payment, in the first instance from the parent and in the second instance on distribution by the state.

I do not believe a reasonable construction of such rule can be made that would require the parent to pay full per capita costs including tuition support, but that a reasonable construction of said rule would be that the parent should pay the full per capita cost of educating the child in the school corporation educating such child, less the state tuition support. In such case the state tuition support would be payable to the school corporation actually educating such child on its furnishing the Superintendent of Public Instruction with evidence of the fact that the full per capita cost of educating such child had been paid, less the state tuition support.

TLW:mf

OFFICIAL OPINION NO. 13

April 2, 1949.

Mr. Deane E. Walker,
State Superintendent of Public Instruction,
State House,
Indianapolis, Indiana.

Dear Sir:

Your letter of March 24, 1949, has been received in which you request a construction of House Enrolled Act Number 120, passed by the Indiana General Assembly in the 1949 session. You request an official opinion on the following questions:

"1. Does this law modify or repeal Section 1 of Chapter 232 of the Acts of 1947 or the tax limitation statute as set forth in Chapter 119 of the Acts of 1937 or any tax limitation law now in force?

"2. Does the State Board of Education have the authority under this act to determine what unit or units, if any, it may grant over and above the minimum foundation program?

"3. How should paragraph five of Section 6 be construed? Is the first part of paragraph 5 an amendment to the present laws concerning transfers? Under
this act may the State pay transfers under the minimum foundation program? Does the State Board have the authority to set the rules and regulations for such payment?

"4. Under Section 8, would the first distribution under this act (No. 120) be counted as a chargeable receipt when auditing school corporations for the school year 1948-49; if such first distribution was a partial distribution before August 1, 1949, for an amount equal to what the school corporations would have received under the old tuition support law?

"5. Does Section 6½ change in any manner the present method of distributing federal vocational funds or does this section apply only to future additional funds that may be received from the federal government for purposes other than those now being distributed?"

House Bill 120, above referred to, is Chapter 247, Acts of 1949, which contained an emergency clause and became in full force and effect on approval by the Governor on March 10, 1949.

Section 2 of said act, regarding tuition support, in part provides as follows:

"The minimum foundation program shall be financed as follows: Subject to the provisions of sections 5 and 6½ hereof, whenever any local school corporation shall levy a local tuition property tax levy and rate equivalent to fifteen cents on each one hundred dollars of adjusted assessed valuation, then to such levy there shall be added from the State School Tuition Fund an amount sufficient to provide one hundred per cent of the average minimum salaries of instructors in each school corporation computed as follows:

"For every unit in grades one to twelve, as determined by the Commission on General Education, provided at least one legally licensed instructor is employed and engaged in the work of instruction in such grades, the employing school corporation shall be paid over and
above the amount of the minimum tuition property levy when divided equally among the various units an amount sufficient when added to the said local tuition tax levy to equal the average minimum salary of the instructors of such corporation computed upon the basis of a nine months' term, as determined by Chapter 231 of the Acts of 1945 and acts amendatory thereof and supplemental thereto, and in accordance with the provisions of this act. The number of units for which each corporation qualifies under this act and the average minimum salary of the instructors of each such corporation shall be certified by the state superintendent of public instruction to the auditor of state on or before the first day of January and the first day of July of each year from the records of the office of the state superintendent of public instruction.

"Distributions to school corporations as provided for herein shall be made by the auditor on or before February 1 and August 1 of each year: Provided, however, that the first distribution under this act shall be made on or before August 1, 1949, and shall be calculated on the average daily attendance, instructors, and number of units for the half school year starting February 1, 1949 without regard to tax rates levied prior thereto. Each semi-annual distribution made thereafter shall be calculated on information and data for the preceding half school year."

Section 3 of said act, regarding general operating expenses reads as follows:

"There is hereby created the State School Equalization fund to which fund there shall be transferred by the auditor of state upon order of the State Board of Finance, hereby authorized to make such transfer from the general fund, an amount sufficient to carry out the purposes of this act in the form of distributions of state funds to local units from the said State School Equalization Fund.

"Subject to the provisions of sections 5 and 6 hereof, whenever any local school corporation shall levy
a local property special school levy and rate equivalent to sixty cents on each one hundred dollars of adjusted assessed valuation, then to such levy there shall be added from the State Equalization Fund an amount sufficient to provide one thousand dollars per unit for current operating expenditures exclusive of capital outlay. Nothing in this Act shall be construed to limit the authority of the school authorities of any school corporation to levy a levy and rate in addition hereto for the purposes of defraying expenditures for any lawful school activity in addition to the minimum foundation program of education. Units for the computation hereof shall be those herein elsewhere described."

Section 4 of said act, concerns school transportation expenses and in part reads as follows:

"Subject to the provisions of sections 5 and 6½ hereof, whenever any local school corporation shall levy a tax levy and rate equivalent to ten cents on each one hundred dollars of adjusted assessed valuation within the limits of the corporation hereby authorized and hereafter known as the transportation tax to be paid into the special school revenue fund, then for every child living one and one-half miles or more from the school to which he is assigned by the authorized school authorities of the county, provided such child shall be in attendance at such public school for more than half of the days of the half school year upon which computation is made, there shall be distributed from the State School Equalization Fund a sufficient amount of money which when added to his proportionate amount of such transportation levy will provide twenty-five dollars per year for each child transported. The State Board of Education shall make the necessary rules and regulations for carrying into execution the provisions of this act, shall prescribe the regulations under which unusual road conditions and sparsity of population shall warrant the application of an adjustment factor to the transportation formula, and shall prescribe the forms to be used by the county superintendent of schools for reporting the information necessary for such execution."
Section 5 of the act sets up a special summary for the fixing of the assessed valuation of property in the school corporation and its evident purpose is to equalize those assessments as of the present day money value for the purpose of each corporation sharing its proportionate cost of school operation.

Section 6 of said act in part provides as follows:

"The number of units for which a public school corporation may qualify for state support as provided in this act, for the first eight grades, shall be one unit for each thirty pupils in average daily attendance in any one school corporation, and for grades nine to twelve inclusive, shall be one unit for each twenty-seven pupils in average daily attendance in any one school corporation. If in determining the number of units in the first eight grades of any one school corporation and in grades nine to twelve inclusive, in any corporation, there remains a major fraction of pupils, then that corporation may have an additional unit for such major fraction in grades one to eight and/or for such major fraction in grades nine to twelve. The method of determining the average daily attendance and the instances in which additional emergency units or fractions thereof for tuition or special purposes may be granted shall be prescribed by the Commission on General Education and shall be uniform throughout the state.

"The Commission on General Education shall make necessary rules and regulations to supplement the provisions of this act with reference to determining and verifying the names, numbers, terms, and salaries of instructors for the purposes of this act, the number of units for which each school corporation is entitled to payment, and for computing the average minimum salary of all the instructors of each school corporation. All computations of salaries as referred to in section 2 hereof shall be made in accordance with the terms of the minimum salary law of the state.

"The Commission on General Education also shall determine by uniform rule, applicable throughout the
state, when and under what conditions both as to the basis of distribution and the local taxing effort required the services of principals, supervisors, and superintendents shall be deemed to constitute units under this act."

Section 6, paragraph 5 thereof, referred to in your third question, read as follows:

"The Commission on General Education of the State Board of Education shall make rules and regulations to govern the amount, payment and receipt of transfer tuition monies between school corporations and by the state to school corporations taking into consideration all the factors herein referred to in connection with payments to be made by the state under this act or any other act that may provide for distributions of state funds. Provided that nothing in this act shall be construed to repeal the existing statutes concerning the authority of local school officials in making transfer of pupils from one school corporation to another, nor shall existing statutes concerning the manner of computing the total amount of transfer tuition that shall be charged by the school corporation to which such pupils are transferred be repealed. If any school shall be in session for eight or eight and one-half months, then the distribution for said schools shall be proportionately reduced, but no school shall be eligible for state funds under the provisions of this act if the term shall be less than eight months."

Section 6 1/2 of said act provides in part as follows:

"There is hereby appropriated for the fiscal year 1949-50 and for each fiscal year thereafter from the general fund of the State of Indiana and from the State School Tuition Fund the sum of fifty-three million dollars and also all funds receivable in each fiscal year hereafter from payments to be made by the federal government which may be eligible for expenditure for school purposes as comprehended in this act. This provision shall be deemed to constitute a prescription of the manner of distribution to local school jurisdictions of any such funds that may be receivable from
the federal government. The General Commission of the State Board of Education on or before July 1 of each year, on the basis of available data on enrollments and assessed valuations, shall make estimates and may adjust the local foundation tax rates provided herein for tuition, special, and transportation purposes respectively upward or downward in like percentage of change for the ensuing year and/or may adjust the definition of a teaching unit so that when receipts from said taxes are added to funds available from the appropriations herein there shall be guaranteed to the local school jurisdictions as determined herein the funds required to finance the minimum foundation program of education as described herein.”

Section 8 of said act reads as follows:

“All laws or parts of laws in conflict herewith are hereby repealed and Chapter 357 of the Acts of 1947 is hereby specifically repealed: Provided, however, that such repeal shall not be effective as to claims filed or to be filed for state school relief funds for the school year 1948-1949 under the provisions of said Chapter 357, and such state school relief funds shall be available to local school corporations for said school year 1948-1949 in the same manner and from the same sources of revenue as provided for in said Chapter 357 of the Acts of 1947 and exclusive of any of the provisions of this Act, and such claims shall be paid in the same manner as if this act had not been passed.”

Statutes must be construed in their plain, ordinary and usual meaning unless a contrary purpose clearly appears.

Sec. 1-201, Burns 1933;
Garvin v. Chadwick Realty Co. (1937), 212 Ind. 499, 450.

Courts will look to the general scope and purpose of a statute to determine the legislative intent.

City of Indianapolis v. Evans (1943), 216 Ind. 609, 612.
In ascertaining the legislative intent as to a statute, the courts may take into consideration other acts in pari materia, whether passed before or after the act in question.

Sherfey v. City of Brazil (1937), 213 Ind. 493, 497, 498.

1. In answer to your first question, I am of the opinion Chapter 247 of the Acts of 1949 does not modify or repeal Section 1 of Chapter 232 of the Acts of 1947 (28-1108, Burns 1948 Replacement) being the Cumulative Building Fund Act, or Chapter 119 of the Acts of 1937, (Sec. 64-307, et seq., Burns 1948 Replacement), or any other tax limitation law now in force, except in so far as it may be found necessary to give full credence to the legislative program for especially authorizing a tax of fifteen cents for tuition support, sixty cents for current “operating expenditures exclusive of capital outlay” and a ten cent tax on each one hundred dollars taxable property based upon the assessment program provided in said act, which authority is given such school corporations in order to qualify for such benefits.

While Section 28-1101, Burns 1948 Replacement, provides a maximum tax rate of seventy-five cents on each one hundred dollars of taxable property, and one dollar on each poll, for general school operating expenses and tuition support; and while Section 28-1106, Burns 1948 Replacement, provides for an additional maximum tax levy of not to exceed two dollars on each one hundred dollars of taxable property for the special school revenue fund, and a tax of not to exceed two dollars on each one hundred dollars of taxable property for the supplementary tuition fund, with a proviso that the combination of the two taxes shall not exceed a tax rate of two dollars; these statutes would still be effective and applicable to the fifteen cents and sixty cents tax levy referred to in the 1949 statute, aforesaid as representing tuition support and general current operating expenses. However, that would not apply to the additional ten cent tax for transportation provided in the 1949 law, as that seems to be a new special tax for a special purpose, and, in my opinion, the ten cent tax authorized for transportation is in excess of the amounts for which tax limitations are fixed by the provisions of Section 28-1101 and 28-1106, Burns 1948 Replacement, supra.
The above construction as to the special transportation tax is in accord with the generally accepted policy which has been followed since 1913 in the construction of 28-4902, Burns 1948 Replacement, which statute authorized an additional ten cent special tax levy for vocational training and which tax has consistently been made in addition and above the maximum rates prescribed by the foregoing tax limitation statutes.

Summarizing the foregoing answer to your question number one, I am of the opinion the valuation tax limitation laws are not repealed. However, the ten cent transportation tax may be levied in addition to any such tax authorized by the limitation statutes.

2. In answer to your question number two it is clear that under Section 6 and Section 6½, above quoted, considerable latitude and discretion is given the General Commission of the State Board of Education in enacting rules and regulations necessary to equitably carry out the intents and purposes of the statute by making the many necessary adjustments specified as to definition of units, adjustments of local foundation tax rates, and the method of determining and distributing additional emergency units or fractions of units. This clearly gives the right to such commission to deem what unit or units, if any, it may create over and above the minimum foundation program.

3. In answer to your question number three I am of the opinion that paragraph five of Section 6 of said act does not repeal the existing statutes concerning the authority of local school officials in making transfer of pupils from one school corporation to another, nor does said act repeal existing statutes concerning the manner of computing the total amount of transfer tuition that shall be charged by the school corporation to which such pupils are transferred. This paragraph specially provides that there shall be no change respecting such laws.

However, those laws only deal with the manner of making transfers and the manner of computing the amount that shall be charged for a transfer.

However, paragraph five of Section 6 of the 1949 law does give to the Commission on General Education of the State
Board of Education specific authority to make rules and regulations regarding the amount, payment and receipt of transfer tuition monies between school corporations and by the state to school corporations, taking into consideration all the factors therein referred to in connection with payments to be made by the state under said act or any other act making provision for distribution of state funds.

The foregoing would clearly authorize the Commission on General Education, by valid rules and regulations, to determine the amount of tuition support, and other school expenses, to be paid by the state on a transfer of pupils into another school corporation. Such rules could provide that for corporations qualifying under the act that their transfer costs could be paid in an amount up to and including the total amount of transfer costs, less the amount raised by such school corporation from such tax levies for such purpose. The commission could also provide by such rules whether the state school funds should be paid directly to the debtor, or the creditor school corporation on such transfer.

4. In answer to your fourth question it is submitted that under Section 8 of the act under consideration, Chapter 357 of the Acts of 1947, (being the state school relief act), is specifically repealed. However, said section contains a proviso that such repeal shall not be effective as to claims filed or to be filed, for state school relief funds for the school year 1948-1949 and such school relief funds shall be available for such purpose for such local school corporation for the school year 1948-1949, and payable as that act provided.

The foregoing proviso is clearly made in order to provide full protection for expenses incurred with the full knowledge that such state school relief funds had been appropriated and were available for the benefit of such school corporation qualifying for state aid in an amount above the old tuition support law.

However Chapter 247 of the Acts of 1949 has changed the entire basis for determining the distribution of state money in support of the local school system. From a consideration of the manner in which tax levies are authorized to be made under the new statute, and the new basis of assessed valuation of taxable property, it is apparent the act attempts to equalize
the differences formerly existing between the financially em-
barrassed school corporations and those more prosperous by 
equalizing the various assessment rates for taxation existing 
in the various communities. By the new manner of computa-
tion the new act is drawn in an endeavor to take into 
consideration all those factors heretofore provided for under 
the state aid school program.

I am therefore of the opinion in answer to your question 
number four that any monies distributed under Chapter 
247 of the Acts of 1949, for the school year 1948-1949, 
could be counted as a chargeable receipt when auditing school 
corporation for the year 1948-1949. Any other construction 
would result in the school corporation receiving double pay-
ment for those factions represented by the state aid distribu-
tion. The answer to your question number four is therefore in 
the affirmative.

5. In answer to your question number five I am of the 
opinion that Section 6½ of the 1949 law does not in any 
manner change the present method of distributing federal 
vocational funds for which payment may be made to the 
state pursuant to the provisions of Section 28-4920, Burns 
1948 Replacement. That act concerns aid for disabled persons 
under the Federal Vocational Program. Those disbursements 
from the federal government have nothing to do with the 
school expenses comprehended by Chapter 247 of the Acts 
of 1949. Therefore, under the specific provision of Section 6½ 
of said 1949 law said section applies only to future additional 
funds that may be received from the federal government for 
the purposes stated in Chapter 247, supra.

OFFICIAL OPINION NO. 14

April 4, 1949.

Mr. Noble W. Hollar, Chairman, 
State Board of Tax Commissioners, 
Room 301, State House, 
Indianapolis, Indiana.

Dear Sir:

I am in receipt of your recent letter in which you desire 
an official opinion upon the following: