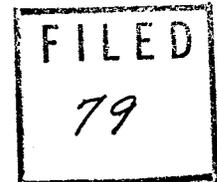


SCHOOLS: Moneys received from the Fair Share
SCHOOL FUNDS: Fund pursuant to Senate Committee
TEACHERS FUND: Substitute for House Committee Sub-
SCHOOL DISTRICTS: stitute for House Bills Nos. 1548
SCHOOL BOARDS: and 1543 should be placed to the
credit of the teacher's fund as pro-
vided in Section 165.011, RSMo 1978. There is no requirement that
the money received from the Fair Share Fund be spent for teachers'
salaries in the fiscal year in which it was appropriated.

August 9, 1982

OPINION NO. 79

Dr. Arthur L. Mallory
Commissioner of Education
Department of Elementary and Secondary
Education
Jefferson State Office Building
Jefferson City, Missouri 65101



Dear Dr. Mallory:

This opinion is issued in response to your request submitting the following questions:

1. Does Section 165.011, RSMo 1978, require that all money received by public school districts from the Fair Share Fund (SCS HCS HBs 1548 and 1543) be placed to the credit of the Teachers Fund? If this section does not require all moneys received from the Fair Share Fund be placed to the credit of the Teachers Fund, in what fund and in what proportion must the moneys be placed?
2. What proportion, if any, of the money received from the Fair Share Fund must be spent for teachers salaries in the fiscal year in which it was appropriated?

Senate Committee Substitute for House Committee Substitute for House Bills Nos. 1548 and 1543, enacted by the 81st General Assembly, Second Regular Session, provides that state moneys placed in a fund entitled "The Fair Share Fund" shall be distributed to the schools in Missouri. It does not include any provisions as to what fund(s) the money is to be credited by the schools.

Dr. Arthur L. Mallory

Section 165.011, RSMo 1978, provides for the establishment of various funds for the accounting of all school moneys paid to public school districts. That section further provides that "not less than eighty percent of the state moneys received under sections 162.975 and 163.031, RSMo, and all other moneys received from the state except as herein provided shall be placed to the credit of the teachers' fund."

This office previously held in Opinion No. 46 (1967) that money received by the State of Missouri from the National Forest Reserves and distributed to school districts was money received from the state and therefore to be placed to the credit of the teacher's fund. Similarly, it is our opinion that money distributed from the Fair Share Fund is money received from the state and should be placed to the credit of the teacher's fund.

Your second question asks what portion, if any, of the money received by school districts from the Fair Share Fund must be spent for teachers' salaries in the year in which it was appropriated. Subject to constitutional or statutory limitation, the administration of school funds is left to the discretion of the school board charged with its administration. 79 C.J.S. Schools and School Districts § 331 (1952). We find no constitutional or statutory provision requiring a school district to spend any portion of the money received from the Fair Share Fund in the fiscal year in which it was appropriated.

CONCLUSION

It is the opinion of this office that moneys received from the Fair Share Fund pursuant to Senate Committee Substitute for House Committee Substitute for House Bills Nos. 1548 and 1543 should be placed to the credit of the teacher's fund as provided in Section 165.011, RSMo 1978, and there is no requirement that the money received from the Fair Share Fund be spent for teachers' salaries in the fiscal year in which it was appropriated.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Leslie Ann Schneider.

Very truly yours,



JOHN ASHCROFT
Attorney General

Enclosure: Opinion No. 46 (1967)