

Sec. 2. In vacating or changing any Territorial road, the board of county commissioners of the county in which such road is laid, shall be governed in vacating or changing such road by the provisions of chapter thirteen (13) of the session laws of the year 1867-68. ow governed

Sec. 3. This act shall be in force and effect from and after its passage and approval. Act to take effect
—when

Approved, December 29th, 1868,

SCHOOLS.

CHAPTER 20.

AN ACT TO PROVIDE COMMON SCHOOLS FOR THE TERRITORY OF DAKOTA.

Be it enacted by the Legislative Assembly of the Territory of Dakota :

Section 1. There shall be elected at each regular delegate election in this Territory, a superintendent of public instruction, who shall hold his office for two years and until his successor is elected and qualified. And if a vacancy shall occur in said office of superintendent by death, resignation, or otherwise, it shall be the duty of the governor to appoint some suitable person to fill such vacancy. Election of territorial superintendent of public instruction
vacancy, how filled

Sec. 2. The superintendent of public instruction, shall, before entering upon the discharge of the duties of his office, take and subscribe an oath to support the constitution of the United States, and the organic act of this Territory, and to faithfully discharge the duties of his office, which oath shall be filed with the clerk of the supreme court of the Territory of Dakota. Superintendent to take oath

To keep a record
of his acts

Sec. 3. It shall be the duty of the superintendent of public instruction to keep a record of his official acts, and to exert himself constantly and faithfully to promote the interests of education in the Territory, and to this end he shall confer with county superintendents and visit schools in company with them and furnish to them blank forms for collecting statistics of the various schools in the Territory. He shall prepare and present to the legislature during the first week of the session, in each year, a report of his official doings for the preceding year with a full statement of the condition of common schools in the Territory, and the expenditure of the public school moneys and shall make such suggestions for the improvement and support of common schools together with such other information in regard to the modes of instruction and systems of the organization of schools in other States and countries as he shall deem proper.

Report of

To grant certificates to teachers

Sec. 4. The superintendent of public instruction, shall also have power to grant certificates of qualification to teachers of proper learning and ability to teach in any public school in the Territory, and to regulate the grade of county certificates.

Compensation of superintendent

Sec. 5. The compensation of superintendent of public instruction for his services shall be the sum of four dollars per day for time spent in the discharge of his official duties, and the expense of procuring blank forms, postage, stationery and such books as are necessary for the use of his office, and the publication of his annual report, all of which allowances shall be paid by the Territorial treasurer on the certificate of the Territorial auditor.

Duties

Sec. 6. It shall be the duty of the Territorial superintendent of public instruction to recommend the introduction of the most approved text books, and as far as practicable to secure uniformity in the use of text books in common schools throughout the Territory. To discourage the use of sectarian books, and sectarian instruction in the schools; to advise in the selection of books for school district libraries, and to open such correspondence abroad as may enable him to obtain, so far as practicable, information relative to the system of common schools and their improvements in other States and countries, which he shall embody in his annual report to the legislature,

or so much thereof as shall be deemed of sufficient importance; **Duties** he shall prescribe rules and regulations for the management of school district libraries, and the penalties which shall be imposed by the district boards for any violation of such rules and regulations. He shall prepare for the use of the common school officers suitable forms for making reports and conducting all necessary proceedings, and he shall cause the laws relating to common schools with the rules, regulations and forms aforesaid and such instructions as he shall deem necessary to be printed, together with a suitable index, in pamphlet form at the expense of the Territory; and he shall cause the same to be distributed among the several school districts and other officers having the care of common schools throughout the Territory. He shall examine and determine all appeals duly made to him from the decision of any county superintendent, in forming or altering any school district or concerning any other matter under the common school law of this Territory, and his decision shall be final.

The superintendent of public instruction shall annually prepare a sufficient number of his annual report to be distributed **Report how distributed** as follows:

One copy to each member of the legislature;

One copy to each county superintendent of schools;

One copy to each school district officer; and

One copy to each teacher in the Territory whose certificate of qualification has not expired, and such other of the county and Territorial officers as may be by him deemed proper, not to exceed five hundred copies in one year.

Sec. 7. The Territorial superintendent of public instruction with the several county superintendents shall hold annually at some convenient place, a Territorial teachers' institute for the instruction and advancement of teachers; said institute not to continue less than four days and not to exceed ten days, which institute shall be free to all teachers and those preparing to teach in this Territory. **Territorial teachers institute**

Sec. 8. The several counties of this Territory, shall at the same time and in the same manner as other county officers are elected, elect a suitable person to be superintendent of public schools within such county, who shall hold his office for two **Election of county superintendent**

years from the first of January next succeeding his election, unless he shall be elected to fill a vacancy, in which case he may immediately qualify into office, and shall hold his office until his successor is elected and qualified, and who shall receive three dollars for each day spent in the discharge of his official duties, and a reasonable compensation for his annual report to the superintendent of public instruction, and every superintendent of schools shall make out in detail his account for official service, stating the date and time spent as well as the kind of service rendered, and make oath or affirmation to the correctness of the same before some justice of the peace in the county in which he resides, which oath or affirmation shall be certified by said justice before such superintendent's account shall be presented to the county commissioners for allowance, who shall audit and allow the same, or so much thereof as is just and reasonable, and the same shall be paid out of the county treasury upon the order of the county commissioners who are empowered to draw orders for the same; but no order shall be drawn to any superintendent until he shall have filed with the auditor the receipt of the superintendent of public instruction for the statistical returns of the preceding school year, in pursuance of the requirements of section twenty of this act.

County superin-
tendent to take
oath and give
bond

Sec. 9. The county superintendent of public schools shall have charge of the common school interests of the county. He shall, before he enters upon the discharge of the duties of his office, take and subscribe an oath or affirmation to support the constitution of the United States and the act organizing this Territory, and faithfully to discharge the duties of his office, which oath or affirmation shall be filed in the county clerk's office. He shall also execute a bond with approved security, payable to the board of county commissioners, for the use of common schools in said county, in the penal sum of five hundred dollars. Said bond must be approved by the county commissioners, and filed in the register of deeds office.

His duties

Sec. 10. That it shall be the duty of the county superintendent of schools, in addition to the other duties required of him, to divide his county into school districts when necessary, and subdivide the same when petitioned by a respectable num-

ber of the citizens thereof, and to furnish the county commissioners of such county with a written description of the boundaries of each district, which description must be filed in the register of deeds office, before such district shall be entitled to proceed with its organization by the election of school district officers, and it shall be his duty to keep on file in his office all petitions and remonstrances, which shall show the date of reception, and the action had thereon, and it shall be his further duty on the division of, or change of district boundaries, to notify the clerk of the districts interested of the change made. Whenever it shall be deemed necessary to form a school district from parts of two or more counties, it shall be the duty of the county superintendent of each county in which any part of the proposed joint district shall be situated, to unite in laying out such joint district; and each county superintendent so assisting shall file a description of said joint district in the register of deeds office of his county.

Sec. 11. It shall be the duty of the judge of probate, on the first Monday of March, in each year, to furnish the county superintendent of public schools with a statement of the amount of money in the county treasury, belonging to the school fund, and he shall pay the same upon the order of said superintendent, to the proper district officers.

Judge of probate
to pay out school
money upon, of
superintendent

Sec. 12. It shall be the duty of the county superintendent of public schools, on the second Monday of March in each year, or as soon thereafter as he shall receive the statement of the judge of probate, certifying the amount of money in the county treasury for the use of common schools for the current year, to appropriate such amount to the several districts or parts of districts within the county in proportion to the number of children residing in each, over the age of five, and under the age of twenty-one years, as the same shall appear from the last annual reports of the clerks of the respective districts, and he shall immediately notify by mail or otherwise the district clerks of each district of the amount of money due to his district, and he shall draw his order on the county treasurer in favor of the several district treasurers for the amount apportioned to each district; *Provided*, No district shall be entitled to receive any portion of the common school fund in which

Superintendent
to make appor-
tionment of
school money

a common school has not been taught at least three months during the year.

Further duties

Sec. 13. It shall be the duty of the superintendent to visit all such common schools within their respective counties as shall be organized according to law, at least once in each year, or oftener if they shall deem it necessary. At such visitation the superintendent shall examine into the state and condition of such schools as respects the progress in learning and the order and government of the schools; and they may give advice to the teacher of such schools as to the government thereof, and the course of study to be pursued therein, and shall adopt all requisite measures for the inspection, examination and regulation of the schools, and for the improvement of the schools in learning. Every superintendent of common schools shall also make out his account for official services in the manner hereinbefore required, and deliver a copy of the same to the county commissioners of the county in which such superintendent was elected or appointed, on or before the day previous to the annual county election next after the election or appointment of such superintendent, and the same shall be filed and kept in the office of the register of deeds.

Same

Sec. 14. He shall see that the annual reports of the clerks of the several school districts in his county are made correctly and in due time, and shall hear and determine all appeals from the decision of district boards.

To hold public examination and grant certificates

Sec. 15. He shall hold public examination for all persons offering themselves as teachers of common schools, at the county seat of his county, on the last Saturdays of April and October of each year, notice of which shall be given as publicly as possible, at which time he shall grant certificates for not less than three months or more than one year, to such persons as he may find qualified as to moral character, learning and ability; and any person receiving such certificate shall be deemed a qualified teacher within the meaning of this act. Persons applying to the county superintendent for a certificate at any other time than at the public examination shall pay to the said superintendent the sum of one dollar for his services.

To post notices of formation of districts

Sec. 16. Whenever a school district shall be formed in any county, the county superintendent of schools of such county

shall, within fifteen days thereafter, prepare a notice of the formation of such district, describing its boundaries and stating the number thereof, and appointing a time and place for the district meeting. He shall cause the notice thus prepared to be posted in at least five public places in the district, at least ten days before the time appointed for such meeting; and when a joint district is derived from portions of two or more counties, the county superintendents of each county, from which any portion of the new district is taken, shall unite in giving the customary notices, and the new district shall be numbered by the superintendent of the county having the highest number of districts.

A majority of the voters in any school district being dissatisfied with the formation of any school district, shall have the right to appeal from the superintendent to the board of county commissioners, and from the board of county commissioners to the superintendent of public instruction.

Sec. 17. The county superintendent of public schools shall perform all other duties of said office that now are or hereafter may be prescribed by law; and he shall deliver to his successor, within ten days after the expiration of his term of office, all the books appertaining to his office.

When to deliver
up books &c., to
successor

Sec. 18. If a vacancy occur in the office of county superintendent of public schools, by death, resignation or otherwise, notice thereof shall be given by the register of deeds to the county commissioners who shall, as soon as practicable, appoint some suitable person to fill the vacancy, and the person receiving such appointment shall, before entering upon the discharge of the duties of his office, file his oath or affirmation in the county clerk's office, as hereinbefore provided, and shall discharge all the duties of the office of county superintendent of public schools until a successor is elected and qualified. He shall also give a like bond to that required by this act to be given by the county superintendent of schools.

County commis-
sioners to fill
vacancies

Sec. 19. The county superintendent shall make full and complete annual returns to the superintendent of public instruction, between the first and tenth day of November of each year, of the number of children between the ages of five and twenty, in the school district within their respective counties;

Superintendent
to make report
annually to
territorial
superintendent

also, the number of qualified teachers employed, the length of time each district school has been taught during the year. The kind of text books used, and the amounts expended in each district out of any money raised for educational purposes, and for what purpose such amount was expended; the amounts raised in each county and district by taxation or otherwise for educational interests, and any other items that may be of service to the superintendent of public instruction in preparing his annual report.

SCHOOL DISTRICT MEETINGS.

**Powers of
electors at
school district
meetings**

Sec. 20. The inhabitants qualified to vote at a school district meeting, lawfully assembled, shall have power:

1, To appoint a chairman to preside at said meeting in the absence of the director;

2, To adjourn from time to time;

3, To choose a director, clerk, and treasurer, who shall possess the qualifications of voters as prescribed in the next section of this act, at the first and each annual meeting thereafter;

4, To designate by vote a site for a district school house;

5, To vote a tax annually, not exceeding one per cent. on taxable property in the district, as the meeting shall deem sufficient to purchase or lease a site, and to build, hire or purchase a school house, and to keep in repair and furnish the same with necessary fuel, stoves and benches;

6, To vote a district tax annually, not exceeding one-half of one per cent. on taxable property in the district for pay of teacher's wages in the district;

7, To authorize and direct the sale of any school house, site, or other property belonging to the district, when the same shall no longer be needful for the district;

8, To vote such a tax as may be necessary to furnish the school house with blackboards, outline maps, and apparatus necessary for illustrating the principles of science, or to discharge any debts or liabilities of the district, lawfully incurred; *Provided*, That said tax shall not exceed one per cent. per annum, and may be applied to any other purpose by a vote of the district at any regularly called meeting;

9, To give such direction and make such provision as may be deemed necessary in relation to the prosecution or defense of any suit or proceeding in which the district may be a party ;

Powers of electors

10, To alter or repeal their proceedings from time to time as occasion may require, and to do any other business contemplated in this act ;

11, To vote a tax not exceeding \$25 in any one year, to procure a district library consisting of such books as they may direct any person to procure.

Sec. 21. The following persons shall be entitled to vote at any district meeting. All persons possessing the qualifications of electors, as defined by the laws of the Territory, and who shall be actual residents of the district at the time of offering to vote at such election.

Who entitled to vote at such meeting

Sec. 22. If any person offering to vote at a school district meeting shall be challenged as unqualified by any legal voter, the chairman presiding shall declare to the person challenged the qualifications of a voter, and if such challenge be not withdrawn, the chairman, who is hereby authorized, shall tender to the person offering to vote, the following oath or affirmation :

Challenging voters

“ You do solemnly swear, [or affirm] that you are an actual resident of this district, and that you are qualified by law to vote at this meeting.” Any person taking such oath or affirmation, shall be entitled to vote on all questions voted upon at such meeting.

Oath

ORGANIZATION OF DISTRICTS.

Sec. 23. Every school district shall be deemed duly organized when the officers constituting the district board shall be elected and qualified. Every school district officer shall signify his acceptance of his office to the county superintendent, in writing, within twenty days after he shall be notified of his election by any person voting at such meeting, which acceptance shall be filed with such superintendent, and upon filing such acceptance, said party shall be deemed to have duly qualified. The officers of joint districts shall signify their acceptance to the superintendents of the several counties which form a part of the joint districts. Every person duly elected

When district considered as organized

to the office of director, clerk, or treasurer of any school district, who shall refuse or neglect, without sufficient cause, to accept of such office and serve therein, or who, having entered upon the duties of his office shall neglect or refuse to perform any duty required of him by the provisions of this act, shall forfeit the sum of ten dollars to the school district fund.

Officers of
district

Sec. 24. The officers of each school district shall be a director, clerk, and treasurer, who shall constitute the district board, and who shall hold their respective offices until the annual meeting next following their election or appointment, and until their successors are elected and qualified.

School districts
bodies corporate

Sec. 25. Every school district, organized in pursuance of this act, shall be a body corporate, and shall possess the usual powers of a corporation for public purposes, by the name and style of school district No.—, (such number as may be designated by the county superintendent,) — county (the name of the county in which the district is situated,) Territory of Dakota, and in that name may sue and be sued, and be capable of contracting and being contracted with, and hold such real and personal estate as it may come in possession of by will or otherwise, or is authorized to be purchased by the provisions of this act.

Annual school
meeting. When
held

Sec. 26. An annual meeting of each school district shall be held on the last Saturday of March of each year at such hour as the district board shall name, after having first requested the district clerk to call such meeting, and in case the clerk shall refuse or neglect to call such meeting, special meetings may be called by any member of the district board, or by any five legal voters, but notice of any special meeting, stating the purpose for which it is called, shall be posted in at least three public places within the district, ten days previous to the time of meeting.

District clerk to
post notices of
special meetings

Sec. 27. Whenever the time for holding an annual meeting in any district shall pass without such meeting being held, the clerk, or in his absence, any other member of the district board, within sixty days after the time for holding said annual meeting shall have passed, may give notice of a special meeting by putting up written notices thereof in three public places within the district, at least five days previous to the time of meeting.

But if such meeting shall not be notified within sixty days aforesaid, the county superintendent may give notice of such meeting in the manner provided for forming new districts, and the officers chosen at such special meeting shall hold their respective offices until the next annual meeting, and until their successors are elected and qualified.

Sec. 28. The qualified voters at each annual meeting or at any special meeting, duly called, may determine the length of time a school shall be taught in their district for the then ensuing year; and whether such school shall be taught by a male or female teacher, or both, and whether the school money to which the district may be entitled, shall be applied to the support of the summer or winter term of the school, or a certain portion to each; but if such matters shall not be determined at the annual or special meeting, it shall be the duty of the district board to determine the same.

Who to determine length of school terms

Sec. 29. The director of each district shall preside at all district meetings, and shall sign orders drawn by the clerk authorized by a district meeting, or by the district board, upon the treasurer of the district for moneys collected or received by him to be disbursed therein. He shall appear for and in behalf of the district in all suits brought by or against the district, unless other direction shall be given by the voters of such district at a district meeting.

Duties of director

DISTRICT CLERK.

Sec. 30. The clerk of each district shall record the proceedings of his district in a book provided by the district for that purpose; and enter therein copies of all the reports made by him to the county superintendent, and he shall keep and preserve all records, books and papers belonging to his office, and deliver the same to his successor in office.

Clerk to record acts of district board

Sec. 31. The said clerk shall be clerk of all district meetings; but if such clerk shall not be present at such district meeting, the voters present may appoint a clerk for such meeting, who shall certify the proceedings thereof, and the same shall be recorded by the clerk of the district.

To be clerk of district meeting

Sec. 32. It shall be the duty of the clerk to give at least ten days notice previous to any annual or special district meet-

To give notice of meetings by posting bills

ing, by posting up notices thereof at three or more public places in the district, one of which notices shall be affixed to the outer door of the school house, if there be one in the district, and said clerk shall give the like notice of every adjourned meeting, when such meeting shall have been adjourned for a longer period than one month. Every notice for a special district meeting shall specify the objects for which such meeting is called, and no business shall be acted upon at any special meeting, not specified in said notice.

To draw orders
on treasurers

Sec. 33. The clerk of the district shall draw orders on the treasurer of the district for moneys in the hands of such treasurer, which have been apportioned to or raised by the district to be applied to the payment of teacher's wages, and apply such money to the payment of teacher's wages, as shall have been employed by the board, or by the citizens of the district, and the said clerk shall draw orders on the said treasurer for moneys in the hands of such treasurer to be disbursed for any other purpose ordered by a district meeting, or by a district board, agreeable to the provisions of this act.

(Clerk to deliver
list of property
to register of
deeds and make
out tax list

Sec. 34. It shall be the duty of the district clerk to deliver (by mail or otherwise) to the register of deeds, between the 1st and 15th of January in each year, a list of all persons owning or holding property in their respective districts, on the 1st of January preceding, and to make out the tax list of all taxes legally authorized by the district, and annex to such tax lists a warrant under the hand of said clerk, directed to the district treasurer, to collect the sums therein named.

To make report
to county
superintendent

Sec. 35. The clerk of each district shall, between the first and fifteenth days of September in each year, make out and transmit a report in writing to the county superintendent of public schools for each county in which any part of his district may lie; showing,

What report to
contain

1, The number of children, male and female, designated separately, residing in the district or parts of districts, on the last day of August previous to the date of such report, over the age of five and under the age of twenty-one years ;

2, The number of children attending school during the year, their sex, and branches studied ;

3, The length of time a school has been taught in the district by a qualified teacher, the name of the teacher, the length of time taught, and the wages paid ;

4, The amount of money received from the county treasurer within the year, and the manner in which the same has been applied ;

5, The amount of money raised by the district, in such year, and the purposes for which it was raised ;

6, The kind of books used in the school, and such other facts and statistics in regard to the district schools as the county superintendent may require.

Sec. 36. Whenever a school district shall lie partly in two or more counties, the clerk of such district in making his annual report, shall carefully designate the number of children resident in the parts of the counties composing the district and shall report to the county superintendent of common schools of each of the counties in which such district may be situated.

In case of district that shall lie partly in two or more counties

Sec. 37. The treasurer shall execute to the district a bond in double the amount of money, as near as can be ascertained, to come into his hands as treasurer of the district, with sufficient securities to be approved by the director and clerk, conditioned to the faithful discharge of the duties of said office. Such bond shall be filed with the district clerk, and in case of the breach of any condition thereof, the director shall cause a suit to be commenced thereon, in the name of the district, and the money collected shall be applied by such director to the use of the district as the same should have been applied by the treasurer, and if such director shall neglect or refuse to prosecute, then any householder of the district may cause such prosecution to be instituted.

Treasurer to give bonds

Sec. 38. If the treasurer shall fail to give bonds as required in this act, or from sickness or any other cause shall be unable to attend to the duties of said office, the district board shall appoint a treasurer, who shall possess all the powers of the district treasurer, and shall before entering upon the duties of said office, give bonds as the district treasurer is required to give.

In case of failure to give bonds

His duties

Sec. 39. The treasurer of each district shall apply for and receive from the county treasurers all school moneys appropriated to his district, and shall collect all district taxes assessed in pursuance of the provisions of this act and pay over on the order of the clerk, signed by the director of such district, all money so received or collected by the said treasurer.

Forfeiture of bond

Sec. 40. If any district treasurer shall refuse or neglect to pay over any money in the hands of such treasurer belonging to the district, it shall be the duty of his successor in office to prosecute, without delay, the official bond of such treasurer, for the recovery of such money.

Money lost to be refunded

Sec. 41. If by neglect of any treasurer any school moneys shall be lost to any school district, which might have been received from the county treasurer, or collected from the district tax assessed, said treasurer shall forfeit to such district the full amount of money so lost.

Treasurer to make annual report

Sec. 42. The treasurer shall present to the district at each annual meeting, a report in writing, containing a statement of all moneys collected by him from the county treasurer during the year from assessments in the district, and the disbursements made, and exhibit the vouchers therefor, which report shall be recorded by the clerk, and if it shall appear that any balance of money is in his hands at the time of making such report, he shall immediately pay such balance to his successor.

DISTRICT BOARD.

Duties of district board

Sec. 43. The district board shall purchase or lease such site for a school house as shall have been designated by voters at a district meeting, in the corporate name thereof, and shall build, hire, or purchase such school house as the voters of the district in a district meeting shall have agreed upon, out of the funds provided for that purpose, and make sale of any school house, site or other property of the district, and if necessary, execute a conveyance of the same in the name of their office, when lawfully directed by the voters of such district at any regular or special meeting, and shall carry into effect all lawful orders of the district.

Their powers

Sec. 44. The district board shall have the care and keeping of the school house and other property belonging to the dis-

trict. They shall have power to make such rules and regulations relating to the district library, as they may deem proper, and to appoint some suitable person to act as librarian, and to take charge of the school apparatus belonging to the district.

Sec. 45. The district board shall have power to admit Same scholars from adjoining districts, and remove scholars for disorderly conduct, and when scholars are admitted from other districts, the district board may in their discretion require a tuition fee from such scholars.

Sec. 46. The district board in each district shall contract To hire teachers with and hire qualified teachers for and in the name of the district, which contract shall be in writing, and shall specify the wages per week or month, as agreed upon by the parties, and such contract shall be filed in the district clerk's office.

Sec. 47. The district board shall provide the necessary ap- To provide the necessary appen- dages &c. pendages for the school house, during the time school is taught therein, and present the same for allowance at any regular district meeting.

Sec. 48. The district schools established under the provi- District school under this act to whom free. sions of this act, shall at all times be equally free and accessi- ble to all children resident therein, over five and under the age of twenty-one years, subject to such regulations as the district board in each may prescribe.

Sec. 49. In every school district there shall be taught orthog- Branches to be taught raphy, reading, writing, English grammar, geography and arithmetic, if desired, during the time the school shall be kept, and such other branches of education as may be determined by the district board.

Sec. 50. If a vacancy should occur in the district board, in Vacancy in district board, how filled any district, the county superintendent shall appoint some suitable person to fill such vacancy, upon the recommendation of the remaining members of the district board.

REVENUE.

Sec. 51. It shall be the duty of the county or town assess- Amount of tax to be raised or of each county or town, at the time of making the annual assessment, to levy a tax of one dollar on each elector in the county or town, for the support of district schools; and a further tax of two mills on the dollar, upon the taxable property

Manner of raising tax &c.

of the county or town, to be applied to the same purpose, to be collected at the time and in the manner prescribed by law for the collection of taxes; which tax, when collected, shall be distributed to the several school districts, in proportion to the number of children over five and under twenty-one years of age therein; and shall be drawn from the county treasury upon the order of the superintendent of schools.

On what kind of property tax to be raised

Sec. 52. All taxes raised and collected in any school district for any of the purposes authorized in this act, shall be assessed on the same kind of property as taxes for county purposes are assessed.

What tax list to contain

Sec. 53. The clerk of the school district, in making out any tax list, shall enter therein the names of all persons liable to pay a school tax, the amount of personal property to be taxed to each person, and a description of all taxable real estate in the district, distinguishing that owned by non-residents of the district, and he shall set opposite to each description of taxable property, the valuation of the same, and the amount of tax charged upon such property, and to each person respectively, or tract of land owned by non-residents, and such description and valuation of taxable property shall be ascertained as far as possible from the last assessment roll of the county or town; *Provided*, That in any case any person or persons are residing in and holding property in any district, at the time when a tax shall have been voted at any meeting in said district, and their names do not appear on the last assessment roll, the district board shall have power to assess such persons.

Proviso

When district board to apportion taxes

Sec. 54. Whenever any real estate in any school district shall not have been separately valued in the assessment roll of the county, and the value of such real estate cannot be definitely ascertained from such assessment roll, the district board of such district shall estimate the value of the same, and apportion the taxes thereon.

Collection of taxes

Sec. 55. The warrant annexed to any tax list shall be under the hand of the clerk of the district, and shall command the treasurer of such district to collect from each of the persons and corporations named in said tax list, and of the owner of the real estate described therein, the several sums set opposite the persons and corporations so named, and to the several

tracts of land owned by non-residents, within forty days from the date thereof; and within twenty days from the date of such warrants to personally demand such tax of the persons charged therewith; and that if any tax shall not be paid within thirty days thereafter, to collect the same by distress and sale of property in the same manner as county taxes, and the said treasurer shall execute the said warrant and return the same to the clerk at the expiration of the time limited therein for the collection of such tax list.

Sec. 56. The warrant issued by the clerk of any school district, for the collection of any district tax authorized by any of the provisions of this act may be executed any where within the limits of the county, and such warrants shall have the like force and effect as a warrant issued for the collection of county taxes; and the treasurer of the district, to whom any such warrant may be delivered for collection of a tax list, shall possess the like powers in the execution of the same as are provided by law for the collection of county taxes. If any tax in any tax list delivered to the treasurer of any district, shall remain unpaid at the time he is required by law to return his warrant to the clerk of the district, such treasurer shall within ten days, make out and deliver to the county treasurer a statement in writing, containing the amount of the personal property, and a description of the lots and pieces of land upon which such taxes remain unpaid, together with the amount of tax assessed on each, and he shall attach thereto an affidavit, that the taxes mentioned in such statement remain unpaid, and after diligent efforts he has been unable to collect the same, and whenever any school district shall embrace parts of more than one county, such treasurer shall make his return as aforesaid to the county treasurer of both counties in which the parts of such district shall be situated. The county treasurer upon delivery to him of such statement shall give a certificate to the treasurer of the district of the amount of taxes so remaining unpaid as the same shall appear from such statement, which certificate shall be deposited by the district treasurer with the district clerk, and shall be filed by such clerk, and such county treasurer shall immediately add such delinquent taxes to the delinquent tax list received by him from the county collector

Force of warrants
for collection
of taxes

and collect the same as other delinquent taxes are collected, and when so collected shall pay over the same (less his fees for the collection thereof) to the district in which said taxes were levied, upon the order of the district board.

Correction of
tax list

Sec. 57. Whenever any error may be discovered in any district tax list, the district board may order any money which may have been improperly collected on such tax list, to be refunded, and may authorize the clerk of the district to amend and correct such error in said tax list.

Payment of tax
by tenant

Sec. 58. Whenever any district tax, lawfully assessed, shall be paid by any person on account of any real estate whereof he is only a tenant, such tenant may charge and collect of the owner of such estate the amount of tax so paid by him, unless some agreement to the contrary shall have been made by the tenant.

Register of deeds
to give descrip-
tion of taxable
property to each
district

Sec. 59. It shall be the duty of the register of deeds of each county, as soon as the annual assessment roll shall be collected in each year, to make out for each district in such county, a description of all taxable property therein, with the valuations affixed thereto, as the same shall appear in the last assessment roll, which shall be certified by him and delivered by mail or otherwise, to the clerk of each school district in the county.

GRADED SCHOOLS.

Establishment of
graded schools

Sec. 60. Whenever the inhabitants of two or more school districts may wish to unite for the purpose of establishing a graded school in which instruction shall be given in the higher branches of education, the clerks of the several districts shall upon written application of five voters of their respective districts, call a meeting of the voters of such district at some convenient place, by posting up notices thereof in like manner as provided for calling district meetings, and if a majority of the voters of each of the two or more districts shall vote to unite for the purpose herein stated, they shall at a meeting or at an adjourned meeting, elect a board of directors consisting of a director, clerk and treasurer.

Powers of board
of directors

Sec. 61. The board of directors provided in the preceding section, shall, in all matters relating to the graded schools,

possess all the powers and discharge all the like duties of the district board as prescribed in this act.

Sec. 62. The union district thus formed shall be entitled to an equitable share of the school funds, to be drawn from the treasurer of each district so uniting, in proportion to the number of children attending the said graded school for each district.

Funds of union district

Sec. 63. The said union district may levy taxes for the purpose of purchasing a building, or furnishing proper building for the accommodation of the school, or for the purpose of defraying necessary expenses and paying teachers, but shall be governed, in all respects, by the law herein provided for levying and collecting district taxes.

Union district may levy tax for the purpose of paying expenses

Sec. 64. The clerk of the union district shall report in writing to the treasurer of each school district uniting in the union district, the number of scholars attending the graded schools from his district, their sex, and the branches studied, and the said district treasurer shall apportion the amount of school money due the union district, and pay the same over to the treasurer of the union district on order of the clerk thereof.

Clerks of union district to make report to the treasurers of the uniting districts

Sec. 65. The clerk of the union district shall make a report to the county superintendent of schools and discharge all the duties of the clerk, in like manner as the clerk of the district.

To make report to county superintendent

Sec. 66. The treasurer of the union district shall perform all duties of treasurer, and give the bonds as prescribed in this act, in like manner as the district treasurer.

Treasurer of union district his duty

Sec. 67. The public schools of any city, town or village, which may be regulated by special law set forth in the charter of such city, town or village, shall be entitled to receive their proportion of the public fund; *Provided*, That the clerk of the board of education in such city town or village, shall make due report within the time and manner prescribed in this act, to the superintendent of schools.

What schools to receive public funds

Proviso

Sec. 68. Any single district shall possess power to establish graded schools, subject to the provisions of this act in like manner as two or more districts united.

Single district may establish graded schools

**What moneys to
be collected by
the county
treasurer for
school purposes**

Sec. 69. The county treasurer shall collect all moneys due the county for school purposes, from fines, forfeitures or proceeds from the sale of estrays, and all moneys paid by persons as equivalent for exemption from military duty, and he shall pay the same to the said district treasurer, as prescribed in this act. He shall also collect the delinquent taxes on real estate in any district, in the same manner as county taxes are collected, whenever such delinquent tax list shall have been lawfully reported and returned to him, and he shall pay the same over to the treasurer of said district to which delinquent taxes are due, and if any county treasurer shall refuse to deliver over to the order of the county superintendent any money in his possession, or shall use, or permit to be used for any other purposes than is specified in this act, any school money in his possession, he shall on conviction thereof, be adjudged guilty of a misdemeanor, and punished by a fine not exceeding five hundred dollars or by imprisonment in the county jail not exceeding one year.

MISCELLANEOUS.

**When teacher to
make report to
district board**

Sec. 70. It shall be the duty of the teacher of every district school or graded school, to make out and file with the district clerk, at the expiration of each term of the school, a full report of the whole number of scholars admitted to the school during such term, distinguishing between male and female, the text books used, the branches taught and the number of pupils engaged in the study of each of said branches. Any teacher who shall neglect or refuse to comply with the requirements of this section, shall forfeit his or her wages for teaching such school, at the discretion of the district board.

**Penalty for
clerk signing
false report**

Sec. 71. Every clerk of a district board who shall willfully sign a false report to the county superintendent of his county, shall be deemed guilty of a misdemeanor, and punished by a fine not exceeding one hundred dollars, or by imprisonment not exceeding three months.

**Penalty for
district officer
neglecting to
deliver up books
&c to successor**

Sec. 72. Every school district clerk or treasurer who shall neglect or refuse to deliver to their successors in office all records and books belonging severally to their offices, shall be subject to a fine not exceeding fifty dollars.

Sec. 73. Whenever any final judgment shall be obtained against any school district, the district board shall levy a tax on the taxable property in the district, for the payment thereof; such tax shall be collected as other school district taxes; but no execution shall issue on judgment against a school district.

In case of judgment against school district

Sec. 74. Justices of the peace shall have jurisdiction in all cases in which a school district is a party interested, when the amount claimed by the plaintiff shall not exceed one hundred dollars, and the parties shall have the right of appeal as in other cases.

In what cases justices of peace shall have jurisdiction.

Sec. 75. No school district officer mentioned in this act shall receive any compensation for his services out of the Territorial or county school fund. But a regularly convened district meeting, may by vote, allow the district board such compensation as they shall deem proper; *Provided*, The amount so allowed does not exceed two per cent. of the money collected by said board for school purposes.

Compensation of school officers

Sec. 76. Any person duly elected at the annual district school meeting, to either of the district offices mentioned in this act, who shall omit or refuse to serve as such officer, without substantial cause, shall forfeit the sum of ten dollars for such omission or refusal, which amount may be recovered by the district in civil action before any justice of the peace in the county where such district is located; and shall be appropriated to the support of schools in the district by whom such action was prosecuted.

Penalty for district officers refusing to qualify

Sec. 77. All fines and penalties not otherwise provided for in this act, shall be collected by action in any court of competent jurisdiction.

Fines and Penalties how collected

Sec. 78. Whenever any sum of money shall be paid into the county treasury, by any educational aid society, or benevolent person or persons, for the cause of education, the county treasurer shall issue to such society or person a certificate of deposit, stating the amount of money received, from what source, and for what purpose the same is to be applied, whether to the payment of teacher's wages, the building or leasing of a school house, or the purchase of a site of land, and the particular school district or districts to which the said money is do-

In case of school money being donated for school purposes

Sec. 82. The form of bond of district treasurer may read as follows: Form of bond
on district
treasurer

Know all men by these presents, that we, _____ treasurer of school district number _____, county _____, and _____ his surety, are held and firmly bound unto school district, in the sum of _____ dollars, for the payment of which we bind ourselves severally and jointly, our heirs, executors and administrators, firmly by these presents.

Sealed with our seals, and dated this _____ day of _____ A. D. 186 .

The conditions of the above obligations is such, if said _____, treasurer as aforesaid, shall faithfully discharge the duties of his office as treasurer of school district number _____, county _____, as prescribed by law, then this obligation to be void, otherwise to remain in full force.

_____[seal.]
_____[seal.]

Signed, sealed and delivered }
in presence of

Sec. 83. The form of warrant for the collection of district tax may be as follows: Form of warrant
for collection of
district tax

To _____, treasurer of school district number _____, county _____ of _____

This is to authorize and require you to demand, within twenty days from the date of this warrant, of every person or corporation named in the annexed duplicate of school tax of said district, the sum where with such person or corporation stands charged, and if any such tax be not paid within thirty days from the date of this warrant, you are required to proceed to collect the same as authorized by law, by distress and sale of property, and make due return according to law.

Given under my hand, this _____ day of _____ A. D. 186 .

_____,
District Clerk.

Sec. 84. Vouchers may be in the following form: Vouchers

Received _____, 186 , of _____, treasurer of school district number _____, county of _____, _____ dollars for services rendered as teacher in the said district, for the term of _____ months.

Teacher.

Form of contract between district and teacher

Sec. 85. The form of contract between district and teacher may read as follows :

It is hereby agreed between school district number _____, county of _____, and _____, teacher, that the said _____ is to teach the common school of said district for the term of _____ months, for the sum of _____ dollars, per _____, commencing on the _____ day of _____ 186 _____; and for such services properly rendered, the said school district is to pay _____ the amount that may be due, according to this contract, on or before the _____ day of _____, 186 _____.

District Clerk.

This _____ day of _____, 186 _____.

Teacher.

Form of annual report of district treasurer

Sec. 86. The form of annual report of district treasurer may be substantially as follows :

I, _____, treasurer of school district number _____, county of _____, submit the following report of all moneys received and disbursed by me since the last annual meeting :

Amount received from my predecessor,	\$—
Amount received from county treasurer,	\$—
Amount raised by tax in the district and collected,	\$—
Total amount received,	\$—
Paid out on order of district clerk (date of order,)	\$—
On order of district clerk _____,	\$—
Balance on hand,	\$—

This _____ day of _____, A. D. 186 _____.

Treasurer.

Form of report of district clerk to county superintendent

Sec. 87. The form of report of district clerk to the county superintendent of public instruction may read as follows :

School district number _____, county of _____
 Number of children residing in the district over five and _____ under the age of twenty-one years, _____
 Males, _____
 Females, _____
 Total number, _____
 Number of months a school has been taught, _____
 _____ months by Mr. _____, _____
 _____ months by Miss _____, _____
 Wages paid Mr. _____, \$—
 Amount of school money received _____, \$—

_____ county treasurer,	\$_____	Form of report of district clerk to county superintendent
Amount raised by district tax for teacher's wages,	\$_____	
Amount raised by district tax for public school house,	\$_____	
Amount raised by district tax for furnishing school house,	\$_____	
Amount paid for teacher's wages,	\$_____	
Amount expended for building school house,	\$_____	
Amount expended for furnishing school house,	\$_____	
This day of , 186 .		

_____,
District Clerk.

To which may be added a copy of teachers' report, giving the names, age, and total number of male and female pupils, number of days taught, the kind of text books used, the number of scholars in each branch of study, and the greatest number of miles to be traveled by scholars living on the borders of the district.

Sec. 88. A school teachers' certificate may be in the following form : Teachers certificate

Dakota Territory, }
 county. }

_____, A. D. 186—.

This is to certify that _____ has been examined and found competent to give instruction in orthography, writing, arithmetic, English grammar, geography, and _____, and having exhibited satisfactory testimonials of good moral character, is authorized to teach these branches in any common school within this county.

Superintendent of Public Schools of _____ county.

Sec. 89. Form of deed of school property may be as follows :

This indenture, made the day of , one thousand eight hundred and sixty between , and , his wife, of the county of , Dakota Territory, parties of the first part, and , of district board of district number , county and territory aforesaid, parties of the second part, witnesseth, that the said parties of the first part, in consideration of dollars to them duly paid before the delivery hereof, have bargained and sold and by these presents do grant and convey to the said parties of the second part, their successors in office, and assigns forever, (here describe the property,) with the appurtenances and all the estate, title, and interest of the said parties of the first part therein, and the said parties of the first part do hereby covenant and agree with the said parties of the second part, that at the time of the delivery hereof, the said parties of the first part were the lawful owners of the premises above granted, and seized thereof in fee simple absolute, and they will warrant and defend Deed of school property

the above granted premises, in the peaceful possession of the said parties of the second part, and their successors and assigns forever.

_____ [seal.]

_____ [seal.]

Sealed and delivered in presence of

The Territory of Dakota, }
 county, }

Personally appeared before me a _____, within and for the county above named, _____ and _____ his wife, to me known to be the persons whose names are affixed to the above deeds as grantors, and acknowledged the same to be their voluntary act and deed; and the said _____ being at the same time, by me made acquainted with the contents of the above deed, apart from her husband, acknowledged that she executed the same voluntarily, and that she is still satisfied therewith.

Witness my hand and seal this _____ day of _____, A. D., 186 .

Certain acts repealed

Sec. 90. Chapter 32, of the session laws of 1867-8, and all acts and parts of acts heretofore passed in relation to common schools are hereby repealed; *Provided, however,* That such repeal shall not effect any rights or liabilities that have accrued under and by virtue of said act or acts; and *Provided, further,* That all officers, that have been duly elected and qualified in accordance with the provisions of said act, shall continue to hold and discharge the duties of their respective offices until their successors are duly elected and qualified.

When to take effect

Sec. 91. This act shall take effect from and after its passage and approval.

Approved, January 5th, 1869.