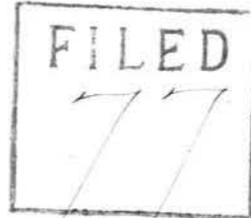


SCHOOLS: Transportation Fund received from State should be placed in Incidental Fund.

Warrants in payment of transportation should be issued and paid from the Incidental Fund;

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February 21, 1934.



Hon. Homer Rinehart,
Prosecuting Attorney,
West Plains, Missouri.

Dear Sir:

This department acknowledges receipt of your letter of some time ago regarding a controversy which has arisen in your county as to the proper distribution of school funds received from the State. Your letter in full reads as follow:

"In this county there are several individuals and school boards in controversy over the proper dispersment of school funds received by the state.

The statutes provide for the creation of three funds, namely: Building Fund, Teachers Fund and Incidental Fund, but the Consolidated districts received from the state different funds marked Transportation, Tuition, Teachers and Text Books.

Section 14 of the Session Acts of 1931, page 343, provides: 'In no case shall more than 25% of the minimum guarantee on account of teaching units be used for incidental purposes.' Under these facts we would very much appreciate a letter from you fully explaining where these funds, as received from the state should go.

Should the fund marked Transportation received from the State go into the Incidental Fund, or should there be a separate fund created by the districts as Transportation Fund?

On what fund should the warrants issued for Transportation be drawn?

Has a school the right to use not to exceed twenty-five per cent of the funds received from the State for incidental purposes?

A letter from your office in this regard answering these questions will cause a great number of individuals and school districts in this county to avoid long and expensive law

I.

THE TRANSPORTATION FUND RECEIVED FROM
THE STATE BY SCHOOL BOARDS SHOULD BE
PLACED IN THE INCIDENTAL FUND.

Section 9312, R.S. Mo. 1929 provides the classification of the various funds received by the treasurer, the pertinent part of which is as follows:

"The treasurer shall open an account for each fund specified in this section, and all moneys received from the state, county and township funds, and all moneys derived from the taxation for teachers' wages, and all tuition fees, shall be placed to the credit of the 'teachers fund'; the money derived from taxation for incidental expenses shall be credited to the 'incidental fund'; all money derived from taxation for building purposes, from the sale of school site, schoolhouse or school furniture, from insurance, from sale of bonds, from sinking fund and interest, shall be placed to the credit of the 'building fund'; and all moneys not herein specified that now belong to any school district, or that may hereafter be received by such school district, shall be placed to the credit of the 'teachers' fund'; of such school district. No treasurer shall honor any warrant unless it be in the proper form and upon the appropriate fund; and each and every warrant shall be paid from its appropriate fund, and no partial payment shall be made upon any school warrant, nor shall any interest be paid upon any such warrant.
*****"

Section 9196 provides in part as follows:

*****And when ratified by a two-thirds vote of the qualified voters of such district, voting at a special election such arrangements may be made final and the board shall be authorized to make such arrangements from year to year thereafter without calling a special election to ratify such arrangements until petitioned by ten qualified voters requesting that a special election be held therefor. And the board shall be authorized to issue warrants upon the teachers fund for the payment of tuition and upon the incidental fund for the payment of the cost of transporting pupils; provided, that at such special

election the proposition of the payment of tuition and the proposition of the payment of transportation shall be voted upon separately. *****

Section 9197, R.S. Mo. 1929, omitting parts not pertinent to the question under discussion, is as follows:

"The board of directors or board of education shall have authority and are empowered to make all needful rules and regulations for the free transportation of pupils herein provided for, and are authorized to and shall require from every person, employed for that purpose, a reasonable bond for the faithful discharge of his duties, as prescribed by the board. Said board of directors or board of education shall pay by warrant the expenses of such transportation out of the incidental fund of the district."

In view of the above sections, we are of the opinion that the funds marked "Transportation" should be placed to the credit of the Incidental Fund and no separate fund should be created by the district.

II.

WARRANTS IN PAYMENT OF TRANSPORTATION SHOULD BE ISSUED AND PAID FROM THE INCIDENTAL FUND.

Sec. 16, Laws of Missouri 1933, page 393 deals with the question of tuition and transportation, and having held above that transportation money should be placed in the Incidental Fund, we likewise hold that the warrants issued for transportation should be drawn on the Incidental Fund.

III.

FUNDS RECEIVED FROM THE STATE CANNOT BE USED FOR INCIDENTAL PURPOSES

We have heretofore, to-wit, October 31, 1933, rendered an opinion to the Honorable Edward Cusick, Prosecuting Attorney, Waynesville, Missouri, wherein it was held that no part of the funds

Hon. Homer Rinehart

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received from the State could be used for incidental purposes. We are attaching hereto a copy of this opinion and respectfully submit same in answer to the last question of your inquiry.

Respectfully submitted,

OLLIVER W. NOLEN,
Assistant Attorney General

APPROVED:

ROY McKITTRICK,
Attorney General

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