

MAINE STATE LEGISLATURE

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STATE OF MAINE

R E P O R T

OF THE

ATTORNEY GENERAL

for the calendar years

1949 - 1950

"Sanford and Eastern should report on its gross receipts for the period July 1 to December 31 and an assessment made of 2% on such receipts.

"Or, should the Sanford and Eastern tax be based upon gross receipts of this particular 44.9 mile line for the entire year (including the portion when it was operated by Boston and Maine), with Boston and Maine excluding any receipts and expenses attributable to this line from its report?"

After reading your memo and also after the conferences which I have had with you and Mr. Huot of your department, it is my opinion that the Boston & Maine should include in its reports gross receipts and operating expenses for this branch line for the period January 1 to June 30 and that in computing its average mileage consideration should be given to this mileage for the period owned, that is, 44 miles for $\frac{1}{2}$ year, and the tax assessed at $3\frac{1}{2}\%$ or more, depending on net operating revenue; and the Sanford & Eastern Railroad should report on its gross receipts for the period July 1 to December 31 and an assessment should be made of 2% for such receipts, as this entire line is less than 50 miles.

RALPH W. FARRIS
Attorney General

April 11, 1950

To Ermo H. Scott, Deputy Commissioner of Education
Re: Liability of superintendents of schools to the provisions of
Par. II, Sec. 201, C. 37, R. S. 1944, as amended

Reference is made to your memorandum of March 31, 1950, relative to the above subject. You asked whether or not the following sentence as it appears in Subsection II of Section 201 of Chapter 37, R. S. 1944, applies to superintendents:

"Whenever any certified teacher completes, within any 2-year period, 6 credit hours of additional professional work approved by the commissioner and receives supplementary financial assistance in an amount not less than \$50 from the town, the town shall receive reimbursement of \$50 from the state for such expenditure at the next distribution of state funds, provided further, that the renewal of each teaching certificate shall be conditional on the completion of at least 6 semester hours of professional study within each period of 5 years."

The particular clause to which you refer reads as follows:

". . . provided further, that the renewal of each teaching certificate shall be conditional on the completion of at least 6 semester hours of professional study within each period of 5 years."

I have given this clause considerable study and am inclining to the opinion that the clause itself has little or no relevance to the rest of the sentence in which it appears. However, since I must, as a matter of law, construe the clause as being properly in context, it is my opinion that the renewal of certificates, referred to in the clause cannot refer to renewal of superintendents' certificates, for the reason that the \$50 subsidy referred to in the context is not paid because of superintendents' qualifications but only for teachers' qualifications. Since the status of a superintendent can have nothing to do with the giving of a \$50 subsidy, the clause, as it appears in the context, cannot apply to superintendents.

You have stated that it has been suggested that the clause should be read as obviously out of context, and as having nothing to do with the granting of \$50 subsidies, as though it were a separate section of statute requiring six semester hours of professional study within each period of five years as a condition precedent to the renewal of a teaching certificate. While I am not expressing any opinion as to whether the clause could or should be so read, I will say that if it should be so read, it cannot in and of itself be considered as a requirement imposed upon superintendents, for the reason that Section 77 authorizes and delegates to the Commissioner the authority and duty to prescribe by regulation the circumstances under which State certificates of superintendence grade shall be issued.

JOHN S. S. FESSENDEN
Deputy Attorney General

April 11, 1950

To Harland A. Ladd, Commissioner of Education
Re: Equal Pay for Equal Work

I acknowledge receipt of your memorandum of April 11, 1950, advising me that you have been asked by representatives of two local teacher organizations in the State for an opinion as to whether or not the provisions of Chapter 262 of the Public Laws of 1949 apply to teachers, and you request me to advise you on a proper response to this question.

I should advise them that Chapter 262 of the Public Laws of 1949 is an addition to Chapter 25 of the Revised Statutes, which relates to the Department of Labor and Industry. Sections 38, 39 and 40 of said Chapter 25 relating to the Department of Labor and Industry, have a sub-heading designated, "Payment of Wages," and Section 40-A is an addition to Section 40 under said sub-heading and relates to the payment of wages by corporations, persons, or partnerships engaged in certain industries as set forth in Section 38. The profession of teaching is not mentioned in Sections 38, 39 and 40 or in the new Section 40-A, which is under the designation of "Payment of Wages," and therefore does not apply to teaching positions which are under contracts with superintending school committees or superintendents of schools in cities and towns.

RALPH W. FARRIS
Attorney General

April 11, 1950

To Raymond C. Mudge, Commissioner of Finance
Re: Request, The National Association of State Budget Officers—
Block Grants

I have your memo of March 29th attaching a letter dated March 21st, from The National Association of State Budget Officers, signed by Ted Driscoll, Assistant Director of The Council of State Governments, asking for certain information for use by the Committee on Federal-State Fiscal Relations.

In answer to Question 1 in Ted Driscoll's letter I will say that there is no Constitutional or statutory objection to the use of federal money made available in block-grant form.