

SCHOOLS: State Board of Education may apportion
as excess school moneys one half of the
APPROPRIATIONS: biennium appropriation made by the
Legislature for school purposes.

June 18, 1952

Mr. Hubert Wheeler
Commissioner of Education
Capitol Building
Jefferson City, Missouri



Dear Sir:

Your letter at hand requesting an official opinion of
this department, which reads as follows:

"The General Assembly has appropriated
to the public schools of this State
\$7,000,000 for the biennium period be-
ginning July 1, 1951 and ending June 30,
1953. Said sum being in addition to the
amount appropriated for the same purpose
for a like period in Section 2.260, H.B.
#3, an act of the 66th General Assembly.
In brief this appropriation supplements
the one-third General Revenue appropria-
tion. I refer you to Section 10.360,
page 50, H.B. 496 (omnibus bill). This
appropriation has now been approved by
the Governor and the money is available
for distribution to the public schools.

"During the last biennium the General
Assembly, in Section 9.790, page 17,
H.B. 436, appropriated \$5,000,000 for
the public schools which was in addition
to the regular one-third general revenue.
The Department of Education requested the
Governor to release one-half of the amount
for each year of the biennium, therefore
\$2,500,000 was distributed to the public
schools for each year of the biennium
period. This money was distributed to the
public schools on the same basis as the

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distribution of other school funds which was required in the appropriation act. Last biennium the General Assembly completed the appropriation somewhat earlier than the similar appropriation this year, which made the first half of the appropriation available before the third scheduled payment period of the regular school moneys was completed. Therefore, the supplementary appropriation was sent out to the school districts along with one of the regular scheduled payments. This year, because of the delay in completing the appropriation, the money was not available until after the third scheduled payment period had passed.

"The present problem in relation to the distribution of the supplemental appropriation is the establishment of a legal basis for sending out to the public schools this year the money due these districts after the scheduled payment periods have passed.

"Section 161.030, RSMo 1949 provides that the State Board of Education shall annually, before August 31, apportion the public school funds for the benefit of the public schools in the manner provided by law. Section 161.040 provides that on or before the 15th day of December each year the amount of the public school funds in the State Treasury as of the last day of the preceding November, shall be apportioned to each and every school district as provided in the law. Section 161.040 also provided that on or before the 15th day of March of each year, the public school fund in the State Treasury as of the last day of the preceding February shall apportion school moneys again to the districts in the State. These three scheduled periods direct the State Board of Education in the distribution of public school moneys to the free public schools in this State.

"The appropriation act, Section 10.360, page 50, H.B. #496, 66th General Assembly, includes

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\$7,000,000 for the biennium period (\$3,500,000, annually) to be apportioned and distributed for the support of free public schools as provided in the laws governing the regular public school moneys. School districts in this State need the money due for this year in order that they may complete their contracted obligations with teachers and make adequate budget plans and contract with teachers for the ensuing year. Many inquiries have come to this Department from various parts of the State asking when it will be possible to receive money due their districts from the supplementary appropriation.

"It is the desire, and seems to be proper for the Department of Education to make a supplementary payment to schools at this time for one-half of the biennium appropriation, \$3,500,000, in order that schools may meet their obligations and make financial plans for the ensuing year. All data is now available for making the distribution exactly as provided by law. It would be a simple task to make the supplemental payment to schools. However, since the three scheduled payment periods directing the distribution of public school moneys have passed for this fiscal year, we desire to know whether it would be within the provisions of the law to make the distribution of the delayed appropriation at this time. If the appropriation had become available before the last distribution period there would have been no legal question involved.

"The law governing the distribution of State School Moneys and setting up scheduled periods for such distribution appear to be directive rather than a mandatory and limited schedule for such distribution. The three indicated directive schedules for the apportionment of School Moneys are carefully followed by this Department but they do not seem to be so restricted that this Department could not exercise the power of distribution of school moneys varying somewhat from the schedule. The law contains no prohibition which would

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make null or void any variations from the schedules. Certainly no injury would result from a delayed distribution of School Moneys, but rather great good would be accomplished for the school districts.) Therefore it appears that the law directing payment periods of State School Moneys is not so limiting that it would prevent some variations from the schedule. It would appear that the purpose of the General Assembly would be accomplished by making the supplemental distribution at this delayed period.

"I shall be glad to have your advice and official opinion in regard to the following question:

"Would it be proper and in substantial compliance with the law for this Department to make a supplementary distribution of State School Moneys at this time amounting to \$3,500,000, which is one-half of the total biennium appropriation as authorized by the General Assembly in Section 10.360, H.B. 496."

It is our further understanding that request has been made for release of \$3,500,000, or one half of the total biennium appropriation, as provided by the 66th General Assembly in Section 10.360 of House Bill No. 496, and that said request has been approved. Said distribution, if made, would be for the period from July 1, 1951 to June 30, 1952.

You now inquire if the Department of Education can make a supplemental distribution of this additional school money inasmuch as the last scheduled apportionment period (March 15) for apportioning public school funds is passed.

Section 10.360, supra, which provides for the appropriation of which one half is now desired to be apportioned and distributed, reads as follows:

"There is hereby appropriated out of the State Treasury, chargeable to the Postwar Reserve Fund, the sum of Seven Million Dollars (\$7,000,000.00), to be used for the support of free public schools; said sum to be apportioned and distributed for the support of free public schools, as provided by law, for the period beginning July 1, 1951 and ending June 30, 1953,

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said sum being in addition to the amount appropriated for the same purpose for like period in Section 2,260 of House Bill No. 3, an Act of the 66th General Assembly."

From the above enactment it is apparent that the money appropriated for the use and support of free public schools is public school money and is to be apportioned and distributed as such.

The above statute provides that said money is to be apportioned and distributed for the support of free public schools as provided by law, which we construe to mean in the same manner as the law provides for the apportionment of public school funds.

In this connection Section 161.040, RSMo 1949, provides for the manner and time of apportionment and distribution of public school funds, and, in part, reads:

"2. The state board of education is hereby empowered, and it shall be its duty, on or before the thirty-first day of August of each year, to apportion the public school fund of the state as follows: It shall calculate an equalization quota, as herein defined, for each and every district entitled to such quota. For each and every district not entitled to an equalization quota it shall calculate a teacher quota in accordance with the basis provided in section 161.030, and an attendance quota in accordance with the basis provided in section 161.030, at the rate of one and three-tenths cents a day. It shall apportion to each and every district for which an equalization quota was calculated the amount as herein provided, and it shall apportion to each and every district not receiving an equalization quota the teacher and attendance quotas as above provided.

"3. On or before the fifteenth day of December of each year, it shall determine the amount of the public school funds in the state treasury as of the last day of the preceding November, and from this amount it shall apportion to each and every district

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for which an equalization quota was calculated at the time of the apportionment made on or before the thirty-first day of August last preceding, the remainder of such quota, if any remainder there be. It shall also apportion to each and every district for which teacher and attendance quotas were calculated at the time of the apportionment made on or before the thirty-first day of August last preceding the remainder of such quotas, if any remainder there be, or such part of such remainder as the funds available for apportionment will permit; and on or before the fifteenth day of March of each year, it shall determine the amount of the public school fund in the state treasury as of the last day of the preceding February, and from this amount it shall apportion to each and every district for which an equalization quota was calculated at the time of the apportionment made on or before the thirty-first day of August, last preceding, the remainder of such quota, if any remainder there be. It shall also apportion to each and every district for which teacher and attendance quotas were calculated at the time of the apportionment made on or before the thirty-first day of August last preceding the remainder of such quotas, if any remainder there be, or such part of such remainder as the funds available for apportionment will permit; * * * provided further, that the state board of education shall at the time of making the annual apportionment, apportion to the various districts their allotments of building, transportation and tuition aid as provided by law; provided, however, in the event there should be insufficient funds to carry out the minimum guarantee of seven hundred and fifty dollars for each elementary teaching unit and one thousand dollars for each high school teaching unit, and the teacher quota and the attendance quota of one and three-tenths cents for such districts as do not participate in the minimum guarantee, all school funds to be apportioned by virtue of the provisions of this law shall be apportioned to all districts in pro rata proportion, paying such percentage

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of each and every one of these apportionments as the money available in the public school fund will permit; provided further, that after all apportionments herein provided have been paid in full, the state board of education shall make an additional apportionment to each and every district in the state which has levied a tax of one dollar on the one hundred dollars assessed valuation for school districts formed of cities and towns, and also consolidated and enlarged districts in which the boards of education may levy one dollar on the one hundred dollars assessed valuation for school purposes (teachers' wages and incidentals) and for all other districts which by law may levy sixty-five cents of the one hundred dollars assessed valuation for school purposes, and to which an equalization quota or teacher and attendance quota apportionments have been made on or before the thirty-first day of August, last preceding, of two hundred dollars for each elementary teaching unit in which a teacher having a state certificate is employed; one hundred and twenty-five dollars for each such unit in which a teacher having a first grade certificate is employed; one hundred dollars for each unit in which a teacher having a second grade certificate is employed; fifty dollars for each such unit in which a teacher having a third grade certificate is employed and three hundred dollars per high school teaching unit; and an additional attendance apportionment of one and six-tenths cents per pupil day based on total days attendance of preceding year to each and every such district to which teacher and attendance quotas or equalization quota apportionments have been made; provided further, that any school district levying less than the tax rate for school purposes as provided in this section shall receive that per cent of such additional apportionments as the tax rate levied in said district is of the tax rates as defined in this section for making the additional apportionments.

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"4. In the event the amount of money in the public school fund is not sufficient to pay these quotas in full the state board of education shall pay such percentage of both the teaching unit and the attendance quotas as the amount in the public school fund will permit; provided further, that after all apportionments herein provided have been paid in full the state board of education shall apportion any excess remaining in the school fund equally among all of the districts of the state in proportion to the number of teaching units in each district as reported to the state board of education for the preceding year; * * *"
(Emphasis ours.)

The above statute, as quoted, generally provides for a basic apportionment to be made on or before August 31 of each year. Such would also be the first apportionment to be made in the fiscal year of July 1 to June 30. At such time an equalization quota and a teacher and attendance quota are calculated. The statute then provides for an apportionment on or before December 15 of each year, and on or before March 15 of each year, of the remainder of the equalization quota and teacher and attendance quota as calculated at the time the basic apportionment was made on or before August 31.

The statute further provides for an additional apportionment to school districts after the apportionments for equalization quotas and teacher and attendance quotas have been paid in full.

Paragraph 4 of the statute then provides that, after all of the apportionments provided for have been paid in full, if there is still an excess of school moneys remaining it shall be apportioned by the State Board of Education equally among all the school districts of the state in proportion to the number of teaching units in each district as reported to the State Board for the preceding year.

With regard to the apportionment of the excess school moneys, it does not appear that any specific time is stated when such apportionment is to be made, and therefore it would seem that said apportionment could be made any time after the specific apportionments provided for in the statute were made and distributed.

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As supplemental information to your opinion request you have informed us that all apportionments specifically provided in Section 161.040, supra, have been paid in full. Consequently it is our thought that the \$3,500,000 allocated for distribution for the period from July 1, 1951 to June 30, 1952, which would be one half of the appropriation provided for by Section 10.360 of House Bill No. 496, would be excess school moneys which could presently be apportioned and distributed in the manner provided by Section 161.040, pertaining to the apportionment of excess school moneys.

CONCLUSION

It is therefore the opinion of this department that the State Board of Education can presently make an apportionment and distribution of state school moneys allocated for distribution amounting to \$3,500,000, which is one half of the total biennium appropriation provided for by Section 10.360 of House Bill No. 496, enacted by the 66th General Assembly.

Respectfully submitted,

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APPROVED:



J. E. TAYLOR
Attorney General

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