

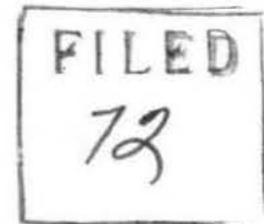
SCHOOLS:  
STATE AID:

1. Pursuant to subparagraph 9 of Section 163.031, V.A.M.S., a school district must spend for teachers' salaries in the year in which the money is received at least eighty percent of all state school funds received pursuant to Section 163.031 unless exempted from such requirement by the State Board of Education. 2. Pursuant to Section 163.061, RSMo Supp. 1967, a school district must place at least eighty percent of all state school moneys received under Sections 1, 2 and 3 of Section 163.031 in the teachers' fund and the balance, if any, in the incidental fund. 3. The only restriction placed by subparagraph 9 of Section 163.031 on a school board's discretion in setting a levy under Section 164.011 is that the district must spend on teachers' salaries in the current year as much of the revenue produced by local tax levies as was spent for that purpose in the previous year. 4. The State Board of Education is responsible for the enforcement of subparagraph 9 of Section 163.031.

OPINION NO. 72

March 3, 1970

Honorable Jack J. Schramm  
State Representative, District 37  
7529 Gannon Avenue  
University City, Missouri 63130



Dear Representative Schramm:

This letter is in response to your request for an official opinion of this office on the following questions pertaining to subsection 8 of Section 163.031 of House Committee Substitute for Senate Substitute for Senate Bills 1, 185 and 215 (enacted in 1969 by the 75th General Assembly) (hereinafter referred to as subsection 9 of Section 163.031, V.A.M.S.):

"1. Must a school district spend a minimum of 80% of the allotted state money for the school year 1969-1970, over and above that allocated for 1968-1969, for teachers salaries in the school year 1969-1970?

"2. Could a school district put this additional amount in their balances (reserves) if 80% of all state aid, including the increase, is spent for teachers salaries?

"3. Can this additional state money be used to reduce tax levies for the following fiscal year? Were school districts in violation of

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this provision when, in the spring and summer of 1969, they reduced their levies in anticipation of this additional revenue?

"4. Which agency or group enforces the provisions of this act? ('In the event a district fails to comply ... deducted ... (unless) exemption.')

Subsection 9 of Section 163.031, V.A.M.S., states as follows:

"9. A school district shall spend for teachers' salaries each year at least eighty percent of the state school funds received under this section that year as provided by section 163.061 and as much of the revenue produced by local tax levies as was spent for teachers' salaries the previous year. In the event a district fails to comply with this provision, the amount by which the district fails to spend funds as provided herein shall be deducted from the district's apportionment for the following year provided that the state board of education may exempt a school district from this provision if the state board of education determines that circumstances warrant such exemption."

I.

The first sentence of subparagraph 9 of Section 163.031 reads as follows:

"A school district shall spend for teachers' salaries each year at least eighty percent of the state school funds received under this section that year as provided by section 163.061 . . ." (Emphasis Supplied)

We believe that the legislature clearly intended by this language that a school district must spend in the year in which it is received at least eighty percent of all state school funds received pursuant to Section 163.031.

II.

Section 163.061, RSMo Supp. 1967, reads as follows:

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"163.061. Allocation of state aid to district funds.--Not less than eighty per cent of the state school moneys received under the provisions of subsections 1, 2 and 3 of section 163.031 shall be placed in the teachers' fund and the remaining per cent of such moneys in the incidental fund."

Pursuant to Section 163.061 a school district must put at least eighty percent of all state school moneys received pursuant to Sections 1, 2 and 3 of Section 163.031 in the teachers' fund and, as pointed out above, must spend that money for teachers' salaries in the year it is received. The percentage, if any, remaining after at least eighty percent of the state moneys have been placed in the teachers' fund shall be placed in the incidental fund. Section 163.061. Whether any of the money placed in the incidental fund would become part of the reserves (surplus) of the school district at the end of the school year would depend upon whether the expenditures from the incidental fund were less than the total amount placed in the fund during the year.

### III.

Reference is made again to the first sentence of subparagraph 9 of Section 163.031 which reads as follows:

"A school district shall spend . . . as much of the revenue produced by local tax levies as was spent for teachers' salaries the previous year. . . ." (Emphasis Supplied)

The intent of the legislature as reflected by this provision is that increased state aid will not be used by the school districts to reduce the amount of money raised by local tax levies which had been spent on teachers' salaries.

Pursuant to Section 164.011, RSMo Supp. 1967, the school board of each district shall annually prepare an estimate of the amount of money to be raised by taxation and the rate required to produce the amount ". . . specifying by funds the amount and rate necessary to sustain the school or schools of the district for the ensuing school year, . . ." If a school board does not violate the restriction contained in the first sentence of subsection 9 of Section 163.031, which is quoted in the preceding paragraph, this subsection would not otherwise affect the board's discretion under Section 164.011 to set its levy.

### IV.

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The last sentence of subsection 9 of Section 163.031 reads as follows:

" . . . In the event a district fails to comply with this provision, the amount by which the district fails to spend funds as provided herein shall be deducted from the district's apportionment for the following year provided that the state board of education may exempt a school district from this provision if the state board of education determines that circumstances warrant such exemption."

The State Board of Education is given the responsibility of apportioning state aid pursuant to paragraphs 1, 2 and 3 of Section 163.031. See Section 163.081(2). Furthermore, the State Board of Education is given the discretionary power to exempt districts from the restriction of subparagraph 9 of Section 163.031. See last sentence of paragraph 9 quoted above. Therefore, we believe that the State Board of Education is the agency which is given the responsibility by the legislature of enforcing compliance with the first sentence of subparagraph 9 of Section 163.031.

We are advised by the State Department of Education that its school finance section will review the receipts and expenditures shown on the annual report of the secretary of the board to determine whether each district is in compliance with Section 163.031 and will also instruct school auditors to check this requirement at the time the district audit is made as required by Section 165.-121, RSMo Supp. 1967.

#### CONCLUSION

Therefore, it is the opinion of this office that:

1. Pursuant to subparagraph 9 of Section 163.031, V.A.M.S., a school district must spend for teachers' salaries in the year in which the money is received at least eighty percent of all state school funds received pursuant to Section 163.031 unless exempted from such requirement by the State Board of Education.
2. Pursuant to Section 163.061, RSMo Supp. 1967, a school district must place at least eighty percent of all state school moneys received under Sections 1, 2 and 3 of Section 163.031 in the teachers' fund and the balance, if any, in the incidental fund.
3. The only restriction placed by subparagraph 9 of Section 163.031 on a school board's discretion in setting a levy under

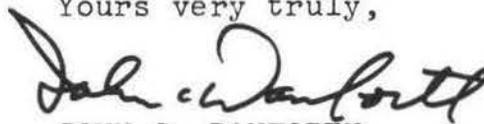
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Section 164.011 is that the district must spend on teachers' salaries in the current year as much of the revenue produced by local tax levies as was spent for that purpose in the previous year.

4. The State Board of Education is responsible for the enforcement of subparagraph 9 of Section 163.031.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, D. Brook Bartlett.

Yours very truly,

A handwritten signature in cursive script, appearing to read "John C. Danforth".

JOHN C. DANFORTH  
Attorney General