

MAINE STATE LEGISLATURE

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Federal Revenue Sharing

SYLLABUS:

The local use of Federal revenue-sharing funds for capital expenditures related to educational facilities would not contravene the provisions of the School Finance Act of 1975.

FACTS:

The example given is a municipality which spends \$80,000 from General Revenue Sharing Funds to purchase a new heating system for a school building.

QUESTION AND ANSWER:

Would expenditure of Federal revenue sharing funds for the purpose stated in the example contravene the provisions of the School Finance Act of 1975? No.

REASONS:

Federal funds distributed to local governments under the "State and Local Fiscal Assistance Act of 1972" (31 U.S.C. § 1221 et seq) may be used only for "priority expenditures." These expenditures are limited by the exclusive listing found in 31 U.S.C. § 1222(a), which does not include educational expenditures unless they can be categorized as ". . . ordinary and necessary capital expenditures authorized by law." 31 U.S.C. § 1222(a)(2). The applicable regulations do not provide definitive guidance for determining such expenditures. 31 C.F.R. § 51 et seq. However, for purposes of this opinion it is assumed that expenditures of the type described in the example would be permissible, unless they violate Maine statutes, specifically the School Finance Act of 1975 (20 M.R.S.A. § 3710 et seq).

Concern over possible contravention of the School Finance Act stems from inequalities in education expenditures which might result if one municipality chose to use its revenue sharing funds in this manner while others did not. This result would appear to be contrary to one of the purposes of the Act - greater equalization of education expenditures. Yet there is statutory language, both in the Act itself and elsewhere, which indicates that use of revenue sharing funds for educational capital expenditures was anticipated and provided for by the Legislature.

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The School Finance Act separates capital outlays into two classes--major or minor. If the outlay is considered "minor," as defined in 20 M.R.S.A. § 3712, 12, then it is treated as part of "operating costs." The term "operating costs," which is a key term in the Act, is defined as:

"Elementary or secondary operating costs shall include all costs, except transportation, community services, major capital outlay, and debt service, reduced by tuition receipts, expenditures from all federal revenue sources except for amounts received under the provisions of Public Law 874, [federally impacted areas] and reduced by expenditures for special and vocational education programs as defined in subsections 5 and 6...." 20 M.R.S.A. § 3712, 1, as amended by P.L. 1975, c. 272, § 15 (emphasis provided).

Major capital outlays are not included in "operating costs." Minor capital outlays are included, but are reduced by the amount of federal funds, such as revenue sharing fund, which are used.

Major capital outlays are considered in 20 M.R.S.A. § 3457, titled "State aid for school construction," which provides in part:

"Before computing the eligible expenditure of any administrative unit for construction aid, the commissioner [Commissioner of Educational and Cultural Services] shall cause to be deducted all moneys expended on the project which were received from federal sources, except moneys from federal revenue sharing sources."

This section both recognizes that revenue sharing funds may be used for major educational capital outlays and encourages such utilization by including these funds in computing the eligible expenditure upon which State aid is calculated. Section 3457 was last amended during the same legislative session in which the School Finance Act was enacted, showing further that no conflict was intended.

The example which is given concerns purchase of a new heating system for a school. It is unnecessary to determine whether this would be a "major" or "minor" capital outlay for purposes of this opinion, because the result would be the same. In either case the use of Federal

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funds for capital expenditures has been recognized and provided for by the Legislature. Therefore, the use of Federal revenue sharing funds for capital expenditures related to education would not contravene the provisions of the School Finance Act of 1975.

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cc: H. Sawin Millett, Commissioner
Educational & Cultural Services