase and take up such registered warrants with sinking funds in his hands and to hold such

warrants for the benefit of the fund so invested, till the same is paid in its order as provided by law.

SEC. 24.—*Same*.—The board of county commissioners, or supervisors of any county in this state, is hereby authorized to provide for the purchase and taking up of registered warrants, as provided for in section 1 of this act, out of the sinking funds in the hands of the county treasurer, whenever in the judgment of such county board the same shall be safe and expedient. Before so investing any sinking funds the county board shall fix and prescribe, and enter of record general directions and authority to such county treasurer, as to the funds to be so invested, specifying the funds to be so invested, the kind and amount of warrants to be so invested in, and in so doing shall, as far as the same may be practicable, continue to invest the sinking fund which shall last become due and payable; *Provided*, That not more than fifty per cent of the money so collected on any given sinking fund shall be so invested in warrants at any given time, and *provided further*, that when practicable the warrants drawn by any given authority shall be provided for as above from the sinking funds belonging to the organization issuing such warrant, and of such provisions such county board shall give the treasurer notice.

SEC. 25.—*Same*—*Cities*.—The city council of any incorporated city of this state may make similar provision for the taking up of warrants out of the sinking funds in the hands of the city treasurer of such city, *provided*, that the warrants to be so purchased shall be limited to those of its own issue, or to those of any school district situated mainly or wholly within the boundaries of such city, and upon notice given of such direction, it shall be the duty of such treasurer to so take up such warrants.

SEC. 26.—*Same*—*School districts*.—The school board of any school district in this state is hereby authorized to direct the legal custodian of any of its sinking funds, to invest such sinking funds in the warrants of such school district, in like manner as hereinbefore provided for, *provided*, that the investment of such school district sinking fund under this section shall be limited to the warrants of its own issue, and upon such direction of the school board, the custodian of such sinking funds shall proceed to take up the warrants of such school district as herein provided for.



## SUBDIVISION XII.—SCHOOLHOUSE SITES.

1. Condemnation.
2. Costs.
3. Restrictions.

4. Appeal.
5. Site on school land.

**SECTION 1.—Condemnation.**—If the owner of any real estate, on which a school board may desire to locate a schoolhouse, refuses or neglects to grant the site on his or her premises, or if such owner cannot be found, the county superintendent shall appoint three disinterested persons, none of whom shall be residents of the district, whose duty it shall be, after taking an oath to faithfully discharge the duties imposed on them by this subdivision, to inspect such real estate and assess the damages which such owner shall sustain by the appropriation of his land for the use of said house and school, and make a report to said county superintendent, giving amount of land and damages, with exact location of land, and who shall file and preserve the same in his office. Each person acting as such appraiser shall receive the sum of two dollars per day for his services.

**SEC. 2.—Costs.**—The school board shall pay the cost of this appraisement, and after paying to the owner of the land the amount of damages assessed, may enter upon and occupy the land as long as the district desires to use it for district purposes; but should the same cease to be used for school purposes it will revert back to the owner of the fee simple of the land from which it was taken on the payment by him of the amount originally paid for the land without interest.

**SEC. 3.—Limitations.**—When land is thus taken without the consent of the owner, it shall not be more in amount than one acre, and all orchards, gardens, public parks shall not be liable to be thus taken, nor shall land be taken within twenty rods of any residence.

**SEC. 4.—Appeal.**—The owner of the land thus taken may appeal to the district court, and such appeal shall be taken within sixty days, and in the same manner and by the same proceedings as in the cases of condemnation by a railroad company for right of way, but the school board shall not be liable for costs of appeal unless the court grant greater damages than the committee of appraisements gave.

**SEC. 5.—School land.**—When it is desired to locate a schoolhouse site on school land belonging to the state, the state land commissioner is hereby authorized to sell to the district not less than one nor more than four acres, and give a deed to the district, in fee simple in the name of the state as in other cases.

## SUBDIVISION XIII.—THE STATE NORMAL SCHOOL.

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| <ol style="list-style-type: none"> <li>1. Board of education.</li> <li>2. Officers of board.</li> <li>3. Secretary, record, report.</li> <li>4. Appointment of principal and teachers.</li> <li>5. Board reimbursed for expenses.</li> <li>6. Regular meetings.</li> <li>7. Rules and regulations.</li> <li>8. Principal, chief executive officer.</li> <li>9. Morals.</li> <li>10. Certificate—diploma.</li> </ol> | <ol style="list-style-type: none"> <li>11. Funds.</li> <li>12. Endowment fund.</li> <li>13. Matriculation fee.</li> <li>14. Moneys from dormitory.</li> <li>15. Purpose of the school.</li> <li>16. Rules of admission.</li> <li>17. Junior normal schools.</li> <li>18. Terms, location.</li> <li>19. Organization, management.</li> <li>20. Course of study, credit.</li> <li>21. Appropriation.</li> </ol> |
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**SECTION 1.—Board of education.**—The state normal school shall be under the direction of a board of education, consisting of seven members, five of whom shall be appointed by the governor for a term of five years each, and the state treasurer and the state superintendent of public instruction shall by virtue of their office be members of said board; *Provided*, That the present appointed members of the board shall continue to hold their several offices till the limit of the time for which they were appointed. All vacancies occurring in the board shall be filled by appointment of the governor.

**SEC. 2.—Officers.**—The members of the board of education shall annually elect a president and a secretary from among their own number, and the state treasurer shall be treasurer of the board by virtue of his office.

**SEC. 3.—Record of secretary—Report.**—It shall be the duty of the secretary to keep an exact and detailed account of the doings of the board, and on the first day of January of each year he shall transmit to the governor a report of all expenditures made during the preceding years, vouchers for which shall be kept on file in the office of the secretary, and open to the inspection of the governor, auditor, and members of the legislature.

**SEC. 4.—Appointment of principal, teachers, and employees—Removal.**—The said board shall have power to appoint a principal, assistant teachers, and such other employees as may be required, to fix their compensation and prescribe their duties. They shall have power to remove all persons appointed by them, provided that the affirmative votes of four members of the board shall be necessary to remove a principal or an assistant during the time for which such persons were appointed.

**SEC. 5.—Compensation.**—The board of education shall receive no compensation for their services, but shall be reimbursed actual expenses incurred in attending upon meetings of the board.

SEC. 6.—Regular meetings.—The board shall hold each year two regular meetings, the last week of the spring term in June, and the last week of the winter term in December, and such special meetings as may be found necessary.

SEC. 7.—Rules and regulations.—The board shall adopt all needful rules and regulations for the careful preservation of the buildings, furniture, apparatus, grounds, timber, shrubbery, etc., belonging to the school.

SEC. 8.—Principal, chief executive officer.—The principal shall be the chief executive officer of the school, and shall be responsible to the board for the control and management of the same. All teachers and other subordinates in said school shall be under the direction of the principal, subject to the general regulations of the board.

SEC. 9.—Morals.—The board in their regulations, and the principal in his supervision and government of the school, shall exercise a watchful guardianship over the morals of the pupils; but no religious or sectarian test shall be applied in the selection of teachers, and none shall be adopted in the school.

SEC. 10.—Certificate.—Any student having completed the common school course shall be entitled to a certificate, good for two years in any part of the state; any student completing the higher course of study in a satisfactory manner shall be entitled to a diploma, which diploma will entitle the holder to teach in any of the schools of the state without further examination for the space of three years. Any graduate of the higher course, who shall, after graduation, teach two annual terms of school of not less than six months each, or their equivalent, and shall produce a certificate of good moral conduct and satisfactory discharge of professional duties from the board or boards of directors of the district or districts in which the applicant taught, countersigned by the county superintendent of the proper county or counties, shall be entitled to receive an additional diploma, good for life.

*Provided*, That any teacher producing satisfactory proof of three years' successful teaching previous to graduation in the higher course of study may receive, upon graduation, diploma good for life;\*

*Provided*—Lapse of diploma.—That no life diploma shall be in

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\*Any teacher producing satisfactory proof of three years' successful teaching, part of which was previous to graduation in the higher course of study, and the remainder after such graduation, is entitled to receive the additional diploma good for life.

force after its holder shall permit a space of three years to lapse without following some educational pursuit; unless said diploma be endorsed by the acting state superintendent;

*Provided—Registration.*—That each holder of a certificate from the common school course, or a diploma from the higher course, shall, before he begins to teach, register the same in the office of the county superintendent of the county in which he shall teach; and for such registration he shall pay a fee of one dollar, which shall go into the institute fund of said county.

**SEC. 11.—Control of funds.**—All funds appropriated for the use and benefit of the normal school, together with the income arising from the lease and sale of the endowment lands belonging to said school, shall be under the direction and control of said board of education, subject to the provisions herein contained. The treasurer shall pay out of the proper funds all drafts for moneys to be expended under the provisions of this subdivision, such orders or drafts to be drawn by the auditor on certificates by the secretary, countersigned by the president of the board. No such certificates shall be given except upon accounts audited and allowed by the board in open meeting.

**SEC. 12.—Endowment.**—All the lands remaining unsold of the twenty sections heretofore appropriated as an endowment fund for the state normal school, and all the endowment fund hitherto derived from the sale of such lands, shall be, and the same is hereby, confirmed as such endowment, to be forever used for this purpose.

**SEC. 13.—Matriculation fee.**—Students, when entering the school for the first time, shall pay a matriculation fee of five dollars. The moneys thus received shall be paid into the hands of the state treasurer, and shall be held as a library fund, and the board of education shall, from time to time, appropriate the same for the purchase of books for the normal school library.

**SEC. 14.—Dormitory.**—All moneys received for the use of rooms in the dormitory shall be expended by the board in repairs of dormitory and the furniture of the same, whenever such repairs are needed.

**SEC. 15.—Purpose.**—The exclusive purpose of this school is the training and instruction of persons, both male and female, in the arts of teaching and managing schools, and in the principles and practice of the various branches of learning taught in our public schools.

**SEC. 16.—Admission of pupils.**—The board shall make such rules and regulations for the admission of pupils to the school as may seem to be best for the interest of the school and not inconsistent with the purpose for which the school has been established.

[JUNIOR NORMAL SCHOOLS.]

**SEC. 17.—Establishment.**—That there be and there hereby is established in the state of Nebraska not less than three and not more than five junior normal schools at such time and places as are hereinafter designated.

**SEC. 18.—Terms, time, and places of holding.**—That the terms and time of holding these junior normal schools shall be not less than ten weeks between the first day of June and the first day of September of each year; and that three of these junior normal schools shall be established and maintained in the school districts of Alliance, McCook and Valentine, and at not more than two other places to be determined by the state superintendent of public instruction. *Provided*, That at each of these places the public school buildings, textbooks and apparatus of the respective school districts be placed at the service of the state under the jurisdiction of the state superintendent.

**SEC. 19.—Organization and management.**—The organization and management of the junior normal schools shall be under the jurisdiction of the state superintendent of public instruction, and he shall, as far as practicable, attend such junior normal schools, provide proper instructors for the same, and make and complete all other arrangements.

**SEC. 20.—Course of study, credit.**—The studies pursued at these junior normal schools shall be a part of the regularly prescribed course of the state normal school or schools, and students in regular attendance and pursuing and completing these studies in a satisfactory manner shall be granted a certificate to that effect, signed by the conductor of the junior normal school and countersigned by the state superintendent, which certificate shall entitle the holder to proper credit at the state normal school or schools.

**SEC. 21.—Appropriation.**—That there be and there hereby is appropriated out of any moneys in the state treasury and not otherwise appropriated the sum of twelve thousand (\$12,000.00) dollars for the purpose of establishing and maintaining said junior normal schools.

## SUBDIVISION XIV.—SCHOOLS IN CITIES.

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| <ol style="list-style-type: none"> <li>1. Name and style—powers—property.</li> <li>2. Control of board.</li> <li>3. Board, how constituted.</li> <li>4. Election.</li> <li>5. Oath of office.</li> <li>6. Meetings of board.</li> <li>7. Officers—rules.</li> <li>8. Election of officers.</li> <li>9. President.</li> <li>10. Vice president.</li> <li>11. Secretary.</li> <li>12. Secretary's bond.</li> <li>13. Treasurer.</li> <li>14. Property and funds.</li> <li>15. Vacancies, how filled.</li> </ol> | <ol style="list-style-type: none"> <li>16. Quorum.—Vacancy, how created.</li> <li>17. Accounts and appropriations.</li> <li>18. Census.</li> <li>19. Teachers' certificates.</li> <li>20. Contract with member illegal.</li> <li>21. Sale of property.</li> <li>22. Payment of debts of superseded districts.</li> <li>23. Estimate of funds needed.</li> <li>24. Aggregate tax—bonds.</li> <li>25. Taxes.</li> <li>26. Interest on bonds—sinking fund.</li> <li>27. Purchase of bonds before maturity.</li> <li>28. Control of funds.</li> </ol> |
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**SECTION 1.—General control.**—That the territory embraced within the corporate limits of each incorporated city in the state of Nebraska, or those hereafter incorporated as such (together with such additional territory and additions to said city as may be added thereto), as declared by ordinance to be the boundaries of such city, having a population of more than fifteen hundred (1500) inhabitants, including such adjacent territory as now is, or hereafter may be attached for school purposes, shall constitute one school district, and be known by the name of "The school district of (name of city), in the county of (name of county), in the state of Nebraska," and as such, in that name, shall be a body corporate and possess all the usual powers of a corporation for public purposes, and in that name and style may sue and be sued, purchase, hold, and sell such personal and real estate, and control such obligations as are authorized by law, and the title to all school buildings or other property, real or personal, owned by any school district within the corporate limits of any city, shall upon the organization of the district under the provisions of the subdivision, vest immediately in the new district; and the board of education, by this subdivision provided, shall have exclusive control of the same for all purposes herein contemplated; *Provided*, That any territory not included within the corporate limits of any city, and containing territory or a number of children sufficient to constitute a school district under the provisions of this chapter, may, by petition signed by at least a majority of the legal voters of such territory, and a majority of the board of education of such city, be, by the county superintendent, erected into a separate district under the conditions imposed by this chapter.

**SEC. 2.—Free schools.**—That all schools organized within the limits of said cities shall be under the direction and control of

the boards of education authorized by this subdivision. Such schools shall be free to all children between the ages of five and twenty-one years, whose parents or guardians live within the limits of said district, and all children of school age non-residents of said district who are or may be by law allowed to attend said school without charge.

**SEC. 3.—Board, how constituted.**—The boards of education contemplated by this subdivision shall consist of six members who shall be elected upon a general ticket from among the legal voters who are tax payers at the time for holding the general city election in each year. At the first election in cities organized under this act two members shall be elected for the term of three years, two for two years, and two for one year, and annually thereafter two members shall be elected for three years and until their successors are elected and qualified and installed in office. *Provided*, That in cities of the first class having a population of less than forty thousand and more than five thousand inhabitants the board of education shall at the option of the school district consist of nine members who shall be qualified electors of said city, and shall be actual tax payers, who shall be elected at the times and hold their offices for the terms hereinafter prescribed to-wit: At the first annual city election held after organizing under this act, three members shall be elected for the term of three years, three for two years, and three for one year; and annually thereafter their successors shall be chosen for the term of three years, and all members so elected shall serve until their successors are duly elected and qualified. *Provided further* that in cities of the first class having a population of more than forty thousand and less than a hundred thousand inhabitants, the board of education shall consist of five members, one member to be elected each year and for a term of five years. No election of members of the board shall be held in the year 1903. In the year 1904, one member shall be elected for a term of five years, one member for a term of four years, and one member for a term of three years. In the year 1905, one member shall be elected for a term of five years, and one member for a term of one year, and each year thereafter one member shall be elected for a term of five years. It shall be the duty of the mayor of any city now organized or hereafter organized under the provisions of this subdivision to give public notice to the electors thereof of the number of persons who shall be chosen by them as members of a board of education for the school district of (name the city) at the ensuing annual election for city officers.

**SEC. 4.—Election.**—That the ballots for the election of members

of the board of education, for authorizing the issuance of bonds, or the purchase of sites and erection of buildings, shall in all cases be deposited in boxes especially prepared for that purpose, and be received, and returns made by the regular election board; but the returns for the election of members shall be canvassed in the same manner as provided for in the case of city officers; the returns for the issuance of bonds, purchase of sites, and erection of buildings shall be made to and canvassed by the board of education.

**SEC. 5.—Oath of office.**—That all persons elected as members of boards of education shall, on or before the first Monday of the month following their election, take and subscribe the usual oath of office. In case any person elected shall fail so to do, his election shall be void, and the vacancy thereby occasioned shall be filled by the board as hereinafter provided.

**SEC. 6.—Meetings.**—That the regular meetings of the boards of education shall be held upon the first Monday of each month; but special meetings may be held from time to time, as circumstances may demand, and all meetings of the board shall be open to the public, unless otherwise specially ordered.

**SEC. 7.—Officers—Rules.**—That the boards of education shall have power to select their own officers and make their own rules and regulations subject to the provisions of this subdivision and of this act; but no member of the board, except the secretary, shall accept or receive any compensation for services performed in discharging the duties of his office.

**SEC. 8.—Election of officers.**—The term of members elected shall begin with the first Monday in May succeeding their election each year, and the members of the board shall thereupon elect a president and vice-president from their own number, and a secretary either from their own number or outside, in the discretion of the board, and they shall determine the salary of such secretary not to exceed however \$720.00 per annum, provided that the limitation of salary shall not apply to school districts comprising territory within the corporate limits of cities of the first class having a population of more than 40,000 and less than 100,000. Each of said officers shall serve for the term of one year or until their successors are elected and qualified. They may also elect at any regular meeting one superintendent of public instruction with such salary as the board may deem best, and they may enter into contract with him in accordance with their discretion, for a term not to exceed three years. The election of the officers of the board, of the superintendent and teachers, and all elections for filling vacancies on the board shall be by ballot, and no person shall be declared elected except he receive the vote of a majority of all the members of the board.



**SEC. 9.—President.**—That it shall be the duty of the president to preside at all meetings of the board, to appoint all committees whose appointment is not otherwise provided for, and to sign all warrants ordered by the board of education to be drawn upon the city treasurer for school moneys.

**SEC. 10.—Vice president.**—That it shall be the duty of the vice president to perform all the duties of the president in case of his absence or disability.

**SEC. 11.—Secretary.**—That it shall be the duty of the secretary to be present at all meetings of the board, to keep an accurate journal of its proceedings, to take charge of its books and documents, to countersign all warrants for school moneys drawn upon the city treasurer by order of the board, to apply for and receive school funds from the county treasurer, or other person to whom such funds are payable by law, and deposit the same with the treasurer of the board, and to perform all such other clerical duties as the board may require; and for his services he shall receive such salary as the board may deem adequate.

**SEC. 12.—Secretary's bond.**—That before entering upon the discharge of his duties the secretary of the board shall give bonds in the sum of not less than one thousand dollars, to be determined by the board with good and sufficient sureties, and shall take and subscribe an oath or affirmation before a proper officer, that he will support the constitution of the state of Nebraska, and faithfully perform the duties of his office.

**SEC. 13.—Treasurer.**—That the city treasurer of such city shall be ex officio treasurer of the school district. He shall attend all meetings of the board when required so to do, and he shall prepare and submit in writing a monthly report of the state of its finances, and he shall pay school moneys only upon warrants signed by the president of the board or, in his absence, by the vice president, and countersigned by the secretary. He shall give a bond payable to the county in such sum as may be fixed by the board of education, which bond shall be signed by one or more surety companies of recognized responsibility, and the cost of such bond shall be paid by the school district.

**SEC. 14.—Property and funds.**—That within ten days after the permanent organization of a board of education, as provided for in this subdivision, it shall be the duty of all officers of school districts within the limits of cities aforesaid to deliver to the officers of the board all property, funds, and papers entrusted to their care, for the use of the public schools of such cities, and

all funds thus received shall be immediately paid to the treasurer of the board, and be by him placed to the credit of the school district provided by this subdivision.

**SEC. 15.—Vacancies, how filled.**—That the boards of education shall have power to fill any vacancies which may occur in their body from among the legal voters who are taxpayers;

*Provided*—**Vacancy filled by election.**—That any vacancy occurring more than ten days previous to the annual city elections, and leaving an unexpired term of more than one year, shall be filled at the first city election thereafter, and the ballots and returns shall be designated as follows: "To fill unexpired term."

**SEC. 16.—Quorum.**—That a majority of all the members of each board of education shall constitute a quorum, but a less number in attendance at any regular meeting shall have, and a quorum at any special meeting may have, power to compel the attendance of absent members, in such a manner, and under such penalties as such board shall see fit to prescribe; and the absence of any member from four consecutive regular meetings of the board, unless on account of sickness or consent of the board, removal from the district, or resignation accepted by the board, shall vacate his position on the board, and such vacancy shall be filled in accordance with the provisions of this subdivision.

**SEC. 17.—Accounts audited.**—That all accounts shall be audited by the secretary, approved by a committee, to be styled the committee on claims, and no expenditure greater than two hundred dollars shall be voted by the board, except in accordance with the provisions of a written contract; nor shall any money be appropriated out of the school fund, except on a recorded affirmative vote of a majority of all the members of the board, and said accounts and the records of said board in cities of the first class shall at all times be subject to the inspection and examination of the auditor of such city, whose duty it shall be each month to examine said records and check said accounts, and from time to time, as may be required by ordinance or resolution of the city council, report to said council the nature and state of said accounts, and any facts that may be required concerning said records.

**SEC. 18.—Census.**—That the boards of education shall annually cause to be taken an enumeration of all persons between the ages of five and twenty-one years, residing in the district, who shall report the same, together with such other information as required by sections one [12] and seventeen of subdivision IV.

of this chapter, to the county superintendent of public instruction, at the time specified by law for like returns from other districts.

**SEC. 19.—Teachers' certificates.**—That all persons making applications to boards of education as teachers in graded and high schools therein shall be required to produce a legal certificate given by some authority authorized to grant teachers' certificates or from an examining committee appointed by the board. And for such purpose the board of education is authorized to appoint three competent persons, at such times as may be deemed expedient, who shall be styled "the examining committee of the board of education," and whose duty it shall be to examine all persons who may apply to them as teachers, and teachers receiving such certificates setting forth that such person is competent to teach in the public schools of the city, and is a person of good moral character, shall be entitled to all the benefits arising from a certificate issued to any teacher under the laws of this state. Any certificate granted by such committee may be revoked by the board of education, for any reason which would have justified the withholding thereof when the same was granted, or for gross negligence of duty, incompetency, or immorality.

**SEC. 20.—Contract with member illegal.**—It shall be unlawful for any member of the board of education to have any pecuniary interest, either directly or indirectly, in any contract for the erection of schoolhouses, or for warming, ventilating, furnishing, or repairing the same, or be in any manner connected with the furnishing of supplies for the maintenance of the schools.

**SEC. 21.—Sale of district property.**—No school property of any kind belonging to any school district shall be sold by the board of education, except [upon an order passed] at a regular meeting of the same, and not then without an affirmative recorded vote of at least two-thirds of all the members of the board.

**SEC. 22.—Payment of debts of superseded districts.**—Each of the school districts provided for in section 1 of this subdivision shall have the power, and it shall be the duty of the board of education, to provide for the payment of debts created by school districts or other school organizations superseded by the districts herein provided for, when such debts shall have been incurred in the erection of schoolhouses, or for other school

purposes; if any portion of such debts shall be in the form of bonds, if issued for a valuable consideration, and in accordance with law, the validity of which has not been called in question, or if called in question have been declared by courts of last resort to be valid, the holder or holders thereof, on surrendering the same to said board, shall have the right to demand, and it shall be the duty of said board, in the name of the district created by this subdivision, to cause to be issued other bonds of like amount, of the same tenor and effect as to payment of principal and interest as the bonds surrendered. This provision shall also apply to cases where only a part of a district shall be embraced within the district created by this subdivision, whenever said fractional part shall petition and become a part of said district, as provided for in section 1 of this subdivision;

*Provided*—Apportionment of indebtedness.—The latter shall assume and pay only such proportion of the debt of the divided district as the assessed valuation of the part taken therefrom shall bear to the assessed valuation of the part remaining. In case of a division of one or more school districts for the purpose of forming one school district within the limits of a city of the first class, it shall be the duty of the county superintendent of public instruction, the president of the board of education, and the director of the school district, to appraise and adjust all claims or assets in such a manner that each district shall bear its proportion of the indebtedness, as heretofore provided, and have its proportion of the assets of said district.

SEC. 23.—Estimate of funds needed.—That the board of education shall annually, during the month of June, report to the county commissioners an estimate of the amount of funds required for the support of the schools during the fiscal year next ensuing, the amount of funds required for the purchase of school sites, the erection of school buildings, the payment of interest upon all bonds issued for school purposes, and the creation of a sinking fund for the payment of such indebtedness; and the county commissioners are hereby authorized and required to levy and collect the necessary amounts the same as other taxes; a duplicate of said certificate shall be filed by the board with the city council.

SEC. 24.—Limitation of taxation—Bonds.—That the aggregate school tax, exclusive of school bond taxes, shall in no one year exceed twenty-five mills. *Provided* that in cities of the first

class having a population of more than forty thousand a school tax, exclusive of school bond taxes, may be levied that will yield a revenue of \$150,000.00 each year. But the board of education may borrow money upon bonds which they are hereby authorized and empowered to issue, bearing a rate of interest not to exceed six per cent per annum, payable annually or semi-annually at such place as may be mentioned upon the face of the bonds; which loan shall be paid and reimbursed in a period not exceeding thirty years from the date of said bonds. *Provided* that no bonds shall be issued nor the question of issue submitted to the voters without the consent of two-thirds of the members of the board of education, and be offered in the open market and sold to the highest bidder for not less than par value of the dollar; *and provided further* that no bonds shall be issued by the board of education without first submitting the proposition of issuing said bonds at an election called for that purpose, or at any regular election, notice whereof shall be given for at least twenty days in one or more papers published within the district to the qualified voters of the district and if a majority of the ballots cast at such election shall be for issuing bonds, said board may issue bonds in such amount as may be named in the election notice. *Provided* that in cities of the first class having over twenty-five thousand inhabitants if such question is submitted at a special election, it shall require to carry the same a two-thirds majority of the votes cast at said election.

**SEC. 25.—Taxes.**—That all taxes collected for the benefit of the public schools shall be paid in money, and shall be subject to the order of the board of education.

**SEC. 26.—Interest.**—That the board of education is hereby authorized and required to provide, before the same shall become due, for the interest on all bonds issued by the district; they shall also, immediately after the expiration of one-half of the time for which said bonds are issued, proceed to set apart each year, for a sinking fund, a requisite amount or proportion sufficient to pay the principal of said bonds when they shall become due. All moneys set apart for said sinking fund shall be invested:

*First*—**Investment**—**District bonds.**—In the purchase and redemption of bonds of the school district, which bonds shall be purchased in open market, in such manner as the board of education shall prescribe.

*Second*—**County bonds.**—In bonds of the county in which the city is situated.

*Third*—State bonds.—In bonds of the state of Nebraska.

*Fourth*—U. S. bonds.—In U. S. bonds.

*Fifth*—City bonds.—In bonds of the city.

SEC. 27.—Purchase of bonds before maturity.—That if it shall be deemed advisable by the board of education to purchase bonds issued under the provisions of this chapter, before maturity, the treasurer shall sell to the highest bidder, in open market, and in a manner prescribed by the board, such bonds or securities as shall belong to the school funds, and the proceeds thereof shall apply to purchase of bonds herein provided for.

SEC. 28.—Control of funds.—That all moneys arising from any source whatever, which, under any prior act or acts of the legislature of this state, are payable to any school fund of any city of the state, or any moneys which are required to be set apart by the treasurer of any such city for the support and maintenance of any school heretofore organized therein, under any general or special law, shall, on and after the passage of this subdivision, be payable to the treasurer of the board of education, and shall be used only for the purpose specified in this subdivision.

#### SUBDIVISION XIVa.—SCHOOLS IN CITIES.

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| <ol style="list-style-type: none"> <li>1. District—body corporate.</li> <li>2. Control.</li> <li>3. Board of education.</li> <li>4. Election—women.</li> <li>5. Oath of office.</li> <li>6. Meetings.</li> <li>7. Officers—rules.</li> <li>8. Election of officers.</li> <li>9. President.</li> <li>10. Vice president.</li> <li>11. Secretary.</li> <li>12. Salary of members.</li> <li>13. Bond of members.</li> <li>14. Secretary, oath, bond.</li> <li>15. Treasurer, bond.</li> <li>16. Attorney.</li> </ol> | <ol style="list-style-type: none"> <li>17. Property and funds.</li> <li>18. Vacancies.</li> <li>19. Quorum, vacancy.</li> <li>20. Accounts, expenditures.</li> <li>21. Census.</li> <li>22. Teachers' certificates.</li> <li>23. Contract, board interested in.</li> <li>24. Sale of property.</li> <li>25. Payment of debts.</li> <li>26. Estimate of expenses.</li> <li>27. Limitation of taxation, bonds.</li> <li>28. Taxes.</li> <li>29. Warrants.</li> <li>30. Interest.</li> <li>31. Bonds, purchase before maturity.</li> <li>32. Control of funds.</li> </ol> |
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SECTION 1.—District—Body corporate.—That each incorporated city of the first class in the state of Nebraska, having less than forty thousand and more than twenty-five thousand inhabitants, or those hereinafter incorporated as such, including such adjacent territory, as now is, or hereafter may be, attached for school purposes, shall constitute one school district and be known by the name of the school district of (name of city), in the county of (name of county), in the state of Nebraska, and as such, in that name, shall be a body corporate, and possess all the

usual powers of a corporation for public purposes, and in that name and style may sue and be sued, purchase, hold and sell such personal and real estate and contract such obligations as are authorized by law; and the title to all school buildings, or other property, real or personal, owned by any school district within the corporate limits of cities of the first class having less than forty thousand and more than twenty-five thousand inhabitants, shall, upon the organization of a district under the provisions of this act, vest immediately in the new district, and the board of education, by this act provided, shall have exclusive control of the same for all purposes in this act contemplated.

**SEC. 2.—Control.**—That all schools organized within the limits of said cities shall be under the direction and control of the boards of education authorized by this act. Such schools shall be free to all children between the ages of five and twenty-one years, whose parents and guardians live within the limits of said school district, and all children of school age non-residents of said district who are, or may be, by law allowed to attend said schools without charge.

**SEC. 3.—Board of education, how constituted.**—That the boards of education contemplated by this act shall consist of five members, who shall be elected upon a general ticket from among the legal voters who are freeholders, at the time for holding the general city election. *Provided*, that the members of boards of education in cities organized under this act, whose terms are unexpired shall hold their offices for the unexpired terms, and until the annual city election of 1904 said boards of education shall consist of six members. At the annual city election of 1903 in cities organized under this act no election shall be held for the election of members of the boards of education in said cities. At the annual city election of 1904, held after organizing under this act, there shall be elected two members of the boards of education in said cities, who shall serve for a term of three years and until their successors are elected and qualified; and every third year thereafter their successors shall be elected for a term of three years, and all members so elected shall serve until their successors are elected and qualified. At the annual city election of 1905, held after organizing under this act, there shall be elected three members of the boards of education in said cities, who shall serve for a term of three years and until their successors shall be elected and qualified; and every third year thereafter their successors shall be elected for a term of three years, and all members so elected shall serve until their successors are

elected and qualified. It shall be the duty of the mayor of any city organized under the provisions of this act, to give public notice thereof of the number of persons who shall be chosen by them as members of a board of education for the school district of (name of city) at the annual election for city officers.

**SEC. 4.—Election—Women.**—That the ballots for the election of members of the board of education, for authorizing the issuance of bonds, or the purchase of sites, and erection of buildings, shall in all cases be deposited in boxes especially prepared for that purpose, and be received and returns made by the regular election board; but the returns for the election of members shall be canvassed in the same manner as provided for in the case of city officers; the returns for the issuance of bonds, purchase of sites, and the erection of buildings, shall be made to, and canvassed by, the board of education. *Provided* that all women of the age of twenty-one years, who are residents and citizens of the cities included under the provisions of this act, and who have property assessed in their own names, or who have children of school age, shall be entitled to vote for members of the board of education, and upon all matters pertaining to the schools of said cities. Any woman desiring to vote as aforesaid shall not be required to register under the general registration laws applying to cities coming under the provisions of this act, but before she shall be allowed to vote as aforesaid, she shall be compelled to take oath before the election board in the precinct in which she desires to vote, that she has been a resident of said precinct for a period of ten days, a resident of said county and city for a period of forty days, and a resident of the state of Nebraska for a period of six months; that she is twenty-one years of age, and has property assessed in her own name or has children of school age.

**SEC. 5.—Oath of office.**—That all persons elected as members of boards of education shall on or before the first Monday of the month following their election, take and subscribe the usual oath of office. In case any person elected shall fail so to do, his election shall be void, and the vacancy thereby occasioned shall be filled by the board, as hereinafter provided.

**SEC. 6.—Meetings.**—That the regular meetings of the boards of education shall be held upon the first Monday of each month; but special meetings may be held, from time to time, as circumstances may demand, and all meetings of the board shall be open to the public, unless otherwise especially ordered.



**SEC. 7.—Officers—Rules.**—That the boards of education shall have power to select their own officers, and make their own rules and regulations subject to the provisions of this act and the general school laws.

**SEC. 8.—Election of officers—Secretary—Superintendent.**—The term of members elected shall begin with the first Monday in May succeeding their election each year, and the members of the board shall thereupon elect a president and vice-president, from their own number, and a secretary either from their own number or outside, in the discretion of the board, and they shall determine the salary of such secretary not to exceed, however, \$720.00 per annum. Each of said officers shall serve for the term of one year, or until their successors are elected and qualified. They may also elect at any regular meeting one superintendent of public instruction, with such salary as the board may deem best, and they may enter into contract with him, in accordance with their discretion, for a term not to exceed three years. The election of the officers of the board, of the superintendent and teachers, and all elections for filling vacancies in the board shall be by ballot, and no person shall be declared elected except he receives the vote of a majority of all the members of the board.

**SEC. 9.—President.**—That it shall be the duty of the president to preside at all meetings of the board, to appoint all committees, whose appointment is not otherwise provided for, and to sign all warrants ordered by the board of education to be drawn upon the city treasurer for school moneys.

**SEC. 10.—Vice president.**—That it shall be the duty of the vice-president to perform all duties of the president, in case of his absence or disability.

**SEC. 11.—Secretary.**—That it shall be the duty of the secretary to be present at all meetings of the board, to keep an accurate journal of its proceedings, to take charge of its books and documents, to countersign all warrants for school moneys drawn upon the city treasurer by order of the board, to apply for and receive school funds from the county treasurer, or other persons to whom such funds are payable by law and deposit the same with the treasurer of the board and to perform all such other clerical duties as the board may require; and for his services he shall receive such salary as the board may deem adequate.

**SEC. 12.—Salary of members.**—That each member of the board of education shall receive a salary of three hundred dol-

lars per annum, payable in monthly installments of twenty-five dollars each.

**SEC. 13.—Bond of members.**—That each member of the board of education, before entering upon the duties of his office, shall be required to give a bond to the school district. Said bond is to run to the school district of (name of city) in the county of (name of county) in the state of Nebraska, and shall be furnished by a surety company of recognized responsibility, and each bond shall be in the sum of two thousand dollars and shall be conditioned for the faithful and honest discharge of the duties of the member of the board of education giving the same, and shall be further conditioned that if said member of the board of education shall vote for any expenditure or appropriation of money, or the creation of any liability in excess of the amount allowed by law, that such member of the board of education and the surety signing said bond shall be liable thereon for such wrongful expenditure, appropriation or liability. Such bond shall be filed with and approved by the treasurer of said school district, and any liability sought to be incurred or debt created in excess of the amount limited or authorized by law shall be taken and held by every court of the state as the joint and several liability and obligation of the member of the board of education so voting for the same, and not the debt, liability or obligation of the school district; and voting for or approving of such liability, obligation or debt, shall be conclusive evidence of malfeasance in office and for which said member of the board of education may be removed from his office. An action, for the recovery of money wrongfully and unlawfully expended and appropriated as above, may be brought by any resident tax-payer of said school district, for the benefit of and in the name of said school district, upon his giving a good and sufficient bond, approved by the court, conditioned for the payment of the costs of said action.

**SEC. 14.—Secretary — Oath — Bond.**—That before entering upon the discharge of his duties the secretary of the board, if he be not a member of the board, shall give bonds to said school district in the sum of two thousand dollars, in a surety company of recognized responsibility, conditioned for the faithful performance of his duties as secretary. Should the secretary be elected from the members of the board he shall be required to give no other and further bond than the one required of members of boards of education by this act. Said secretary shall take and subscribe an oath or affirmation, before a proper officer, that he

will support the constitution of the state of Nebraska, and faithfully perform the duties of his office.

**SEC. 15.—Treasurer—Bond.**—That the city treasurer of such city shall be ex-officio treasurer of the school district. He shall attend all meetings of the board when required so to do and he shall prepare and submit in writing a monthly report of the state of its finances and he shall pay school moneys only upon warrant signed by the president of the board or, in his absence, by the vice-president, and countersigned by the secretary. He shall give a bond payable to the county in such sum as may be fixed by the board of education, which bond shall be signed by one or more surety companies of recognized responsibility, and the cost of such bond shall be paid by the school district.

**SEC. 16.—Attorney.**—That said board of education shall have power to elect an attorney for said board, and may enter into a contract with him for a term not to exceed one year. Said attorney shall receive a salary of three hundred dollars per annum, payable in monthly installments of twenty-five dollars each. He shall give bond to said school district in the sum of two thousand dollars, in a surety company of recognized responsibility, conditioned for the faithful performance of his duties as attorney for said board, the cost of said bond to be paid by the school district.

**SEC. 17.—Property and funds.**—That within ten days after the permanent organization of a board of education, as provided for in this act, it shall be the duty of all officers of school districts within the limits of cities aforesaid, to deliver to the officers of the board, all property, funds, and papers entrusted to their care, for the use of the public schools in such cities, and all funds thus received shall be immediately paid to the treasurer of the board and be by him placed to the credit of the school district provided by this act.

**SEC. 18.—Vacancies.**—That the boards of education shall have power to fill any vacancies which may occur in the body from among the legal voters who are tax payers; *Provided*, that any vacancy occurring more than ten days previous to the annual city election, and leaving an unexpired term of more than one year, shall be filled at the first city election thereafter, and the ballots and returns shall be designated as follows: "to fill unexpired term."

**SEC. 19.—Quorum—Vacancy.**—That a majority of all members of each board of education shall constitute a quorum, but a

less number in attendance, at any regular meeting, shall have, and a quorum at any special meeting may have, power to compel the attendance of absent members, in such manner, and under such penalties as such board shall see fit to prescribe, and the absence of any member from four consecutive regular meetings of the board unless on account of sickness or consent of the board, removal from the district or resignation accepted by the board, shall vacate his position on the board, and such vacancy shall be filled in accordance with the provisions of this subdivision.

**SEC. 20.—Accounts—Expenditures.**—That all accounts shall be audited by the secretary, approved by a committee, to be styled the committee on claims, and no expenditure greater than two hundred dollars shall be voted by the board, except in accordance with the provisions of a written contract; nor shall any money be appropriated out of the school fund, except on a recorded affirmative vote of a majority of all the members of the board. *Provided*, that no expenditure of money, by contract or otherwise, for supplies for said school district, purchase of school sites, erection of new buildings or for any other purpose, except payment of teachers' salaries and the salaries of employes of the district, shall be made in excess of two hundred dollars, without first advertising for bids for a period of ten days in a legal newspaper of general circulation in said city and school district, particularly specifying the purpose for which said contract is to be let and said expenditures of money made. All bids must be delivered sealed to the secretary of the board and opened in the presence of the board at a meeting of the same. The contract shall then be let to the lowest bidder. Each bid must be accompanied by a certified check, in an amount to be fixed by the board. When said contract is awarded the checks of unsuccessful bidders shall be returned, but the check of the successful bidder shall be retained until his contract is fully performed. Said accounts and the records of said board in cities organized under this act shall at all times be subject to the inspection and examination of the auditor of such city, whose duty it shall be each month to examine said records and check said accounts, and from time to time, as may be required by ordinance or resolution of the city council, report to said council the nature and state of said accounts, and any facts that may be required concerning said records.

**SEC. 21.—Census.**—That the boards of education shall annually cause to be taken an enumeration of all persons between the ages of five and twenty-one years, residing in the district, who shall

report the same, together with such other information as may be required by law to the county superintendent of public instruction at the time specified by law for like returns from other districts.

**SEC. 22.—Teachers' certificates.**—That all persons making application to the boards of education as teachers in graded and high schools therein, shall be required to produce a legal certificate given by some authority authorized to grant teachers' certificates or from an examining committee appointed by the board. And for such purpose the board of education is authorized to appoint three competent persons, at such times as may be deemed expedient, who shall be styled "the examining committee of the board of education," and whose duty it shall be to examine all persons who may apply to them as teachers, and teachers receiving such certificates setting forth that such person is competent to teach in the public schools of the city, and is a person of good moral character, shall be entitled to all the benefits arising from a certificate issued to any teacher under the laws of this state. Any certificate granted by such committee may be revoked by the board of education, for any reason which would have justified the withholding thereof when the same was granted, or for gross neglect of duty, incompetency, or immorality.

**SEC. 23.—Board interested in contract.**—It shall be unlawful for any member of the board of education to have any pecuniary interests, either directly or indirectly, in any contract for the erection of school houses, or for warming, ventilating, furnishing, or repairing the same, or to be in any manner connected with the furnishing of supplies for the maintenance of the schools.

**SEC. 24.—Sale of district property.**—No school property of any kind belonging to any school district shall be sold by the board of education, except at a regular meeting of the same, and not then without an affirmative recorded vote of at least two-thirds of all the members of the board.

**SEC. 25.—Payment of debts.**—Each of the school districts provided for in section one of this act shall have the power, and it shall be the duty of the board of education, to provide for the payment of debts created by school districts or other school organizations superseded by the district herein provided for, when such debts shall have been incurred in the erection of school houses, or for other school purposes; if any portion of such debts shall be in the form of a bond, if issued for a valuable considera-

tion and in accordance with law, the validity of which has not been called in question, or if called in question, has been declared by courts of last resort to be valid, the holder or holders thereof on surrendering the same to said board, shall have the right to demand, and it shall be the duty of said board, in the name of the district created by this act, to cause to be issued other bonds of like amount of the same tenor and effect as to payment of principal and interest as the bonds surrendered. This provision shall also apply to cases where only a part of a district shall be embraced within the district created by this act. *Provided*, The latter shall assume and pay only such proportion of the debt of the divided district as the assessed valuation of the part remaining. In case of a division of one or more school districts for the purpose of forming one school district within the limits of a city coming under this act, it shall be the duty of the county superintendent of public instruction, the president of the board of education, and the director of the school district, to appraise and adjust all claims as assets in such manner that each district shall bear its proportion of the indebtedness, as heretofore provided, and have its proportion of the assets of said district.

SEC. 26.—*Estimate of expenses.*—That the board of education shall annually during the month of June, report to the county commissioner an estimate of the amount of funds required for the support of the school during the fiscal year next ensuing particularly designating the amount of funds required for each of the following purposes:

Purchase of new school sites, erection of school buildings, and building and ground repairs.

Teachers' salaries.

Janitors.

Furniture and supplies.

Payment of interest on bonds issued for school purposes.

Sinking fund for payment of bonded indebtedness.

Miscellaneous expenses.

Thereupon the county commissioners are hereby authorized and required to levy and collect the necessary amounts the same as other taxes. Each and every fund created by said levy by the county commissioners as aforesaid shall be strictly devoted to the purpose for which it was created, and shall not be diverted, transferred or borrowed therefrom. Any member of the board of education voting to so divert, transfer, or borrow the money of any fund shall be liable on his official bond for the amount

so diverted, transferred, or borrowed. An action for the recovery of said amount so diverted or transferred may be brought by any resident taxpayer of said school district, for the benefit, and in the name of said school district, upon his giving a good and sufficient bond, to be fixed by the court in which said suit is brought, conditioned for the payment of the costs of said action.

**SEC. 27.—Limitation of taxation—Bonds.**—That the aggregate school tax, exclusive of school bond taxes, shall in no one year exceed fifteen (15) mills upon all the taxable property of the district, but the board of education may borrow money upon the bonds, which they are hereby authorized and empowered to issue, bearing a rate of interest not exceeding six (6) per centum per annum, payable annually or semi-annually at such place as may be mentioned upon the face of such bonds; which loan shall be paid and reimbursed in a period not exceeding thirty (30) years from the date of said bonds; *Provided*, That no bonds shall be issued nor question of issue be submitted to the electors without the consent of two-thirds ( $\frac{2}{3}$ ) of the members of the board of education, and be offered in open market and sold to the highest bidder for not less than par value on each dollar; and *Provided*, That no bonds shall be issued by the board of education without first submitting the proposition of issuing said bonds, at an election called for that purpose, or at any regular election, notice whereof shall be given for at least twenty (20) days in one or more papers published within the district, and if a majority of the ballots cast on said proposition shall be for issuing bonds, said board may issue bonds in such amount as shall be named in their election notice; *Provided*, if said question is submitted at a special election it shall require to carry the same a majority of the votes cast at said election. That no special election for the submission of the proposition of the issuance of bonds shall be called except upon the affirmative vote of two-thirds of the members elected to the board of education. If at any time two-thirds of the members elected to the board of education shall vote to submit the proposition of the issuance of bonds for school purposes, to the electors of the city, the secretary of the board shall certify such vote to the mayor or acting mayor of the city (naming the purpose for which said bonds are to be issued) and within ten days after the receipt of said notice from the secretary, the mayor, or acting mayor, of the city, shall call a special election of the electors of said city to vote upon said proposition. Notice of said election shall be given for at

least twenty days in one or more papers published within the district, and said notice shall specify the purpose for which said bonds are to be issued. The returns of said special election shall be canvassed by the board of education as provided in section 4 of this act.

**SEC. 28.—Taxes.**—That all taxes collected for the benefit of the public school shall be paid in money, and shall be subject to the order of the board of education.

**SEC. 29.—Warrants.**—That if at any time the funds in the hands of the treasurer of said school district, in one or all of the funds provided for in this act, shall become exhausted, and there shall be no funds to meet the obligations of said school district, then and in that case the board of education is hereby authorized and empowered to issue warrants against the annual levy of each particular fund, for that year for the purpose for which said fund is created, in an amount not to exceed ninety per cent of said funds, which warrant shall be registered by said treasurer, and draw interest from the date of the registration at the rate of six (6) per cent per annum. *Provided*, that no warrants shall be drawn against any of said funds except for the purpose for which said funds is created by this act. All warrants shall be drawn by the secretary upon the treasurer, and must be signed by the president and secretary stating the particular fund or appropriation to which the same is chargeable and the person to whom payable, and no money shall otherwise be paid on account of the school district unless otherwise provided by law. All license moneys and fines shall be placed to the credit of the "teachers' salaries" and "miscellaneous funds" in the amounts which the board of education may designate, by resolution, at a regular meeting of the board.

**SEC. 20.—Interest.**—That the board of education is hereby authorized and required to provide before the same shall become due, for the interest on all bonds issued by the district; they shall also, immediately after the expiration of one-half of the time for which said bonds are issued, proceed to set apart, each year, for a sinking fund, a requisite amount, or proportion, sufficient to pay the principal of said bonds when they shall become due. All moneys set apart for the said sinking fund shall be invested: **First.**—In the purchase and redemption of bonds of the school district, which bonds shall be purchased in open market, in such a manner as the board of education shall prescribe. **Second.**—In bonds of the county in which the city is situated. **Third.**



—In bonds of the state of Nebraska. Fourth.—In United States bonds. Fifth.—In bonds of the city.

**SEC. 31.—Bonds, purchase of before maturity.**—That if it shall be deemed advisable by the board of education to purchase bonds issued under the provisions of this chapter, before maturity, the treasurer shall sell to the highest bidder, in open market, and in a manner prescribed by the board, such bonds or securities as shall belong to the school funds, and the proceeds thereof shall apply to purchase of bonds herein provided for.

**SEC. 32.—Control of funds.**—That all moneys arising from any source whatever, which under any prior act or acts of the legislature of this state, are payable to any school fund of any city of the state, or any moneys which are required to be set apart by the treasurer of any such city for the support and maintenance of any school heretofore organized herein, under any general or special law, shall, on or after the passage of this subdivision, be payable to the treasurer of the board of education, and shall be used only for the purpose specified in this subdivision.

## SUBDIVISION XV.—SCHOOL DISTRICT BONDS.

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| <ol style="list-style-type: none"> <li>1. Bonds, when issued.</li> <li>2. Election to vote bonds.</li> <li>3. Petition for submission.</li> <li>4. Amount of bonds.</li> <li>5. Same.</li> <li>6. Rate of interest.</li> <li>7. Description of bonds.</li> <li>8. Statement by district officers.</li> <li>9. Registration by auditor.</li> <li>10. Certificate of registration.</li> <li>11. Non-registry.</li> <li>12. Effect of act on bonds heretofore issued.</li> <li>13. Taxation for payment—Sinking fund.</li> <li>14. School district defined.</li> <li>15. Excess of tax over payment due—Investment—Notice.</li> </ol> | <ol style="list-style-type: none"> <li>16. Payment, where and how made.</li> <li>17. County treasurer liable.</li> <li>18. Cancellation.</li> <li>19. Acts repealed.</li> <li>20. Refunding bonds.</li> <li>21. New bonds, description.</li> <li>22. How issued and paid.</li> <li>23. High school redemption bonds.</li> <li>24. Condition, description.</li> <li>25. Disposition—Proceeds.</li> <li>26. Issuance—Payment.</li> <li>27. Compromising indebtedness.</li> <li>28. Negotiations.</li> <li>29. Petition.</li> <li>30. Record—Description—Payment.</li> <li>31. Record of proceedings.</li> <li>32. Detaching coupons.</li> </ol> |
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**SECTION 1.—Bonds, when issued.**—The district officers of any school district in Nebraska shall have power to issue the bonds of the district, for the purpose of purchasing a site for, and erecting thereon, a schoolhouse or schoolhouses, and furnishing the same, in such district, on the terms and conditions set forth in the succeeding sections of this act.

SUBD. XV, See 8 Neb., 95, 168, 179. 10 Id., 552. 12 Id., 259. 13 Id., 81, 89, 470. 14 Id., 381. Where several districts are consolidated, the new district not only becomes invested with all property rights of the former, but also becomes answerable for their debts. 15 Neb., 3. 16 Id., 187. 19 Id., 90, 135. 21 Id., 725, 22 Id., 700.

**SEC. 2.—Election to vote bonds.**—No bonds shall be issued until the question has been submitted to the qualified electors of the district, and two-thirds of all the qualified electors present and voting on the question shall have declared by their votes in favor of issuing the same, at an election called for the purpose, upon a notice given by the officers of the district at least twenty days prior to such election.

**SEC. 3.—Petition for submission.**—No vote shall be ordered upon the issuance of such bonds, unless a petition shall be presented to the district board, suggesting that a vote be taken for or against the issuing of such amount of bonds as may therein be asked for, to purchase a site for, or build a schoolhouse or houses, or for furnishing the necessary furniture and apparatus for the same, or for all of these purposes, which petition shall be signed by at least one-third of the qualified voters of such district; *Provided*, That the board of education in any city of the metropolitan class may order a vote upon the issuance of such bonds without a petition therefor.

**SEC. 4.—Amount of bonds.**—That no such bonds shall be issued in the aggregate amount to exceed five per cent (excepting in districts having over two hundred (200) school children) of the last complete assessment of the taxable property of the district for state and county purposes; nor shall any district issue bonds unless there are at least twelve (12) children of school age residing within such district.

**SEC. 5.—Same.**—The amount of bonds shall in no case exceed five hundred (500) dollars in those districts having less than twenty-five (25) scholars, and not less than twelve (12) of school age. And the amount of bonds shall not exceed one thousand (1,000) dollars when the number of children of school age are twenty-five (25) or more, and less than fifty (50), and the amount of bonds shall not exceed two thousand (2,000) dollars when the number of children of school age in the district are fifty (50) or more, but less than one hundred (100); and the amount of bonds shall not exceed five thousand (5,000) dollars when the number of children of school age in the district are one hundred (100) or more, but less than two hundred (200); and in districts having two hundred or more school children, such amount as may be agreed upon, not to exceed ten (10) per cent of the assessed valuation of the last completed assessment.

**SEC. 6.—Rate of interest.**—The bonds issued under this sub-

division shall draw such interest as shall be agreed upon, but not to exceed seven per cent per annum.

**SEC. 7.—Description of bonds.**—The bonds shall specify on their face the date, amount, for what purpose issued, the time they run, and the rate of interest; shall be printed on good paper, with coupons attached for each year's or half year's interest, and the amount of each year's interest shall be placed in corresponding coupons until such bonds shall become due, in a manner so as to have the last coupon fall due at the same time as the bond; said bonds and coupons thereto attached shall be severally signed by the director, moderator, and treasurer of the district board.

**SEC. 8.—Statement by district officers.**—It shall be the duty of the proper officers of any school district in which any bonds may be voted under the authority of any law of this state, before the issuance of such bonds, to make a written statement of all proceedings relative to the vote upon the issuance of such bonds, and the notice of the election, manner, and time of giving notice, question of submission, results of a canvass of the vote on the proposition on account of which it is proposed to issue such bonds, together with a full statement of the assessed valuation, the number of children of school age residing in the district, and total bonded indebtedness of the school district voting such bonds. Such statement shall be certified to under oath by the proper school board of the district, and be transmitted with the bonds proposed to be issued, to the auditor of public accounts.

**SEC. 9.—Registration by auditor.**—The auditor shall examine the statement and bonds so submitted to him, and if he be satisfied that such bonds have been voted in conformity to law, and are in all respects in due form, he shall record the statement and register the bonds in his office, and no such bonds shall be issued or be valid unless they shall be so registered and have endorsed thereon a certificate of said auditor and the secretary of state, showing that such bonds are issued pursuant to law, the data filed in the office of said auditor being the basis of such certificate.

**SEC. 10.—Certificate of registration.**—Upon the registration of such bonds aforesaid, the auditor of public accounts shall certify the fact to the county clerk of the county in which the district is situated, and also to the proper officers of such school district, and whose duty it shall be to enter the same upon the proper records of such school district, and taxes for the payment

of such bonds and the interest thereof shall be levied in the manner provided by section thirteen of this act.

**SEC. 11.—Non-registry.**—If the auditor of public accounts is not satisfied that such bonds have [been] issued according to law, he shall return the same to the proper officer with a certificate to that effect.

**SEC. 12.—Effect of act on bonds heretofore issued.**—Bonds heretofore issued under any of the provisions of any law of this state may be registered in the office of the auditor of public accounts upon compliance with the provisions of this chapter, but nothing herein contained shall affect the validity of bonds heretofore issued, and not registered under any law of this state.

**SEC. 13.—Taxation for payment.**—It shall be the duty of the board of county commissioners in each county to levy annually upon all the taxable property in each school district in such county a tax sufficient to pay the interest accruing upon any bonds issued by such school district, and to provide a sinking fund for the final redemption of the same, such levy to be made with the annual levy of the county, and the taxes collected with other taxes, and when collected shall be, and remain in, the hands of the county treasurer a specific fund for the payment of the interest upon such bonds, and for the final payment of the same at maturity. It shall be the duty of the county clerk to furnish a copy of his register to the county treasurer.

**SEC. 14.—School district defined.**—That the phrase and expression "school district," as used in the preceding section is hereby declared to mean, intend, and refer to the school district as it existed immediately prior to and at the time of the issuance of any bonds by said school district, including all lands and property and inhabitants comprised and contained in said school district at the time of the issuance of any bonds, and including all and any portions of said district subsequently separated from said district, whether by the formation of a new district or by any change of boundaries of said original district.

**SEC. 15.—Excess of tax over payment due.**—Any money remaining in the hands of any treasurer, after the payment of interest due on any bonds which are a valid and legal obligation against the school district to which such money belongs, and the retention of a sufficient amount to pay the accruing interest

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SEC. 13. The county commissioners seem to be required to levy the necessary taxes for the payment of bonded indebtedness of a district without any action of the voters and officers of the district.—From Maxwell's Practice, p. 393. Cited 22 Neb., 700.

SEC. 14. Cited 19 Neb., 485. 15 Id., 1

upon such bonds for the current year, shall be retained as a sinking fund for the final redemption of such bonds, and shall be, by the treasurer, when so ordered by the school board, invested as follows, to-wit: First, in redeeming bonds of the school district issuing the same; second, in registered bonds of the county in which the district is situated; third, in the bonds of the state of Nebraska; fourth, in the bonds of the United States; *Provided*, That the bonds thus purchased shall in all cases be purchased at the lowest market price, after twenty days' notice by publication in at least one newspaper published and in general circulation at the capital city or town of the state; the cost of which advertising, at legal rates, shall be paid out of the sinking fund for the redemption of such bonds.

**SEC. 16.—Payment, where and how made.**—When the interest and principal, or interest only, of such registered bonds are payable in New York City, or elsewhere out of the state, payment shall be therein [then] made at the place so designated in such bond or coupon, or at the commercial [financial] agency of the state for such purposes, and in order that the funds may not be misapplied, the treasurer shall procure a draft for the amount, to be transmitted by drawing his check on some bank in this state, and both check and draft shall be so endorsed as to show upon what bond or bonds the funds shall be applied; or, at the request of the party holding or owning said bonds, payment may be made at the office of said treasurer.

**SEC. 17.—County treasurer liable.**—The tax and funds so collected shall be deemed pledged and appropriated to the payment of the interest and principal of the registered bonds herein provided for, until fully satisfied, and the treasurer shall be liable on his official bond for the faithful disbursements of all moneys so collected or received by him. After the principal and interest of such bonds shall have been fully paid, and all obligations for which such fund and taxes were raised have been discharged, the county clerk, upon the order of the county commissioners, shall notify the county treasurer to transfer all such funds remaining in his hands to the credit of the district to which they belong.

**SEC. 18.—Cancellation.**—When any registered bond shall mature, the same shall be paid off by the treasurer, at the place where the same shall be payable, out of any money in his hands or under his control for that purpose, and when so paid the same shall be endorsed by the treasurer on the face thereof, "Canceled," together with the date of such payment; and thereupon

be filed with the clerk, who shall enter satisfaction of such bonds upon the records of such school district. In case said bonds are payable out of the state, an allowance of one-fourth of one per cent shall be made to the treasurer for the expense attendant in making such payment, to be deducted from any money in his hands remaining after payment of such matured bonds.

**SEC. 19.—Acts repealed.**—That the act entitled “An act to amend an act entitled ‘An act to establish a system of public instruction for the state of Nebraska,’” approved February 25th, 1875; and also those portions of the act entitled “An act to provide for the registration of precinct or township and school district bonds,” in conflict with this act, and all other acts and parts of acts inconsistent with this act, be and the same are hereby repealed; *Provided*, That nothing in this act shall affect in any manner the validity of bonds heretofore issued.

**SEC. 20.—Refunding bonds.**—That any school district in the state of Nebraska which has heretofore voted and issued bonds to build or furnish a schoolhouse, or for any other purpose, and which bonds or any part thereof still remain unpaid and remain and are a legal liability against such district and bearing interest, is hereby authorized to issue coupon bonds at a rate of interest not exceeding seven per centum per annum, to be substituted in place of and exchanged for such bonds heretofore issued whenever such school district can effect such substitution and exchange at a rate not to exceed dollar for dollar.

**SEC. 21.—New bonds—Description.**—The new bond so issued shall have recited therein the object of its issue, the title of the act under which the issue was made, stating the issue to be in pursuance thereof, and shall also state the number, date, and amount of the bond or bonds for which it is substituted, and such new bond shall not be delivered until the surrender of the bond or bonds so designated.

**SEC. 22.—How issued and paid.**—The new bonds as issued shall not require a vote of the people to authorize such issue, and they shall be paid, and the levy made and tax collected for their payment in accordance with laws now governing the said bonds heretofore issued.

**SEC. 23.—High school redemption bonds.**—That any school district in any city of the first class in this state be and is hereby authorized and empowered to issue its coupon bonds of such denominations as the board of education of such school district may deem best, and in an amount equal to the amount outstand-

ing and unpaid of bonds bearing interest at the rate of ten per cent per annum, heretofore issued for the purpose of erecting a high school building by such school district, or by any school organization or board of regents which shall have been superseded by such school district.

SEC. 24.—Condition—Description.—Any bonds issued under the provisions of this act shall be for the payment, by the school district issuing the same, of the sum specified therein, made payable in the city of New York, in not more than twenty years nor less than five years from the time they are issued, with interest at a rate not exceeding seven per cent per annum, payable semi-annually; said bonds and coupons shall be required [signed] by the president of the board of education and countersigned by its secretary; *Provided*, That such bonds may be made redeemable at any time after five years, at the option of the board of education.

SEC. 25.—Disposition.—It shall be the duty of the board of education of any school district issuing bonds under the provisions of this act, to negotiate such bonds, but for no less than the par value thereof, and all the proceeds arising from the sale thereof shall be paid to the treasurer of the board of education, and shall be applied solely to the redemption and purchase of the bonds heretofore issued by such school district, or school organization superseded by it, for the purpose of erecting a high school building, and bearing interest at the rate of ten per cent per annum; *Provided*, That none of the said bonds heretofore issued shall be redeemed or purchased for more than the face value thereof.

SEC. 26.—Issuance.—The bonds issued under the provisions of this act shall not require a vote of the people to authorize their issue, and they shall be paid, and taxes shall be levied and collected for their payment in the same manner as is now provided by law for the payment of bonds heretofore issued by such school districts.

SEC. 27.—Compromising indebtedness.—That any county, precinct, township, or town, city, village, or school district is hereby authorized and empowered to compromise its indebtedness in the manner hereinafter provided.

SEC. 28.—Negotiations.—Whenever the county commissioners of any county, the city council of any city, the board of trustees

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SEC. 27. Section 32, chapter 9, Compiled Statutes.

SECS. 27-31. Act held not to empower a school district to issue its bonds and deliver them to parties in compromise, or to take the place, of an indebtedness evidenced by school district warrants. [45 Neb., 13.]

of any village, or school board of any school district shall be satisfied by petitions or otherwise that any such county, precinct, township, or town, city, village, or school district is unable to pay in full its indebtedness, and two-thirds ( $\frac{2}{3}$ ) of the resident taxpayers of such county, precinct, township, or town, city, village, or school district shall by petition ask that such county, precinct, township, town, city, or village, or school district, to compromise such indebtedness, they are hereby empowered to enter into negotiations with the holder or holders of any such indebtedness of whatever form, scaling, discounting, or compromising the same.

**SEC. 29.—Petition.**—Whenever satisfactory arrangements are made with the holder or holders, or any of them, of such indebtedness, and upon a surrender of the same for cancellation or satisfaction, the county commissioners for and on behalf of any such county, precincts, townships, or towns, or the city council of any such city, or the board of trustees of any such village, or school board of any such school district shall, upon petition of two-thirds ( $\frac{2}{3}$ ) of the resident tax payers of such county, precinct, township, or town, city, village, or school district have authority and they are hereby empowered to issue the bonds of such county, precinct, township, or town, city, village, or school district to the holder or holders of the indebtedness, so surrendered, canceled, or satisfied for the amount agreed upon, not exceeding the original indebtedness.

**SEC. 30.—Record.**—Before issuing bonds under the provisions of this act the board issuing the same shall by resolution enter upon its records, recite the number and denomination of the bonds to be issued, the rate of interest and to whom and when payable. Such bonds shall be payable in not more than twenty (20) years from the date of their issue or at any time before maturity at the option of such municipality. They shall bear interest at a rate not exceeding seven (7) per cent nor the rate borne by the bond surrendered, with interest coupons attached, payable annually or semi-annually, and the said board may levy a tax on all the taxable property in such county, precinct, township, or town, city, village, or school district in addition to other taxes to pay the interest and principal of said bonds as the same shall mature, and such tax levy for interest may be paid in cash or in such coupons.

**SEC. 31.—Record of proceedings.**—Every board issuing bonds under the provisions of this act shall keep a complete record of all the transactions connected therewith.



SEC. 32.—**Detaching coupons.**—That whenever a bond of any county, city, town, township, precinct, village, school district, or other municipality, shall be presented to the auditor of public accounts for registration, the auditor shall examine the interest coupons thereto attached, and shall detach as many of them as shall mature before the first taxes levied to meet the same shall become due and collectible, and stamp said coupons “Detached to the Auditor of Public Accounts,” and send to the treasurer of the county from which said coupons were issued.

## SUBDIVISION XVI.—COMPULSORY EDUCATION.

1. Compulsory attendance, etc.  
2. Truant officer, etc.

3. Special schools.  
4. Enumerators.

**SECTION 1.—Compulsory attendance at public, private, or parochial school—Exemption.**—That every person having legal or actual charge or control of any child or children or youth not less than seven (7) nor more than fifteen (15) years of age, shall during each school year between the second Monday of July and the last Monday of June following, cause such child or children or youth to attend the public day schools for a period of not less than twelve (12) weeks; and if the public day schools of the school district in which such person or persons having charge or control of such child or children or youth may reside shall be in session during the school year between the second Monday of July and the last Monday of June following, more than twelve (12) weeks, then the person having control of such child or children or youth shall cause each of them to attend such public day school not less than two-thirds of the entire time the said schools shall be in session during the school year as aforesaid; and in no case shall such attendance be for a less period than twelve (12) weeks. Such attendance shall begin with the first opening of the public day schools after the second Monday of July, and shall continue consecutively until the required period of attendance is completed.

*Provided,* That the portion of this act requiring attendance in public day school shall not apply in any case where the child or youth is, for a time equal to that required by this act, instructed in some private or parochial school; or in any case where the child is instructed at home or elsewhere by a person qualified to give instruction in the studies required to be taught in the public schools; or in any case where the child or youth has completed the studies required for obtaining a certificate of graduation from the eighth grade of such schools; or in any case where the child or youth, being of the age of fourteen (14) years, is of necessity regularly employed for his own support or the support of those actually dependent upon him; or in any case where the child or youth is physically or mentally incapacitated for the work done in the schools; or in any case where the child or youth lives more than two (2) miles from the school by the nearest practicable traveled road unless free transportation to and from such school is furnished to such child or youth.

In case exemption is claimed on account of mental or physical incapacity, the school authorities shall have the right to employ a physician or physicians who shall have authority to examine such child or youth, and if such physician or physicians shall declare that such child or youth is capable of undertaking the work of the schools, then such child or youth shall not be exempt from the requirements of this act.

In case exemption is claimed and granted on account of children or youth of the age of fourteen (14) years being compelled to support themselves or those dependent upon them, such children or youth may, in the discretion of those charged with the enforcement of this act, be required to attend a public evening school or some other suitable school for not less than two hours each school day during the time provided for school attendance in this act.

*Be it further provided*, that all persons of from seven (7) to eighteen (18) years of age, who are residents of this state and who by reason of partial or total blindness or deafness are unable to obtain an education in the public schools of this state, shall under the provisions of this act, be required to attend the Institute for the Blind or the School for the Deaf unless said persons are being privately or otherwise educated as in this act prescribed, or unless under the provisions of chapter 22, Compiled Statutes of Nebraska of 1901 they are not subjects for admission to the Deaf and Dumb, and Blind Institutes of the state of Nebraska.

In case exemption is claimed on account of attendance at a private or parochial school, as provided in this act, or on account of attendance upon suitable instruction elsewhere given, as provided in this act, the authorities of the private or parochial school so attended, or the person or persons giving elsewhere such instruction, shall keep a record showing the names and ages of all children enrolled, the number of the school district and the county of their residence, the number of days such child or children claiming exemption were members of such school or attendants upon such instruction, the days on which such pupils were present and the days on which they were absent, and the authorities of such private or parochial school, or the person giving elsewhere such instruction, as well as the authorities of all public schools shall furnish at the end of each month of school a report to the county superintendent of schools, and a duplicate of said report to the director or secretary of the school district in which such child or children reside, on blanks to be furnished

or prescribed by the state superintendent of public instruction, which report shall cover said items of record as above, except: that in school districts organized under the provisions of subdivision XIV, or subdivision XVII, of chapter 79 of the Compiled Statutes of Nebraska for 1901, such report shall be made to the superintendent of the city schools of such district. And it is hereby made the duty of such county or city superintendent, upon the receipt of the report for the first month of school in said district, and each two weeks thereafter, to compare such reports with the last census report on file in his office from such district, and prepare a list of all children or youth resident in such district who are not receiving instruction as in this act provided, and to transmit said list to the officer or officers in such district whose duty it is to enforce the provisions of this act as hereinbefore provided.

**SEC. 2.—Truant officer—Notice to parent—Violation of act—Penalty.**—That district boards in districts other than city districts, may appoint a truant officer. In any case where the district board shall not appoint any person as truant officer, the director shall act as such truant officer. Boards of education in cities shall appoint one or more truant officers. All truant officers provided for in this act shall qualify as special constables or police officers, shall see that the provisions and requirements of this act are duly carried out and enforced in the districts for which they severally act, shall have authority to apprehend and take to his home or to some public, private or parochial school any child subject to and violating the provisions of this act, shall receive for such services a compensation to be determined by the district board or board of education to be paid out of the general school funds of the district as are other ordinary expenses of maintaining the school; and on failure or neglect to discharge the duties herein prescribed shall be deemed guilty of a misdemeanor, and on conviction thereof be punished by a fine of not less than five (\$5.00) dollars and not more than twenty-five (\$25.00) dollars. Any truant officer who, from personal knowledge or through information or complaint from any resident or teacher in the district where he acts, believes that any person having legal or actual control of any child or children subject to the provisions of this act is neglecting or failing to comply with the provisions thereof, shall immediately investigate the case and give written notice to the person having legal or actual control of such child or children that the requirements of this act must at once be complied with; and if, within one week

of the giving of such notice, the person having control of such child or children shall not have complied with the provisions of this act, the truant officer shall file complaint against such person in some court having jurisdiction, and the failure to comply with the provisions of this act or its violation on the part of such person shall be deemed a misdemeanor, and upon conviction thereof he shall be punished by a fine of not less than five dollars and not more than twenty-five dollars.

The county superintendent in each county shall, without additional salary, act as head truant officer and it shall be his duty as such head truant officer to see that each truant officer in the several districts of the county discharges properly the duties of his office, and enforces to the best of his ability the provisions of this act.

**SEC. 3.—Special schools.**—That boards of education in cities may, in their discretion, establish and conduct special schools for the instruction of children who cannot profitably or properly be cared for in the usual schools. Any child of school age who is habitually truant or incorrigible, or whose conduct and habits are such that he cannot with profit to himself or in justice to the other members of the school be retained and instructed in the usual schools, may, upon complaint of the person having legal or actual control of such child, or upon complaint of the principal or head of the school where such child is attending, or on complaint of the truant officer be required by the superintendent of the city schools to attend a special school, as provided for in this section, until such time as the child's habits and conduct become such as to make it advisable and proper for him to be received again into the usual school. These special schools shall be taught in such localities as may be considered proper and suitable by the board of education; they shall give instruction in the branches required by law to be taught in the common schools; they shall be as good in conveniences, equipment, and condition of health as the usual schools of the city where they are situated and they shall be taught by teachers specially fitted by nature and experience to control and instruct wisely and successfully the special class of children to be educated therein.

**SEC. 4.—Enumerators, duties of.**—That in order that the provisions of this act may be the better enforced it is hereby ordered that all enumerators of persons of school age, in taking the annual school census, shall ascertain and record the place and date of birth of each child enumerated, together with the school or schools attended, or the place or places in which, or

the person or persons by whom such child was instructed during the preceding school year, and the person having control of such child shall take oath or affirmation that such record is true. The enumerator is hereby empowered to administer such oath or affirmation. Any person who shall refuse to take such oath or affirmation, or who shall with intent to evade any of the provisions of this act, willfully make false statement concerning any child or children under his control and subject to the provisions of this act, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than one dollar and not more than ten dollars.

## SUBDIVISION XVII.—SCHOOLS IN METROPOLITAN CITIES.

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| <ol style="list-style-type: none"> <li>1. District—Body corporate.</li> <li>2. Control—Free schools.</li> <li>3. Taxation.</li> <li>4. Board of education.</li> <li>5. Same—Election—Oath of office.</li> <li>6. Board meetings.</li> <li>7. General powers.</li> <li>8. Officers—Superintendent.</li> <li>9. President.</li> <li>10. Vice president.</li> <li>11. Secretary.</li> <li>12. Treasurer.</li> <li>13. Vacancies in board.</li> <li>14. Quorum—Vacancy.</li> <li>15. Accounts—Expenditures—Comptroller's report.</li> <li>16. Census.</li> </ol> | <ol style="list-style-type: none"> <li>17. Teachers' certificates.</li> <li>18. Board interested in contract.</li> <li>19. Sale of property.</li> <li>20. Payment of debts of superseded districts.</li> <li>21. Estimate of expenses.</li> <li>22. Maximum tax.</li> <li>23. Payment of taxes.</li> <li>24. Bonds.</li> <li>25. Same—Description.</li> <li>26. Payment—Sinking fund—Investment.</li> <li>27. Purchase of immature bonds.</li> <li>28. Disposition of funds.</li> <li>29. Elections.</li> <li>30. Acts repealed.</li> <li>31. Training school.</li> </ol> |
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**SECTION 1.—District—body corporate.**—That each incorporated metropolitan city in the state of Nebraska, or those hereinafter incorporated as such, shall constitute one school district and be known by the name of the school district of (name of city), in the county of (name of county), in the state of Nebraska, and as such in that name shall be a body corporate, and possess all the usual powers of a corporation for public purposes, and in that name and style may sue and be sued, purchase, hold, and sell such personal and real estate, and control such obligations as are authorized by law; and the title to all school buildings, or other property, real or personal, owned by any school district, within the corporate limits of metropolitan cities, shall, upon the organization of a district under the provisions of this act, vest immediately in the new district; and the board of education, by this act provided, shall have exclusive control of the same for all purposes in this act contemplated.

**SEC. 2.—Control.**—That all schools erected or organized within the limits of said metropolitan cities shall be under the direction and control of the board of education authorized by this subdivision. Such schools shall be free to all children between the ages of five and twenty-one years whose parents or guardians reside within the limits of said district, and to all children of school age non-residents of said district who are or may be by law allowed to attend said schools without charge.

**SEC. 3.—Taxation.**—That all property within the corporate limits of metropolitan cities, except such property as now is or may hereafter be exempt by law, shall be subject to taxation for all the school purposes contemplated in this act.

**SEC. 4.—Board of education.**—That the affairs of the school

district hereby created shall be conducted exclusively by boards of education, except as otherwise provided by this act.

**SEC. 5.—Same—Election.**—That the board of education of metropolitan cities shall consist of fifteen (15) members, who shall be qualified electors of said city, and who shall be actual taxpayers, who shall be elected at the times and hold their offices for the terms hereinafter provided. On the first Tuesday after the first Monday in November of each year, and annually thereafter, there shall be elected five (5) members at large to serve for three (3) years, from and including the first Monday of January following their election, or until their successors are elected and qualified. All persons elected as members of boards of education shall, before the first Monday in January following their election, take and subscribe to the usual oath of office. In case any person so elected shall fail so to do, his or her election shall be void, and the vacancy thereby occasioned shall be filled by the board as hereinafter provided. No vacancy shall by the provisions of this act be created in the membership of any board of education elected under the provisions of an act of the legislature of the state of Nebraska, entitled "An act relative to public schools in metropolitan cities," approved March 31, 1887, but such members shall serve out the terms for which they were elected.

**SEC. 6.—Board meetings.**—That the regular meetings of the boards of education shall be held on the first and third Mondays of each month, but special meetings may be held, from time to time, as circumstances may demand, at the call of the president of the board, or on petition of the majority of the members thereof; and all meetings of the board shall be open to the public, unless otherwise specially ordered.

**SEC. 7.—General powers.**—That the boards of education shall have power to select their own officers, and make their rules and regulations, subject to the provisions of this act. The board of education herein provided for, any committee of the members thereof, shall have power to compel the attendance of witnesses for the investigation of matters that may come before them, and the presiding officer of the board of education, or the chairman of such committee for the time being, may administer the requisite oaths, and such board or committee thereof shall have the same authority to compel the giving of testimony as is conferred [conferred] on courts of justice.

**SEC. 8.—Officers—Superintendent.**—That the members of each



board of education, at their regular meeting in January succeeding their election each year, shall elect a president and vice-president from their own members, who shall serve for the term of one (1) year, or until their successors are elected and qualified; they may also elect at any regular meeting in July one (1) superintendent of public instruction, with such salary as the board may deem just, and they may enter into contract with him, in accordance with their discretion, for a term of years not to exceed three (3) years. The election of the officers of the board, superintendent, secretary, teachers, and janitors shall be by ballot, and no person shall be declared elected except he receive a vote of a majority of all the members of the board. They shall annually elect a secretary at such salary as the board may deem just; said secretary shall not be a member of the board of education. They shall also have power to appoint a superintendent of school buildings, whose respective duty, power, salary, and term of office shall be regulated and determined by the board of education, and to employ, under the superintendent of school buildings, necessary workmen, and provide necessary materials for repairing, altering, and enlarging school or other buildings. The superintendent of buildings shall devote his entire time to the discharge of the duties of his position.

SEC. 9.—President.—That it shall be the duty of the president to preside at all meetings of the board, to appoint all committees whose appointment is not otherwise provided for, and to sign all warrants ordered by the board of education to be drawn upon the city treasurer for school moneys.

SEC. 10.—Vice president.—That it shall be the duty of the vice president to perform all the duties of the president in case of his absence or disability.

SEC. 11.—Secretary.—That it shall be the duty of the secretary to be present at all meetings of the board, to keep an accurate journal of the proceedings, to take charge of its books and documents, to countersign all warrants for school moneys drawn upon the city treasurer by order of the board, to apply for and receive school funds from the county treasurer or other persons to whom such funds are payable by law, and deposit the same with the treasurer of the board, and to perform such duties as the board may require. That before entering into the discharge of his duties the secretary of the board shall give bonds in the sum of not less than ten thousand (\$10,000) dollars, with good and sufficient sureties, and shall take and subscribe an oath or

affirmation before a proper officer that he will support the constitution of the state of Nebraska, and faithfully perform the duties of his office.

**SEC. 12.—Treasurer.**—That the city treasurer of such city shall be ex-officio treasurer of the board of education. He shall attend all meetings of the board when required to do so, shall prepare and submit in writing a monthly report of the state of its finances, and shall pay school money only upon a warrant signed by the president, or in his absence by the vice-president, and countersigned by the secretary. He shall give bond, payable to the board of education, an amount equal to the sum that may be in his possession at any one time, of moneys belonging to or under the control of the board of education but such sum shall not be less than the maximum sum that may be in his possession at any time of moneys belonging to or under the control of the board of education, and the said bond shall be signed by one or more surety companies of recognized responsibility, and the cost of which bond shall be paid by the school district.

**SEC. 13.—Vacancies in board.**—That the boards of education shall have power to fill any vacancy which may occur in their body, provided that any vacancy occurring more than ten days previous to the annual school election and leaving an unexpired term for more than one year shall be filled at the first school election thereafter, and the ballots and returns shall be designated as follows: "To fill unexpired term."

**SEC. 14.—Quorum.**—That a majority of all the members of each board of education shall constitute a quorum, but a less number in attendance at any regular meeting shall have, and a quorum at any special meeting may have, power to compel the attendance of absent members in such manner and under such penalties as each board shall see fit to prescribe; and the absence of any member from four consecutive regular meetings of the board, unless on account of sickness or by consent of the board, shall vacate his position on the board, which fact shall be passed upon by the board of education and spread upon their records.

**SEC. 15.—Accounts—Expenditures.**—That all accounts shall be audited by the secretary, approved by a committee to be styled the committee on claims and no expenditures greater than one thousand dollars (\$1,000) shall be voted by the board, except in accordance with the provisions of a written contract, nor shall any money be appropriated out of the school fund except on a recorded affirmative vote of a majority of all the members of the board and said accounts and the records of said board in all

metropolitan cities shall at all times be subject to the inspection and examination of the comptroller of such city, whose duty it shall be each month to examine said records and check said accounts, and from time to time as may be required by ordinance or resolution of the city council, report to said council the nature and state of said accounts and any facts that may be required concerning said records.

**SEC. 16.—Census.**—That the boards of education shall annually cause to be taken an enumeration of all persons between the ages of five and twenty-one years, residing in the district, and shall report the same, together with such other information as required by sections twelve and seventeen of subdivision four of the general school laws of Nebraska, to the county superintendent of public instruction at the time specified by law for like returns in other districts.

**SEC. 17.—Teachers' certificates.**—That all persons making applications to boards of education as teachers in graded and high schools therein shall be required to produce a legal certificate given by some authority authorized to grant teachers' certificates, or from an examining committee appointed by the board. And for such purpose the board of education is authorized to appoint three competent persons at such time as may be deemed expedient, who shall be styled the examining committee of the board of education, and whose duty it shall be to examine all persons who may apply to them as teachers; and teachers receiving such certificates, setting forth that such person is competent to teach in the public schools of the city, and is a person of good moral character, shall be entitled to all the benefits arising from a certificate issued to any teacher under the laws of this state. Any certificate granted by such committee may be revoked by the board of education for any reason which would have justified the withholding thereof when the same was granted; or for gross negligence of duty, incompetency, or immorality.

**SEC. 18.—Board interested in contract.**—That it shall be unlawful for any member of the board of education to have any pecuniary interest, either directly or indirectly, in any contract for the erection of schoolhouses, or for warming, ventilating, furnishing, or repairing the same, or be in any manner connected with the furnishing of supplies for the maintenance of the schools.

**SEC. 19.—Sale of property.**—That no school property of any kind shall be sold by the board of education except at a regular

meeting of the same, and not then without an affirmative recorded vote of at least two-thirds of the members of the board.

SEC. 20.—Payment of debts.—That each of the school districts provided for in section one of this act shall have the power, and it shall be the duty of the board of education, to provide for the payment of debts created by school districts or other school organizations, superseded by the districts herein provided for, when such debts shall have been incurred in the erection of schoolhouses or for other school purposes. If any portion of such debt shall be in the form of bonds, if issued for a valuable consideration, the holder or holders thereof, on surrendering the same to the said board, shall have the right to demand, and it shall be the duty of said board, in the name of the district created by this act, to cause to be issued other bonds of like amount of tenor and effect as to payment of principal and interest as the bonds surrendered. This provision shall also apply to cases where only a part of a district embraced within the district created by this act, whenever said fractional part shall become a part of said district, as provided for in section one of this act; *Provided*, The latter [shall] assume and pay only such proportion of the debt of the divided district as the assessed valuation of the part taken therefrom shall bear to the assessed valuation of the part remaining. In case of a division of one or more school districts within the limits of a metropolitan city, it shall be the duty of the county superintendent of public instruction, the president of the board of education, and the director of the school district, to appraise and adjust all claims or assets in such manner that each district shall bear its proportion of the indebtedness, as heretofore provided, and have its proportion of said assets of said district.

SEC. 21.—Estimate of expenses.—That the board of education shall, annually, during the month of January, estimate the amount of resources likely to be received for school purposes, including the amounts available from fines, licenses, and other sources; they shall report during the month of January to the city council the number of mills tax on the dollar deemed necessary to be levied upon all taxable property of the district, during the fiscal year next ensuing, for the support of the schools, for the purchase of school sites, for the erection and furnishing of school buildings, for the payment of interest upon all bonds issued for school purposes, and for the creation of a sinking fund for the payment of such indebtedness; and the city council

is hereby authorized, directed, and required to levy and collect the number of mills tax so reported and demanded by the board of education in the same manner as other taxes are levied and collected; *Provided*, however, that in case the purchase of school sites and the erection of buildings shall require an expenditure exceeding twenty-five thousand dollars (\$25,000) for any one calendar year, the question shall be submitted to a vote of the electors of the said district.

SEC. 22.—**Maximum tax.**—That the aggregate school tax shall in no one year exceed two per cent upon all the taxable property of the district.

SEC. 23.—**Payment.**—That all taxes collected for the benefit of the public schools shall be paid in money, and shall be subject to the order of the board of education.

SEC. 24.—**Bonds.**—That the board of education may borrow money upon the bonds, which they are hereby authorized and empowered to issue, bearing a rate of interest not exceeding six (6%) per centum per annum, payable annually or semi-annually, at such place as may be mentioned upon the face of such bonds; which loan shall be paid and reimbursed in a period not exceeding thirty (30) years from the date of said bonds; *Provided*, That no bonds shall be issued nor question of issue be submitted to the electors without the consent of two thirds ( $\frac{2}{3}$ ) of the members of the board of education, and be offered in open market, and sold to the highest bidder, for not less than par value on each dollar; *And provided further*, That no bonds shall be issued by the board of education without first submitting the proposition of issuing said bonds, at an election called for that purpose, or at any regular election, notice whereof shall be given for at least ten (10) days in one or more daily papers published within the district, to the qualified voters of the district, and if a majority of all the ballots cast upon said bond proposition at such an election shall be for issuing bonds, said board may issue bonds in such an amount as shall be named in their election notice.

SEC. 25.—**Description.**—That in case the electors shall sanction the issuing of said bonds, in manner herein provided for, then the said board of education may cause to be prepared and issue the same under the provisions of this act, and the said bonds shall express on their face that they are issued in pursuance of this act, and shall be signed by the president and secretary of

the board of education, shall specify the rate of interest, the time when the principal and interest shall be paid, the place of such payment, and each bond when so issued shall not be for a less sum than fifty (\$50) dollars.

**SEC. 26.—Payment.**—That the board of education is hereby authorized and required to provide, before the same shall become due, for the interest on all bonds issued by the district; they shall also, immediately after the expiration of one-half of the time for which said bonds are issued, proceed to set apart each year, for a sinking fund, a requisite amount or proportion sufficient to pay the principal of said bonds when they shall become due. All moneys set apart for said sinking fund shall be invested:

(1) In the purchase of and redemption of bonds of the school districts, which bonds shall be purchased in open market in such manner as the board of education shall prescribe.

(2) In bonds of the city constituting the school district.

(3) In bonds of the county wherein such district is situated.

(4) In bonds of the state of Nebraska.

(5) In United States bonds.

**SEC. 27.—Purchase of immature bonds.**—That if it shall be deemed advisable by the board of education to purchase bonds issued under the provisions of this act, before maturity, the treasurer shall sell to the highest bidder in open market, and in a manner prescribed by the board, such bonds or securities as shall belong to the school funds, and the proceeds thereof shall apply to purchase of bonds herein provided for.

**SEC. 28.—Disposition of funds.**—That all moneys arising from any source whatever which, under any prior act or acts of the legislature of this state, are payable to the school fund of any city of the first class which may become a metropolitan city, or any moneys which are required to be set apart by the treasurer of any such city for the support and maintenance of any school heretofore organized herein under any general law, shall, on and after the passage of this act, be payable to the treasurer of the board of election, and shall be used only for the purposes specified in this act.

**SEC. 29.—Elections.**—All elections provided for in this act shall be held in the manner following:

(1) The president of the board shall issue his proclamation to the qualified voters of the school district, said proclamation to

be published for at least ten (10) days prior to the election, in at least one (1) daily paper of general circulation in said school district, setting forth the time when, and place or places where, such election will be held, and a full and complete statement of the officers, bond proposition, or question of expenditure to be voted on at said election.

(2) **Election boards.**—At the last regular meeting of the board of education, prior to the election, the president of the board, with the consent of the board, shall appoint three (3) judges and two (2) clerks of election for each election district in said metropolitan city, who, before entering upon their duties as such officers, shall take the usual oath or affirmation of office before some person authorized by law to administer oaths, and such oath or affirmation shall be filed with the secretary of the board.

(3) **Vacancy, how filled.**—If any person so appointed shall not attend at the time and place of holding such election, or shall fail or refuse to qualify as above provided, the electors present, at the polls at the hour of eight (8) o'clock a.m. on the day of the election shall choose some one to fill the vacancy, and the person thus chosen shall qualify as before provided.

(4) **Poll books.**—The secretary of the board shall prepare duplicate poll books for each election district in the metropolitan city comprised within the school district, and on the morning of the election shall deliver such poll books, together with a ballot box, into the hands of some one of the judges or clerks of election in the several election districts.

The poll books shall be in manner and form as follows:

Poll books of a school election held in the.....election district of the.....ward in the city of.....county of.....Nebraska, on the.....day of.....189 [190].., at which time.....and.....and.....were judges, and.....and.....were clerks of said election. The following named persons voting thereat: .....

Each clerk shall take one of the poll books and enter therein the names of the persons voting and the order in which they voted. At the close of the election the judges shall compare the lists, and if found correct they shall certify the same to be a true list of the persons voting at said election. At all elections held under the provisions of this act the registration lists of the last city election shall be used without revision, unless said elections

provided for in this act shall be held at the same time and place as a city, county, or state election, in which case the registration lists of the city, as revised for said city, county, or state election, shall be used. And it shall be, and is hereby, made the duty of the city clerk of the metropolitan city comprised within the school district to deliver the registration lists of the city for each election district, respectively, into the hands of some one of the judges or clerks of election in said election district before eight (8) A. M. on the day of said election, for use at said election, said delivery to be made at the expense of the school district.

(5) **Opening the polls.**—Immediately before the opening of the polls the judges shall open the ballot box at the place of holding the election, and in the presence of the electors, and shall see that no ballots are contained therein, after which the box shall be closed. The judges shall then declare the polls open, and shall proceed to take the ballot of any person offering to vote, and if such person's name is, by at least two (2) of said judges, found upon at least two (2) of said registers as a qualified voter, the ballot shall be put into the ballot box without the name or the names thereon being inspected. The ballot box shall be kept locked and in the presence of the electors until the close of the polls. No more than one (1) of the judges shall be absent at the same time from the room where the election is being held, from the time of opening the polls until the votes shall have been counted and canvassed.

(6) **Canvass.**—The judges and clerks shall commence to canvass by counting the votes polled, and if the number cast exceed the number of persons voting, the ballots shall be replaced in the box, and after being mixed, as many ballots shall be drawn out and rejected as there shall have been cast exceeding the number of names on the poll books. If the judges find two or more ballots rolled or folded together, they shall reject all of such votes as fraudulent, and if a ballot contains more than one (1) name for any one office, it shall be deemed fraudulent as to all the names for that office, but no further.

(7) **List of voters.**—The clerks shall set down in their poll books the name of every person voted for, and the office for which such person received votes, every bond proposition and every question of expenditure written in full, with the number of votes received for such persons and the number of votes cast for and against said bond proposition or question of expenditure,



such number to be expressed in words at full length, and the judges and clerks shall certify to the correctness of the same.

(8) **Deposit of ballots.**—The judges of election shall then select some one of the judges or clerks as messenger, and such messenger shall convey the registry list, poll books, and ballot box, with the ballots all replaced therein, to the office of the board of education within twenty-four (24) hours after the closing of the polls, and said ballots shall be kept in said office and subject to the inspection of any elector for the space of six (6) months.

(9) **Maintenance of order at polls.**—The judges of election shall possess full power and authority to maintain order during any election, and during the canvass of the votes, and may call on any person present to assist in maintaining order; and if any person shall refuse to obey the reasonable order of the judges, or shall in any manner interfere with the judges or clerks of election, or any of them, in the discharge of their duties, such person shall be arrested, and on conviction thereof shall be fined not less than one (1) dollar nor more than fifty (50) dollars, and in addition thereto may, in the discretion of the court, be imprisoned not to exceed thirty (30) days for every such offense.

(10) **Canvass of returns.**—That the board of education shall hold a meeting at the hour of 8 P. M. of the Monday succeeding any election provided for in this act, at which time the secretary of the board, in the presence of the board and two disinterested electors, shall open the election returns, and the board shall thereupon canvass the same and declare the result of the election as shown thereby, and the secretary of the board shall issue certificates of election to such persons as may be declared elected members of the board of education.

(11) **Special elections.**—Elections provided for by this act other than elections for members of the board of education may be held at any time or place in such metropolitan city decided on by a vote of all the members of the board; *Provided*, That at all elections held under this act there shall be one polling place in each election district of the city comprised within the school district.

(12) **Vote of women.**—At elections for members of the board of education women may vote after taking the following oath, to be administered by one of the judges of election:

**Oath.**—You do solemnly swear (or affirm) that you are twenty-

one (21) years of age; that you have resided in this school district for forty (40) days last past; that you own real property in the district or personal property that was assessed in your name at the last assessment, or have children of school age residing in the district, so help you God."

(13) Affidavit of non-registered voter.—Any person offering to vote whose name is not found on two of said registers shall furnish to the said judges of election his affidavit, subscribed and sworn to before the secretary of the board of education, or before the city clerk or some person designated therefor by the mayor of any city comprised within the school district, giving his reason for not appearing before the supervisors of registration on any day of registration or revision of registration, and shall also set forth in said affidavit his place of residence, and the facts necessary to show that he is a qualified voter in said election district, and shall prove before said judges, by the affidavit on oath of at least two freeholders, residents of said election district in which he offers his vote, for at least one year immediately preceding said election, that they know such person to be an inhabitant and qualified voter of said precinct, and upon filing said affidavit with said judges, and making the proof herein required, such person shall be entitled to vote. Any person offering to vote at any election herein provided for may be challenged and the same oaths shall be put as are provided in the general election law.

SEC. 30.—Acts repealed.—That all acts and parts of acts inconsistent with this act (including an act of the legislature of the state of Nebraska, entitled "An act relative to public schools in metropolitan cities," approved March 31, 1887, and all acts amendatory thereof) be and the same are hereby repealed.

SEC. 31.—Training school.—Boards of education in cities of metropolitan class may, in their discretion, maintain a teachers' training school for the training of teachers for their own schools, and nothing in this act shall curtail the right or legality of cities of the metropolitan class to support and maintain the same.

## SUBDIVISION XVIII.—TEXT-BOOKS AND SUPPLIES.

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| <ol style="list-style-type: none"> <li>1. Purchase of books by board.</li> <li>2. Bond of publisher—Statement of prices.</li> <li>3. Payment for books.</li> <li>4. Same.</li> <li>5. School book trusts.</li> </ol> | <ol style="list-style-type: none"> <li>6. Price lists.</li> <li>7. Contract, form of.</li> <li>8. Violation of contract.</li> <li>9. Property in books—Damages.</li> <li>10. School supplies—Local dealers.</li> </ol> |
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**SECTION 1.—Purchase of books by board.**—District school boards and boards of trustees of high school districts, and boards of education in cities of the first and second class, and in cities of the metropolitan class, are hereby empowered and it is made their duty to purchase all text books necessary for the schools of such district, and they are further authorized to enter into contract as hereinafter provided with the publishers of such books for a term of years, not to exceed five (5); *Provided*, That the contract prices of such books shall not exceed the lowest price then granted to any dealer, state, county, township, school district, or other individual or corporation in the United States to be determined as hereinafter provided; *And Provided further*, That such contract shall guarantee to such districts any further reduction that may be granted elsewhere during the life of such contract.

**SEC. 2.—Bond of publisher.**—Before any publisher of school books shall be permitted to enter into contract with any school district under the provisions of this act, he shall file with the state superintendent of public instruction, to be approved by him, a good and sufficient bond in the sum of two thousand (\$2,000) to twenty thousand (\$20,000) dollars for the faithful performance of the conditions of such contracts, and the observance of the requirements of this act; and such publisher shall also file with the state superintendent of public instruction a sworn statement of the lowest prices for which his series of text-books are sold anywhere in the United States; and a failure to file such bond and sworn statement of prices shall be a good and valid defense on the part of the district against payment for any books that may be sold by such publisher prior to the date of filing such bond and sworn statement of prices; and all such contracts to which such publisher is a party made subsequent to the passage of this act and prior to filing such bond and sworn statement of prices shall be null and void.

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**SEC. 1.** A writ of mandamus will not issue where it is not within the power of the respondents lawfully to comply therewith, or where it would otherwise be unavailing. 46 Neb., 857. See 51 Neb., 91.

**SEC. 3.—Payment for books.**—For the purpose of paying for school books, the school district officers may draw an order on the county or township treasurer for the amount of school books ordered.

**SEC. 4.—Same.**—The county or township treasurer shall pay orders, drawn by school district officers, for the purchase of school books, out of any funds in his hands belonging to the district, except the money received from that derived from the teachers' fund.

**SEC. 5.—School book trusts.**—Any contract entered into under the provisions of this act with any publisher who shall hereafter become a party to any combination or trust for the purpose of raising the price of school text-books shall, at the wish of the school board of the district using such books, become null and void.

**SEC. 6.—Price lists.**—The state superintendent of public instruction shall, within thirty (30) days after the filing of the hereinbefore mentioned sworn statement of prices of text-books, have the same printed and forward a sufficient number of certified copies of the same to each of the county superintendents of the state to furnish all the school districts of such county with one copy of each; and the county superintendent shall, immediately after receiving said certified copies of prices of books, send or deliver one of such certified copies to the director or secretary of each school district or board of education in such county, to be filed as a part of the records of such district; and he shall also file one of said certified copies of prices in his office as a part of the records of said office.

**SEC. 7.—Contract, form of.**—It shall be the duty of the state superintendent of public instruction to prepare and have printed a form of contract between district boards and publishers of school books, and to furnish the same, through the county superintendent, to the several district boards of the state; and no other form of contract shall be used by such district boards and publishers in carrying out the provisions of this act.

**SEC. 8.—Violation of contract.**—Upon the filing of a written complaint with the state superintendent of public instruction by the officers of any district board, charging any publisher with

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SECS. 3, 4. By decision of the attorney general the provisions of this section authorizing the district board to "draw an order on the county or township treasurer" in payment of bills for books being inconsistent with another statute is inoperative. Such order must be drawn on the district treasurer. See 19 Neb., 564.

violating the conditions of such contract as hereinbefore mentioned, the attorney general is hereby instructed, and it shall be his duty, to investigate the same, and if he finds probable cause for action he shall immediately begin proceedings in the name of the state to enforce the liability on the bond hereinbefore mentioned.

SEC. 9.—Property in books.—All books purchased by district boards, as hereinbefore mentioned, shall be held as the property of the district, and loaned to pupils of the school while pursuing a course of study therein free of charge; but the district boards shall hold such pupils responsible for any damage to, loss of, or failure to return such books at the time and to the person that may be designated by the board of such district.

SEC. 10.—Supplies.—The provisions of this act shall include all school supplies; *Provided*, That nothing in this act shall be construed to prohibit any pupil or parent from purchasing from the board such books as may be necessary, at cost to the district; *Provided further*, That the board may designate some local dealer to handle books for the district, with such an increase above contract price, to pay cost of transportation and handling, as may be agreed upon between said board and said dealer.

### SUBDIVISION XIX.—STATE UNIVERSITY.

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| 1. Name—Establishment.                                    | 18. Regents' report.  |
| 2. Object.  | 19. Funds.  |
| 3. Government—Board of regents.                           | 20. (Repealed.)   |
| 4. Board of regents, powers.                              | 21. Board of regents—Meetings—Compensation.                       |
| 5. Chancellor, professors, etc.                           | 22. Buildings—Plans.  |
| 5a. State botanist, geologist, chemist, and entomologist. | 23. Powers—Chancellor—Professors.                                 |
| 5b. Same—Duties.  | 24. Treasurer.  |
| 5c. Same—Compensation.                                    | 25. Disbursements.  |
| 6. Colleges.  | 26. (Repealed.)   |
| 7. Chairs of instruction.                                 | 27. Cadets.   |
| 8. Model farm—Lands.                                      | 28. Officers.   |
| 9. Location.  | 29. Same—Graduates.   |
| 10. Tutors.   | 30. Arms, equipments, etc.  |
| 11. Colleges—Government.                                  | 31. Officers, selection.  |
| 12. Degrees—Diplomas.                                     | 31a. Reports.   |
| 13. Admission of pupils—Fees—Library fund.                | 32. Agricultural experiment station—Preamble—Acceptance by state. |
| 14. Tuition, when free.                                   | 33. Assent given.   |
| 15. Text books—Aid to students.                           | 34. Appropriation.  |
| 16. Students—No distinctions.                             | 35. Trustees—Treasurer—Powers.                                    |
| 17. Scientific courses—Attendance.                        | 36. Appropriation.  |

SECTION 1.—Name—Establishment.—That there shall be established in this state an institution under the name and style of "The University of Nebraska."

SEC. 9. Text-books, being the property of the district, are under the care of the board; the board may determine whether pupils may take books home for purposes of study.

SEC. 2.—Object.—The object of such institution shall be to afford to the inhabitants of this state the means of acquiring a thorough knowledge of the various branches of literature, science, and the arts.

SEC. 3.—Government—Board of regents.—The general government of the university shall be vested in a board of six regents, elected by the electors of the state at large, according to the provisions of the constitution of 1875. Vacancies occurring in the board between one general election and another may be filled by the governor; *Provided always*, That any person thus appointed to fill a vacancy shall hold his office until the next general election succeeding his appointment, and no longer.

SEC. 4.—Board of regents, powers.—The board of regents shall have full power to appoint their own presiding officer and secretary. And they shall constitute a body corporate, to be known as "The Regents of the University of Nebraska," and as such may sue and be sued, and may make and use a common seal, and alter the same at pleasure. They may acquire real and personal property for the use of the university, and may dispose of the same whenever the university can be advantaged thereby; *Provided*, They shall never dispose of grounds upon which buildings of the university are located, without consent of the legislature.

SEC. 5.—Chancellor, professors, etc.—The regents shall have power, and it is hereby made their duty, to enact laws for the government of the university; to elect a chancellor, who shall be the chief educator of the institution, and the prescribed number of professors and tutors, and a steward; to prescribe the duties of all the professors and officers, and to fix their compensation. They shall have power to remove any professor or officer, but only upon the proof of written charges, and after affording to the person complained against an opportunity for defense.

SEC. 5a.—State botanist, geologist, chemist, entomologist.—That on and after the publication of this act the professor of botany at the state university shall be ex-officio the acting state botanist; the professor of geology shall be ex-officio the acting state geologist; the professor of chemistry shall be ex-officio the acting state chemist; and the professor of entomology shall be ex-officio the acting state entomologist.

SEC. 4. The regents may sue and be sued in matters over which express authority is given the corporation, but cannot maintain an action to recover funds belonging to the university. 5 Neb., 428.

SEC. 5. See section 23, passed subsequent to this section.

SEC. 5b.—Same—Duties.—It shall be the duty of these members of the faculty to give special attention to the interests of this state in their respective departments; to furnish all information requested by any official of this state; and to properly arrange and exhibit the collections in their departments, or some portion of these collections, with special reference to showing the varied resources of this state; *Provided*, That this work shall be so conducted as not to interfere with the original duties as instructors at the university.

SEC. 5c.—Same—Compensation.—No compensation shall be claimed or allowed on account of services rendered under the provisions of this act.

SEC. 6.—Colleges.—The university may embrace five departments, to-wit: First—A college of literature, science, and art. Second—An industrial college, embracing agriculture, practical science, civil engineering, and the mechanic arts. Third—A college of law. Fourth—A college of medicine. Fifth—A college of the fine arts.

SEC. 7.—Chairs of instruction.—The regents shall be empowered to establish in these several colleges such chairs of instruction as may be proper, and so many of them as the funds of the university may allow. They shall also be authorized to require professors to perform duties in more than one of the several colleges, whenever they shall deem it wise and proper so to do.

SEC. 8.—Model farm—Lands.—The governor shall set apart two sections of any agricultural college land, or saline land, belonging to the state, and shall notify the state land commissioner of such reservation for the purpose of a model farm, as a part of the college of agriculture; and such land, so set apart, shall not be disposed of for any other purpose.

SEC. 9.—Location.—The several buildings of the university shall all be erected within a radius of four miles from the state house.

SEC. 10.—Tutors.—The regents shall, when the number of students in any particular branch of study shall require, elect one or more tutors to give instruction in such branch of study; but such tutors shall not be considered as belonging to the faculty of the college in which they may be employed.

SEC. 11.—Colleges—Government.—The immediate government of each college shall be by its own faculty, which shall consist of the professors therein, but no course of study shall be

adopted, or series of text-books used, without the approval of the board of regents.

SEC. 12.—Degrees—Diplomas.—The board of regents shall have exclusive authority to confer degrees and grant diplomas, but each college may, in its discretion, grant rewards of merit to its own students. No student shall, upon graduation, receive any diploma or degree unless he shall have been recommended for such honor by the faculty of the college in which he shall have pursued his studies. The regents shall also have power to confer the usual honorary degrees upon other persons than graduates of this university, in recognition of their learning or devotion to literature, science, or art; but no degree shall be conferred in consideration of the payment of money or other valuable thing.

SEC. 13.—Admission of pupils—Fees—Library fund.—The fee of admission to any college in the university shall be five dollars each for all persons; and the amount arising therefrom, together with all other tuition fees, shall be paid into the hands of the university treasurer, and shall be held as a library fund, and the board of regents shall annually appropriate the same for the purchase of books for the university library. A reasonable course of study shall be prescribed by the board of regents, precedent to admission, and no applicant who shall fail to pass an examination in any part of such course shall be admitted; *Provided*, Any person who shall produce a certificate from a county superintendent of common schools that he has passed honorably through the course of study prescribed in a high school, under the common school laws of the state, may be admitted without further examination.

SEC. 14.—Tuition, when free.—All persons residing within this state, and who shall fill the requirements of the preceding section, may be admitted to any organized college of the university, and students entering the college of literature, science, and art, or the industrial college, shall not be required to pay any other tuition fee than the matriculation fee during the term of four years. All other students in these colleges, and all who elect to remain under instruction for a longer term than four years, shall be required to pay such fees as the board of regents may determine. Students may be admitted to the colleges of law, medicine, and fine arts upon such terms and be required to pay such tuition and fees as the board of regents may determine. Persons not residents of this state may be admitted to the priv-



ileges of the university in any college or department thereof, if otherwise qualified, upon such terms as to the payment of tuition and other fees, in addition to a matriculation fee, as the board of regents may prescribe.

SEC. 15.—Text-books—Aid to students.—The regents shall procure all text-books to be used in the university, and shall furnish them to students at cost. The regents may, upon proper evidence of the good character of any student, and his or her ambition to acquire an education and inability to provide his or her own means therefor, donate to such student all text-books he or she may need, and, by a two-thirds vote, may appropriate money to pay other expenses for such student; *Provided*, such student will render an immediate equivalent in personal service for such appropriation, or give a sufficient obligation that he or she will reimburse the regents within five years.

SEC. 16.—Students—No distinctions.—No person shall, because of age, sex, color, or nationality, be deprived of the privileges of this institution. Provisions shall be made for the education of females apart from male students, in separate apartments or buildings; *Provided*, That persons of different sexes, of the same proficiency of study, may attend the regular college lectures together.

SEC. 17.—Scientific course—Attendance.—The regents shall provide a rule for attendance upon the agricultural college and civil engineering and scientific courses by persons whose employments are such as to allow of their pursuit of study only a portion of the year.

SEC. 18.—Regents' report.—The board of regents shall, at least ten days prior to the meeting of each regular session of the legislature, transmit to the governor, to accompany his message, a printed report of all their doings since their last report, giving in detail all receipts and expenditures of money, and furnishing an estimate for future income and expenses, a catalogue of professors, officers, and students for the year, with such other information and recommendations as will apprise the legislature fully of the conditions and wants of the university.

SEC. 19.—Funds.—The several funds for the support of the University shall be constituted and designated as follows: First, the permanent endowment fund; Second, the temporary University fund; Third, the University cash fund; Fourth, the United States "Morrill Fund"; Fifth, the United States Experiment Station fund. The permanent endowment fund shall

be kept in two accounts; in the first account, all moneys derived as principal from the sale of lands donated to the state by the United States (to establish and endow a state university) under the act of Congress of April 19, 1864; in the second account, all moneys derived as principal from the sales of lands donated to the state by the United States to provide colleges for the benefit of agriculture and the mechanic arts, by an act of Congress approved July 2, 1862. All moneys acquired by the University by donation or bequest (including moneys derived as principal from the sale of lands or other property so acquired) where no particular object or purpose is specified by the donor or devisor, shall belong to either one of the two accounts of said permanent fund as the Board of Regents may determine and order. Donations or bequests made for the benefit of the University (including moneys derived as principal from the sale of lands or other property so acquired) with particular objects or uses specified and the interest or income of which only, is to be used, shall belong to either of the said two accounts of the permanent fund, as the Board of Regents may determine and order. The interest and income of donations made, without special objects or uses specified, may be used and applied by the Board of Regents to any needs of the University. The interest and income of donations made, with particular objects and uses specified, shall be applied by the Board of Regents to such particular objects and uses only. All moneys belonging to the permanent University fund shall be invested in the manner now provided by law for the investment of the permanent school fund of the state, in the same kind of securities, and by the same officers charged with that duty, in accordance with the provisions of section four thousand nine hundred fifteen (4915), being section twenty-one (21) of chapter eighty (80) article one (1), of the Compiled Statutes of Nebraska 1897. The permanent endowment fund shall never be appropriated by the legislature, nor be expended for any purpose whatsoever.

The temporary University fund shall consist of the proceeds of investments of the permanent fund; of the rental of the University and agricultural college lands leased, and the interest upon deferred payments on sales of the lands aforesaid; of the rentals or income of lands or other property donated, without particular objects or uses being specified; and a tax of one mill upon the dollar of valuation of the grand assessment roll of the state, which tax shall be levied in the year 1899 and annually thereafter. All moneys accruing to this fund are hereby appro-

priated for the maintenance of the University including buildings and permanent improvements and the same may be applied by the Board of Regents to any and all University needs, except the income from donations made for particular purposes, which income shall be used and applied as hereinbefore specified only.

The University cash fund shall consist of the matriculation and diploma fees, registration fees, laboratory fees, tuition fees, summer "session" or school fees, and all other moneys or fees collected from students, by the authority of the Board of Regents, for University purposes. To this fund shall belong also all moneys received from sales of live stock, farm products, dairy-school products, or other like income from the experiment station farm. The moneys accruing to this fund shall be used for the following purposes exclusively: the matriculation and diploma fees, for the purchase of books, for the University libraries; the registration and summer school fees, to assist the maintenance of the summer school, school of agriculture, or other special schools; the laboratory fees, for laboratory expenses and the purchase of laboratory apparatus and supplies; the tuition fees, for instruction in and expenses of the various colleges or schools for which the same are collected; the income from the farm, for the general expenses and up keep of the farm, its stock and equipment, farm labor, and minor repairs to farm property. All moneys accruing to the University cash fund are hereby appropriated to the specific uses hereinbefore mentioned and shall at all times be subject to the orders of the Board of Regents accordingly; Provided, that no warrant shall be issued against said fund unless there is money in the hands of the state treasurer sufficient to pay the same. The Board of Regents shall cause all moneys which are received by its authority at the University, from the students thereof for any purpose mentioned in this chapter, also all moneys received at the University by the authority of said Board, from sales of farm products, stock or other property, to be paid over from time to time as the same are received, to the state treasurer to be placed to the credit of the proper fund. Provided, that the said Board of Regents may retain in its possession, until the close of the summer school in each year, a sufficient sum out of said moneys, to make settlement with students having money on deposit for expenses in the various laboratories, to make equitable adjustment with students, who, having paid tuition or other fees in advance, may be necessarily called away from the institution for an indefinite period, and to provide against

other like contingencies. The said Board of Regents may require its secretary, in addition to his other duties, to perform all acts necessary to carry into effect the provisions of this section relating to the University cash fund and the moneys belonging thereto.

The United States "Morrill Fund" shall consist of all moneys appropriated by the United States to this state for its University to aid instruction and to furnish the facilities for instruction in certain branches in accordance with the provisions of an act of Congress approved August 30, 1890, entitled, "An act to apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts established under the provisions of an act of Congress approved July 2, 1862" and acts supplemental thereto. The said fund shall be applied exclusively to the uses and purposes prescribed by the act or acts of Congress relating thereto, and said fund is hereby appropriated accordingly and shall at all times be subject to the orders of the Board of Regents for the purpose specified by act of Congress only.

The agricultural experiment station fund shall consist of all moneys which may come into the possession of the State treasurer on and after July 1st, 1899 accruing under an act of Congress approved March 2d, 1887 entitled "An act to establish agricultural experiment stations in connection with the colleges established in the several states under the provisions of an act approved July 2d, 1862 and the acts supplemental thereto, also all moneys which may hereafter be received by virtue of any act of Congress supplemental to said agricultural experiment station act and for the same purpose. The said experiment station fund is hereby appropriated to be applied exclusively to the uses and objects designated by the said act or acts of Congress relating thereto and the same shall at all times be subject to the orders of the Board of Regents for expenditure for said uses only.

The state treasurer shall be the custodian of all of the funds of the University. Disbursements from the four funds last named herein shall be made in accordance with the provisions of law relating to the disbursement of University funds in the hands of the state treasurer as provided by section (5230) being section 25 of chapter 87 of the Compiled Statutes of 1897.

SEC. 20.—[Repealed.]

SEC. 21.—Board of regents—Meetings—Compensation.—The regents shall meet at least twice in each year at the university building. They shall receive for their services no compensation, but they may be reimbursed their actual expenses incurred in the performance of their official duties.

SEC. 22.—Buildings—Plans.—No superstructural work upon any building for the university shall be commenced until the designs and plans therefor shall have been submitted to the board of regents by the commissioners for public buildings, and the architect thereof shall be required, before allowing any such superstructure to be erected, to make such alterations in the plans and specifications as may be directed by a majority of the regents.

SEC. 23.—Powers—Chancellor—Professors.—The regents shall have power to enact laws for the government of the university; to elect a chancellor, and the prescribed number of professors and tutors, and a steward; to prescribe the duties of all the professors and officers, and to fix the compensation. They shall have power to remove the chancellor and any professor or tutor when the interests of the university shall require it.

SEC. 24.—Treasurer.—The office of treasurer of the university is hereby abolished, and the state treasurer is made custodian of the funds, to whom the present treasurer of the university shall turn over, within sixty days, all moneys, securities, books, and papers pertaining to that office.

SEC. 25.—Disbursements.—Disbursements from the university fund shall be made by the state treasurer, upon warrants drawn by the auditor, who shall issue warrants upon certificates issued by the board of regents, signed by the secretary and president. All money accruing to the university fund is hereby appropriated to the use of the state university.

SECS. 26-26h.—[Repealed. Laws, 1899, chap. 76, sec. 2.]

#### CADET BATTALION.

SEC. 27.—Cadets.—That all male students now attending or who may hereafter attend the University of Nebraska, and who are required, by the rules and regulations that are or may be established by the board of regents of the university for the government of the military department, to attend upon the studies or other exercises of said department, shall be organized

under the form of the battalion, into a body which shall be known and styled the "university cadets."

**SEC. 28.—Officers.**—The officers of the cadet battalion, for duty at and while in attendance upon the university, shall be appointed by the commandant in charge of the department, by detail of the general government, and they shall be directly responsible to him in the discharge of all their duties as such officers.

**SEC. 29.—Same—Graduates.**—All persons holding appointments under the commandant of the military department of the university as officers of the cadet battalion, at the time of their graduation from the university, between and including the ranks of second lieutenant and colonel, shall be certified with their proper rank to the governor of the state by the military officer in charge and the chancellor of the university, and thereupon the governor is authorized and directed to issue his commission in due form to all such persons so certified to him. All persons so commissioned by the governor shall hold their commissions as retired officers of the university cadets, liable to be called into service by the governor in case of invasion, insurrection, or rebellion, in the same manner as the state militia.

**SEC. 30.—Arms, equipments, etc.**—The adjutant general of the state shall issue such arms, munitions, accoutrements, tents, and equipments for the temporary or permanent use of the university cadets as the board of regents may require and the governor approve. All property so issued, and not intended merely for temporary use, or for consumption or expenditure, shall be receipted for to the adjutant general by the chancellor or other proper officer of the university, and the same shall be subject to return upon demand of the adjutant general, whenever the necessities of the state require.

**SEC. 31.—Officers—Selection.**—The selection of officers of the university cadet battalion, for duty during attendance upon the institution, shall be made upon a basis involving both scholarship and capacity and fitness for command, and according to such rules and regulations as the board of regents may prescribe. The board of regents shall make all needful rules and regulations to carry into effect the purposes of this act consistent with the constitution and laws of the state.

**SEC. 31a.—Reports.**—The commandant or officer in charge of the military department of the university shall make quarterly reports to the adjutant general of the state, showing the num-

ber, organization, discipline, and equipment of the university cadets.

#### AGRICULTURAL EXPERIMENT STATION.

SEC. 32.—Preamble.—Whereas, the forty-ninth congress of the United States, at its second session, passed an act commonly known as the "Hatch bill," and entitled as follows: "An act to establish agricultural experiment stations in connection with the colleges established in the several states under the provisions of an act approved July 2, 1862, and of the acts supplementary thereto," and, Whereas, said act of congress provides, among other things, that it shall be the object and duty of said experiment stations to conduct original researches or verify experiments on the physiology of plants and animals; the diseases to which they are severally subject, with the remedies for the same; the chemical composition of useful plants at their different stages of growth; the comparative advantages of rotative cropping as pursued under a varying series of crops; the capacity of new plants or trees for acclimation; the analysis of soils and water; the chemical composition of manures, natural or artificial, with experiments designed to test their comparative effects on crops of different kinds; the adaptation and value of grasses and forage plants; the composition and digestibility of the different kinds of foods for domestic animals; the scientific and economic questions involved in the production of butter and cheese; and such other researches or experiments bearing directly on the agricultural industry of the United States as may in each case be deemed advisable, having due regard to the varying conditions and needs of the respective states or territories, and, Whereas, the said act of congress declares that a leading object of the establishment of the said experimental stations is to aid in acquiring and diffusing among the people of the United States useful and practical information on subjects connected with agriculture, and to promote scientific investigation and experiment respecting the principles and applications of agricultural science, and prescribes methods to this end, and also prescribes conditions and relations which are to be maintained between the United States and the institutions of learning established in the several states, and which are organized under the land grant of 1862, and provides further that the grants of money authorized by the said act are made subject to the legislative assent of the several states and territories to the purposes of said grants, and, Whereas, the Univer-

city of Nebraska, in the state of Nebraska, has established and maintained a college or department of agriculture known and designated as the "industrial college," in accordance with the provisions of said land grant of 1862, and, Whereas, the said act of the forty-ninth congress appropriates to this state the sum of fifteen thousand dollars (\$15,000) per annum for the purposes and upon the conditions therein set forth, the same to be paid to the treasurer or other officer duly appointed by the governing board of said college to receive the same, and, Whereas, the governor of this state has presented to the legislature his special message with recommendations relating to the subject matter hereof, Therefore,

*Be it enacted by the Legislature of the State of Nebraska:*

**SECTION 1.—Acceptance by State.**—That full and complete acceptance, ratification, and assent is hereby made and given by the State of Nebraska to all of the provisions, terms, grants, and conditions and purposes of the grants made and prescribed by the said act of the congress of the United States, entitled "An act to establish agricultural experiment stations in connection with the colleges established in the several states under the provisions of an act approved July 2, 1862, and of the acts supplementary thereto."

**SEC. 33.—Preamble.**—Whereas, by an act of the congress of the United States, approved August 30, 1890, there is appropriated to this state for the use and benefit and the more complete endowment and support of the educational institution therein described the sum of fifteen thousand dollars (\$15,000) for the year ending June 30, 1890, sixteen thousand dollars (\$16,000) for the year ending June 30, 1891, and so on until the sum of twenty-five thousand dollars (\$25,000) is reached, at which last named amount said congressional appropriation is thereafter to remain fixed annually; and Whereas, it is provided by said act of congress that the money thereby appropriated shall be applied to the more complete endowment and maintenance in the several states and territories of colleges for the benefit of agriculture and the mechanic arts, which now are and may be hereafter established in accordance with an act of congress approved July 2, 1862 (wherein no distinction on account of race or color is made in the admission of students), and that said money shall "be applied only to instruction in agriculture, the mechanic arts, the English language, and the various branches of mathematical, physical, natural, and economic science, with special



reference to their applications in the industries of life, and to the facilities for such instruction;" and, Whereas, it is provided by said act of congress that "no portion of said moneys shall be applied, directly or indirectly, under any pretense whatever, to the purchase, erection, preservation, or repair of any building or buildings," and that if said moneys be diminished or lost they shall be replaced by the state or territory to which they belong; and that the grants of money authorized by said act of congress are made subject to the legislative assent of the several states and territories to the purpose of said grants (or upon the assent of the governor thereof during the recess of the legislature); and, Whereas, it is provided by said act of congress that the moneys thereby appropriated shall be paid from time to time to the state or territorial treasurer, or other officer who may be designated by law to receive the same, who shall, upon the order of the trustees of the college described in said act, immediately pay the same over to the treasurer of the educational institution entitled to receive the same; and, Whereas, the college of agriculture and the mechanic arts (now designated by law as the industrial college) of the University of Nebraska is the college now existing in this state, organized under the provisions of the act of congress of 1862, and thereby entitled to receive the moneys appropriated by the said act of congress of August 30, 1890; and, Whereas, the treasurer of the state of Nebraska has received the sum of fifteen thousand dollars, the first installment of money appropriated under the said act of congress last named, in pursuance of the assent of the governor: Therefore,

*Be it enacted by the Legislature of the State of Nebraska:*

**Assent given.**—That full and complete acceptance, ratification, and assent is hereby made and given by the state of Nebraska to all and every one of the grants, purposes, terms, and conditions set forth in an act of the congress of the United States approved August 30, 1890, entitled "An act to apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts established under the provisions of an act of congress approved July 2, 1862."

**SEC. 34.—Appropriation.**—That all moneys that now are or may hereafter be received by the state treasurer or other state officer, in pursuance and by virtue of the said act of congress, are hereby specifically appropriated and set apart solely for the more complete endowment, support, and maintenance of the

college for the benefit of agriculture and mechanic arts now existing in this state under the provisions of an act of congress approved July 2, 1862, and designated by law as the industrial college of the University of Nebraska; and all of said moneys shall be immediately paid over by said treasurer to the authorities of said college, hereinafter designated, without further warrant or authority than is contained herein.

**SEC. 35.—Trustees, Treasurer, Powers.**—That for all intents and purposes of this act and of the said act of congress, and to carry the latter into full effect in this state, the board of regents of the University of Nebraska shall be “the trustees of the college” described in the said act of congress, approved August 30, 1890, and referred to in the title of this act, and such fiscal officer as the said board of regents may name and designate and appoint to receive and disburse said moneys under their orders shall, for all intents and purposes of this act, and of the said act of congress last mentioned, be the “treasurer” of the said college, and to this officer the state treasurer shall immediately pay over, upon the order of the said board of regents, all moneys which are now in his hands, or which may be hereafter received by virtue of the said act of congress for the use and benefit of said college. The said board of regents are hereby authorized and empowered to make such orders and regulations for the security, control, management, and disbursement of the said moneys as to them shall seem wise and proper and for the best interests of the college.

**SEC. 36.—Morrill fund—Application.**—That all moneys that may be received by the state treasurer, or other state officer, in pursuance and by virtue of an act of the congress of the United States, approved August 30, 1890, entitled “An act to apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts, established under the provisions of an act of Congress approved July 2, 1862” shall be immediately, upon the receipt thereof, paid over by said treasurer, or other officer, to the officer authorized to receive the same, by the board of regents of the University of Nebraska, without further warrant or authority than is herein contained: in accordance with an act of the legislature of the state of Nebraska approved March 19, 1891.

## SUBDIVISION XX.—EDUCATIONAL CORPORATIONS.

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| <ol style="list-style-type: none"> <li>1. How incorporated.</li> <li>2. Value of property.</li> <li>3. Trustees.</li> <li>4. Failure to elect.</li> <li>5. Devises and donations.</li> <li>6. Faculty.</li> <li>7. Academy.</li> <li>8. Existing corporations.</li> <li>9. Increase of capital stock.</li> <li>10. Notice.</li> <li>11. Liability of stockholders.</li> <li>12. Trustees of endowment fund.</li> <li>13. Application of fund, how changed.</li> </ol> | <ol style="list-style-type: none"> <li>14. Trustees a body politic.</li> <li>15. Universities, how incorporated.</li> <li>16. Trustees.</li> <li>17. Same—Powers.</li> <li>18. Foreign corporations—Diplomas, etc.</li> <li>19. Same—procedure.</li> <li>20. Same—Powers, diplomas, etc.</li> <li>21. Reorganization.</li> <li>22. Powers of trustees.</li> <li>23. Same.</li> <li>24. Acts legalized.</li> </ol> |
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**SECTION 1.—How incorporated.**—Any number of persons, not less than five, desiring to establish a college, university, normal school, or other institution for the purpose of promoting education, religion, morality, agriculture, or the fine arts may, by complying with the provisions of this subdivision, become a body corporate and politic with perpetual succession, and may assume a corporate name by which they may sue and be sued, plead and be impleaded in all courts of law and equity; may have a corporate seal, and the same alter and break at pleasure; may hold all kinds of estate, real, personal, or mixed, which they may acquire by purchase, donation, devise, or otherwise, necessary to accomplish the objects of the corporation, and the same to dispose of and convey at pleasure.

**SEC. 2.—Value of property.**—To ascertain the property and value thereof, of any institution desirous of becoming a body corporate, under the provisions of this subdivision, it shall be the duty of the probate judge of any county of this state, on application in writing, of any number of persons not less than five, of whom not less than five shall be resident freeholders of the county where such application is made, or where such institution is or is intended to be located, setting forth the objects for which they desire to become incorporated, to select three disinterested freeholders of the county and voters therein, as appraisers, who shall first take an oath for the faithful discharge of their duties, before some competent officer, and such appraisers shall then proceed to make a schedule, and upon actual view to appraise the true value, in money, of all such goods, chattels, lands, and tenements, choses in action, rights, credits, and subscriptions, as such applicants shall exhibit to such appraisers, and shall return such schedule with their appraisement, and certificate of some officer authorized to administer oaths, that such appraisers were first duly sworn by him to discharge their duties as such appraisers, to the probate judge of the proper

county; and if the amount so found shall be equal to the sum required for the commencement of any such institution as said applicants desire, such probate judge shall give such applicants a certificate of the fact, and they shall enter it into a book of records, by them provided for that purpose, which certificate, together with the corporate name and the articles of association, they shall also cause to be recorded in the county clerk's office of the county where such institution is or is intended to be located, and they shall thenceforward be a body-corporate and politic, according to the provisions of this subdivision; and such probate judge, appraisers, and county clerk shall be entitled to the same fees as for like services in other cases, and no more.

SEC. 3.—Trustees.—The incorporators of any college or university, which may be organized in accordance with the provisions of this subdivision, may elect five or more trustees, of whom not less than five shall be resident freeholders of the county where such college or university is located, who shall constitute a board of directors for such institution, and they shall have power to fill vacancies that may occur in their board, and shall hold their offices until their successors are elected and qualified according to the rules and by-laws that may be adopted by the board of trustees, but at all times at least five of such board of trustees shall be residents, freeholders of the county where such institution is located; and when any such board, in their corporate name, shall have acquired for the benefit of such institution five thousand dollars, in real and personal property, to be ascertained as herein provided, said trustees shall have power to appoint a president, professors, tutors, and teachers, and any other necessary agents and officers, and fix the compensation of each, and may enact such by-laws not inconsistent with the laws of this state or the United States, for the government of the institution, and for conducting the affairs of the corporation, as they may deem necessary, and shall have power to confer, on the recommendation of the faculty, all such degrees and honors as are conferred by colleges and universities of the United States, and such others, having reference to the course of study and the accomplishment of the student, as they may deem proper.

SEC. 4.—Failure to elect.—In case it should happen that an election for directors should not be held on the day appointed by the by-laws of any institution or company formed under the provisions of this subdivision, such corporation shall not, for that reason, be deemed to be dissolved, but it shall be lawful on any other day to hold a meeting and elect its directors in such manner as shall be prescribed by the by-laws thereof.

SEC. 5.—University, college, theological seminary, or academy holding property in trust.—The trustees of any university, college, theological seminary, or academy, may hold in trust any property, devised, bequeathed or donated to such institution upon any specific trust consistent with the object of said corporation. *Provided*, however, that any corporation formed for the purpose of providing theological education, or giving religious instruction, or for the purpose of maintaining and operating a theological seminary in connection with, or on the part of, any religious sect, association or denomination, is hereby authorized and empowered to set forth in its articles, or certificate of incorporation, as a part of the same, the name of the religious sect, association or denomination with which it is connected, and to declare that it shall acquire and hold its real and personal property in trust for the purpose of theological education or instruction, according to the standards of said religious sect, association or denomination, and it is further authorized and empowered to grant to the supreme court or other ecclesiastical body of such religious sect, association or denomination, whether the same be a conference, presbytery, synod, general assembly convocation, or otherwise, the right to approve the election of its directors, trustees, professors, teachers and instructors, without which approval the election of said directors, trustees, professors, teachers and instructors shall not be valid; and it is further authorized and empowered to grant to said supreme court or other ecclesiastical body of such religious sect, association or denomination, authority to appear in any court of competent jurisdiction in the name of such person as it may designate for and on its behalf, to protect the trust in and to said property so declared in said articles of incorporation, and to provide against the misuse of the same, and to enforce the rights conferred on said supreme court or other ecclesiastical body of such religious sect, association or denomination, by the terms of said article or certificate of incorporation; and it is further authorized and empowered to set forth in its articles or certificate of incorporation, such other rights as to the administration of the purpose for which it is organized, and not inconsistent with the laws of this state, or of the United States, as said incorporations may desire to confer on said supreme court or other ecclesiastical body of such religious sect, association or denomination, and said supreme court or other ecclesiastical body of such religious sect, association or denomination, shall possess and exercise all the rights and powers so

set forth in said articles or certificate of incorporation. *Provided, further*, any corporation heretofore formed for the purpose of providing theological education or giving religious instruction or for the purpose of maintaining and operating a theological seminary in connection with or on the part of any religious sect, association or denomination, which has been incorporated under the laws of this state, whether by special act of the legislature or otherwise, may avail itself of the provisions of the preceding section as a part of its articles or certificate of incorporation, and may declare the trust on which it holds and for which it acquires its property and may confer on the supreme court or other ecclesiastical body of such religious sect, association or denomination, any or all of the rights, powers and privileges provided by this section to be conferred on corporations hereafter organized, and may accept the provisions of this section by a vote of the majority of the trustees of said corporation present at a regular meeting, and when so accepted, a certified copy of such acceptance, together with a certified copy of the declaration of trust on which it holds and for which it acquires its property, and of the rights and powers which, pursuant to the provisions of the preceding section, it desires to confer and has conferred upon the supreme court or other ecclesiastical body of such religious sect, association or denomination shall be filed in the office of the secretary of state, and when so filed the same shall become and be a part of the charter of said corporation; and said supreme court or other ecclesiastical body of such religious sect, association or denomination shall possess and exercise all of the rights and powers so set forth in said articles or certificate of incorporation.

SEC. 6.—Faculty.—The president and professors shall constitute the faculty of any literary college or university instituted under the provisions of this subdivision, and have power to enforce the rules and regulations enacted by the trustees for the government and discipline of the students, and to suspend and expel offenders, as may be deemed necessary.

SEC. 7.—Academy.—When any number of persons shall have procured by subscription, donation, devise, purchase, or otherwise, the sum of five hundred dollars, for the purpose of establishing and sustaining an academy, such persons may adopt a corporate name and enter the same in the county clerk's office of the proper county, and proceed to the election of such officers and teachers as they may deem necessary; may, in their corporate name, sue and be sued, plead and be impleaded, in any court

of law or equity of competent jurisdiction, and may have a corporate seal, may purchase and hold personal or real estate, and dispose of the same at pleasure, and do all other acts and things necessary for the promotion of education and the general interests of such academy.

**SEC. 8.—Existing corporations.**—Any college, university, or academy, now instituted, may come under the provisions of this subdivision by complying with the requisitions herein contained, and all such institutions now in existence, or that may hereafter be established, may connect therewith, to be used as a part of their course of education, any mechanical shops, or machinery, or lands for agricultural purposes, not exceeding three hundred and twenty acres, to which may be attached all necessary buildings for carrying on the mechanical or agricultural purposes of such institution.

**SEC. 9.—Increase of capital stock.**—Any company which may be formed in pursuance of this subdivision, or which may now exist by virtue of any special act of incorporation, the property of which is held as stock, and not derived by donation, gift, devise, or gratuitous subscription, may increase its capital stock or change it into scholarships, when it becomes necessary for the purpose of carrying out the object for which such company or corporation is formed, in the following manner: The directors, for the time being, shall make out and sign a certificate in which they shall set forth the amount to which such capital stock is to be increased, and the object, which certificate shall be deposited in the office of the county clerk of the proper county, and be by him recorded in the same manner as the articles of association and corporate name are required by this subdivision to be recorded.

**SEC. 10.—Notice.**—Before the capital stock of such company shall be increased, it shall be the duty of the directors to publish a notice, signed by at least a majority of them, in a newspaper of general circulation in the county of which such institution is located, at least four consecutive weeks, appointing a time and place for holding a meeting of the stockholders of the said company, specifying the amount to which it is proposed to increase the capital stock thereof; and a vote of at least two-thirds of the shares of the stock represented at such meeting shall be necessary to an increase of its capital stock, and to authorize the directors to make and sign the certificate mentioned in the preceding section.

SEC. 11.—**Liability of stockholders.**—Any university, college or academy that may become a body corporate under the provisions of this subdivision, the property of which is not derived by donation, gift, devise or subscription, but is owned by individuals in the shape of stock subscribed or taken, the owners of said stock shall be individually liable for the debts of said corporation to the amount of their stock respectively, and also in a sum equal thereto, over and above the amount of their stock; *Provided*, That the trustees or directors of any corporation organized under the provisions of this subdivision, the property of which is not owned by individuals in the shape of stock subscribed or taken, but is held upon trust or derived by devise, donation, gift, or subscription, shall not contract any indebtedness beyond the actual means or assets of said corporation, and if said trustees or directors contract debts or incur liabilities beyond the actual means or assets of said corporation, the trustees or directors, so contracting, shall be held liable in their individual capacity for the payment of the same, but the property of said corporation shall first be exhausted.

SEC. 12.—**Trustees of endowment fund.**—Whenever three or more persons shall desire to create a board of trustees, to become incorporated as the trustees of an endowment fund for any educational, religious, or charitable purposes, they shall do so in the following manner, to-wit: Whenever, at any meeting called for the purpose, the said persons, at least three of whom shall be residents of this state, and not less than three in number, as aforesaid, shall resolve to become a body corporate and politic, having a seal and corporate name, whereby they may sue and be sued in courts of justice in this state, they shall prepare a statement, setting forth the name by which they shall be called, the amount of said fund, and the manner in which and the district to which the said fund shall be applied, whether within or without this state, together with the names of the persons who shall act as trustees, which said statement shall be subscribed by all the persons composing said meeting, in the presence of some magistrate or judicial officer having a seal, who shall attest the signing of the same, and the same shall be recorded in the office of the county clerk in the county where said meeting was held, and thereupon the persons named in said statement as trustees, and their successors in office, shall become a body corporate and politic for the purposes in said statement named and specified; and a certified copy of said record, under the hand and seal of the county clerk of said county, shall



at all times be *prima facie* evidence of the existence of said corporation.

SEC. 13.—Application of fund, how changed.—In any case, where, in the original statement in the preceding section provided for, it is contemplated that the fund may be applied to any object not inconsistent with the purposes of education, religion or charity, different from that particularly specified in said statement, the trustees above named, or their successors in office, may apply to the district court in the county where the record hereinbefore provided for was made, for the privilege to make such change, designating particularly the purposes to which it is proposed to apply the same, and the said court, on being satisfied that such change is not inconsistent with the object of the original creation and institution of said fund, shall authorize and sanction such change.

SEC. 14.—Trustees a body politic.—The said board of trustees and their successors in office shall be a body politic with perpetual succession, and they shall hold their offices for such terms and receive their appointments in such manner as shall be designated in the statement on record in the office of the county clerk, as hereinbefore provided.

#### UNIVERSITIES.

SEC. 15.—How incorporated.—Whenever any person or persons shall have become possessed of funds, securities and property of the value of one hundred thousand dollars or more, for the purpose of an institution of learning of the rank and grade of a college or university, it shall be competent for him or them to present to the judge of the district court of the county in which such institution is, or is proposed to be situated, a petition setting forth the fact, and such circumstances as may be pertinent, praying the appointment of one or more commissioners to examine into the truth thereof; and thereupon it shall be the duty of the said judge to appoint a commissioner or commissioners for the purpose aforesaid. The person or persons so appointed shall be, by said judge, sworn to full inquiry and true report make of the matters given to him or them in charge, and the said oath, duly subscribed by the parties and certified by the said judge, shall be filed in the office of the clerk of said county. The said commissioner or commissioners shall thereupon person-

SECS. 15-17. "An act to provide for the incorporation of universities under certain circumstances." Laws, 1879, 189. Took effect June 1, 1879.

ally examine the property, funds, and securities alleged to be set apart for the purpose aforesaid, and shall appraise the same and report the facts thus ascertained to the said judge. If, from the said report, it shall appear to the said judge that the sum of one hundred thousand dollars in property, funds, and securities of that value have been set apart for the purpose aforesaid, so as to be irrevocably and inviolably appropriate thereto, the said judge shall indorse the said report with an order approving the same, and directing that the same be filed in the office of the said county clerk, together with the petition aforesaid, and other papers presented to him in the said matter, which petition, report, order, and papers shall be recorded by the said clerk in the book of incorporations to be kept in his office.

SEC. 16.—Trustees.—Whereupon, the person or persons possessed of the said funds, securities, and properties, may, under his or their hands, appoint five or more persons to be trustees of the said institution, who shall thereupon become a body politic and corporate under a name and style to be named, designated, and appointed for the purpose by the aforesaid person or persons in the said writing appointing the said trustees, which paper, writing of appointment, shall be filed and recorded in the book of incorporations in the office of the said county clerk, and the said trustees, under the name and style so named, designated, and appointed, may sue and be sued, plead and be impleaded in all courts of law and equity; have a common seal, and the same alter, break, and renew at pleasure, and hold all kinds of estate, real and personal and mixed, which they may acquire by purchase, donation, devise, or otherwise, necessary to accomplish the purpose of the corporation, and the same to dispose of and convey at pleasure. And a certified copy of the said paper, writing, appointing said trustees, and naming, designating, and appointing the name and style of such corporation, shall be *prima facie* evidence in all courts and before all officers, boards, commissioners, and tribunals of the due incorporation of such body politic and corporate.

SEC. 17.—Powers of trustees.—The said board of trustees shall have power to fill all vacancies in their number; to make rules, regulations, and by-laws for the government of their board and of the institution; to appoint a president, professors, tutors, and teachers, and any other necessary officers and agents, and fix the compensation of each; to erect within, and as departments of said institution, such schools and colleges of the arts and sciences and professions as to them may seem

proper, and to confer such academic degrees and honors as are conferred by colleges and universities of the United States; and to borrow from time to time, for the purpose of paying indebtedness, such sum or sums of money as they may see fit, and to secure such loan or loans by mortgage or trust deed executed by their president and secretary, upon their college or university buildings and grounds, and otherwise as they shall deem expedient; *Provided*, That if such institution has stockholders, the said board of trustees shall first be authorized to borrow such money and execute said mortgage or trust deeds by vote of the owners of a majority of the stock.

SEC. 18.—Foreign corporations, diplomas, etc.—That any corporation organized under the laws of any other state or states, territory or territories, for the purpose of establishing, maintaining, and conducting institutions of learning of the rank or grade of a college or university, which has complied with or hereafter may comply with the provisions of section 215 of chapter 16 of the Compiled Statutes of the state of Nebraska, and of this act, be and the same are hereby permitted, authorized, and empowered to issue diplomas and to confer degrees and honors such as are conferred by colleges and universities of the United States.

SEC. 19.—Same—Status ascertained—Procedure.—Whenever any such corporation shall have become possessed of property and funds of the value of one hundred thousand dollars or more, whether in land, buildings, funds, securities, or endowments, and shall have established an institution for the purposes aforesaid within this state, it shall be competent for such corporation to present to the judge of the district court of the county in which the said institution shall be located, a petition setting forth the facts and stating that the said corporation has complied with the provisions of the section aforesaid and of this act, together with such other facts as may be pertinent, and praying the appointment of three commissioners to examine into the truth thereof. And thereupon it shall be the duty of the said judge to appoint three disinterested commissioners, residents of the said county, for the purposes aforesaid. The persons so appointed shall be, by the said judge, sworn to true inquiry, and full report make of the matters given them in charge, which said oath shall be subscribed by the parties and certified by the said judge, and shall be filed in the office of the clerk of said county as hereinafter provided. The said commissioners shall thereupon immediately proceed to the discharge of their said

duties, and shall personally examine the property, funds, securities, and endowments of the said institution alleged to be set apart for the purposes aforesaid, and shall appraise the same and shall report facts thus ascertained in writing, duly signed by the said commissioners, to the said judge. If to the said judge it shall appear from the said report that the said corporation has complied with the provisions of this act, and that the said sum of one hundred thousand dollars or more, in property, funds, securities, or endowments, has been set apart for the purposes aforesaid, to be irrevocably and inviolably appropriate thereto, the said judge shall endorse said report with an order approving the same, and shall in said order fix the compensation of the said commissioners, and shall direct that the said order, together with the petition and oaths and all other papers pertaining to the said matter, be filed in the office of the clerk of said county, and the said petition, oaths, report, order, and other papers shall be recorded by the said clerk in the Book of Incorporation provided by law to be kept in his office.

SEC. 20.—Same—Powers, diplomas, etc.—That thereupon the said corporation may, by its regents, trustees, or other government officer or officers thereof, upon the recommendation of the faculty of said institution, issue diplomas and confer degrees and honors, as provided in section 1 of this act.

#### CORPORATIONS FORMED BY SPECIAL ACTS.

SEC. 21.—Reorganization.—The Nebraska university, an incorporation formed under a special act of the legislature of the territory of Nebraska, approved July 25, 1858, and amended by an act approved October 25, 1858, and all other incorporations formed under the special acts of the legislature of the territory of Nebraska, previous to the approval of the general incorporation law, may be and are hereby empowered through their trustees, to reorganize under the general incorporation law of this state.

SEC. 22.—Powers of trustees.—The trustees of any incorporation reorganized according to section one of this act, shall be and are hereby empowered to act as successors of such former trustees, and to have and to hold, and to take legal possession of all franchises, rights, privileges, and estates, of said special incorporation against all persons whatsoever, and for the interest

SECS. 21, 22. "An act to provide for the reorganizing under the general law of incorporations, of all incorporations heretofore formed under special acts." Laws, 1871, 106.

and purposes of the original incorporation, and for no other purposes whatever.

#### CHANGING NAME OF EDUCATIONAL INSTITUTIONS.

**SEC. 23.—Powers of trustees.**—That the trustees of any incorporated educational institution in this state shall have the power, by and with the consent of the body or association by which such trustees are elected, to change the name and grade of such institution; and thereupon all the property of such institution shall pass into the hands and control of the trustees of the succeeding institution, together with all the rights, privileges, immunities, and franchises belonging to the originally incorporated institution; and all official action taken by the trustees of such succeeding institution of altered grade shall be and are hereby declared legal and binding.

**SEC. 24.—Acts legalized.**—Any action heretofore taken by any educational institution in this state, of a nature similar to the provisions contained in section one of this act, is hereby legalized and declared valid and binding upon all persons whatsoever.

#### SUBDIVISION XXI.—SCHOOL LANDS AND FUNDS.\*

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| 1. Board of educational lands and funds.                     | 18. Assignment.                            |
| 2. Investment.   | 19. Appraisers.                            |
| 3. Abstracts.  | 20. Town lots.                             |
| 4. Appraisalment, reappraisement.                            | 21. Trespass.                              |
| 5. Records.  | 22. Cutting timber.                        |
| 6. Payments.   | 23. Duties of civil officers.              |
| 7. Deed.   | 24. Same.                                  |
| 8. Interest.   | 25. Fines and penalties.                   |
| 9. Extension for final payment.                              | 26. Unclaimed fees and costs.              |
| 10. Partial payments.  | 27. Fines, penalties, and forfeitures.     |
| 11. May be sold for school, church, or cemetery purposes.    | 28. Same, how apportioned.                 |
| 12. Notify county clerk when deed is made.                   | 29. Escheats.                              |
| 13. Subject to tax.  | 30. Five per cent fund.                    |
| 14. Taxes wrongfully levied.                                 | 31. Governor receive moneys due the state. |
| 15. Application for lease—Auction—Bonus—Failure to pay rent. | 32. Treasurer collect school fund.         |
| 16. New lease.   | 33. Attorney general prosecute.            |
| 17. Lease forfeited.   | 34. Cancellation of mortgage.              |
|  | 35. Securing loan.                         |
|  | 36. Judgments.                             |
|  | 37. Bonds, held by state.                  |

**SECTION 1.—Board of educational lands and funds.**—That the board of commissioners provided for in section 1, article 8, of the constitution shall cause all school, university, agricultural college, and normal school lands now owned by, or the title to which may hereafter vest in, the state to be registered, leased, and sold as hereinafter provided, and shall have the general management and control of said lands, and make therefor the

\*This is chapter 80 of the Compiled Statutes.

necessary rules not provided by law. The funds arising from these lands shall be disposed of in the manner provided by the constitution, this act, and other laws of Nebraska not inconsistent herewith. Said board shall meet on the second Tuesday of each month. The governor shall be chairman and the commissioner of public lands and buildings shall be secretary of the board. In the absence of either, any member of the board may, upon motion duly carried, act in his behalf. They shall keep a record of all proceedings and orders made by them. No order shall be made except upon the concurrence of at least three members of said board.

**SEC. 2.—Investment.**—Said board shall, at their regular meetings, make the necessary orders for the investment of the principal of the fund derived from the sale of said lands, then in the treasury, but none of said funds shall be invested or loaned except on United States or state securities, state warrants, and registered county bonds.

**SEC. 3.—Abstracts.**—The commissioner of public lands and buildings shall keep in his office a full and complete abstract of all the educational lands of the state of Nebraska and such other records as are necessary to show the condition of each tract of land from the time title was acquired by the state.

**SEC. 4.—Appraisalment, reappraisalment.**—The board of educational lands and funds may, when they deem it to the best interests of the state, cause any lands not under sale or lease contracts, the leasing of which is regulated by this act, to be appraised or reappraised by a majority of the board of county commissioners or three of the county supervisors of the county in which the land is located. When the board of educational lands and funds have ordered the appraisalment of any of the educational lands in any county, a majority of the board of county commissioners or three of the county supervisors, as the case may be, shall subscribe to an oath, before some proper officer, that they will appraise the lands embraced in the order of said board at their true value according to the best of their knowledge and belief. And shall then proceed to view and appraise the prairie lands in tracts not to exceed forty acres each, the timber lands in tracts not to exceed ten acres each, and to record the material facts of said appraisalment upon the record books of their proceedings and deliver said appraisalment to the board of educational lands and funds. Said appraisalment shall be reviewed by said board and, if found by them to be out of proportion to the true value of the lands affected thereby,

they may reject the same and appoint three disinterested freeholders of the county in which said lands are situated to reappraise the same. The appraisement which is approved by said board shall be deemed the true value of said lands and entered upon the records of the commissioner of public lands and buildings and upon the school land abstract of the treasurer of the county in which the land is located.

SEC. 5.—Records.—The board of educational lands and funds shall furnish to the respective county treasurers such books, records, and information as are necessary to conduct the school land business of their respective counties. It shall be the duty of the county treasurer to thereafter enter in said records the school land transactions in his county and to use due diligence to collect all money by his books or the records of the commissioner of public lands and buildings found to be due, and to receive payments upon the educational lands as herein provided, and deliver to the payor his receipt therefor, and to the commissioner of public lands and buildings a duplicate of said receipt which, if found correct by said commissioner, shall be entered upon his records and filed with the auditor of public accounts; and said auditor shall charge such county treasurer with the amount of money received as principal and interest, separately. And all moneys so received shall be paid by the officers receiving the same to the state treasurer, specifying whether said money is from the common school, normal school, university, or agricultural college lands, and such money shall be held for the principal of the funds derived from these lands or from the temporary funds belonging thereto, as the case may be. Upon the payment by said county treasurer of said money to the state treasurer and presentation of the state treasurer's receipt to the auditor of public accounts, he shall credit said county treasurer with the amount of the same.

SEC. 6.—Payments.—Nothing in this act shall be construed to violate existing contracts of sale. Payments of principal and interest may be made as therein provided and shall be endorsed thereon by the county treasurer. Upon any public or private sale heretofore made of lands upon which full payment has not been made, the commissioner of public lands and buildings shall have authority to issue a certificate of purchase with the seal of his office thereto attached, showing the land purchased, the amount paid, the amount due, and the time when the interest and principal are due, and upon payment of such amount according to law the purchaser or his assignee shall be entitled to a deed of said land, as herein provided.

SEC. 7.—Deed.—When the board of educational lands and funds becomes satisfied that full payment has been made on any tract of land heretofore sold, the governor shall, under the great seal of the state, issue a deed therefor to the purchaser or his assigns, and all deeds so issued shall be attested by the commissioner of public lands and buildings and a record thereof kept in his office.

SEC. 8.—Interest.—The owner of a sale contract may, at any time, pay any portion of the purchase price thereof to the treasurer of the county in which the land is situated; *Provided*, That all interest at that time earned and due has first been paid; and, when the principal is paid in full, other than at the first of the year, interest upon the obligation having been paid for the entire year, the county treasurer receiving such principal payments may refund to the payor, out of any interest money then in his hands, the interest so paid in advance, in excess of the amount earned and due at the time said final payment is made.

SEC. 9.—Extension for final payment.—At the time of maturity of any sale contract, upon application by the holder thereof, the board of educational lands and funds is hereby empowered to make an extension of the time of final payment of not less than five years nor more than ten years from the date of such maturity if, in their judgment, the interests of the school fund will be best served thereby; and if all interest due thereon has been paid.

SEC. 10.—Partial payments.—Any person who has purchased any of the school lands of this state who may desire to surrender portions and retain other portions, not less than forty acres of the same, shall, upon executing a release in writing to the state of Nebraska for such lands surrendered, be, by the county treasurer and the commissioner of public lands and buildings, credited on the unpaid principal upon the portion of land retained by such person, the amount of money paid as principal upon such land so surrendered; *Provided*, All interest, due at the time of such surrender, has been paid.

SEC. 11.—May be sold for school, church, or cemetery purposes.—None of the educational lands may hereafter be sold except for school, church, or cemetery purposes as hereinafter provided. Any school district in which there may be any educational land belonging to the state may purchase from the state, for school purposes, any portion thereof, not exceeding forty acres. Any church or cemetery association or corporation



having control of a cemetery may purchase from the state, for its use, any of the educational land, not exceeding ten acres. The purchases of said land by said school district, church, or cemetery association or corporation having control of a cemetery may be made by applying to the county commissioners of the county in which the land is located to have the same appraised for the purpose of sale. The commissioners shall make said appraisement and report the same to the board of educational lands and funds, and if said board approve said appraisal, deed may be issued to said purchaser in the manner provided by section seven of this act upon said purchaser paying the appraised value thereof to the treasurer of the county in which said land is located; *Provided*, That if said land is under lease contract the purchaser shall first obtain from the owner of said contract a release, in writing, of the portion of land covered thereby, which is sought to be purchased; (if) the land is held under a contract of sale said purchaser shall obtain from the owner of said sale contract a release, in writing, of the portion of land covered thereby, which is sought to be purchased for said special purpose; and may obtain from the state a deed therefor at the price provided in said contract of sale, and the sum so paid the state shall be deducted from the noté given by the original purchaser for the land embraced in his said sale contract.

SEC. 12.—Notify county clerk when deed is made.—The commissioner of public lands and buildings is hereby directed to certify to the county clerk of each county in Nebraska a list of all of the educational lands in their respective counties which have been deeded; and to hereafter notify the county clerk when a deed of any educational land in his county is issued; and the county clerks of the respective counties are hereby directed to enter said lands upon the tax list of said county, upon receipt of either of said notices.

SEC. 13.—Subject to tax.—School lands heretofore sold shall not be taxed until the right to a deed shall have become absolute, except for the value of the interest of such purchasers, which interest shall be determined by the amount paid and the amount invested in improvements on such land; *Provided*, That when such lands shall be situated within the limits of any city or village and shall have been subdivided into lots, then, and in such case, the same shall be subject to all special assessments for sidewalk, grading, paving, guttering, curbing, sewerage, and all other municipal improvements in the same manner as other

lots and lands in such city or village, except that a sale of such school lots to collect such assessment or assessments shall only pass the interest or title of the purchaser from the state, his heirs, or assigns, and his or their right to a conveyance of the same upon the payment of any residue of the purchase price or interest.

**SEC. 14.—Taxes wrongfully levied.**—Moneys received by the county treasurers of the several counties within the state of Nebraska on account of taxes wrongfully levied on educational lands of the state held under lease or sale contracts, shall be by the respective county treasurers, repaid without interest, to persons paid the same, or their representatives, upon orders in that behalf made by the county commissioners or supervisors of the respective counties. But no order shall be made for such repayment except upon the production of the county treasurer's receipt, or [for] taxes so paid. The county commissioners, or supervisors of any county where school lands have been wrongfully taxed and the taxes have not yet been paid, shall order the county treasurer to cancel the same.

**SEC. 15.—Application for lease—Auction—Bonus—Failure to pay rent.**—All unsold lands shall be subject to lease at an annual rental of 6 per cent on the appraised value, except as hereinafter especially provided. Applications for the lease of any such land shall be made to the county treasurer, at the county seat, and shall contain an affidavit that the applicant is not the owner of a lease of more than 640 acres of state educational lands, including the amount called for in the application, and that he desires the lease for his own use and benefit; and such application shall be accompanied by the amount due as rental to the first day of July or January next following, unless a shorter time than three months intervene between the date of said application and the first day of the following January or July, in which case the applicant shall pay rental for 6 months in addition to the time between the application date and the first day of July or January next following; *Provided*, if two or more parties desire to lease the same land, the treasurer or commissioner of public lands and buildings, if he be present, shall proceed to auction off and lease the same to the person who will pay for a lease contract on said land the greatest amount of cash bonus in addition to 6 per cent of the appraised value as annual rental; except, that the commissioner of public lands and buildings may, at least once in each year, designate a day and hour for offering in a public manner, at the office of the county

treasurer, in the respective counties, lease contracts on all of the educational lands which may be vacant and subject to lease in that county at the time of such offering. He shall announce said offering in a public manner by publishing for at least three weeks preceding said auction in one or more of the newspapers published or of general circulation in the county in which said unleased land is located, and shall, at the time arranged, be at the office of the county treasurer of the county in which said land is located, and offer the same for lease as heretofore provided; if after using due diligence to lease said land at an annual rental of 6 per cent upon the appraised valuation, the commissioner is unable to do so, he may offer the same for lease at less than the appraised valuation and lease it to the person or persons who will pay 6 per cent on the highest offered valuation, as annual rental, if, in his judgment, it is to the best interests of the state to accept such bid; but he may reject the same and pass said land without leasing at said auction. Said valuation, so determined, shall be considered the appraisement of said land for leasing purposes until the same is re-appraised, as provided by law; and said valuation so established shall be entered upon the school land records of the county treasurer and upon the records of the commissioner of public lands and buildings; *Provided*, If said commissioner is unable to attend the offering aforesaid, his deputy or the county treasurer may, upon his direction, act in his stead, and provided the auction may be adjourned from day to day until all of said lands have been offered. Upon payments to the county treasurer of the rental due upon said application to lease he shall issue his receipt in duplicate, and the application for lease and the duplicate receipt for money so paid shall be, by him, transmitted to the commissioner of public lands and buildings who shall, if the foregoing proceedings appear to be regular, issue and transmit to the county treasurer a contract of lease to be by him delivered to the lessee. Each lease shall contain a covenant or contract that the board of educational lands and funds may, during the year 1888 and every five years thereafter, provide for the reappraisal of such land; that the lessee will promptly pay the rental semi-annually in advance, and that no waste shall be committed upon said land, and that the premises shall be surrendered at the expiration of twenty-five years from the first day of January next ensuing after the date of lease, or sooner, with the consent of the commissioner; that the lessee will pay for the use of said lands the annual rate of 6 per cent per annum upon the appraised value

of said land, and upon a failure to pay said rental for a period of 6 months from the time said payment became due, the said lease may be forfeited and fully set aside as provided in this act.

**SEC. 16.—New lease.**—The holders of lease contracts executed prior to July 9, 1897, are hereby given the right, at the expiration of said contracts, to make application for and receive new lease contracts upon said lands, as provided in the preceding sections, except that they will not be required to compete for the contracts and the rate of rental will be the same as stipulated in the old contract; *Provided*, That all of the rental due on the old contracts has been paid.

**SEC. 17.—Lease forfeited.**—If any lessee of educational lands shall be in default of the semi-annual rental due the state for a period of six months, or if any purchaser of educational lands be in default of the annual interest due the state for one year, the commissioner of public lands and buildings may cause notice to be given to such delinquent lessee or purchaser that, if such delinquency is not paid within ninety days from the date of the service of such notice, his lease or sale contract will be declared forfeited by the board of educational lands and funds. If the amounts due are not paid within ninety days from the date of the service of such notice, the said contract of lease or sale may be, by said board, declared forfeited and the lands therein described shall revert to the state the same as though such lease or sale had never been made. The order making such forfeiture shall be spread upon the records of the board of educational lands and funds. The service of the notice herein contemplated, to be made by registered letter. In case the postoffice address of the owner of such contract of sale or lease be unknown the notice herein contemplated shall be published three weeks in some newspaper published or of general circulation in the county where the land is situated. The forfeiture may be entered by said board after sixty days from the date of such published notice. The provisions of this section shall apply alike to all the lands heretofore sold or leased and to all lands hereafter leased as educational lands of this state. In serving the notices of delinquency and forfeiture herein provided for the commissioner shall recognize as the lessee or owner of the lease or sale contract the person, or persons whose title appears last of record in his office; *Provided*, the owner of any contract of sale or lease so forfeited may redeem the same by paying all delinquencies, fees, and costs of forfeiture at any time before such land is advertised to be leased at public auction; *Provided, further*, That the commissioner of public lands and buildings is hereby re-

quired to serve such notice of delinquency and proceed with forfeiture, as stated in such notice at least once in each year.

Movable improvements on lands so reverting to the state shall be sold under the direction of the commissioner of public lands and buildings at public auction and the proceeds received therefrom shall inure to the holder of delinquent contract, after payment shall have been made to the state for delinquent interest or rental and expenses incurred in holding said auction.

**SEC. 18.—Assignment.**—No assignment of a school land lease or sale contract shall be valid until recorded in the office of the commissioner of public lands and buildings, and shall not be eligible to such record if there are any payments of interest or rental due at the time said assignment is offered for record.

**SEC. 19.—Appraisers.**—The appraisers of all lands under this act shall be allowed the sum of \$3 per day for their services and \$3 per day for one team for their use, and in all cases where it becomes necessary to have a survey made in order to find the corners and boundaries of the land to be appraised, the said appraisers are hereby authorized, under the direction of the board of educational lands and funds, to employ a competent surveyor to accompany them, who shall receive for his services not to exceed \$5 per day. The publisher of any advertisement in connection with the forfeiture or leasing of any educational lands shall be allowed the fees fixed by law for publishing legal notices. The commissioner of public lands and buildings shall be reimbursed for the actual expense incurred in leasing and otherwise looking after the educational lands. All accounts for services or expenditures ordered by the board of educational lands and funds shall be examined, and, if found to be correct, approved by said board, and shall be paid by warrants drawn on the appropriation placed at their disposal. County treasurers shall be allowed as compensation for the collection of all educational land funds one per cent of all such funds collected by them, and the auditor of public accounts is hereby authorized and required to issue warrants in payment thereof at the time and in the same manner as provided by law for the payment of county treasurers' fees for the collection of state taxes.

**SEC. 20.—Town lots.**—Any portion of the lands of this state governed by this act, adjoining the site of any city or town, may be subdivided into lots and leased as herein provided. The board being satisfied that by a division of any such tract into lots, the lease of the same can be made for a greater amount than if leased in tracts of forty acres, as herein provided, shall have the authority to employ the necessary surveyors and cause such

tracts to be subdivided into lots and tracts of such size as they may determine, and a plat of the same shall be made and filed for record in the office of the county clerk. Such lots shall be appraised by the appraisers to be appointed by the board, none of whom shall be occupants of the land to be leased. Tracts of land so subdivided and appraised shall be leased according to the provisions of this act. The commissioner of public lands and buildings shall give thirty days' notice of such letting and publish the same in a newspaper of general circulation published in the county in which said lots are situated. Each notice shall contain a list of the lots to be leased and the appraised value of each. The leasing of such lots shall take place on the day appointed under the direction of the commissioner, and shall be leased to the highest bidder, but in no case for less than 6 per cent of the appraised value. Lots remaining unleased shall be again offered for lease at public auction at such time as the board shall direct, and the said commissioner may adjourn the leasing from day to day until all the lots are offered.

SEC. 21.—Trespass.—If any person shall commit waste or trespass or other injury upon any of the lands herein referred to, the person so offending shall, on conviction thereof, be fined in a sum not less than \$25 nor exceeding \$1,000.

SEC. 22.—Cutting timber.—If any purchaser of timber land shall, before receiving his title in fee simple therefor, cut or destroy any timber on said land more than may be actually necessary for the building and repairing of fences and for the family of the occupant, he or she shall be liable, in a civil action, for the recovery of the amount of damages done to the land.

SEC. 23.—Duties of civil officers.—All civil officers, upon information on oath, or of their own knowledge, shall cause any person committing any of the offenses mentioned in section 21 of this act, to be brought before them by a like process as in criminal cases, and to enter into recognizance for his appearance at the district court of the state, to be held in the county where said lands are located, on the first day of the next term thereof, and in default of such recognizance they shall commit such person to the jail of the county.

SEC. 24.—Same.—The judges of the district court shall give the twenty-first section of this act in special charge to the grand jury at each term, who are required to especially inquire into and make presentment of all offenses committed against the provisions of the same.

SEC. 25.—Fines and penalties.—All fines and penalties accruing under the provisions of this act shall be paid into the county treasury by the officer collecting the same, who shall take duplicate receipts therefor, one of which he shall file in the office of the county clerk, and such funds shall be apportioned among the schools of the county where the same accrued, on the same basis as other money, applicable to the support of the schools, is required by law to be apportioned.

SEC. 26.—Unclaimed fees and costs.—All unclaimed fees and costs which have been paid and not demanded for two years shall be paid in by the justice or clerk of any court under whose control such unclaimed fees and costs may be, to the school fund of the respective counties where such moneys belong.

SEC. 27.—Fines, penalties, and forfeitures.—All fines, penalties, and forfeitures not otherwise specifically appropriated shall be paid in to augment the common school fund of the county where such fines, penalties, and forfeitures properly belong.

SEC. 28.—Same, how apportioned.—In cities and villages whose corporate limits form, in whole or in part, more than one school district, all money derived from fines, penalties, and licenses shall be apportioned to the several districts in proportion to the number of persons of school age residing in each district, included in whole or in part in said corporate limits, according to the school census taken last before any such apportionment.

SEC. 29.—Escheats.—All property real or personal which may now belong to this state by escheat, or that may hereafter escheat to the state for want of owners, shall be managed by the governor and superintendent of public instruction, and such property and the proceeds thereof shall be placed in the temporary school fund of the state.

SEC. 30.—Five per cent funds.—All moneys now in the state treasury or that may hereafter be received from the United States on account of the 5 per cent fund on cash sales shall be placed to the credit of the permanent school fund of the state.

SEC. 31.—Governor receive moneys due the state.—That the governor of the state be, and he is hereby, empowered and directed to receive from the United States all moneys that may be due or hereafter become due to the state, and it shall be his duty to deposit the same without delay in the treasury of the state, taking the treasurer's receipt therefor,

SEC. 32.—Treasurer collect school fund.—That the state treasurer is hereby authorized and directed to institute suit on behalf of the state of Nebraska in the proper courts of the several counties for the foreclosure and collection of any and all securities held by the permanent school fund of this state, such suits to be prosecuted in the name of the state, against any and all persons indebted to said fund upon said securities and the judgments recovered and the moneys collected thereon shall belong to said school fund.

SEC. 33.—Attorney general prosecute.—The attorney general is hereby required, upon request of the state treasurer, to perform all necessary legal labor in the preparation and prosecution of any suit necessary to be brought, in order to compel the payment of any such securities or the interest due or to become due thereon.

SEC. 34.—Cancellation of mortgage.—Upon the payment of any mortgage or other security held by said school fund the state treasurer is hereby authorized and required to discharge and cancel the same of record in the manner required by law.

SEC. 35.—Securing loan.—If the governor, treasurer, and auditor of public accounts shall deem it for the best interest of the state to take a conveyance of the land mortgaged, to secure any loan of the permanent school fund heretofore made, or other land in lieu thereof, then, and in that case, the treasurer is hereby authorized to cancel and discharge of record any mortgage heretofore given to the state for the benefit of the permanent school fund when such conveyance of such lands as the said governor, treasurer, and auditor of public accounts may require to be made, shall have been duly executed and delivered to the state for the benefit of the permanent school fund.

SEC. 36.—Judgments.—That all moneys now in the treasury of the state arising from collections on judgments in favor of the state, as well as all moneys which shall hereafter be collected on such judgments, shall be transferred and paid into the permanent school fund and become a part thereof.

SEC. 37.—Bonds, held by state.—That all bonds held by the state of Nebraska and belonging to the permanent school fund shall be stamped and signed by the state treasurer, with the following words: "This bond belongs to the permanent school fund of the state of Nebraska, and is not negotiable. Signed by .....state treasurer."



## MISCELLANEOUS.

[The following sections are not strictly "School Laws," but they are of such interest to teachers and school officers as to warrant their insertion here:]

## LIBRARIES.

SECTION 1.—Establishment—Taxes.—The city or town council of each incorporated city or town shall have power to establish and maintain a public library and reading room for use of the inhabitants of such city or town, and may levy a tax of not more than two mills on the dollar annually, to be levied and collected in like manner as other taxes of said city or town, and to be known as the library fund.

SEC. 2.—Directors.—When any city or town council shall have decided by ordinance to establish and maintain a public library and reading room under this act, they shall elect a library board of nine directors, to be chosen from the citizens at large, of which board neither the mayor nor any member of the city or town council shall be a member. Such directors, first elected, shall hold their office, three for the term of one year, three for the term of two years, and three for the term of three years, from the first day of July following their appointment, and three directors shall be chosen annually thereafter, and in cases of vacancies by resignation, removal, or otherwise, the council shall fill such vacancy for the unexpired term, and no director shall receive any pay or compensation for any services rendered as member of such board, and such directors shall give such bond as the council may require.

SEC. 3.—Same—Powers—Duties.—Such directors shall, immediately after their appointment, meet and organize, by electing one of their number president and such other officers as may be necessary. Five of such board shall be a quorum. They shall have power to make and adopt such by-laws, rules, and regulations for their own guidance and for the government of the library and reading room as they may deem expedient, subject to the supervision and control of the city or town council, and not inconsistent with this act. They shall have exclusive control of expenditures of all moneys collected or donated to the credit of the library fund, and of the renting or construction of any library building, the supervision, care, and custody of the grounds, rooms, or buildings constructed, leased, or set apart for that purpose.

SEC. 4.—Funds.—Any tax levied or collected, or funds donated thereto, shall be kept for the use of such library separate and apart from other funds of said city or town, and shall be drawn upon by the proper officers upon the authenticated vouchers of the library board, and shall not be used or disbursed for any other purpose.

SEC. 5.—Board—Powers—Rules.—The library board shall have power to purchase or lease grounds; to erect, lease, or occupy an appropriate building, for the use of such library; to appoint a suitable librarian and assistants, to fix their compensation, and to remove their appointments at pleasure; and shall have power to establish regulations for the government of such library as may be deemed necessary for its preservation, and to maintain its usefulness and efficiency, and to fix and impose by general rules, penalties, and forfeitures, for trespasses, or injury upon or to the library grounds, rooms, books, or other property, or failure to return any book, or for violation of any by-law or regulation; and shall have and exercise such power as may be necessary to carry out the spirit and intent of this act, in establishing and maintaining a public library and reading room.

SEC. 6.—Library free.—Every library and reading room established under this act shall be forever free to the use of the inhabitants of the city or town, subject always to such reasonable regulations as the library board may adopt to render said library and reading room of the greatest use to the inhabitants of said city or town, and the board may exclude from the use of the library and reading rooms any person who shall wilfully violate or refuse to comply with rules and regulations established for the government thereof.

SEC. 7.—Report of board.—The library board shall, on or before the second Monday in June in each year, make a report to the city or town council of the condition of their trust on the first day of June in such year, showing all moneys received or expended, the number of books and periodicals on hand, newspapers and current literature subscribed for or donated to the reading room department; the number of books and periodicals ordered by purchase, gift, or obtained during the year, and the number lost or missing; the number of visitors attending; the number of and character of books loaned or issued, with such statistics, information, and suggestions as they may deem of general interest, or as the city or town council may require, which report shall be verified by affidavit of the proper officers of said board.

SEC. 8.—Regulations amended.—Any by-law or regulation established by the library board may be amended or annulled by the council of said city or town.

SEC. 9.—Penalties, how recovered.—Penalties imposed or accruing by any by-law or regulation of the library board may be recovered in a civil action before the police judge, or any justice of the peace, or other court having jurisdiction; such action to be instituted in the name of the "library board of the city or town library," and moneys collected in such action shall be forthwith placed in the city treasury to the credit of the library fund.

SEC. 10.—Donations.—Any person may make any donation of money or lands for the benefit of such library, and the title to property so donated may be made to and shall vest in the library board, and their successors in office, and such board shall thereby become the owners thereof in trust to the uses of the public library of such city or town.

SEC. 11.—Exemptions.—The property of such library shall be exempt from execution, and shall also be exempt from taxation as other public property.

SEC. 12.—Deposits of reading matter by owners.—The library board shall have power to authorize any circulating library, reading matter, or work of art, of any private person, association or corporation, to be deposited in the public library rooms, to be drawn or used outside of the rooms only on payment of such fee or membership as the person, corporation, or association owning the same may require. Deposits may be removed by the owner thereof at pleasure, but the books or other reading matter so deposited in the rooms of any such public library shall be separately and distinctly marked, and kept upon shelves apart from the books of the public city or town library, and every such private or associate library, or other property so deposited in any public library, while so placed or remaining, shall be subject to use and reading within the library room without charge by any person, an inhabitant of said city or town, and entitled to the use of the free library.

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## CHILD LABOR.

SECTION 1.—That any male or female child under the age of ten years shall not be employed in any manufacturing, mechanical, industrial, or mercantile establishment.

SEC. 2.—That any male or female child under the age of fourteen years shall not be employed in any manufacturing, mechanical, industrial, or mercantile establishment, except during the vacations of the public schools; unless during the year next preceding such employment said child has for at least twenty weeks attended some public or private day school where the English [language] is taught; nor shall such employment continue unless such child shall in each and every year attend school as herein provided, and no child shall be so employed who does not present a certificate signed by the president and secretary of the school board of the school district in which said child resides of their compliance with the requirements of this section. Nor shall any owner, superintendent, or overseer of any such establishment, parent, or guardian consent to or permit the employment of any child contrary to the provisions of this act.

SEC. 3.—Any owner, superintendent, or overseer of any such establishment shall require and keep on file, open to the inspection of the public, a certificate of the age, place of birth, and residence of every male and female child under sixteen years of age employed therein, so long as such child is so employed; which certificate shall also state, in case the child is under fourteen years of age, the amount of said child's school attendance during the year next preceding his employment; and such certificate shall be signed by the president and secretary of the school board of the school district in which such child resides; and the forms of certificate herein referred to shall be approved by the attorney general of this state.

SEC. 4.—Any person who shall be convicted of a violation of any of the provisions of this act shall pay for every such offense a fine of not less than \$20 nor more than \$50; *Provided, however,* That no conviction shall be had under this act unless the proceedings therefor shall be commenced within one year after the offense shall have been committed.

SEC. 5.—It is hereby made the duty of the deputy labor commissioner of this state, upon complaint being filed with him, to inspect any and all establishments to which this act applies, and ascertain whether any of the provisions of this act have been violated. Whenever it shall come to his knowledge that any of the provisions of this act have been or are being violated, it shall be his duty to cause the same to be enforced; *Provided, however,* That nothing in this section contained shall be construed to prevent any other person from causing the enforcement of the provisions of this act.

### PUBLIC LIBRARY COMMISSION.

This act creates a public library commission, defines its duties, and establishes traveling libraries. The governor is to appoint one person for a term of five years who, with the state librarian, the superintendent of public instruction, the chancellor and the librarian of the University of Nebraska, shall constitute the commission.

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### STATE BOARD OF CHARITIES AND CORRECTIONS.

This act establishes a state board of charities and corrections and defines its duties and powers. The governor of the state, the commissioner of public lands and buildings, and the state superintendent of public instruction constitute the board. The board shall appoint four persons as advisory secretaries to cooperate with and assist them, not more than two of whom shall belong to the same political party. It is the duty of the board to inquire into the whole system of public charities and the methods of and practices in the correctional institutions in the state and counties, and to ascertain the condition thereof from time to time by inspection or otherwise, especially of prisons, jails, infirmaries, public hospitals, asylums, reformatories and industrial schools, etc.

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### FISH AND GAME COMMISSION.

This is an act to protect fish, and game, song, insectivorous and other birds within the state of Nebraska; to provide penalties for the violation thereof; and to create a fish and game commission, and to define its powers and duties.

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### PENALTY FOR ILLEGAL VOTING.

This act provides that any person who shall vote in any school district in this state in which he has not actually resided ten days, or such length of time as required by law, next preceding the election, or into which he shall have come for temporary purposes merely, shall, on conviction thereof, be fined in any sum not less than twenty-five (\$25) dollars or more than one hundred (\$100) dollars or be imprisoned in the jail of the proper county not more than six months.

### THE TREE PLANTERS' STATE.

A JOINT RESOLUTION to designate Nebraska in a popular sense, "The Tree Planters' State."

WHEREAS, The state of Nebraska has heretofore, in a popular sense, been designated by names not in harmony with its history, industry, or ambition; and,

WHEREAS, The state of Nebraska is pre-eminently a tree-planting state; and,

WHEREAS, Numerous worthy and honorable state organizations have, by resolution, designated Nebraska as the "Tree Planters' State;" Therefore,

*Be it Resolved by the Legislature of the State of Nebraska:*

That Nebraska shall hereafter in a popular sense be known and referred to as the "Tree Planters' State."

Approved April 4, A. D. 1895.

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### FLORAL EMBLEM.

A CONCURRENT RESOLUTION to designate a floral emblem for the state of Nebraska.

WHEREAS, the adoption of a state floral emblem by the authority of the legislature would foster a feeling of pride in our state, and stimulate an interest in the history and traditions of the commonwealth, therefore, be it

*Resolved,* That, the senate concurring, we, the legislature of Nebraska, hereby declare the flower commonly known as the "Golden Rod" (*solidago serotina*) to be the floral emblem of the state.

Approved April 4, A. D. 1895.

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### PENALTY FOR SELLING TOBACCO TO MINORS.

SECTION 245q. That hereafter no person, firm, association, or corporation in this state shall sell, give, or furnish in any way any tobacco in any form whatsoever, or any cigarettes or cigarette paper to any minor under eighteen years of age.

SECTION 245r. That any person, firm, association or corporation violating the provisions of this act shall, upon conviction thereof, for each and every offense, be fined in a sum of not less than twenty dollars and not more than fifty dollars, and costs of suit, or be imprisoned for not less than ten or more than thirty days, in the discretion of the court.

Approved April 8, 1903.

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OFFICIAL DECISIONS  
OF THE  
STATE SUPERINTENDENT  
OF  
PUBLIC INSTRUCTION  
ON THE  
SCHOOL LAWS OF NEBRASKA  
1881-1903

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## PREFACE.

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These decisions comprise the principal rulings of the following administrations:

STATE SUPERINTENDENTS.	YEARS.
W. W. W. Jones.....	1881-1886
Geo. B. Lane.....	1887-1890
A. K. Goudy.....	1891-1894
H. R. Corbett.....	1895-1896
W. R. Jackson.....	1897-1900
Wm. K. Fowler.....	1901-1905

The legislature has declared that the decisions of the state superintendent shall be held to have the force of law until reversed by the courts.

"He [state superintendent] shall decide disputed points in school law, and all such decisions shall be held to have the force of law till reversed by the courts." Section 4, subdivision VIII, chapter 79, Compiled Statutes of Nebraska.

It is a fact worthy of notice that the supreme court of this state has reversed only two rulings of this department within the last twenty years.

The school laws referred to herein are the School Laws of Nebraska as revised and amended in 1903, chapter 79 of the Compiled Statutes of Nebraska for 1903, unless otherwise specified.

One object of this publication is to give school officers and teachers a better understanding of the legal machinery governing matters of educational interest. Were these questions properly understood and then carried out in accordance with the law, many petty quarrels and much serious trouble which often work a great detriment to the schools, might be averted.

It must be remembered that the decisions are based upon the laws now in force. Every legislature makes some changes in the school laws. Hence, these rulings will necessarily be modified by new laws enacted or old ones amended or repealed. In cases where there is no law to govern and no decision of the court to guide, the state superintendent has been governed by the counsel of the attorney general of Nebraska and by the supreme court rulings of other states.

On questions of importance not answered in the school laws or in these decisions, be free to write this department. But let me urge upon the county superintendents especially a careful study of this edition of decisions on the school laws, and of the supreme court rulings cited therein, before writing. The supreme court of Nebraska has laid down the following rules governing the interpretation and construction of statutes:

(1.) In the interpretation and construction of statutes, ascertainment of the intention of the legislature is the end or purpose to be accomplished.

(2.) Where a law is plain and certain in its terms and free from ambiguity and a reading suffices, no interpretation is needed or proper.

This department, with its limited office force, is overburdened with official correspondence. The official decisions, important and unimportant, average two hundred a month. Superintendents who master this edition, the school laws and supreme court decisions on school matters, will add to their influence and success, beyond measure, as compared to those who neglect to qualify themselves for the legal duties of their office. There are weak, careless, and indifferent superintendents as well as the same kind of teachers. The superintendent who is industrious and makes himself fully acquainted with the duties of his office and knows how to apply the law of common sense is always a success. Do not expect a specific ruling for every phase of a case that may arise. Apply the law of common sense and act,—calmly, deliberately, decisively.

The following statements explain the manner in which this department will treat all correspondence relative to legal questions from patrons, teachers, and school officers:

STATE SUPERINTENDENT'S OFFICE  
LINCOLN, NEBRASKA.

....., 1903.

DEAR SIR:

Yours of ..... received. In compliance with the following resolution passed by the County Superintendents' Section of the State Teachers' Association, 1903, I have referred your letter to your County Superintendent, who is in possession of the decisions of this office from 1881 to 1903. Almost every possible question that may arise under our school laws is answered in these decisions.

Yours very truly,

.....

State Superintendent of Public Instruction.

THE RESOLUTION.

WHEREAS, It has been the custom of a great number of teachers, patrons and school officers throughout the state to write the state

superintendent for a decision on legal questions before consulting the county superintendent for his decision, and

WHEREAS, The state department often finds it difficult to pass intelligently upon these questions when only one side to a controversy has been heard; therefore be it

RESOLVED, That in order to insure harmony between the state department and the county superintendent, and also to aid these officers to discharge their respective duties in an impartial manner, all questions of this nature be referred to the county superintendent.

STATE SUPERINTENDENT'S OFFICE  
LINCOLN, NEBRASKA.

....., 1903.

MY DEAR SUPERINTENDENT:

In compliance with the following resolution passed by the County Superintendents' Section of the State Teachers' Association, 1903, I would respectfully request that you give the enclosed letter your personal and immediate attention. Consult freely the Supreme Court Decisions and Decisions of the State Superintendent found in the Seventeenth Biennial Report of this department. If any question arises on which you desire the opinion of this department we shall be pleased to give it upon your request.

Yours very truly,

.....

State Superintendent of Public Instruction.

It is hoped that city superintendents and high school principals as well as county superintendents will find these decisions a great help to them in the discharge of their official duties. Those who teach school law in institutes will find this edition valuable in the interpretation of our School Laws.

W. K. FOWLER,  
Superintendent of Public Instruction.

Lincoln, June 1, 1903.

## DECISIONS WHICH APPLY TO ALL DISTRICTS.

## I. ALIEN.

A legal voter, when.—An alien, male or female, who possesses all of the qualifications relative to age, residence and ownership of property, or having children of school age, is a voter. The matter of being an alien does not enter into the question.

## II. BIBLE READING IN THE PUBLIC SCHOOLS.

Chief Justice Sullivan asserts that the law does not forbid the use of the Bible in public schools. The point where the courts may interfere is where the use of the Bible in a public school has degenerated into abuse, where a teacher instead of giving secular instruction has violated the constitution by becoming a sectarian propagandist. The court holds that whether it is prudent or politic to permit the reading of the Bible in the schools is a question for the school authorities, but whether the practice has taken the form of sectarian instruction is a question for the courts to determine upon evidence. Every alleged violation must be established by competent proof.

In the case in question, Daniel Freeman against School District 21, Gage County, the court holds that the evidence shows that the constitution was violated, that the exercises complained of were sectarian. A writ of mandamus is granted against the teacher and the school board.

The court says: "Undoubtedly the teacher is a sincere and well meaning young woman, and was actuated by the purest and best motives but in discharging what she conceived to be an imperative duty to her Creator she violated a right secured to the relator by the supreme law of the state."

The syllabus of the opinion is as follows:

"1. The right of all persons to worship Almighty God according to the dictates of their own consciences is declared by the constitution of this state to be a natural and indefeasible right.

"2. There is nothing in the constitution or laws of this state, nor in the history of our people, upon which to ground a claim that it is the duty of government to teach religion.

"3. The whole duty of the state with respect to religion is 'to protect every religious denomination in the peaceable enjoyment of its own mode of public worship.'

"4. Enforced attendance upon religious services is forbidden by the constitution, and pupils in a public school cannot be required either to attend such services or to join in them.

"5. A teacher in a public school, being vested during school hours with a general authority over his pupils, his requests are practically commands.

"6. It is immaterial whether the objection of a parent to his children attending, and participating in, a religious service conducted by a teacher in the school room during school hours, is reasonable or unreasonable. The right to be unreasonable in such matters is guaranteed by the constitution.

"7. The law does not forbid the use of the Bible in the public schools; it is not prescribed either by the constitution or the statutes, and the courts have no right to declare its use to be unlawful because it is possible or probable that those who are privileged to use it will misuse the privilege by attempting to propagate their own peculiar theological or ecclesiastical views and opinions.

"8. The point where the courts may rightfully interfere to prevent the use of the Bible in a public school is where legitimate use has degenerated into abuse; where a teacher employed to give secular instruction has violated the constitution by becoming a sectarian propagandist.

"9. Whether it is prudent or politic to permit Bible reading in the public schools is a question for the school authorities; but whether the practice of Bible reading has taken the form of sectarian instruction is a question for the courts to determine upon evidence.

"10. It will not be presumed in any case that the law has been violated; every alleged violation must be established by competent proof."

Chief Justice Sullivan in an exposition of the court's ruling in this particular case used the following language:

"The decision does not, however, go to the extent of entirely excluding the Bible from the public schools. It goes only to the extent of denying the right to use it for the purpose of imparting sectarian instruction. The pith of the opinion is in the syllabus which declares that 'exercises by a teacher in a public school in a school building, in school hours, and in the presence of the pupils, consisting of songs and hymns, and offering prayer to the Deity in accordance with doctrines, beliefs, customs or usages of sectarian churches or religious organizations, is forbidden by the constitution of this state.'

"Certainly the Iliad may be read in the schools without inculcating the belief in the Olympic divinities, and the Koran may be read without teaching the Moslem faith. Why may not the

Bible also be read without indoctrinating children in the creed or dogma of any sect? Its contents are largely historical and moral; its language is unequalled in purity and elegance; its style has never been surpassed; among the classics of our literature it stands pre-eminent.

#### IS IT A SECTARIAN BOOK?

"It has been suggested that the English Bible is, in a special and limited sense, a sectarian book. To be sure there are, according to the Catholic claim, vital points of difference with respect to faith and morals between it and the Douay version. In a Pennsylvania case cited by counsel for respondents the author of the opinion says that he noted over fifty points of difference between the two versions, some of them important and others trivial. These differences constitute the basis of some of the peculiarities of faith and practice that distinguish catholicism from protestantism and make the adherents of each a distinct Christian sect. But the fact that the King James translation may be used to inculcate sectarian doctrines affords no presumption that it will be so used. The law does not forbid the use of the Bible in either version in the public schools; it is not proscribed either by the constitution or the statutes, and the courts have no right to declare its use to be unlawful because it is possible or probable that those who are privileged to use it will misuse the privilege by attempting to propagate their own peculiar theological or ecclesiastical views and opinions.

#### WHERE COURTS MAY INTERVENE.

"The point where the courts may rightfully intervene, and where they should intervene without hesitation, is where legitimate use has degenerated into abuse; where a teacher employed to give secular instruction has violated the constitution by becoming a sectarian propagandist. That sectarian instruction may be given by frequent reading, without note or comment, of judiciously selected passages, is, of course obvious. A great modern philosopher—perhaps the greatest—has said that persistent iteration is the most effective means of forcing alien conception upon reluctant minds. Whether it is prudent or politic to permit Bible reading in the public schools is a question for school authorities to determine; but whether the practice of Bible reading has taken the form of sectarian instruction in a particular case is a question for the courts to determine upon evidence.

"It cannot be presumed that the law has been violated; the

alleged violation must in every instance be established by competent proof. The value of the common schools as disseminators of knowledge and social levellers is well understood and justly appreciated; and there is little likelihood that the people will ever permit their usefulness to be impaired by sectarian controversies.

#### LITTLE DISCORD IN SCHOOLS.

“When we consider that this is the first case of its kind ever presented to this court for decision, we feel assured that neither teachers nor school boards have been much inclined to bring discord into the schools for the chance of securing by indirection a slight sectarian advantage. But, if the fact were otherwise, it could not in any way, affect our conclusion. The section of the constitution which provides that ‘No sectarian instruction shall be allowed in any school or institution supported, in whole or in part, by public funds set apart for educational purposes’ can not, under any canon of construction with which we are acquainted, be held to mean that neither the Bible, nor any part of it from Genesis to the Revelation, may be read in the educational institutions fostered by the state. We do not wish to be understood as either countenancing or discountenancing the reading of the Bible in the public schools. Even where it is an irritant element, the question whether its legitimate use shall be continued or discontinued is an administrative and not a judicial question; it belongs to the school authorities, not to the courts.”

#### III. BOARD—POWERS AND DUTIES.

**Cannot borrow money.**—There is no provision for authorizing the board to borrow money for the use of the district.

**Discharge teacher for cause.**—The school board has the right to discharge a teacher for cause, and after such discharge the teacher has no right to continue the school, even if the cause be thought insufficient. The only course then open to the teacher is an action for damages. Whether the teacher could draw pay for the full time of the contract, would be a question to be determined by process of law.

**Expel pupil when welfare of school demands it.**—The law empowers a school board to suspend or expel a pupil from school who is guilty of gross misdemeanors or persistent disobedience, whenever in their judgment the interests of the school demand it; but such suspension shall not extend beyond the close of the term. In case of emergency the teacher may suspend a

pupil and refer his actions and the reason therefor immediately to the board.

**Reinstatement of pupils.**—School boards are empowered to make rules governing their schools. If they see fit to admit a pupil who has been expelled they have a perfect right to do so.

“An action of mandamus will lie and may be maintained to reinstate a pupil in a school, if the action of the officer or officers by which the party was refused admission to or continuance in the school was an arbitrary or capricious exercise of authority.” 57 Neb., 183.

**Relative authority of school officers and parents.**—The school trustees have authority to classify and grade the scholars in the district and cause them to be taught in such departments as they may deem expedient; they may also prescribe the courses of study and text-books for the use of the school, and such reasonable rules and regulations as they may think needful. They may also require prompt attendance, respectful deportment, and diligence in study. The parent, however, has a right to make a reasonable selection from the prescribed courses of study for his child to pursue, and this selection must be respected by the trustees, as the right of the parent in that regard is superior to that of the trustees and the teacher. 31 Neb., 552.

**Rent rooms for school purposes.**—It is within the authority of the school board to make temporary arrangements for carrying on the school whenever this matter is neglected at the annual district meetings. The school board should rent a building and pay for the same out of the funds of the district. It is not only a right but it would be a duty incumbent on the school board, to so provide room and teachers for the pupils of the district.

**Require teacher to show certificate.**—Members of the school board have a perfect right to see the teacher's certificate. In fact, it is a duty incumbent upon them to satisfy themselves that the teacher is a legally qualified teacher. The certificate is the proper evidence.

**Right to require excuses for absence or tardiness.**—Our statutes confer upon the school board the power “to make such rules and regulations as they may think necessary for the government of the scholars.” This grant of authority includes the right to require excuses for absence and tardiness. It ought to be remembered, however, that very much depends upon the manner of enforcement of such a rule. A regulation harmless and proper in itself might be enforced in such a way as to render



it exceedingly obnoxious and almost unendurable to parents and pupils. If a certain rule is beneficial to the school, it ought not to be difficult to convince parents of its usefulness; for certainly no one is more interested in the welfare of the school than the parents who entrust their children to its instruction and discipline. Attendance rules should be enforced with the greatest courtesy and consideration, and they will encounter no serious opposition from the parents for the benefit of whose children they are intended.

**When primary pupils may enter.**—It seems quite reasonable that, after the last primary class is once fairly started, no pupils should be permitted to enter the school unless they can pursue the studies of some class already formed; otherwise the one or two who enter later will require as much time and attention from the teacher as would an entire class. As a rule, pupils who are too young to enter the lowest existing class will lose very little by waiting until the beginning of the next term. In fact, in most cases it would be better for them to do so. Such a regulation seems, therefore, to be proper and reasonable and within the power of the district board; and if enforced in a spirit of moderation and courtesy, and with a sincere effort to secure the sympathy and co-operation of the people, it ought to meet with no resistance.

#### IV. CLOSING SCHOOL.

**Burning of schoolhouse.**—If it is a physical impossibility for the school district board to furnish a house in which the school may be taught, the teacher could not draw pay during the time school is closed on account of the burning of the schoolhouse. If it is possible for the board to provide a house in which the school may be taught, the teacher's pay will continue during the time school is closed on account of the burning of the schoolhouse. It might be well, however, for the teacher and board to compromise under such circumstances.

**Epidemic disease.**—If a teacher is employed for a definite time and during the period of his employment the district officers or board of health close the schools on account of the prevalence of an epidemic disease in the district, and the teacher continue ready to perform his contract, he is entitled to full wages during such period; provided, there is nothing in the contract to the contrary.

**Holidays.**—So far as schools are concerned, the statutes of Nebraska make no provisions for legal holidays. A teacher, in the

absence of any provision upon the matter in his contract, would have no authority to close school upon the so-called holidays without being legally required to make up the time so lost to the district. However, a district board has authority to make provision for closing school upon such days, and in case the board directs that school be closed upon any specified day, the teacher would legally draw pay for such time.

**Lost time.**—A teacher may make up lost time by teaching on Saturdays only by permission of the board.

When the school is closed for a few days in order to repair damages done to the building by a storm, the teacher is not bound legally to make up the time so lost, providing he hold himself in readiness to continue the school during the time school was closed by order of the board.

#### V. CONTRACTS.

**Equally binding on both parties.**—The contract between the school board and a teacher is a mutual obligation, equally binding upon both parties. Neither party can with impunity rescind such contract; and either party violating the provisions of such contract would be answerable in damages to the aggrieved party. It requires a majority of the board to legally accept a teacher's resignation.

**Oral.**—In order to be legal and binding upon the district, it is not necessary that a contract be in writing. If not in writing its existence must be fully proven. If it can be proven that a teacher was elected by the board, that he was notified of such election and clearly indicated his acceptance of it, the contract is binding whether made out in writing and signed by all parties concerned or not. In the absence of a written contract the minutes of the director or secretary of the board would show the time for which a teacher was elected.

**Teacher cannot set contract aside of her own free will.**—In case a teacher breaks a contract made between herself and a school district board, the board has a right of action on the original contract, and may maintain: (1) A suit to obtain damages for the loss sustained by the breach; (2) a suit to obtain specific performance of the contract by the other party. Or, if the court were to find it difficult to assess the damages, or should fail to enforce a specific performance because it cannot supervise or insure its execution, they could, by injunction, enforce the promise not to teach elsewhere during the time covered by the injunction. See Clark on Contracts, 702.

## VI. PUNISHMENT.

**Corporal.**—The statutes of Nebraska are silent as to the right of a teacher to inflict corporal punishment, and the matter seems never to have been brought before our supreme court; but the holdings of supreme courts of other states are quite uniform and positive in the matter, and are in substance as follows: A teacher in charge of a school stands in the place of the parent while the pupils are under his or her control and has the same right to command and to enforce obedience which the parent has in the home. This right includes the infliction of corporal punishment in a reasonable manner and with the proper motive. If it can be shown that the punishment was cruel or excessive or inflicted with malice on the part of the teacher, then such teacher is liable to prosecution and punishment. As a matter of educational policy, there is no question that corporal punishment is to be used only as a last resort; and our best teachers almost invariably succeed in avoiding it. Nevertheless there are cases, growing out of unusual perversity or unfortunate influences at home, which make its use advisable and sometimes even indispensable. While the constant aim of the teacher and school board should be to reduce the use of this method of discipline to a minimum, there can be no question as to the legal right of the board to authorize, and of the teacher to employ, corporal punishment, under proper circumstances, in the proper manner, and with the proper motive.

## VII. PUPILS.

**Control of pupils while off school premises.**—Let us divide the question at issue into two parts: first, the teacher's authority over pupils on the way to and from school; and second, his authority over pupils at other times and places than in school, on school grounds, on the way to and from school, or during school hours. The laws of Nebraska do not touch directly upon the matter of the teacher's authority over pupils on the way to and from school. Several decisions of different supreme courts, however, seem to indicate that where there is no statutory provision to the contrary, the teacher may exercise a reasonable control over pupils on the way to and from the schoolhouse in all matters of conduct which affect the interests and discipline of the school. This authority must be exercised with great discretion on the part of the teacher, and he will be liable for any flagrant perversion or abuse of it. The teacher stands in the place of the parent at school and has the same jurisdiction over

the conduct of the pupil there that the parent has at home. It seems to be a simple deduction from this principle that the teacher has authority over the pupils at all times when they are thrown together in consequence of their attendance at school; and it would be very disastrous to school discipline if the teacher were denied a reasonable control over the actions of the pupils on the way to and from the schoolhouse. This right, therefore, seems to belong to the teacher by implication without any express statement of law to that effect.

For acts committed in or about the homes of the pupils, it would avoid a source of much trouble and irritation if the teacher would consult with the parents, reasoning with them, if they are reasonable, and parents usually are when the facts are fairly stated and they see that some action is necessary for the good of their own children. Teachers should not be arbitrary or dictatorial. Parents have rights and are or should be the proper guardians of their children, and responsible for their acts in school and out. Many parents would prefer to punish their children themselves for misconduct in school and would do so more severely than the teacher, if applied to in the proper spirit.

**Detaining after school hours.**—It has long been the ruling of this department that a teacher has the legal right to detain pupils after the regular school hours, when circumstances make it necessary.

**Expulsion and suspension.**—The statute empowers the school district board to suspend or expel pupils from the school, and it also provides that "such suspension shall not extend beyond the close of the term." The expression "term" is not defined in the statutes. In the absence of any definition on the part of the board, the word term would naturally apply to the entire period during which school is in session during the school year. But where the school district board has made and adopted a series of rules by which the school year is divided into specific terms, the board would have no authority to suspend a pupil for a period extending beyond the close of the current term as defined in said rules.

**Female—Majority at 18.**—Under the statutes of Nebraska (section 3, 212 C. S., 1899), the minority of a female child ends at the age of eighteen years. Where a woman between eighteen and twenty-one years of age elects in good faith to make her residence in a certain school district, and does actually reside therein, she has the right to free school privileges in said district.

**Free school privileges.**—Children of school age are entitled to free school privileges only in the district in which their parents or legal guardians make their legal residence. To be a legal guardian one must have been so recognized by a court of proper jurisdiction, with such guardianship made a matter of record by the court.

**Graduation does not forfeit school privileges.**—A person who graduates from the public schools of Nebraska does not lose his privilege of attending school by reason of his graduation. He has a right to continue the same studies in the same school and will have the same privileges as the school guarantees to other pupils in the matter of text-books, etc., providing no separate classes are required for his instruction.

**May be excluded if exposed to contagious disease.**—A boy of one school district is attending school in another district and has been exposed to smallpox; he boards at home, which is in the first district; his brothers and sisters attend school in the home district. Under these conditions it is the right and duty of the district board of the home district to refuse admittance to the brothers and sisters of the boy who has been exposed.

**Punishment of.**—See punishment.

#### VIII. RESIDENCE.

To acquire a domicile or residence in a school district, two things are necessary: the fact of a residence in a place, and the intent to make it a home. A domicile or residence once acquired remains until a new one is acquired. Mere intention to remove without the fact of removing will not change the domicile; nor will the fact of removal without the intention to change the residence. A person once established in any place, the presumption of residence continues unless rebutted, and the burden of proof is upon the party alleging the same.

#### IX. SCIENTIFIC TEMPERANCE INSTRUCTION.

**When and where taught.**—The instruction in this subject is often unwisely distributed throughout the course, and any change of sentiment or opinion against the use of alcohol seems entirely disproportionate to the outlay of time and effort that has been made. There is frequent and unnecessary repetition, and diminished interest and dislike of the subject are prevalent. Text-book instruction could, with profit to the cause and to the school, be limited to the higher grammar grades. The use of charts in common schools showing morbid physiological conditions is generally condemned.

## X. THE TEACHER.

**Not an officer.**—(1896.) The teacher in one of the free schools in an ordinary district is not a public officer. (*State, ex rel. Lewellen, v. Smith*, 49 Neb., 755, 69 N. W., 114.)

**Employment.**—(1882.) The statute specially authorizes the director of a school district to employ teachers either with the assent of the moderator and treasurer, or one of them, or by their direction, if he shall not concur. A contract with a teacher, therefore entered into on behalf of the district by the director and treasurer, without the assent of or notice to the moderator, is valid. (*Russell v. State, ex rel. Armour*, 13 Neb., 68, 12 N. W., 829.)

Citations.—*Martin v. State*, 23 Neb., 384, 36 N. W., 554; *Montgomery v. State*, 35 Nebr., 659, 53 N. W., 568; *State v. Smith*, 57 Neb., 48, 77 N. W., 384.

**Contracts.**—(1896.) The employment of teachers for the free schools is one of the duties cast upon the district boards by law, and the discretion and decision of the officers composing such a district board as to whom they will employ as a teacher cannot be controlled by writ of mandamus issued at the instance of taxpayers and voters of the district. (*State, ex rel. Lewellen, v. Smith*, 49 Neb., 755, 69 N. W., 114.)

(1897.) Plaintiff entered into a written contract of employment with a school district for the term of three months, commencing at a stated time, with option to her to teach the school year if satisfaction was given. She taught under the contract the three months, exercised the option given her, and remained in the employ, without objection, another three months, when she was discharged without good and sufficient cause, before the close of the school year. *Held*, that the services rendered after the first three months were performed under said contract, and a new written contract was not necessary to bind the district for the entire school year. (*Wallace v. School Dist.*, 50 Neb., 171, 69 N. W., 772.)

**Discharge of.**—(1877.) The district school board is specially invested by the statutes with the general care and management of the school and the employment of the teachers; and, as an incident to these powers, has a right to discharge a teacher for incompetency, or for any other sufficient cause, at the will and pleasure of a majority of its members. Maxwell, J., dissenting. (*Bays v. State*, 6 Neb., 167.)

Citations.—*Vallery v. State*, 42 Neb., 127, 60 N. W., 347; *State*

*v. Smith*, 49 Neb., 759, 69 N. W., 114; *Wallace v. School Dist.*, 50 Neb., 174, 175, 69 N. W., 772.

(1877.) The authority to terminate the employment of a teacher, in the absence of an express provision on the subject, should be held to reside with those whose duty it is to represent the district, and who are directly responsible for the successful management of the school, viz., the school board. (*Bays v. State*, 6 Neb., 167.)

**Citation.**—*Vallery v. State*, 42 Neb., 127, 60 N. W., 347.

(1897.) In the absence of a stipulation in the contract to the contrary, under the existing statute, a qualified teacher cannot be discharged at the pleasure of the district, but only where just cause exists therefor. (*Wallace v. School Dist.*, 50 Neb., 171, 69 N. W., 772.)

(1897.) If a teacher duly employed in the public schools for a specified period is dismissed by the school board prior to the expiration of the term of employment, without being shown to be incompetent, or for other good reasons, the district is liable therefor. (*Wallace v. School Dist.*, 50 Neb., 171, 69 N. W., 772.)

**Compensation.**—(1882.) A proper certificate of qualification is essential to warrant a school board in paying a teacher from the public school funds. The prohibition of the statute, however, is upon the district board, and not upon the teacher; and where during a part of a term, the teacher was without a certificate, notwithstanding which payment for the time was made, in an action to recover wages due for the last month of the term, during all of which the teacher had a certificate, *held*, that the amount so paid could not be set off against what was due for the last month. (*School Dist. v. Estes*, 13 Neb., 52, 13 N. W., 16.)

(1882.) Where a school teacher is employed by contract for a given number of months, and fails to perform her duties during a part of the stipulated period, through no fault of her own, but through the fault of the school officers, she being at all times able and willing to perform, she is entitled to the same compensation during such part as though she had kept the school. (*School Dist. v. Estes*, 13 Neb., 52, 13 N. W., 16.)

(1891.) In an action against a school district for an alleged breach of contract of employment the answer was a general denial. There was no proof tending to show that the defendant had not derived an income from other business than that of teaching during the existence of the alleged contract. *Held*, that an instruction that "the plaintiff, if he is entitled to recover at all, will be entitled to recover as damages the agreed wages or

salary for the whole period, being one thousand dollars for the school year," was not applicable to the testimony. (*School Dist. v. Foster*, 31 Neb., 501, 48 N. W., 267.)

**Certificate.**—(1886.) Where a county superintendent issues a certificate authorizing the person named therein to teach school in such county, the county superintendent of any other county may endorse such certificate, which will render the certificate valid in the county where endorsed for such time as the superintendent shall determine, not to exceed two years nor longer than the certificate was originally intended. (*State, ex rel. Lindberg, v. Grosvenor*, 19 Neb., 494, 27 N. W., 728.)

(1886.) A school certificate being issued or indorsement made thereon by the officer specially authorized to make the same, it is presumed to be valid; and, in the absence of fraud, is not subject to attack collaterally. (*State, ex rel. Lindberg, v. Grosvenor*, 19 Neb., 494, 27 N. W., 728.)

**Refusal to pay wages.**—(1886.) Where a teacher, when employed by the director and moderator of a school district, and while teaching such school, possessed a certificate duly indorsed by the county superintendent, held that the treasurer of the district, in the absence of fraud, could not refuse to pay a warrant drawn by the director and moderator for the teacher's wages, upon the ground that the indorsement was invalid. (*State, ex rel. Lindberg, v. Grosvenor*, 19 Neb., 494, 27 N. W., 728.)

**Rules and regulations.**—(1892.) A rule which makes it the duty of a teacher to keep a record of the standing of each pupil in the studies pursued by him, of his attendance and deportment, to send each month by the pupil a written report of the same to his parent or guardian, and which requires such parent or guardian to sign and return the same to the teacher, is a reasonable one. (*Bourne v. State, ex rel. Taylor*, 35 Neb., 1, 52 N. W., 710.)

Citation.—*Jackson v. State*, 57 Neb., 188, 77 N. W., 662.

**Substitute.**—A teacher has no right to place a substitute in his school without being authorized to do so by the district board. However, it would be within the authority of the district board to ratify such an action of a teacher in case of an emergency, providing that the substitute be a legally qualified teacher. A teacher under contract with a district could not properly demand of the district payment for the services rendered by a substitute appointed by him without authority. However, in case the substitute, a legally qualified teacher, were permitted, with the knowledge of the district board, to teach the school, said sub-



stitute would have a valid claim against the district for the value of the services rendered by him.

**Wages continue, when.**—See Closing School.

#### XI. TEXT-BOOKS.

**Funds for purchase.**—Text-books may be paid for out of any funds on hand belonging to the general fund, to the incidental fund, or to a fund especially provided for this purpose.

**Includes supplies.**—In passing upon the constitutionality of the free text-book law, in discussing the word “supplies” the following language is used by the judge rendering the decision: “We do not think the term ‘text-books’ should be given a technical meaning, but that it is comprehensive enough and does include globes, maps, charts, pens, ink, paper, etc., and all other apparatus and appliances which are proper to be used in the school in instructing the youth, and we conclude, therefore, that the act under consideration is not broader than its title, and that the term ‘school supplies’ found in the tenth section of the act is not foreign to the term ‘text-books’ found in the title of the act, but is germane to and comprehended and included within the term ‘text-books.’”

**Loaning books.**—The law provides that text-books shall be loaned to pupils while pursuing a course of study in the schools. It is the duty of the board of education to place books at the disposal of pupils who need to study in the evenings. If, however, in the judgment of the teacher and the board, pupils of certain classes cannot study profitably outside of school hours, it is proper to place reasonable restrictions upon the use of books at home by such pupils or classes. It is not within the authority of the school board to loan text-books, which are the property of the district, to be used in schools held outside the district.

**Must furnish.**—Subdivision 18 of the School Laws is mandatory, and it is not within the authority of the annual district meeting to vote not to furnish text-books; and under this law any patron of the district, by the proper legal proceedings, could compel the district board to furnish his children, pupils in the school, the necessary text-books, notwithstanding any action or failure to act on the part of the district meeting. Some patron of the district should apply to the district court in behalf of the district for a writ of mandamus to compel the board to furnish to the children of the district the necessary text-books. See the case of *Ambrose Affholder et al. v. State of Nebraska, ex rel.*

*Peter McMullen*, 51 Neb., 91. In this case, in the district court of Burt county, Peter McMullen made application for a peremptory writ of mandamus to compel Ambrose Affholder and others constituting the school board of district No. 58 of said county to purchase and furnish to the children of school age of said district the necessary text-books in accordance with the free text-book law. An alternative writ was issued, and for a return thereto the school board interposed the defense that said act was unconstitutional. The writ was issued as prayed, and the school board appealed the case to the supreme court. The supreme court sustained the district court. A writ of mandamus will not issue where it is not within the power of the respondent lawfully to comply, or where it would otherwise be unavailing. 46 Neb., 857.

**Pupils responsible for.**—Section 9, subdivision 18, of the School Laws provides that all books purchased by the district board shall be held as the property of the district and loaned to pupils of the school while pursuing a course of study therein, free of charge; but the district board shall hold such pupils responsible for any damage to, loss of, or failure to return such books at the time and to the person that may be designated by the board of such district.

## XII. TRANSFER.

**Annual meeting has no power.**—The transfer of pupils provided for in section 4a, subdivision 5, of the School Laws, is made entirely independent of any action of the annual district meeting of either district affected. In other words, the annual district meeting has no power to authorize or prevent such transfer.

**Application.**—The application for transfer must be made not later than the annual meeting. The county superintendent may notify the directors a little later, but the county superintendent should be notified by the applicant not later than the annual meeting in order that the transfer may be legally made.

**Apportionment.**—Children transferred to an adjoining district under section 4a, subdivision 5, are included in the census of said adjoining district and their share of the apportionment is paid to such district. There is no statutory provision authorizing the payment of a pupil's share of the state apportionment to the credit of any district other than that in which said pupil is enumerated.

**Attend nearest school.**—Pupils transferred from one district

to another under section 4a, subdivision 5, should attend the nearest school of the adjoining district.

**Cannot be retransferred.**—When a transfer has been made under section 4a, subdivision 5, it becomes a matter of record. The reports from the two districts are made up on the basis of the change, the school apportionment is made out on that basis, the taxes of the party have been transferred and there seems to be no way by which he may be retransferred until the next annual meeting.

**Cannot be transferred to a second party.**—In case a renter, who has his children and taxes transferred to an adjoining district under section 4a, subdivision 5, removes from the district, and another renter occupies the residence vacated by the former, the second renter would have free school privileges only in the district of his residence.

**Change of site.**—If a transfer was made before a change of site was ordered by the annual meeting, when the reasons for granting such transfer were modified by such change of site, such a transfer would become null and void.

**Director cannot reject transferred pupils.**—The law makes no provision for the director of an adjoining district to reject pupils who are transferred under the provisions of section 4a, subdivision 5.

**For school privileges only.**—Persons transferred under section 4a, subdivision 5, are still legal residents of the district of their residence. In that district they vote on school matters, including the question of school district bonds. They are not answerable for any bonds in the district to which they have been transferred.

**Measuring distance.**—The distances spoken of in section 4a, subdivision 5, are to be measured by the shortest route possible upon section lines or roads open to the public. Section lines are not recognized as roads within the meaning of section 4a until they have been declared open by the county board. If the section line is not open to the public, it is not to be taken into account in measuring the distance.

Whenever the public generally is permitted to travel over a certain road without objection or hindrance by the owner of the land, and the road is used to some extent in that way, such a road is a "traveled road open to the public" within the meaning of section 4a.

**Railroad bed does not transfer.**—Where a tract of land upon

which there is a railroad bed is transferred under the provisions of section 4a, subdivision 5, school laws, the taxes accruing from such railroad bed do not transfer.

**Renter.**—A renter is entitled to the privileges mentioned in section 4a, subdivision 5. The county clerk is empowered, and it is made his duty, to place the school taxes (except for the payment of existing bonds or interest on the same) of the said parents or guardians and of the real estate on which they reside, not exceeding a quarter section of land, for the year next ensuing in the said adjoining district instead of the district of their residence. Note that it is all the taxes of said parents or guardians including the taxes of the real estate on which said parents or guardians reside, notwithstanding the fact that they may be living on land which does not belong to them.

**Revocation.**—The county superintendent would have authority to revoke a transfer to a nearer school under section 4a, subdivision 5, if upon investigation he finds the conditions do not comply with the law. If it is granted upon misrepresentation, it is his duty to revoke the transfer.

**Signatures to petition.**—In case a party who desires to be transferred under section 4a, subdivision 5, cannot secure signatures to his petition, there seems to be no way in which the transfer can be made.

### XIII. VACCINATION.

**Compulsory.**—There is no express statute in this state making vaccination compulsory or imposing it as a condition upon the privilege of attending our public schools, neither have we a supreme court decision bearing upon this particular point. Our supreme court has decided, however, that a school board has the power to adopt and enforce appropriate and reasonable rules and regulations for the government and management of the school under its control. The question of the right of a school board to exclude pupils from school if they are not vaccinated has been passed upon by the supreme court of Michigan. The decision rendered is to the effect that a standing rule prohibiting unvaccinated pupils from attending school could not be established, though temporarily during an epidemic the board may exclude persons who have not been vaccinated. The supreme court of Indiana has held that a local board of health has power to require that no unvaccinated child be allowed to attend the public school during the continuance of a threatened smallpox epidemic.

Under the existing statutes of Nebraska and in the light of these supreme court decisions, it is the ruling of this department that a standing rule prohibiting unvaccinated pupils from attending school could not be enforced, though temporarily during an epidemic of smallpox, the board may exclude persons who have not been vaccinated.

#### XIV. VOTERS.

**Alien.**—See Alien.

**Amount of taxable property necessary.**—Any person who has resided in the district forty days and is twenty-one years old, and who owns personal property that was assessed in the district in his or her own name at the last annual assessment, is entitled to vote at any district meeting. The law places no limit as to the amount of taxable property necessary to entitle the holder to vote. The chairman of the meeting has no right to demand the production of tax receipts by persons offering to vote.

**Bond election.**—All persons who are qualified to vote in a school district meeting are entitled to vote upon the proposition to issue bonds of the district whenever such question is properly submitted.

**Dower interest.**—The ownership of real property, which confers the right to vote at a district meeting, must be an actual and present ownership such as would entitle the voter to the use and control of the property in question. A prospective or contingent right, like that of dower or curtesy, would not constitute such ownership as this statute requires. Important recent decisions of our supreme court declare the right of dower to be a "charge or incumbrance" upon the property, similar in its effect to a mortgage or lien. This, however, would not entitle the holder of such a right to be considered as a voter any more than would the holding of a mortgage confer such a right upon the mortgagee. Therefore, a wife who has no children of school age and owns no real property in her own name and no personal property assessed in her name at the last annual assessment, would not become a legal voter by virtue of her husband's ownership of such property, although she possesses the requisite qualifications of age and residence; nor would the husband become a voter simply by virtue of his wife's ownership of such property.

**Homesteader.**—The courts have repeatedly held that a homesteader is a "freeholder" within the meaning of that term as used elsewhere in the statutes. This clearly implies ownership

of the land such as would entitle him to vote at an annual meeting under the statutory provision embraced in the words "who owns real property in the district."

A young lady twenty-one years of age who holds a homestead is a voter at the annual meeting.

The homesteader votes in the district of his homestead, and not in the district in which he may be temporarily working.

**Moderator.**—See Moderator.

**Penalty for illegal voting.**—"Any person who shall vote in any school district in this state in which he has not legally resided ten days, or such length of time as required by law, next preceding the election, or into which he shall have come for temporary purposes merely, shall, on conviction thereof, be fined in any sum not less than twenty-five dollars nor more than one hundred dollars, or be imprisoned in the jail of the proper county not more than six months." Section 6846, Criminal Code, Compiled Statutes of Nebraska for 1901.

**Resident of unorganized territory.**—A person living on unorganized territory has no vote at school meetings in any district by reason of having property in said district. Residence is one of the qualifications necessary to be a voter.

**Temporary absence.**—A person having all the necessary qualifications to vote at an annual school district meeting may not be debarred from voting from the fact that he was not in the district the prescribed number of days just preceding the election, when it was known that he was out of the district temporarily and that his permanent home is in the district.

**Transferred persons.**—A transfer in accordance with section 4a, subdivision 5, of the School Laws, is for school purposes only. A person whose children and taxes have been transferred to an adjoining district for school purposes does not thereby become a legal voter of such adjoining district. Such a person elected as a member of the school board in a district to which he has been transferred would not be a legal officer in that district.

**Who are legal voters?**—Every person, male or female, who has resided in the district forty days and is twenty-one years old, and who owns real property or personal property that was assessed in the district in his or her name at the last annual assessment, or who has children of school age residing in the district, shall be entitled to vote at any district meeting or school election held in any district, village or city.

**Women vote at primaries.**—Section 4, subdivision 2, chapter

79, Compiled Statutes, confers upon women having the necessary qualifications the right to vote at any school district meeting or school election held in any district, village or city. This statute also confers upon women possessing such qualifications the right to vote at primaries held in cities for the nomination of members of boards of education.

#### XV. WARRANTS.

**Draw interest.**—All warrants or orders issued by the proper authorities of any school district shall draw interest from and after the date of their presentation for payment, at the rate of seven per cent per annum.

**Duplicate for lost warrants.**—See section 22, subdivision 11, School Laws.

**Notice to holder of district's ability to pay.**—If there is no money on hand with which to pay warrants when presented, the warrants shall be registered in the order of their presentation, and as soon as there are funds in the hands of the district treasurer it becomes his duty to notify the holder of the registered warrants and to pay them in the order of their registration, regardless of when the tax was levied.

**Outlaw.**—It has been held by the supreme court of Nebraska that the statute of limitations runs for or against school districts the same as for or against individuals. 22 Neb., 205.

**Payment.**—See section 15, subdivision 11, School Laws.

**Payment by consolidated districts.**—Where school districts, having registered warrants outstanding, consolidate into one district, said warrants should be paid in the order of their registration, as shown by the date of the endorsement thereon, without regard to which of the original districts issued the warrants.

**Penalty for postponing payment.**—See section 21, subdivision 11, School Laws.

**What constitutes a fund against which warrants may be drawn.**—School districts have no powers except those conferred by statute or necessarily implied therefrom. Their ability to pay debts is restricted by laws authorizing them to levy taxes, within fixed limits only, and by the funds arising from such levies, from fines and from other lawful sources. For the current expenses of running their schools they cannot incur indebtedness greater in amount than their revenue from all sources, and where a contract for such expenses provides for payment of a sum in excess thereof it is, to that extent, void. It does not

follow, however, that taxes must actually be paid into the treasury before they can be made a basis for incurring debts. The supreme court has recently said: "Taxes levied at the annual school meeting held just prior to the commencement of the school year constitute a fund against which warrants may be drawn." *Zimmerman v. State*, 83 N. W., 919.

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DECISIONS WHICH APPLY ONLY TO RURAL AND VILLAGE SCHOOLS AS ORGANIZED UNDER SUBDIVISION III, WITH A BOARD OF THREE MEMBERS.

I. ANNUAL MEETING.

Cannot relieve treasurer of responsibility for money lost.—It is not within the authority of the voters at the annual meeting to release a treasurer from being responsible for moneys paid out illegally or lost by him.

Cannot select teacher nor determine wages.—It is not within the authority of the annual meeting to determine the wages to be paid to a teacher; the school board is the proper authority to fix teacher's wages. Neither can the annual meeting determine whether the teacher shall be male or female.

Determine length of term.—Section 14, subdivision 2, of the school laws, provides that the legal voters may determine at each annual meeting the length of time a school shall be taught in the district the ensuing year.

II. BOARD—POWERS AND DUTIES.

1. *The Director.*

*A de facto officer.*—Where the director of a school district was appointed to fill a vacancy in November, 1875, and accepted the office, and thereafter performed all the duties pertaining to the same until April, 1877, *held*, in an action on the contract of a qualified teacher, signed by him as director in October, 1876, that the court will not inquire into the strict legality of his appointment. He being a *de facto officer*, the district is bound by his acts. 9 Neb., 53.

*Contract with teacher.*—It is the duty of the director to contract with the teacher when so authorized by the moderator and treasurer, but should he refuse to make such contract, then it would be within the authority of the moderator and treasurer to make the contract. The moderator and treasurer have no au-



thority to make such contract until they have given the director an opportunity to make it.

**Custodian.**—The director is the proper person to keep the records of the district.

**Delegate authority.**—The director of a school district cannot legally delegate to his wife, or to any other person, the power to act in his stead in contracting with a teacher. However, if such director should, in concurrence with one or more members of the district board, employ a teacher and agree upon the terms of the contract, he might instruct his wife, or other third person to draw up the instrument in accordance with such agreement and sign his name thereto; then it would be his contract. The mere physical act of a third party's writing the director's name under his direction does not involve any exercise of discretion or judgment.

**Draw orders on county treasurer.**—It is the duty of the district director to issue orders upon the county treasurer in favor of the district treasurer for money on hand in the county treasury, in order that the district indebtedness and current expenses may be properly paid. In case the director refuses without sufficient reason to issue such orders upon the county treasurer, he may be compelled to do so by mandamus proceedings in the district court. See 22 Neb., 52.

**Furnish supplies.**—Section 13, subdivision 5, of School Laws, provides that no school officer shall be a party to any school contract for building or furnishing supplies except in his official capacity as a member of the board. This, of course, does not apply to supplies furnished in any other manner than *under contract*. Section 13, subdivision 4, expressly states that the director shall, with the concurrence of the other members of the board, provide the necessary appendages for the schoolhouse and keep an account of all expenses incurred by him as director. This section clearly implies the duty of the director to provide all necessary supplies in such a manner as he sees fit when not otherwise directed by the board. His account must be audited by the board; and if any items are found incorrect or any charges exorbitant, corrections can be made at any time.

**Oath.**—It is not necessary that the director of a primary (common) school district take the oath of office. His filing an acceptance and assuming the duties of the office are all the necessary steps.

**Official certificate of director evidence of due notice of calling special meeting.**—The official certificate of the director

of a school district that notice of a certain special school meeting held in said district was given by posting up notices of said meeting twenty days before the holding thereof, in three of the most public places in said district, which certificate was introduced and received in evidence under a stipulation of parties, in which it was recited that such "stipulation is for the purpose of using the same as testimony, instead of the plaintiff or defendant being obliged to take depositions to prove the same," *held*, to be evidence of the due publication of the notice of the calling of such special school meeting. 21 Neb., 725.

**No power to act alone.**—The duties devolved upon the members of the school district board, or upon the moderator and director, by section 8, subdivision 4, of chapter 79, Compiled Statutes, can only be performed by those two officers acting in conjunction. Any attempt on the part of either of them to perform such duties alone and without the joint action of the other, is ineffective and void. 22 Neb., 48.

## 2. *The Moderator.*

**Cannot be compelled to sign contract.**—There is no law compelling a moderator to sign a contract for supplies. His signature is not necessary to the validity of the contract, but if the contract was made at a meeting of which he had no notice, the contract itself is called in question. It has been decided that such contract is illegal. A contract with a teacher is an exception to this rule.

**Mandamus will compel him to perform his duty.**—A moderator refused to sign an order properly drawn upon the treasurer and the matter was submitted for adjudication to the county superintendent, who, after investigation, found that the officer refused to sign the order for insufficient reasons. *Held*, that under the statute the county superintendent had the right, on behalf of the district, to apply to the proper court for a writ of mandamus to compel the officer to perform his duty. 35 Neb., 655.

**May vote.**—The moderator has a right to vote at school district meetings on all questions pertaining to school matters. In case of a tie vote, however, he could not cast a second vote to break the tie.

**No power to act alone.**—See Director.

**Oath of office not required.**—A moderator of a school district is not required to take an oath of office. 30 Neb., 360.

**Officer de facto.**—When a person elected to the office of moderator of a school district fails to file with the director of the district his written acceptance of the office, but immediately after his election enters upon the discharge of his official duties, by presiding at school district meetings, countersigning school orders and performing all other duties required by law of such officer, without objection from any one, for more than a year, *held*, that the failure to file a written acceptance did not forfeit his title to the office. 30 Neb., 360.

**Refusal to sign report to county clerk of lawful tax levy.**—One B., moderator of a school district, refused to sign a report to the county clerk of the lawful taxes voted by his district at the annual meeting. *Held*, that it being a duty enjoined by law, he would be compelled by mandamus to sign the same. 11 Neb., 359.

### 3. *The Treasurer.*

**Account for funds.**—It is perfectly proper for the moderator and director at any time to demand of the treasurer that he account for funds which he may have on hand.

**Appears for district.**—It is the duty of the treasurer of a school district to appear for and in behalf of his district in all suits brought by or against the same, unless other directions are given by the qualified voters at a district meeting, except his interests are adverse to the district, in which case the director, in the absence of other directions, shall appear. When the action is not brought by the treasurer, the petition should state the cause.

**Bond.**—See sections 4 and 8, subdivision 4, School Laws.

**Custodian of funds.**—The statute as well as the supreme court recognizes the district treasurer as the legal and proper custodian of the funds for his district, provided, of course, the said treasurer has furnished bonds as provided in sections 4 and 8, subdivision 4, School Laws. A district treasurer who has complied with these provisions could apply to the district court for a writ of mandamus to compel the director and moderator to issue warrants on the county treasurer in his behalf for the funds belonging to his district.

**Hold over.**—In case a district treasurer-elect fails to file a bond within the prescribed time, the old treasurer holds over, if elected to the office; and he has twenty days after the annual meeting in which to file a new bond.

**Liability.**—Moneys in the treasury must be used for the purpose of paying outstanding warrants, and the treasurer is liable under his bond if he uses money for any other purpose as long as there are warrants outstanding against the fund.

**Must not pay out money except on orders.**—The law does not contemplate that the treasurer shall pay any bills out of moneys belonging to the district except through the regular channels: viz., on orders drawn by the director and countersigned by the moderator.

**Refusal to pay orders.**—If the treasurer refuse through contumacy or for insufficient reasons to pay the orders legally drawn upon the district, it shall be the duty of the county superintendent on behalf of the district to apply to the proper court for a writ of mandamus to compel the officer to perform his duty.

**Release.**—A school district has no authority to release its treasurer from liability for money lost or misapplied by him. 8 Nebr., 293.

**Surety.**—The director and moderator should not become surety upon the treasurer's bond, for the reason that they are the officers whose duty it is to approve such bond; but after having signed the bond they would be estopped from denying the validity of the same, and would doubtless be held liable thereon in the event of the defalcation of the treasurer.

**Treasurer and his banker.**—It is not within the power of the treasurer of a school district by a general deposit of funds held by virtue of his office to create between such district and his banker the relation of debtor and creditor. A banker by receiving on deposit from a school district treasurer funds known to be held by the latter in his official capacity becomes thereby a trustee for the beneficial owner with respect to such funds, and the same may, upon his insolvency, be recovered by the owner as a preferred claim against his estate. 52 Neb., 1.

**Writ of mandamus cannot issue, when.**—A writ of mandamus cannot issue to the treasurer of a school district requiring the payment by him of an order payable by its terms at a fixed time in the future and in the meantime drawing interest at a rate per centum defined by the terms of the order itself. 39 Neb., 570.

#### 4. *The Board as a Body.*

**Acceptance.**—In a primary (common) school district the fail-

ure of an officer-elect to file his acceptance within ten days after the annual meeting does not forfeit his office. His entrance upon the discharge of the duties of the office is sufficient. The filing of a bond by the treasurer-elect is held to be sufficient acceptance.

**Admit non-resident pupil.**—See section 4, subdivision 5, School Laws.

**Appointment, vacancy.**—Where a tie vote occurs in the election of a school district officer, it is not within the province of the county superintendent to appoint an officer.

An outgoing officer is not competent to assist in appointing his successor. If a vacancy exists in the office the old officer is no longer competent to act on behalf of the district, and such vacancy can be filled by appointment or election.

**Audit bills.**—A bill against a school district should be made out in due form, itemized, and presented to the board for their consideration. Action should be taken thereon and the warrant issued in accordance with such action. The director should be justified in demanding an itemized statement. He is responsible for drawing orders on the district and should know definitely for what purpose the money of the district is used, so that he may be able to report to the voters at the annual meeting. The director must also make out an itemized statement of every bill he presents for expenses incurred by him in his official capacity.

**Certain contracts not binding upon districts.**—A contract entered into and signed by persons styling themselves as director and moderator of a school district, is their individual contract, and not binding upon the district. The action of a majority of a school district board will not bind the district, without notice to or participation therein of the other members. 4 Neb., 245.

**De facto.**—In case a person assumes, under color of right, a school district office, and performs the duties of such office, being permitted by the district in the discharge of such duties, he is a *de facto* officer so long as he is permitted to act in that capacity, and his acts as such officer are binding upon the district.

**Election.**—Section 1, subdivision 3, of the School Laws provides that school district officers shall be elected by ballot. However, in case, by the proper motion being carried, the secretary or clerk is instructed to cast the ballot of the meeting for an officer, it would be construed to be an election by ballot within the meaning of the section just referred to.

A plurality vote elects, that is, the one receiving the highest number of votes cast is elected.

The school law makes no provision for casting lots in case of a tie vote on member of a school board, and it is not a legal process of selecting an officer. Another ballot should be taken.

Where a district officer is elected by acclamation for the full term at the annual meeting and has performed the duties of his office for a time extending beyond the next annual election, he is entitled to the office the full term for which he was elected.

**Furnish supplies.**—A member of the committee on purchase and supplies shall not be a party to furnish supplies to the district, except in his official capacity as a member of the board. See section 13, subdivision 5, School Laws, 1901.

**General care of school.**—The district school boards shall have the general care of the schools, and shall have the power to cause pupils to be taught in such branches and classified in such grades or departments as may seem best adapted to a course of study which the school boards of any county shall establish by the consent and advice of the county superintendent thereof, and the school board of each district shall cause a record of the advancement in each branch of study of all the pupils to be kept in a book to be provided for this purpose; and it is hereby made the duty of each district board, or of one of their number empowered by the board, to attend all meetings called by the county superintendent for the purpose of adopting or revising a course of study for the advancement of the district schools, of making rules and regulations as they may think necessary for the government and health of the pupils, and of devising such means as may seem best to secure regular attendance and progress of children at school. See section 3, subdivision 5, School Laws.

**Hold over.**—When a person elected to a school district office fails to qualify, the old officer holds over till his successor is elected or appointed and qualified, unless the old officer holds his office by appointment. In such case there is a vacancy and the vacancy may be filled by appointment of the board, or at an election at a special meeting called for that purpose.

**Liability.**—The other members of the board should not be sureties on the treasurer's bond. The treasurer should not be allowed to draw money from the county treasury until his bond has been filed and approved; and the individual members of the board authorizing such draft, in the absence of the necessary bond, would be liable to the district for any loss resulting therefrom.

**Qualification.**—One who is not a resident of a school district is not eligible to any district office therein. All the qualification necessary for a school district officer is that he be a legal voter in the school district.

**Records and papers.**—When a district voter is legally elected at an annual meeting to a school district office, and files his acceptance within ten days after such election, he is entitled to possession of the books and papers belonging to such office on the second Monday of July following his election; and any dispute that may arise between him and his predecessor is no ground for the remaining members of the board to declare the office vacant. It is the duty of the outgoing officer to turn over to his successor the official papers, records, etc., pertaining to his office.

**Removal.**—Two members of a school board cannot of their own volition remove the other members from office. The only way to remove a school district officer is by proper action before a court of competent jurisdiction.

**Resignation.**—If an officer resigns at an annual district meeting, and his resignation is accepted by the board at the meeting, the voters present may elect a successor to complete the term of office.

The general rule is that the resignation of an officer should be presented to the board or the officer who has authority to fill the vacancy so created. At the time of the annual meeting the resignation of a district officer should be presented to the meeting; at any other time, to the district board.

**Sale of schoolhouse.**—A school district board cannot legally sell a schoolhouse or site without being directed to do so by the legal voters at a district meeting. When the district has so authorized them by a two-thirds vote (sec. 15, sub. 2, School Laws) it would seem proper for the board to advertise and sell the same to the highest bidder.

**Salary provided for by each annual meeting.**—In order legally to pay the school district officers a salary, it is necessary that provisions for such payment be made at the annual district meeting; but it is not within the authority of the annual meeting to make provision for the payment of such salary for more than the ensuing year.

**Vacancy, how filled.**—When vacancies occur in school boards, the vacancies are filled by appointment or by election at a special district meeting. If by appointment, the appointee serves until the next annual meeting; if by special election, he serves for the remainder of the unexpired term.

## III. CONTRACTS.

**Board member must not have pecuniary interest.**—Section 13 of subdivision 5 reads as follows: "No school officer shall be party to any school contract for building or furnishing supplies, except in his official capacity as a member of the board." The spirit of section 13, subdivision 4, seems to authorize the director to furnish, under the direction of the board, in such a way as he may see fit, such supplies and repairs as are necessary for the proper maintenance of the school. It seems equally clear that the statutes give the district board no authority to make extensive repairs or to incur large or unusual expenses without the consent of the district meeting. Any action of public officers is voidable if vitiated by fraud. When school district officers employ each other for services to the district involving pecuniary profit, the transaction bears on its face a strong suggestion of collusion and fraud, which presumption, however, may be overcome by competent evidence of good faith.

**Certain contracts not binding upon district.**—See Board as a Body.

**Publisher's contract.**—The text-book law does not require the district boards to enter into contract for a term of years with the publishers. It is left entirely to the board's discretion, but no such contract can be legally made for a term of years under the provisions of this act until the proper bond is filed by the publishers.

**Relationship.**—"No contract with a teacher shall be valid unless agreed to either by all the members of the district board or by two members of such board who are not related to the fourth degree to the said teacher and whose terms of office extend beyond the date of the term of school contracted for." In regard to a relative hiring a relative, the law applies to questions of consanguinity, but not to marital relationship.

**Teacher's.**—The director and one other member of the board may contract with a teacher without notifying the third member, but a contract made by the other members of the board without first giving the director an opportunity to make the contract would be void. They may make a valid contract, however, if the director refuses to do so. See section 11, subdivision 4.

## IV. COURSE OF STUDY.

**A foreign language.**—If it is the wish of a large majority of the patrons of the district that a foreign language be taught, the



board would have authority to allow this to be a part of the course of study. A foreign language should not be used as the medium of instruction in other branches, but may be studied simply as a language.

**Right to select studies.**—The parent has a right to make a reasonable selection of the studies he desires his child to pursue from the course prescribed by the district board, and this selection must be respected by the trustees, as the right of the parent in this regard is superior to that of the trustees and the teacher. 31 Neb., 552.

**Who prescribes the course of study.**—See “General Care of School” under “Board as a Body.”

#### V. SCHOOLHOUSE.

**Care and custody of.**—This question has given rise to much controversy, and many disputed points still remain unsettled. The following opinions seem to be well founded:

1. The schoolhouse was erected for school purposes, and cannot legally be used for any other purpose that will interfere with its use for this.

2. A room in a schoolhouse not needed for school purposes may be leased for any purpose not injurious to the school or a detriment to the usefulness of the other parts of the building for school purposes; but the contract for such lease cannot extend beyond the close of the school year.

3. The right to determine whether a schoolhouse shall be used for other than school purposes belongs to the voters of the district when assembled in a lawful manner; but when the district has not acted on the subject the board has control until some action is taken by the district. But neither board nor district has any right to allow the schoolhouse to be used in such a way as to interfere with the school.

4. If the voters of the district wish to use the schoolhouse for meetings of various kinds, there seems to be no good reason why they may not so use it so long as they do not interfere with the school work. The decisions of the supreme courts of Indiana, Illinois, Iowa, and many other states confirm this view. Kansas, New Jersey and West Virginia confer upon the trustees, by statute, the right to use the house for such purposes. In the absence of any decision by our own courts, the above rulings will govern this department.

**Insurance.**—Section 3462, chapter 43, Compiled Statutes of Ne-

braska for 1901, lists country schoolhouses and contents among the things named in said section that may be legally insured in mutual insurance companies.

**Number, in rural district.**—While it is a very unwise policy for a rural district to have its money invested in two schoolhouses, there is no legal objection to such a plan, provided free and equal privileges are given to each and every pupil in the district.

**Plans for building.**—Subject to certain restrictions, the qualified electors of school districts are entrusted with the power to determine what sort of a schoolhouse shall be erected, and the extent of the expenditures therefor; and when so determined the school board has no authority to change the same, and thus bind the district for an increased expenditure.

**Removal.**—It is not within the authority of the voters at a special meeting to move the schoolhouse. This may be done at an annual meeting only.

**Repair.**—The amount of money to be used in the repair of the schoolhouse is in the discretion of the board to determine.

**Sale.**—A school district board (other than in cities) cannot legally sell a schoolhouse or site without being directed to do so by the legal voters at a district meeting. When the district has so authorized them by a two-thirds vote (section 15, subdivision 2) it would seem proper for the board to advertise and sell the same to the highest bidder.

## VI. SCHOOLHOUSE SITE.

**Adverse possession.**—When a school district has held open, notorious, and adverse possession of a certain schoolhouse site for a period of ten years or more, there is no doubt that such site is the legal site of the district.

**Improving.**—A school district has a right to put down a well on a site on which the schoolhouse is located, even if they have no deed for said site.

**Lease.**—If a school district fails to have a lease for its schoolhouse site recorded, and a deed is given to another party for land containing said site, the lease the district has from the first owner is no longer in force. It is necessary to secure a lease from the present owner and have it recorded.

**Sale.**—A school district board cannot legally sell a schoolhouse or site without being directed so to do by action of the legal voters at a district meeting.

**Selection and change.**—The phrase “designate a schoolhouse site,” has reference to the first location of a schoolhouse site in a newly organized district. The county superintendent’s authority to determine where such site shall be established, when no site can be determined upon by the voters of the district, has reference also to the first location of a schoolhouse site in a newly organized district. The county superintendent has no authority to determine the schoolhouse site when it has been once established. Neither is there any authority for adjourning the annual meeting for the purpose of changing the site when once established. The supreme court, in its interpretation of the law in section 8, subdivision 2, School Laws, said: “It will be observed under the foregoing statute that a schoolhouse site when once established can be changed only at an annual school district meeting. There is no authority of law for changing such a site at a special meeting.”

**Where is the site?**—The literal and legal schoolhouse site is the place actually occupied by the schoolhouse. All distances relative to site and transfers are measured from the schoolhouse. Therefore, a moving of the schoolhouse to a different part of the school grounds is a change of site and can be done only under the provisions of section 8, subdivision 2, School Laws.

## VII. SPECIAL MEETING.

**Call.**—Upon the presentation of a petition signed by five legal voters of the district, the board, at their discretion, or any member of the board, may call a special meeting by posting the proper notices. However, it is not obligatory upon the members of the board to call such a meeting.

**Cannot determine school term.**—A special school district meeting has no authority to determine the length of school to be held in the district the ensuing year, nor to determine at what time in the year such term shall be held. The legal action of the annual meeting upon these subjects is final.

**County superintendent may call, when.**—In case a district has no school officers, the county superintendent should call a special meeting for the election of school officers upon the petition of five legal voters of said district. In case there are not five legal voters in said district, then every legal voter should sign the petition for a special meeting. If said voters should refuse to sign such petition, then the county superintendent should apply to the district court for a writ of mandamus to

compel such voters to make legal provision for school in such district.

**Reconsider action.**—A majority of the legal voters of a district, at a special meeting, may reconsider their previous action of a special meeting.

Questions which can be determined only at an annual meeting cannot be changed at a special meeting.

**Validity.**—No business can be transacted at a special district meeting except that specified in the call for said meeting; but the fact of doing business not mentioned in the call does not invalidate action with reference to business which was specified in the call.

# INDEX

TO

## SCHOOL LAWS.

---

- ACADEMIES.** See *Corporations, Educational*, 135-144
- ACCEPTANCE OF OFFICE**, 27  
filed with director, 27
- ACCOUNTS.**  
city districts. audited by secretary, 77, 110  
county superintendent, sworn statement, 50, 51  
director, audited by moderator and treasurer, 34
- AGRICULTURAL EXPERIMENT STATION**, 131-134
- APPEAL.**  
from appraisal of schoolhouse site, 69
- APPOINTMENTS.**  
county superintendent, by county board, 54  
district officers by county superintendent, 28, 41  
to fill vacancies, 28, 41  
treasurer to fill vacancy, 30
- APPORTIONMENT.**  
moneys to several districts in one city or village, 155  
state school funds—  
basis of, 64  
constitutional provisions, 10  
county superintendent. See *School Funds*, 64  
certificate of apportionment, 64  
certificate of financial and census reports, 65  
fractional districts, 64  
new district, 64  
record, 64  
forfeiture, 64  
excuse, destruction of schoolhouse, epidemic, 26  
length of term required in order to share, 26  
new district, 64  
state superintendent, 56, 63  
warrant for, issued by auditor, 63
- APPRAISAL.**  
school lands, 146, 153  
site for schoolhouse, condemned, 69
- ARBITRATION.**  
division of district property, 20
- ATTENDANCE.**  
at nearer school, 37  
compulsory, 102
- AUDITOR OF PUBLIC ACCOUNTS.**  
draw warrants for state apportionment, 63  
may examine records of state superintendent, 55  
register district bonds, 95  
certificate of registration, 95  
detach coupons from bonds, 101  
require statement of funds from county treasurers, 63
- BATTALION, CADET**, 129, 130
- BLANKS.**  
county superintendent to receive and distribute, 54  
state superintendent to prescribe and publish, 54, 55, 120
- BOARD, DISTRICT.** See also *Officers, District.*  
appoint to fill vacancies, 28, 30, 41  
bonds, district, issued by, 93  
statement of proceedings, 95  
care of schoolhouse and property, 37, 40  
outhouse, 40  
census, report, 35  
classification of scholars, 37  
constituted, how, 36  
contract with teacher, 32, 33  
course of study, 37, 42  
director, clerk, 32  
grade scholars, 37, 42  
high school district, trustees, 42  
liability for loss from failure to take census, 35  
meetings, how called, notice, 36

**BOARD, DISTRICT—Concluded.**

- non-resident pupils, admitted by, tuition, 37, 42
  - oath as to destruction of school-house, or epidemic, 26
  - pupils—
    - classified, 37, 42
    - suspended and expelled, 39
  - physiology and hygiene, instruction in, 59
  - property, sale, 39
  - quorum, 36
  - report taxes voted, 25, 36, 37
  - rules and regulations, 37, 42
  - sale of district property, 39
  - schoolhouse, build, hire, purchase, 39
  - suspension of pupils, 39
  - treasurer's office declared vacant, 30, 32
  - tuition, determined by, 37, 42
  - vacancy, how filled, 28, 41, 42
- BOARD OF EDUCATION.**
- city districts, 75, 107
  - state normal school, 70, 71
- BOARD OF EDUCATIONAL LANDS AND FUNDS, 9, 145**
- BONDS, DISTRICT, 93-100**
- amount, 94
  - city districts, 93, 94, 113
    - election, 80
    - interest, 81
    - purchase, 82
    - sinking fund, 81
  - compromise indebtedness, 99
  - descriptions, 99
  - negotiations, 99
  - payment, 100
  - petition, 100
  - record, 100
  - county treasurer liable for taxes collected, 97
  - coupons detached by auditor, 101
  - description, 81
  - election, 81, 114
  - high school redemption bonds, 98
  - condition, 99
  - description, 99
  - issuance, 99
  - payment, 99
  - history of proceedings, 95
  - payment, 97
  - petition, 94
  - purpose of issue, 94
  - refunding bonds, 98
    - description, 98
    - issue, 98
  - payment, 98

**BONDS, DISTRICT—Concluded.**

- registration, 95
  - certificate of auditor, 95
  - non-registry, 96
  - school district defined, 96
  - sinking fund, 96
    - notice by publication, 97
  - sinking fund, transfer of remainder after payment, 97
  - statement of proceedings (history), 95
  - taxes for payment, 96
    - county treasurer liable for receipts, 97
    - excess, 96
- BONDS, OFFICIAL.**
- district treasurer, 30, 31
  - secretary board of education, city district, 77, 109
  - treasurer of city district, 77, 109
- BONDS, PUBLISHERS, 119**
- BOOKS, TEXT, 119-121**
- contract with publishers, 119-121
  - form of, 119-121
  - violation of, penalty, 120
  - damage to, 121
  - loaned to pupils, 121
  - local dealer may handle, 121
  - payment for, 120
  - price lists, 120
  - property of district, 121
  - publishers' bond, contract, statement of prices, 119
  - pupils may borrow or purchase from the board, 121
  - purchased by district board, 119
  - statement of prices, 120
  - supplies, 121
  - trusts, 120
- BOTANIST, STATE, 122**
- BUILDING FUND.**
- expended under direction of district, 25, 26
  - tax voted at annual meeting, 25
- CADET BATTALION, 129**
- CALENDAR BUSINESS, 5-8**
- CENSUS DISTRICT.**
- city districts, 35, 78, 111
  - failure to take, loss, liability, 35
  - oath of person taking, 33
  - taken by whom, when, 33
    - in city districts (30 days), 34, 78, 111
- CERTIFICATE.**
- teacher's (see *Teacher*), 51, 57, 71, 79
  - city districts, 79, 111
  - college and normal, 59
  - endorsement, 51

CERTIFICATE—*Concluded.*

- teacher's—
  - fee, 61
  - necessary to contract, 32, 35
  - renewal, 61
  - revocation, 51, 52, 62, 79, 111

## CHALLENGE OF VOTER, at district meeting, 23

## CHANCELLOR, UNIVERSITY OF NEBRASKA, 122, 129

## CHARITIES AND CORRECTIONS, 161

## CHEMIST, STATE, 122

## CHILD LABOR, 159

## CITIES, POPULATION, 25,000 TO 40,000, SCHOOLS IN—

- board of education, 83-87
  - accounts, expenditures, 88
  - attorney, 87
    - bond of, 87
  - bond of members, 86
  - control, 83
  - election, 85
  - election, women, 84
  - meetings, 84
  - oath of office, 84
  - officers, 85
    - president, 85
    - secretary, 85
      - oath, bond, 86
    - treasurer, 87
      - bond of, 87
    - vice president, 85
  - quorum, 87
  - salary of members, 85
  - vacancies, 87
- bonds, 93
  - purchase before maturity, 93
- census, 88
- control of funds, 93
- district, body corporate, 82
- estimate of expenses, 90
- funds, control of, 93
- interest, 30
- limitation of taxation, bonds, 91
- payment of debts, 89
- property and funds, 87
- taxes, 92
- teacher's certificate, 89
- sale of property, 89
- women, election, 84
- warrants, 92

## CITIES, SCHOOLS IN, 74-82

- board of education, 75
  - accounts audited, 78
  - appropriations, 78
  - ballot, 76
  - census, 73
  - committee on claims, 78

CITIES, SCHOOLS IN—*Concluded.*

- board of education—
  - compensation, 76
  - constituted, how, 75
  - control, general, 74
  - election of members, 75
  - returns, canvass, 76
  - estimate of funds needed, 80
  - meetings, 76
  - members prohibited from contracting with district, 79
  - oath of office, 76
  - officers—
    - election, ballot, 76
    - president, 77
    - secretary, duties, bond, 77
    - treasurer, city treasurer *ex officio*, 77
      - bond, 77
      - vice president, 77
  - quorum, 78
  - records, subject to inspection, 78
  - report to county superintendent, 78
  - term of office, 75
  - vacancies, 78
    - how filled, 78
- bonds, 81
  - interest, 81
  - purchase before maturity, 82
  - sinking fund, 81
    - investment, 81
    - securities, sale of, 82
- census, 33, 78
- certificate, teachers', 78
- districts—
  - changes in boundaries, 14
  - funds, 77, 82
  - name and style, 74
  - property, 77, 79
  - territory outside municipality, new district, 73
  - examining committee, 79
- funds, 77
  - control of, 82
- indebtedness, payment, 79
- property, 77
  - sale of, 79
- report to county superintendent, 79
- superintendent of public instruction, election of, 76
- taxes, maximum levy, 80
- warrants, 65

## CLASSIFICATION OF SCHOLARS, 37, 42

COLLEGES, See *Corporations, Educational.*

- COLLEGES OF UNIVERSITY OF NEBRASKA. See *U. of N.*
- COMMISSIONER PUBLIC LANDS AND BUILDINGS.  
give deed for site on school land, 69
- COMMISSIONERS, COUNTY. See *County Board.*
- COMMON SCHOOLS,  
instruction free, 10
- COMPROMISING INDEBTEDNESS, See *Bonds.*
- COMPTROLLER'S REPORT.  
metropolitan city, 110, 111
- COMPULSORY EDUCATION.  
attendance—  
evening schools, 103  
exemptions, 102, 103  
physician's examination, 103  
transportation, free, 102  
list of delinquents, 102  
monthly report to city superintendent, 103  
monthly report to county superintendent, 103  
parochial school, 102, 103, 104  
private school, 102, 103, 104  
public school, 102, 103, 104  
record shall be kept, 103
- enumerators—  
duties of, 105  
oath of parent or guardian, 106  
penalty for refusing, 106
- special schools—  
equipments, 105  
truants made to attend, 105
- truant officers—  
boards may appoint, 104, 105  
compensation of, 104  
complaint filed by, 105  
director shall act, 104, 105  
notice to parent, 104  
violation of act—  
penalty, 105
- CONCURRENT RESOLUTION—  
Floral Emblem, 162
- CONDEMNATION OF SITE FOR SCHOOLHOUSE, 69
- CONSTITUTIONAL PROVISIONS RELATIVE TO EDUCATION.  
ART. VIII., 9-11
- CONTRACT.  
officer as teacher, 29  
officer with district, prohibited, 41, 78, 97  
publishers, text-books, 119  
form of, 120  
violation of, penalty, 120  
teacher's, 32, 33
- CONVEYANCE.  
district property, 26
- CORPORATIONS, EDUCATIONAL, 135  
academies, incorporation, 138  
capital stock increase, 139  
notice, 139  
colleges, 57-59, 135  
diplomas, 57, 59, 60, 143-144  
existing corporations, 139  
faculties, 138  
foreign corporations, diplomas, degrees, 143  
status ascertained, 143  
funds, application, how changed, 141  
holding property in trust, 137  
incorporation, 60, 135  
legalization of acts, 145  
name, change, 145  
Nebraska University, reorganization, 144  
trustees, power, 144  
normal schools, 50, 70  
property, appraisal, 135  
stock (see *Capital Stock*), 139  
stockholders, liability, 140  
trustees, body politic, 140  
election, 136  
powers, 136, 142, 144  
universities, incorporation, 141  
trustees, appointment, powers, 136, 142
- COSTS.  
appraisal of site, 69
- COUNTY BOARD.  
appoint county superintendent to fill vacancy, 54  
appropriation for institute fund, 61  
assess taxes on division of district property, 18  
levy of taxes, voted at annual meeting, 25  
salary of county superintendent determined by, 50
- COUNTY CLERK.  
levy taxes, 37  
notice of election of county superintendent, 50  
transfer taxes, 38
- COUNTY SUPERINTENDENT, 50-55  
account, statement of, 50, 61  
appoint appraisers of site, 60  
district officers, 28, 41, 42  
appointment of, by county board, to fill vacancy, 55



COUNTY SUPT.—*Continued.*

apportionment of state school fund, 64  
 certificate of, 65  
 record, 64  
 blanks and communications received from state superintendent, dispose of, 54  
 bond, 21  
 books, deliver to successor, 53  
 certificate of financial and census reports, 65  
 certificates, teachers' (see *Teacher*), 51, 57  
 branches required, 51, 52, 59  
 endorsement, 51  
 form, 51  
 grades, 52  
 record, 52  
 revocation, 52, 62  
 hearing, 52  
 compensation, 22  
 districts created and boundaries changed, 13-20  
 action, discretionary, 14  
 obligatory, 14  
 notice to taxable inhabitant, 16  
 new notice, 28  
 petitions, filed, 16  
 property, division, 17-20  
 record, 17  
 report, 19  
 division of district property, 17-20  
 arbitration, 20  
 certificate of amount due, 18  
 division of district property—  
 sale of schoolhouse, 18  
 duty to attend institute, 16  
 election, 50  
 examination of teachers, 51  
 notice, 51  
 penalty, 51  
 institutes, 60-62  
 kinds of, 55, 60, 61  
 fund, disbursement, 61  
 statement, 61  
 normal, must attend, 61  
 lectures, 53  
 mandamus, application for, 29  
 map of districts, 19  
 notices—  
 arbitration, division district property, 20  
 formation of district, 15  
 new notice, 28  
 report of director, when due, 54

COUNTY SUPT.—*Concluded.*

notices—  
 transfer of pupils to adjoining district, 38  
 oaths, administered by, 36  
 papers, delivered to successor, 53  
 petitions, filed, 16  
 record, 16, 53  
 deliver (with books and papers) to successor, 53  
 reports—  
 change in district boundaries, 19  
 dismembered district, 20  
 district, examination of, 54  
 notice, when due, 54  
 to state superintendent, 54  
 to superintendents of institute for the blind and institute for the deaf, 54, 55  
 salary, determined by county board, 50  
 site of schoolhouse, determined by, 24  
 statement of account, 51  
 institute fund, 61  
 term of office, 50  
 time allowed, 50  
 transfer of pupils to adjoining district, 38  
 notice of same, 38  
 vacancy in office, how filled, 54  
 visit schools, 53  
 COUNTY TREASURER.  
 adjust tax list, 19  
 collect and pay over district taxes, 37  
 fee for receiving and disbursing apportionment, prohibited, 64  
 COURSE OF STUDY.  
 high school district, 42  
 primary district, 37  
 DECISIONS. See *Official Decisions*, 163-200. See also *index to official decisions*.  
 DEED.  
 district property, 26  
 moderator sign and acknowledgment, 26  
 record, 27  
 site on school land, 69  
 DEGREES.  
 foreign corporations, 143  
 University of Nebraska, 124  
 DEPUTY STATE SUPERINTENDENT.  
 duties, salary, 56  
 DIPLOMAS.  
 college and normal, 59

DIPLOMAS—*Concluded.*

- foreign corporations, 114
  - Nebraska State Normal School, 70-73
  - state normal in other states endorsement, 57
  - University of Nebraska, 110
- DIRECTOR. See *Officers, District.*
- DISTRICTS.
- body, corporate, 13, 74
  - debts, 21
  - defined, 13
  - dismembered, 21, 22
  - disturbance of meeting, fine, 30
  - extent of, 15
  - formation and division, 13-20
    - attachment of portion to adjoining district, 15, 16
  - changes on account of streams, 15
  - county divided into districts, 13
  - discontinuance of district, 15
  - discretion of county superintendent, 14
  - extent of district, 15
  - list of voters, 15
  - new district, when formed, 13
  - notice of petition, 14
    - to taxable inhabitant, 16
      - new notice, 28
      - record, 17
      - return, 16
    - to voters, 16
  - petition, 14
    - may not be refused, when, 14
    - property, division of, 17-20
      - amount due in installments, 17
        - assessment by county board, 18
        - certificate of, 18
        - arbitration, award fees, 20
        - bonded indebtedness, charge upon original district, 17
    - report of change, 19
    - return of notice, 16
    - sale of schoolhouse, 18
    - tax list adjusted by county treasurer, 19
    - two districts made from one, 15
  - high school, organization, 41, 42
  - indebtedness, compromise bonds, 99
  - joint districts, 20
    - apportionment to, 64
  - name and style, 13, 74
  - organization, 17, 28, 41

DISTRICTS—*Concluded.*

- unbonded indebtedness, 19
  - unsatisfactory division, 20
  - property, division of, 17-20
  - represented in litigation by treasurer, 31
- DISTRICT BOARD. See *Board, District.*
- DISTRICT OFFICERS. See *Officers, District.*
- EDUCATIONAL CORPORATIONS. See *Corporations, Educational.*
- ELECTIONS.
- county superintendent, 50
  - notice of by county clerk, 50
  - district officers, 27, 28
    - board members in city districts, see *Schools in Cities.*
    - trustees of high school district, 42
  - to vote district bonds, 94
- EMBEZZLEMENT, district funds, 64
- ENTOMOLOGIST, STATE, 123
- EXAMINATION OF TEACHERS. See *Teacher.*
- EXAMINING COMMITTEES. See *City Schools.*
- EXPENDITURES, ESTIMATE OF, 34, 43
- FEES.
- examination, teachers, 61
  - matriculation, State Normal School, 72
    - registration, normal certificate, diploma, 72
- FINES, 10, 62, 63
- FLORAL EMBLEM (*Resolution*), 162
- FUNDS, COMMON SCHOOL. See *School Funds.*
- FUNDS, DISTRICT.
- appropriation, 40
  - building, 25
  - disbursements, 40
  - misuse of, embezzlement, 64
  - payment to unqualified teacher prohibited, 33, 40
  - teachers'—
    - division of, on creation of district, 19
    - transfer of money, 26
    - turned over by treasurer to successor, 31
- FUNDS, INSTITUTE, 61, 72
- FUNDS, NORMAL SCHOOL, 72
- library, 72

- FUNDS, TEACHERS'.  
 apportionment, 64  
 appropriation, 40  
 division of, upon creation of district, 19
- GEOLOGIST, STATE, 122
- GOLDEN ROD.  
 floral emblem for Nebraska, 162
- GOVERNOR.  
 may examine records of state superintendent, 55
- GRADING OF SCHOLARS, 37-42
- HIGH SCHOOL DISTRICTS, 41-49  
 board of trustees, organization, 42  
 course of study, 42  
 election of officers, 42  
 estimate of taxes, 43  
 free attendance, 43  
 cost of attendance must be reported to county board, 44  
 expense of adjunct district, 44, 45  
 non-resident pupils, admission, tuition, 42  
 officers, election, appointment, 42  
 organization of district, 41  
 powers and duties, 42  
 receipts and expenditures, statement of, 43  
 rules and regulations, 42  
 rural high school, 45  
 teachers, employment of, 42
- HIGH SCHOOL REDEMPTION BONDS, 98
- HOUSE, SCHOOL.  
 building of, 25, 38  
 care of, 35  
 lease, 25, 38  
 purchase, 25  
 sale of, 18, 37  
 site for, how designated, 24  
 change of, 24
- INDEBTEDNESS, DISTRICT.  
 bonded, remains a charge upon original district, 18  
 compromise bonds, 99  
 unbonded, considered in division of property, 19
- INSTITUTES, TEACHERS', 60-62  
 county, 53, 60  
 revocation of certificate for failure to attend, 61  
 schools closed during institute, 61  
 fund, 61  
 disbursement, 61  
 fee, examination, 61
- INSTITUTES, TEACHERS'—*Con.*  
 fund—  
 statement of county superintendent, 62  
 normal, 55
- INSTRUCTION IN neighboring districts, 39
- INSTRUCTION FREE in common schools, 10
- INTEREST.  
 district bonds, 94  
 district warrants or orders, 65
- JOINT DISTRICTS.  
 apportionment to, 64  
 formation, 20  
 reports, 20
- JOINT RESOLUTION, "*The Tree Planters' State*," 162
- JUNIOR NORMAL SCHOOLS, 73
- LANDS, SCHOOL.  
 abstracts, 146  
 account with county treasurers, 147  
 applications for lease—requirements, 150  
 appraisers, fees, 153  
 appraisalment, 146  
 assignment, 153  
 board meeting, 145, 146  
 board of educational lands and funds, 145  
 charge to grand jury, 154  
 complaint, 154  
 county treasurer, 153  
 deed, 148  
 default of semi-annual rental, 150  
 destroying timber, 154  
 disposition of funds, 155  
 extension for final payment, 148  
 fees, 153  
 fines and penalties, 155  
 funds, disposition, 155  
 improvements, 153  
 interest, 148  
 invest fund, 146  
 lease, applications, 150  
 partial payment, 148  
 payment extended, 148  
 purchase by church or cemetery association, 148  
 purchase by school district, 148  
 reappraisalment, 146  
 records, 147  
 rental, default, 150  
 sale, 148  
 subdivision into lots, expense, 153  
 surrender portion, 148

LANDS, SCHOOL—*Concluded.*

taxation, 149  
 timber destroying, 154  
 trespass, 154

## LIBRARIES, PUBLIC.

deposit of reading matter, 159  
 directors, appointment, term of  
 office, 157  
 powers and duties, 157  
 report, 158  
 donations, 159  
 establishment, 157  
 exemptions, 159  
 free to inhabitants of city or  
 town, 158  
 funds, 158  
 librarian, appointment, compen-  
 sation, 158  
 penalties, how recovered, 159  
 report of directors, 158  
 rules and regulations, 159  
 amendments, 159  
 taxes, 157

## LIBRARY COMMISSION, 161

## LICENSES, 10, 62, 63, 155

## MANDAMUS, 29

## MATRICULATION FEES.

State Normal School, 72  
 University of Nebraska, 121

## MEETINGS, DISTRICT.

annual meeting, time, place, 22  
 determine length of term, 26  
 director, clerk, 32  
 estimate of expenditures, 34  
 statement of assessed valua-  
 tion, 36  
 statement of orders drawn, 34  
 minutes read, corrected, ap-  
 proved, 34  
 site for schoolhouse desig-  
 nated, changed, 24  
 taxes voted, maximum, 25  
 building fund, 25  
 clerk *pro tem.*, 32  
 determine amount of expendi-  
 tures, 25  
 directions as to prosecution or  
 defense of suit, 27  
 disturbance, arrest, 30  
 election of officers, 27, 42  
 high school districts, 41-49  
 lease of house or site, authorize,  
 24  
 moderator presides, 29  
 notice, 23  
 organization of new district, 17  
 notice, 16, 28  
 return of notice, 17  
 record, 17

MEETINGS, DISTRICT—*Concluded.*

president *pro tem.*, 30  
 purchase house or site, author-  
 ize, 24  
 sale of district property author-  
 ize, 26  
 special meetings, 22  
 called upon request of five  
 voters, 22  
 notice, contests, 23  
 transfer of funds, 26  
 voters, qualifications, 23  
 challenge, 23, 24  
 oath, 23  
 penalty for perjury, 24  
 rejection of vote, 24

## METROPOLITAN CITIES,

## SCHOOLS IN, 107, 118

board of education, 107  
 census, 111  
 control of schools, property,  
 etc., 107  
 election of members, 108  
 election of superintendent and  
 teachers, 109  
 meetings, 108  
 members prohibited from con-  
 tracting with district, 111  
 oath of office, 108  
 officers, 109  
 order vote upon the issuance  
 of bonds, 113  
 powers, 108, 109, 110  
 quorum, 110  
 report to city council estimate  
 of amounts required for  
 school purposes, 112  
 report to county superintend-  
 ent, 111  
 bonds, election, rate per cent.,  
 sale, 113  
 investment, description, pay-  
 ment, purchase, sinking  
 fund, 113  
 committee on claims, 110  
 comptroller of city, examine rec-  
 ords and accounts, report, 110  
 debts of superseded districts,  
 payment, bonds, 112  
 district, body corporate, 107  
 division of, 112  
 elections, 114  
 canvass, 116  
 deposit of ballots, 117  
 list of voters, 116  
 oath, 117  
 opening the polls, 116  
 poll books, 115  
 proclamation, 114

METROPOLITAN CITIES,  
SCHOOLS IN—*Concluded.*  
elections—  
proof of residence, 118  
secretary, 109  
special elections, 117  
superintendent, 108  
teachers, 108, 109  
voters, 115  
women may vote, oath, 117  
examining committee, 111  
funds, disposition of, 114  
president, 109  
property, 107  
sale of, 111.  
secretary, 109  
bond, oath, 109  
duties of, 109  
audit accounts, 110  
election, 109  
superintendent of school build-  
ings, 109  
taxes, levied by city council,  
maximum rate, payment, 107,  
113  
teachers, 109, 111  
certificates, 111  
revocation, 111  
election, 109  
training school, 118  
treasurer, treasurer of city *ex*  
*officio*, bond, 110  
vice president, 109  
MODERATOR, See *Officers.*  
MONTH, SCHOOL, 58  
NARCOTICS, STIMULANTS, 59  
NORMAL INSTITUTE, 55  
NORMAL SCHOOL, STATE.  
admission of pupils, 70  
board of education, 70  
appointment of members, 70  
appointment of principal,  
teachers, etc., 70  
compensation, 70  
expenses, 70  
meetings, 71  
officers, 70  
secretary, record, report, 70  
officers—  
treasurer, state treasurer *ex*  
*officio*, 70  
record, 70  
removal of principal, teachers,  
etc., 70  
report, 70  
rules and regulations, 71  
state superintendent, *ex officio*  
member, 70

NORMAL SCHOOLS, STATE—*Con-*  
*cluded.*  
officers—  
state treasurer *ex officio* mem-  
ber, 70  
vacancies, how filled, 70  
certificate from common school  
course, 71  
registration in office of county  
superintendent, 72  
fee, 72  
revocation, 62  
diplomas, 71  
life diploma, lapse, 71, 72  
registration in office of county  
superintendent, 72  
fee, 72  
dormitory, 72  
endowment, 72  
fee, matriculation, 72  
registration, 72  
funds, 72  
control, 72  
disbursement, 72  
endowment, 72  
library, 72  
examination for admission to,  
53  
morals, 71  
principal, appointment, duties, 71  
pupils, admission of, 73  
purpose, 72  
religious tests prohibited, 71  
teachers, appointment, 70  
NORMAL SCHOOLS, PRIVATE.  
See *Corporations, Educational.*  
NOTICES.  
county superintendent, to direc-  
tor to transfer pupils, 38  
to districts to appoint arbitra-  
tors, 20  
to county clerk of transfer, 38  
to taxable inhabitant of new  
district, 16  
new notices, 28  
district meetings, 23, 34  
parent to county superintendent,  
transfer of pupils, 38  
petition to change district  
boundary, 14  
school, 33  
taxable inhabitant, 16  
new notices, 28  
OATH, OFFICIAL.  
board members in city districts,  
75, 108  
secretary of board of education,  
109, 110

## OATHS.

- as to destruction of schoolhouse, or epidemic, 26
  - county superintendent may administer, 36
  - statement of account and institute fund, 50, 51
  - person taking census, 33
  - report of director, 35
  - voter at district meeting, 23
  - in metropolitan cities, 117
- OFFICERS, DISTRICT. See also *Board, District.*
- acceptance of office, 27
  - filed with director, 27
  - appointment by board, 41
  - appointment by county superintendent, 28, 41, 42
  - contract with district prohibited, 41
  - director—
    - acceptance of office, 27
    - account of expenses, audited, 34
    - appear for district, when, 31
    - approval of teacher's report, 58
    - approval of treasurer's bond, 30
    - census taken by, 33
    - clerk of district board and district meetings, 32
    - contract with teacher, 32, 33
    - demand, with moderator, new bond of treasurer, 31, 32
    - draw order and warrants, 31
    - 34
    - present same to moderator, 35
    - estimate of expenditures, 34
    - make complaint for non-attendance of pupils between 7 and 15 years of age, 104, 105
    - minutes of meeting read and approved, 34
    - notice of meeting, 34
    - notice of school, 33
    - preserve books and papers, 32
    - record proceedings, 17, 32
    - repairs, 34
    - report to county superintendent, 35, 36
  - director—
    - statement of assessed valuation, 36
    - statement of orders drawn, 34
    - election at annual meeting, 27, 42
    - at special meeting, 41

OFFICERS, DISTRICT—*Continued.*

- moderator—
  - acceptance of office, 27
  - approval bond of treasurer, 30
  - contract with teacher, 32
  - demand, with director, new bond of treasurer, 32
  - orders, countersign, 29, 34
  - refusal, mandamus, 29
  - preside at district meetings, 29
  - record of orders and warrants issued, 35
  - remove or arrest disorderly person at meeting, 30
  - payment for services, 34
  - refusal to sign or pay orders, 29
  - county superintendent investigate, 29
  - mandamus, 29
  - teach, when, 29
- term of office, 22, 27, 28, 42
- appointed to fill vacancies, 28
- beginning of, 22
- election at special meeting, 29
- first year in new district, 27
- high school district, 42
- treasurer—
  - acceptance of office, 27
  - appear for district in suits, 31
  - appointment to fill vacancy, 28, 41, 42
  - bond, 30, 31
  - approval by director and moderator, 30
  - city districts, 77-109
  - director file with county clerk, 30
  - failure of sureties, 31
  - file with director, 30
  - liability of principal, sureties, 32
  - new bond, 31
  - contract with teacher, 32
  - election to fill vacancy declared, 32
  - misuse of funds, embezzlement, 64
  - payment of orders, 31
  - receipt of moneys from county treasurer, 31
  - record of receipts and expenditures, 31
  - register unpaid warrants, 65
  - failure to register, penalty, 66
  - keep books, 66
  - failure to keep, penalty, 66
  - notify holder of warrants, 66
  - failure to notify, penalty, 66

**OFFICERS, DISTRICT—Concluded.**

treasurer—

report to annual meeting receipts and expenditures, 31  
turn over to successor official books, papers, and funds, 31  
vacancy filled by appointment, 28, 41, 42

by special meeting, 32

vacancy in office, how filled, 28, 30, 41

**OFFICIAL DECISIONS, 163-200.**

See also *index to official decisions.*

**ORDERS, DISTRICT. See also**

*Warrants.*

countersigned by moderator, 29, 31, 35

drawn by director, 29, 31, 34

endorsement, 65

interest, 65

payable, when, 65

record kept by moderator, 35

registration, 65

statement of, 34

**PAUPER CHILDREN, EDUCATION OF, 49**

tuition paid by county board, 49

**PENALTIES. See Fines.****PERMANENT SCHOOL FUND.**

See *Funds.*

**PETITIONS.**

for officer to teach, 29

to call election to vote bonds, 82

to create district or change boundaries, 14

change affecting cities, 15

list of voters, 15

notice, 14

to issue compromise bonds, 99

**PHYSIOLOGY AND HYGIENE, 59****PRICE LISTS, TEXT-BOOKS, 120****PROFESSIONAL CERTIFICATES.**

See *Certificates*, 58

**PROFESSORS. See University.****PROPERTY.**

district—

care and custody of, 40

division of, on formation of district, 17

lease, 39

purchase, 39

sale, 26, 39, 79, 111

granted for educational purposes, 9

taxable, statement of, 37

**PUPILS.**

age, 10, 33, 37

attendance at nearer school, 37

census, 33

**PUPILS—Concluded.**

expulsion, 39

grading, 37, 42

non-resident, tuition, 37

normal school, admission, 73

purchase books of board, 119

suspension, 39

**QUORUM.**

board of education, city districts, 78, 110

district board, 36

**RECORDS.**

director, 17, 32

moderator, 35

secretary, in city districts, 77, 109

treasurer, district, 31

**REFORM SCHOOL, 11**

**REFUNDING BONDS. See Bonds.**

**REGENTS. See University.**

**REPAIRS, 34****REPORTS.**

county superintendent, 19

director, 32, 35

joint districts, 20

taxes voted, 25, 36

teacher, 58

**REVERSION OF SCHOOLHOUSE SITE. See Site.****RULES AND REGULATIONS.**

city districts, 76, 107, 108

district board, 37

high school board, 42

normal school, 71

state superintendent prescribe for county superintendents, 54

rural high school, 45-48

**SCHOLARS. See also Pupils.**

age, 10, 33

census, 33

grading, 37, 42

**SCHOOL, defined, 13**

**SCHOOL DISTRICT. See District.**

**SCHOOL FUNDS, 62-68****SCHOOLHOUSE.**

building, 25, 39

care and custody of, 40

lease, 25, 39

purchase, 25, 39

sale, 18, 26, 39

site—

condemnation, 69

appraisal, damages, 69

appeal, 69

fees and costs, 69

limitations, 69

reversion of title, 69

conveyance, 26

designated and changed, 24

SCHOOLHOUSE—*Concluded.*

site—

lease, 25, 39

purchase, 25, 39

sale, 26, 39

school land, 69

deed by land commissioner,  
69

title to, 40

SCHOOL LANDS. See *Lands.*

## SCHOOL LAWS.

printing and distribution, 55, 56

## SCHOOL MONTH, 58

SCHOOL YEAR, BEGINNING OF,  
22SCHOOLS IN CITIES. See *Cities.*SCHOOLS IN METROPOLITAN  
CITIES. See *Metropolitan Cities.*SCIENTIFIC TEMPERANCE IN-  
STRUCTION, 59

examinations, 59

SECTARIAN INSTRUCTION PRO-  
HIBITED, 11

## SITE, 24, 69

title to, 40

## STATE SUPERINTENDENT.

apportionment of state school  
funds, 56, 57

blank forms, 54, 55

certificates, 58

decide disputed points in school  
law, 53

deputy, duties, salary, 56

determine free high schools, 43

examination, teachers', 58

member normal school board *ex*  
*officio*, 70normal diplomas, endorsement,  
57

normal institute, 55

office, open to inspection of the  
governor and others, 55price lists of books, print and  
distribute, 120

prescribe forms, 55

professional state certificates,  
58report of county superintendent,  
54

report to governor, 56

rules and instructions for  
county superintendents, 54school laws, print and distribute,  
55, 56

visit schools, 55

## STATE TREASURER.

collect securities of school fund,  
156

exhibit of school funds, 63

STATE TREASURER—*Concluded.*member of board of educational  
lands and funds, 9member normal school board, *ex*  
*officio*, 70STATE UNIVERSITY. See *Uni-*  
*versity of Nebraska.*STIMULANTS AND NARCOTICS,  
59SUPERINTENDENT OF PUBLIC  
INSTRUCTION.city. See *City Superintendent*, 76county. See *County Superintend-*  
*ent*, 50state. See *State Superintendent*, 55,

## SUITS AT LAW.

district meeting direct, 27

treasurer appear for district, 31

## SUPPLIES, 34

## SUPREME COURT DECISIONS.

See *Official Decisions*, 163-200. See  
also *index to official decisions.*

## TAXES.

bonds, district, payment of, 97

city districts, 80, 107, 113

collection, 36, 37,

district, 21

estimate of, 34, 43

levy, 25, 36, 37

lists, adjusted on, change in  
boundaries, 20

maximum rate, 25

paid to district treasurer on  
order, 37state levy. See *School Funds.*

transfer by county clerk, 38

voted at annual meeting, 25

building fund, 25

reported by board, 36, 37

## TEACHER, 57-60

certificates—

city districts, 79

revocation, 79

college and normal gradu-  
ates, 59

county—

branches required, 51, 52

endorsement, 51

form, 51

grades, 52

record, 53

renewal, 61

revocation, 51, 52, 62

necessary to contract, 32, 33,  
40

normal school, 71, 72

endorsement, foreign, 57

registration, fee, 72

revocation, 62



TEACHER—*Concluded.*

## certificates—

state, 58

branches required, 59

examination, 58, 59

lapse, 58, 59

without examination, 59

contract, 32, 33

certificate necessary, 32, 33, 40

district officer, on petition, 29

examination, 51, 59, 79

branches required, 51, 52, 59

notice, 57

qualifications, 57

unqualified teacher may not be

paid district money, 33, 40

report to director, monthly ap-  
proval, 50TEACHERS' FUND. See *Funds.*TEACHERS' INSTITUTE. See *In-  
stitute.*

TEMPORARY — SCHOOL FUND.

See *Fund.*

TERM, SCHOOL.

length, determined by annual  
meeting, 26necessary to entitle district to  
apportionment, 26TEXT-BOOKS. See *Books.*TRAINING SCHOOL. See *Metro-  
politan Cities.*

TRANSFER OF FUNDS, 26

TRANSPORTATION OF PUPILS,  
39

TREASURERS.

county. See *County Treasurer.*district. See *Officers, District.*state. See *State Treasurer.*TREE PLANTERS' STATE (*Joint  
Resolution*), 162

TRUANT OFFICER, 104, 105

TRUSTEES. See *High School Dis-  
tricts and Corporations Educa-  
tional.*

TRUSTS, TEXT-BOOK, 120

TUITION.

non-resident pupils, 37

pauper children, paid by county  
board, 49TUTORS OF UNIVERSITY OF  
NEBRASKA. See *University.*UNIVERSITIES. See *Corporations,  
Educational.*

UNIVERSITY OF NEBRASKA, 121

admission of students, 110

agricultural experiment station,  
131

acceptance by state, 132

appropriation for, 133

UNIVERSITY OF NEBRASKA—  
*Continued.*agricultural experiment station—  
preamble, 131, 132

treasurer, 134

trustees, regents, 134

battalion, cadet, 129

board of regents, 11, 124, 134

body corporate, 122

buildings, 129

compensation, 11, 129

diplomas and degrees granted  
by, 57, 124

election, 11, 122

meetings, 129

powers and duties, 11, 122, 129,  
134

report to governor, 125

term of office, 11

vacancies, how filled, 122

cadet battalion, 129

arms, equipment, 130

officers, 130

reports, 130, 131

chairs of instruction, 123

chancellor, chief educator, com-  
pensation, election, 122, 129colleges authorized, government  
of, 123

fine arts, 123

industrial, 123

law, 123

literature, science, and art, 123  
medicine, 123

degrees, 124

diplomas, 124

endowment fund, 125, 126

faculties, 122, 129

fees, 124

funds, 125, 129

endowment, 125, 126

library, 124

regents, 125, 129

government, 11, 123, 129

instruction—

chairs of, 123

non-sectarian, 11

library fund, 124

location, 123

matriculation fee, 124

model farm, lands, 123

name, establishment, 121

professors, election of, 122, 129

compensation, 122, 129

duties, 122, 129

property, under control of re-  
gents, 122regents. See *Board of Regents*, 11,  
122, 129

## UNIVERSITY OF NEBRASKA—

*Concluded.*

- reorganization, 131
- rewards of merit, 124
- steward, election, compensation, 122, 129
- students—
  - admission of, 124
  - assistance of, 125
  - distinction prohibited, 125
  - scientific course, 125
- text-books, 125
- treasurer, 128
  - abolition of, 129
- state treasurer, custodian of funds, 129

## VACANCIES IN OFFICE.

- board, district, 27, 30, 41, 42
- defined, 41
- treasurer's office, 30
  - filled by district meeting, 32
- board of education—
  - city districts, 78, 87
  - state normal school, 70
- county superintendent, 55

## VALUATION OF TAXABLE PROPERTY—statement, 36

## VOTERS.

- challenge, 23, 24
- oath, 23

VOTERS—*Concluded.*

- challenge—
  - penalty for perjury, 24
  - rejection of vote, 24
- city districts—
  - lists, 116, 117
  - oath, 117
  - qualification, 23

## VOTING, 161

- illegal, penalty for, 161

## WARRANTS.

- on county treasurer—
  - countersigned by moderator, 29, 31, 35
  - drawn by director, 29, 31, 35
  - record kept by moderator, 35
- on district treasurer—
  - countersigned by moderator, 29, 31, 35
  - drawn by director, 29, 31, 35
- on district treasurer—
  - endorsement, 65
  - interest, 65
  - payment, when, 65
  - record, kept by moderator, 35
  - lost, duplicate for, 67
  - investment of sinking fund in, 67
  - penalty, 67
  - statement of, 34

# INDEX

TO

## OFFICIAL DECISIONS.

---

### DECISIONS WHICH APPLY TO ALL DISTRICTS, 168-188

- Alien, 168
  - legal voter, when, 168
- Bible Reading in the Public Schools, 168-171
  - supreme court decision on, 168-171
- Board—Powers and Duties, 171-173
  - cannot borrow money, 171
  - discharge teacher for cause, 171
  - expel pupil, 171
  - reinstatement of pupils, 172
  - relative authority of school officers and parents, 172
  - rent rooms for school purposes, 172
  - require teacher to show certificate, 172
  - right to excuse for absence or tardiness, 172
  - when primary pupils may enter, 173
- Closing School, 173-174
  - burning of schoolhouse, 173
  - epidemic disease, 173
  - holidays, 173-174
  - lost time, 174
- Contracts, 174
  - equally binding on both parties, 174
  - oral, 174
  - teacher cannot set aside, 174
- Punishment, 175
  - corporal, 175
- Pupils, 175-177
  - control of, while off school premises, 175, 176
  - detaining after school hours, 176
  - expulsion and suspension, 176
  - female—majority at eighteen, 175
  - free school privileges, 177

### DECISIONS WHICH APPLY TO ALL DISTRICTS—Continued.

- Pupils—
  - graduation does not forfeit school privileges, 177
  - may be excluded if exposed to contagious disease, 177
  - punishment, 175
- Residence, 177
- Scientific Temperance, 177
- The Teacher, 178-181
  - certificate, 180
  - compensation, 179, 180
  - contracts, 178
  - discharge of, 178, 179
  - employment, 178
  - not an officer, 178
  - refusal to pay wages, 180
  - rules and regulations, 180
  - substitute, 180
- Text-Books, 181-182
  - funds for purchase, 181
  - includes supplies, 181
  - loaning books, 181
  - must furnish, 181, 182
  - pupils responsible for, 182
- Transfer, 182-184
  - annual meeting has no power, 182
  - application, 182
  - apportionment, 182
  - attend nearest school, 182
  - cannot be retransferred, 183
  - cannot be transferred to second party, 183
  - change of site, 183
  - director cannot reject transferred pupils, 183
  - for school privileges only, 183
  - measuring distance, 183
  - railroad bed does not transfer, 183, 184
  - renter, 184
  - revocation, 184
  - signatures to petition, 184

DECISIONS WHICH APPLY TO ALL DISTRICTS—*Concluded.*

Vaccination, 184, 185  
compulsory, 184

Voters, 185-187

alien. See *Alien.*

amount of taxable property necessary, 185

bond election, 183

dower interest, 185

homesteader, 185, 186

moderator. See *Moderator*, 190

penalty for illegal voting, 186

resident of unorganized territory, 186

temporary absence, 186

transferred persons, 186

who are legal voters, 186

women vote at primaries, 186, 187

Warrants, 187, 188

draw interest, 187

duplicate for lost, 187

notice to holder of district's liability to pay, 187

outlaw, 187

payment, 187

payment by consolidated districts, 187

penalty for postponing payment, 187

what constitutes fund against which warrants may be drawn, 187, 188

DECISIONS WHICH APPLY ONLY TO RURAL AND VILLAGE SCHOOLS, 188-200

Annual Meeting, 188

cannot relieve treasurer of responsibility for money, 188

cannot select teacher nor determine wages, 188

determine length of term, 188

Board—Powers and Duties, 188-195

board as a body, 192-195

acceptance, 192

admit non-resident pupils, 193

appointment, vacancy, 193

audit bills, 193

certain contracts not binding upon district, 193

de facto, 193

election, 193, 194

furnish supplies, 194

general care of school, 194

hold over, 194

liability, 194

qualification, 195

DECISIONS WHICH APPLY ONLY TO RURAL AND VILLAGE SCHOOLS—*Continued.*

Board—as a body—

records and papers, 195

removal, 195

resignation, 195

sale of schoolhouse, 195

salary provided for by annual meeting, 195

vacancy, how filled, 195

director, 188-190

a defacto officer, 188

contract with teacher, 188-189

custodian, 189

delegate authority, 189

draw orders on county treasurer, 189

furnish supplies, 189

oath, 190

official certificate of, due notice of calling special meeting, 189

no power to act alone, 190

moderator, 190, 191

contract, cannot be compelled to sign, 190

mandamus, 190

may vote, 190

no power to act alone. See *Director.*

oath not required, 190

officer de facto, 191

refusal to sign report to county clerk of tax levy, 191

treasurer, 191-193

account for funds, 191

appears for district, 191

bond, 191

custodian of funds, 191

hold over, 191

liability, 192

must not pay money except on orders, 192

refusal to pay orders, 192

release, 192

surety, 192

treasurer and his banker, 192

writ of mandamus cannot issue, when, 192

Contracts, 196

board member must not have pecuniary interest in, 196

certain, not binding upon district, 196

publisher's, 196

relationship, 196

teacher's 196

**DECISIONS WHICH APPLY ONLY  
TO RURAL AND VILLAGE  
SCHOOLS—Continued.**

- Course of Study, 196, 197  
 foreign language, 196  
 right to select studies, 197  
 who prescribes the, 197
- Schoolhouse, 197, 198  
 care and custody of, 197  
 insurance, 197  
 number, in rural district, 198  
 plans for building, 198  
 removal, 198  
 repair, 198  
 sale, 198
- Schoolhouse Site, 198, 199  
 adverse possession, 198

**DECISIONS WHICH APPLY ONLY  
TO RURAL AND VILLAGE  
SCHOOLS—Concluded.**

- Schoolhouse Site—  
 improving, 198  
 lease, 198  
 sale, 198  
 selection and change, 199  
 where is the site, 199
- Special Meeting, 199, 200  
 call, 199  
 cannot determine school term,  
 199  
 county superintendent may  
 call, when, 199  
 reconsider action, 200  
 validity, 200

















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