

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1959 - 1960

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November 10, 1959

To: Kermit Nickerson, Deputy Commissioner of Education

Re: Construction Aid

I have your request for an opinion concerning the aid to be paid to eligible municipalities and school administrative districts for this year under Section 237-H, Chapter 41, R. S. 1954.

Prior to the effective date of the amended section, all eligible units who reported cash payments, principal and interest payments, and lease payments for capital purposes would receive construction aid in the same percentage that they were entitled to receive that year on operational cost. This section provided a penalty for an administrative unit that failed to complete the project.

Chapter 353, P. L. 1959 amended Section 237-H, effective September 12, 1959, to provide that no financial assistance shall be paid until school construction has been completed and a full report of the cost of said construction and other expenses for capital outlay purposes is made to the Commissioner. After completion and the receipt of a report on November 1, the Commissioner shall apportion the same percentage for capital outlay purposes, except money contributed to defray part of the cost of the project, as the unit would be entitled to receive that year based on Table II of Section 237-E. In regard to money contributed by the administrative unit to defray part of the cost of the project, the Commissioner may pay the State's share in one year or spread it over a period not to exceed five years. The Commissioner may shorten the payment period but not extend it after the original determination.

The question has arisen regarding building aid on projects which were started prior to the effective date of Chapter 353, P. L. of 1959, and to be reported after the effective date thereof.

Laws are not retroactive unless the statute provides so specifically. *Bowman v. Geyer*, 127 Me. 351.

In my opinion the Commissioner should make payments this December on projects begun prior to September 12, 1959, for expenditures made for all capital outlay purposes prior to September 12, 1959, and reported this year as required by statute. In all probability these projects will be completed prior to the next reporting period. These payments should be made both on money contributed to the project by an administrative unit and payment to retire interest and principal on notes or bonds issued for the project.

The amendment to Section 237-H contemplates the possibility that an amount of money will be contributed for capital outlay purposes by various administrative units which might exceed the amount provided by the State for this purpose. In such an event, the Commissioner may spread the payments.

GEORGE A. WATHEN  
Assistant Attorney General