

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT  
OF THE  
ATTORNEY GENERAL

for the calender years

1961 - 1962

except community school districts, which do not offer education programs for both grades and high school pupils, shall be determined as follows:

“The average of the 2 preceding years’ average daily membership of the pupils attending school in the unit shall be multiplied by the applicable dollar allowance in Table I below. To this amount shall be added the average of the unit’s 2 preceding years’ expenditure for tuition, pupil transportation and board. The total of these items will be the total foundation program. From this total foundation program shall be subtracted the average of the 2 preceding years’ tuition collections and other school maintenance incidental receipts. The net cost thus obtained represents the net foundation program allowance on which state subsidy shall be computed biennially in accordance with this section.”

The above information is filed with the Commissioner of Education and on the basis of that information, state subsidy is paid. The above information is available from School Administrative District No. 2 for the two preceding years, but is not available from the towns and community school district comprising the school administrative district.

School Administrative District No. 2 earned the subsidy on the basis of the average daily membership of the pupils attending school in the district, as well as expenditures for tuition, pupil transportation and board. The expenditures by the school administrative district for tuition, pupil transportation and board were derived from the taxes from the various towns comprising the district. The tax burden to each town within the district is apportioned in accordance with state valuation, see section 111-L of Chapter 41.

It is our conclusion that the one-third subsidy payable to the district may be apportioned among the towns and community school district comprising the former school administrative district in proportion as their state valuation bears to the total state valuation of all the participating municipalities in the former district.

Since the district is no longer an entity, however, the 10 per cent bonus payable to a school administrative district under section 237-G of chapter 41 should not be included within the subsidy to be apportioned to the various towns comprising the former School Administrative District No. 2.

RICHARD A. FOLEY

Assistant Attorney General

November 27, 1961

To: Kermit S. Nickerson, Deputy Commissioner of Education

Re: Subsidy on Capital Expenditures

This is in answer to your request for an opinion as to whether or not school district construction may be used as a basis for construction aid under Revised Statutes, Chapter 41, Section 237-H, where funds for the district school construction were obtained through a federal grant-in-aid.

United States Code, Title 20, Sections 236 through 240, provides for federal grant-in-aid to areas impacted with federal employees.

R. S. 1954, c. 41, § 237-H provides in part as follows:

“To provide further incentive for the establishment of larger school administrative districts, the commissioner shall allocate state financial assistance to School Administrative Districts on school construction approved subsequent to the formation of such districts, . . . ”

Section 237-H goes on to provide that if the district has contributed money to defray all or part of the cost of capital outlay construction, the commissioner shall determine the amount of subsidy payable to the district for this expenditure.

From the above section it is clear that the subsidy is paid on the construction and there is no requirement that the source of the funds would preclude state aid on such construction. Under the federal law the grant-in-aid to the school district becomes the property of the district for their use for educational purposes and our state subsidy law does not require that we look beyond the expenditure of the funds by the school district for the construction. It is our conclusion that state construction aid is payable even though the funds used for the construction may have been received through a federal grant-in-aid.

RICHARD A. FOLEY

Assistant Attorney General

November 27, 1961

To: Kermit S. Nickerson, Deputy Commissioner of Education

Re: Union Superintendent of Schools, Apportionment of Salary

This is in answer to your request for an opinion interpreting the provisions of Section 79 of Chapter 41, Revised Statutes of 1954. Section 79 provides in part as follows:

“ . . . Said joint committee shall determine the relative amount of service to be performed by the superintendent in each town, including the minimum number of visits to be made each term to each school, fix his salary, apportion the amounts thereof to be paid by the several towns. . . . Said joint committee, at the time of its organization, or as soon thereafter as possible, and whenever a vacancy shall occur, shall, *subject to the conditions hereinafter provided*, choose by ballot a superintendent of schools for a term of not more than 5 years and the term for which a superintendent is elected shall, in all cases, end on the 30th day of June of the year in which the contract expires. . . . The election of a superintendent of schools, as herein provided, shall not be effective unless said election shall be approved by the superintending school committee of the town in the said union having a majority of the teachers in the towns comprising the union and paying not less than 1/2 of the salary aforesaid, exclusive of any sums paid by the state for the purpose. . . . ” (Emphasis supplied)

You inquire whether or not the proviso that the superintending school committee of the town having a majority of the teachers in the towns comprising the union relates to the election of the superintendent only or both the election of the superintendent as well as the services to be performed, number of visits to