

**OPINION
47-109**

May 29, 1947 (OPINION)

EDUCATION

RE: Department of Public Instruction - Use of Emergency Appropriation

Your letter of May 26 addressed to this office has been received and contents noted.

You inquire as to the purposes for which the fund appropriated by House Bill 49 of the 1947 Legislature may be expended. The title of the Act reads as follows: "An Act providing for an emergency appropriation for the purpose of assisting school districts in financial distress, under the state aid program of the state equalization fund and declaring an emergency."

Section 1 of the Act is as follows: "There is hereby appropriated out of any monies in the state treasury of the state equalization fund, not otherwise appropriated, an additional sum of eight hundred thousand dollars for the 'emergency fund' and an additional sum of five hundred thousand dollars for 'distribution on per pupil basis,' of the state equalization fund, for the biennium beginning July 1, 1945, and ending June 30, 1947."

Section 2 is the emergency clause.

You will note that the appropriation made by said House Bill 49 is in fact a deficiency appropriation to provide funds for the biennium beginning July 1, 1945 and ending June 30, 1947 out of the state equalization fund for the various purposes enumerated in Chapter 118 of the Session Laws of 1945. Among the items therein mentioned are the following: vocational agriculture, vacation home economics, occupational information and guide, emergency fund, distribution on per pupil basis, high school tuition, and teacher unit basis. The needs of all of these various activities have been met leaving surpluses, with the exception of the item of teacher unit basis in which there is a deficiency of approximately \$1,050,000. There is a surplus in the high school tuition fund of \$144,671.00 and in the per pupil basis fund a balance of \$233,960.00, making a total of \$378,631.00.

The first question presented is whether these two balances to which we have just referred, may be used in meeting the deficiency need in the teacher unit basis fund. We, of course, must take into consideration the general purpose of the uses to be made of the State Equalization Fund. Those uses are specified in the Act establishing the State Equalization Fund and makes provision for each and all the different items or activities to which I have referred. There can be no doubt, therefore, that the balance in any one of these different funds is applicable and may be used in meeting the needs of any other fund in which there is a deficiency. By deducting the said sum of \$378,631.00 from the \$1,050,000.00 it still leaves a deficiency in the teacher unit basis fund of \$671,369.00.

Then finally, may the emergency appropriation of House Bill 49 to which we have referred be drawn upon to meet the deficiency of \$671,369.00 in the teacher unit basis fund? That question is answered by the title of the Act as well as the Act itself. In the first place, this is an emergency appropriation for the purpose of assisting school districts in financial distress under the state aid program of the State Equalization Fund, and it certainly was the intention of the Legislature that the sum so appropriated should be used for any or all purposes and activities for which the Equalization Fund was established.

As already pointed out, the appropriation is to meet any deficiency for the biennium beginning July 1, 1945 and ending June 30, 1947, and the deficiencies to which we have referred are such deficiencies as occurred during said biennium.

It should be noted that Senate Bill 248 which was passed with an emergency amended Section 15-4018 of the North Dakota Revised Code of 1943 and increased the payments from \$120 per year to \$300 per year in schools employing one to four teachers for each grade or high school teacher unit maintained by such district and from \$100 to \$250 per year to schools employing more than four teachers for each grade or high school teacher unit. The increase in payments thus made by Senate Bill 248 made it necessary to enact another emergency measure, namely House Bill 49 which made an appropriation to provide funds for the increase in payments under Senate Bill 248.

We might add further that should there be any deficiency in any of these different funds prior to October 1, 1947 any balance remaining in the appropriation made by House Bill 49 may be used to meet any such deficiency.

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Attorney General