

MAINE STATE LEGISLATURE

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January 6, 1958

To Kermit Nickerson, Deputy Commissioner of Education
Re: Income from Local School Trust Funds.

. . . You ask for an interpretation of Chapter 364, Section 237-D, Public Laws of 1957:

"Chapter 364, Sec. 237-D, states, in part, that school maintenance incidental receipts shall be subtracted in determining the net foundation program cost on which state subsidy is paid.

"Incidental receipts were defined by the State Board of Education on June 24, 1955 and, among other items, included 'interest on local school trust funds.'

"A question has been raised as to whether or not this classification by the State Board is contrary to the principle set forth in Chapter 41, Sec. 101, which states, in the fifth sentence, 'Towns shall receive in trust and faithfully expend gifts and bequests made to aid in the maintenance of free high schools, and shall receive aid in such cases to the same extent and on the same conditions as if such schools had been established and maintained by taxation; * * *'

"An opinion as to whether or not interest on school trust funds should be considered as an incidental receipt and deducted accordingly in determining the net foundation program would be appreciated."

Before arriving at a solution of your problem we should like to give an example of the way we think the statutes involved would work.

Assume that a free high school was supported in 1957 by tax dollars to the extent of \$100,000 per year.

Assume further that a philanthropist died in 1957, leaving a trust fund, the interest of which, amounting to \$100,000 per annum, was to be expended in maintaining that high school.

Under the provisions above quoted in Chapter 41, Section 101, the school should receive aid to the same extent and on the same conditions as if such school had to be maintained by tax dollars.

The answer must be the same if a smaller portion of normal school functions were to be carved from the larger whole and be sustained by a trust fund.

From the above you can see that it is our opinion that interest on local school trust funds is not to be considered as incidental receipts to be determined in arriving at the foundation allowance.

James Glynn Frost
Deputy Attorney General

jgf/c