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PUBLIC SCHOOLS: School boards cannot use funds received under Sec. 13, Laws of Mo. 1931, p. 340 for incidental purposes.

CSA 29, 411-2 274
10-13
October 31, 1933.

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Hon. Edward Cusick,
Prosecuting Attorney,
Pulaski County,
Waynesville, Missouri.

Dear Sir:

This department acknowledges receipt of your letter of October 11, 1933 relating to Section 14, Laws of Mo. 1931, p. 342, same being as follows:

"Will you kindly advise me if 25% or any per cent of the above is to be used for incidental purposes.

It is clear that the above amount may be used for incidental purposes that is collected from the district by taxation. However, it is not clear as to what portion, if any portion may be used for this purpose which is received from the State; in other words, the question is what per cent received through State aid may be used for incidental purposes."

I.

District school boards cannot use any of the funds received under Sec. 13, Laws of Mo. 1931, p. 340, for incidental purposes.

Section 14, Laws of Mo. 1931, p. 342 defining "teaching unit" will not be quoted in full, as you appear to be familiar with its contents. However, the portion pertinent to your question is as follows:

*****In no case shall more than twenty-five per cent of the minimum guarantee on account of teaching units be used for incidental purposes. *****

Section 13, Laws of Mo. 1931, p. 340 defines or directs the manner in which the minimum guarantee may be computed, and is as follows:

*****In order that each and every district may have the funds necessary to enable the board of directors to maintain the school or schools thereof for such minimum term and to comply with the other requirements of this act, it is hereby provided that when any district has legally levied for school purposes (teachers' wages and incidental expenses) a tax of not less than twenty cents on each one hundred dollars of the assessed valuation of property therein, such district shall be allotted out of the public school fund of the state an equalization quota to be determined by adding seven hundred and fifty dollars for each elementary teaching unit to which the district is entitled according to the provisions of section 14 of this act, one thousand dollars for each high school teaching unit to which the district is entitled according to the provisions of section 14 of this act, and the amount approved for tuition and transportation according to the provisions of section 16 of this act, and then subtracting from the total, which total shall be known as the minimum guarantee of such district, the sum of the following items: The computed yield of a tax of twenty cents on each one hundred dollars (\$100) of the assessed valuation of the property of the district, the sum received the preceding year from the county and township school funds, and the sum estimated to be received for the current year from the railroad, telegraph, utility and all other taxes based on assessments distributed by the state board of equalization, plus the county foreign insurance fund for the school year 1932-1933 only*****

There is, however, a general statute relating to this matter, same being Sec. 9233, R.S. Mo. 1929, which is as follows:

"All moneys arising from taxation shall be paid out only for the purposes for which they were levied and collected; but the income from state, county and township funds shall be applied only to the payment of teachers' warrants, issued by order of the board to legally qualified teachers for services rendered according to law. No county or township treasurer shall honor any warrant against any school district that is in excess of the income and revenue of such school district for the school year beginning on the first day of July and ending on the thirtieth day of June following; nor shall any portion of the funds mentioned in this section be applied in payment of any teacher's warrant issued prior to the distribution of such funds in accordance with section 9257, and no school warrant shall bear interest."

This section prohibits the income from state, county and township funds being applied to any other purpose than the payment of teachers' warrants. It is therefore the opinion of this department that no part of the fund received by the district from the state under Sec. 13, Laws of Mo. 1931, p. 340, and further defined by Sec. 14, p. 342 should be used for incidental purposes.

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See Sec 14 p 342
J. L. H.
Respectfully submitted,

OLLIVER W. NOLEN,
Assistant Attorney General.

APPROVED:

ROY McKITTRICK,
Attorney General