

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

for the calendar years  
**1951 - 1954**

As you have suggested to the Commanding Officer, if it be the intent of the legislature to extend this privilege to the members of a serviceman's family, then it would have to be amended by the incoming legislature to that effect.

JAMES G. FROST  
Assistant Attorney General

March 31, 1952

To Howell G. Cutter, Supervising Inspector, Labor and Industry  
Re: Elevator Inspection and Certificate Fees

In your memo of March 31, 1952, you state that under the provisions of Chapter 374 of the Public Laws of 1949 your department has been inspecting all uninsured State-owned elevators, as required by Section 99-H, and that departments for which inspections had been made were billed. The bill was for the amount of the inspection fee and the certificate fee.

You further state that you are in receipt of a letter dated March 27, 1952, from the Department of Public Buildings, in which it is stated that an opinion by Ralph Farris addressed to David Soule, dated March 25, 1949, relative to the charges for inspection from one department to another prohibits the inspecting department from charging the other department for such inspections. You then ask:

“Are the various state departments exempt from the inspection and certificate fees provided by the law based on the opinion expressed in the letter of March 25th, 1949 from the Attorney General's Department to the Insurance Commissioner?”

The above mentioned opinion dated March 25, 1949, was addressed to the Insurance Commissioner and was directed to an interpretation of the insurance laws, more particularly Section 29 of Chapter 85, R. S., as amended by Section 8 of Chapter 188 of the Public Laws of 1947. This section set up a procedure whereby the various insurance companies doing business or collecting premiums or assessments in the State of Maine should pay to the State Tax Assessor, in addition to taxes, an amount equalling 1/2 of 1% of the gross direct premiums for fire risks written in the State during the preceding calendar year. It was further provided that such funds should be used solely to defray the expenses of investigations and inspections and rules and regulations to be administered by the Insurance Department. These laws, in effect, provided a fund to be used for inspection purposes.

Mr. Farris's opinion merely stated that the cost of inspections provided for under that section, for which a fund had been set up by the legislature, were to be defrayed from said fund and, such cost having been provided for, that it would be improper to demand reimbursement from another department, even though a condition precedent to the issuing of a license by the second department was an inspection by the Insurance Department.

Mr. Farris's opinion cannot be construed to mean that every department shall be free from costs necessitated by investigations by another department,

but must be confined strictly to the sections of the law being considered in that opinion.

Our answer to your question is in the negative.

JAMES G. FROST  
Assistant Attorney General

March 31, 1952

To Fred L. Kenney, Director of Finance, Department of Education

Re: Subsidies - Part-time Positions

. . . For the purposes of administering the subsidy sections of Chapter 37, R. S., the definitions contained in Section 197 of that chapter have been pertinent. Among those definitions the term "teaching positions" is defined and states that the term excludes any such position which is filled by a person devoting less than half of the school day to the duties of such position. As a result of this definition it has been the policy of your department not to allocate subsidies authorized by Sections 195 et seq. for teachers who were working in positions that were less than half-time.

The 1951 Legislature repealed Sections 201-204, inclusive, all sections relating to State school funds, and enacted the "general purpose educational aid" section. This section, seen as Section 201 of Chapter 37, R. S., provides that the State shall appropriate to the municipalities a sum which is a certain percentage of the State valuation per resident pupil.

You make the following pertinent remarks relative to the newly enacted Section 201:

"(1) the Legislature did not mention 'less than one-half time teachers' when it enumerated the several exemptions

"(2) the term 'teaching positions' is not specifically referred to

"(3) we have a very similar situation in allowing substitute teachers to work on less than half time basis and permit their salaries to be subsidized

"(4) Chapter 386 permits the State Board of Education to make reasonable regulations for carrying out the provisions of this General Purpose Aid computation, and

"(5) it states specifically that '. . . It is the intent of the legislature that the 1951 allocations be made under the provisions of law as they existed prior to the effective date of this section.'"

It is our opinion that the newly enacted Section 201, entitled "General Purpose Education Aid", revamps completely the manner in which education is to be subsidized. The term "teaching positions" is to be found nowhere in the new section.

One paragraph of the new Act provides that only certified teachers shall be employed and sets a minimum salary to be paid such certified teachers. The concluding sentence of that paragraph reads as follows:

"Any city, town, plantation or community school district which fails to comply with any of these conditions shall have deducted from its apportionment a sum equal to twice that by which it is delinquent."