

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of
the Maine Attorney General as transferred to
the Maine State Law and Legislative Reference
Library on January 19, 2022**

✓
no

September 23, 1963

Kermit S. Hickerson, Deputy Commissioner Education

John W. Benoit, Assistant Attorney General

Disposition of funds received by a town under Section 235 of Chapter 41,
R. S. 1954.

Your memorandum of July 23, 1963, is answered below.

FACTS:

The town of Milford expended \$3,611.26 from its surplus account for the payment of expenses concerning architectural plans of a local school building. At the time the expenditure was withdrawn from the surplus account the town had no moneys in its school account. Recently, the state paid \$1,200 to the town as partial reimbursement of that expenditure pursuant to c. 41, § 235, R. S. 1954. The town officials credited the surplus account with the moneys rather than the school account. Both the school committee and the superintendent of schools believe that the sum should have been credited to the school account as provided in § 235, c. 41, R. S. 1954. The town officials have secured an opinion from the Maine Municipal Association that the town's action was proper.

QUESTION:

Whether the funds received from the state should have been credited to the school account rather than the surplus account?

ANSWER:

The money was properly credited to the town's surplus account.

REASON:

The state funds paid to Milford came from the permanent school fund.

"Sec. 235. Permanent school fund. The Treasurer of State shall keep a separate account of all moneys received from sales of lands appropriated for the support of schools or from notes taken therefor and of any other moneys appropriated for the same purpose. Such sum shall constitute a permanent school fund, which may be put at interest. Such interest shall accrue to a fund to be allocated to administrative units by the Commissioner for the purpose of surveying school systems and developing school plans. Said allocation shall not in any case exceed $\frac{1}{4}$ of the cost of such surveys or plans."

Allocations of moneys made from the fund by the Commissioner of Education constituted a reimbursement to the administrative unit covering a portion of the expense incurred by the administrative unit in developing architect plans of a school building. The pre-requisite to such reimbursement was the administrative unit's payment of the qualifying expenditure in full.

Not all payments by the state to administrative units are to be treated as subsidy; some payments are to be considered as reimbursement moneys.

We note in the present instance that the town paid from its surplus account, the full amount of the cost of the plans; no funds were available in the town's school account from which to make payment of the obligation. If the amount is credited to the town's school account (payment having been made of the entire expense: \$3,611.28) the school account would have realized the benefit from both the state fund and the town surplus account; and to the extent of \$4,800. for an original expenditure costing \$3,611.28.

Section 240, Chapter 41, R. S. 1954, is not applicable for the reason that the reimbursement does not become a part of an unexpended balance. See our June 14, 1950 opinion to H. A. Ladd, Commissioner of Education with its expression in this area.

John W. Benoit
Assistant Attorney General

JWB/slf