

However as a matter of construction it is apparent that the legislature intended the following things:

(a) That the course of study be a separate course. Thus it must be taught separately and not combined with related subjects such as health, etc.

(b) That it be an elective course. This is apparent from the language which "authorizes" high school credit to those pupils "completing such course."

(c) That some credit for the course be given. The difficulty is in determining how long the course should last, the number of hours devoted to it, and the number of high school credits. It is my understanding that credit in Indiana high schools is given on the basis of "credits" and "units." There is no such thing as a credit of one semester. However in the use of the term semester there is at least some indication that the legislature intended the course to run over a semester period. Since the duty of providing such course is placed upon the Indiana State Board of Education, it seems to me that if the State Board of Education carried out the legislative intent as shown in Section 2, the discretion of determining the exact number of hours to be devoted and credit to be given is with the State Board of Education.

3. Since that act became effective on August 20, 1947, requirement for the establishment of course is now in full force and effect and the schools would, therefore, be authorized to provide immediately the necessary teaching personnel for instruction in the course.

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OFFICIAL OPINION NO. 74

December 5, 1947.

Hon. C. F. Cornish, Director,  
Aeronautics Commission of Indiana,  
306 Board of Trade Building,  
Indianapolis 4, Indiana.

Dear Sir:

I am in receipt of your letter requesting my official opinion as follows:

“An important question has arisen relative to the expenditure of appropriated city funds and the available matching funds of the federal government in payment to the contractor for work accomplished and completed in the establishment and development of a municipal airport under the Federal Airport Act.

“The Federal Airport Act (Public Law 377, 79th Congress, Chapter 251, 2nd Session) provides for a nationwide system of public airports to meet the present and future needs of the nation by providing grants of funds to sponsors (municipalities) for municipal airport development. Relative to such Federal Airport Program, the 1947 Indiana State Legislature enacted the Indiana Channeling Act of 1947, which, among other things, provides that no municipality participating in the Federal Airport Program shall directly accept, receive, receipt for, or disburse any funds granted by the United States under the Federal Airport Act, but it shall designate the Director of the Aeronautics Commission of Indiana as its agent and in its behalf to accept, receive, receipt for, and disburse such funds.

“Under the Aeronautics Commission procedural policy, the Federal share of the funds will be placed into a special Federal Airport Project account in the State Treasury in accordance with Section 9, Chapter 360, Acts of 1945. In order to provide for a most expeditious procedure and to keep duplication of effort at a minimum, it was deemed expedient that the treasurer of the municipality issue checks out of the joint Federal Airport Project account in payment of the contractor's voucher, rather than to have two checks issued to the contractor, one from the Federal agency and one from the municipality, each check covering each party's share of the project cost. The procedure to this point is believed consistent with the Section 550.20 of the Regulations, wherein it is stated that, ‘The Administrator will pay the United States' share of the project cost to the official or officials or depository so designated and certified by the sponsor. The funds so deposited shall be withdrawn by the sponsor

only in payment of the project cost of development of the project.'

"However, a question arises when you consider certain Indiana Statutes relative to the expenditure of municipal funds by officials of the municipality and to the scope of such officials in the expenditure of such funds. Burns' 48-1411 provides that no order or warrant for any purpose shall be drawn against the funds of any city, in the hands of the treasurer or other officer, unless an appropriation has been made by ordinance for such purpose. Burns' 48-1507 provides that no executive department, officer or employee thereof shall have power to bind such city to any contract or agreement, or in any other way, to any extent beyond the amount of money at the time already appropriated by ordinance for the purpose of such department. Burns' 48-6724 provides that no money shall be paid out of the city treasury by the city treasurer except upon a warrant duly drawn thereon. Chapter 129 of the Acts of 1905, Sec. 56 provides that no order or warrant shall be drawn unless an appropriation has been made by ordinance.

"The following questions are therefore raised, determinations to which are necessary before we may proceed in operating under our procedure as adopted:

"1. Does the United States' share of the project cost paid to the official, officials or depository so designated and certified by the Sponsor, in accordance with Sec. 550.20 of the Federal Airport Program Regulations, become such funds of the Sponsor as will necessitate appropriation by the appropriate governing body of the Sponsor?

"2. May a treasurer of a municipality or any other appropriate official of the municipality act as fiscal agent of the State of Indiana in the ultimate payment to the contractor for work completed and accomplished under the Federal Airport Project?

"3. Must the Federal Government's share of the project cost for establishment or development of a municipal airport under the Federal Airport Act be

appropriated by the city or county council before the appropriate municipal official or officials of such municipality may act in the expenditure of a sum of money represented by proportionate shares of the Federal Government and the municipality?"

Section 9 of Chapter 360 of the Acts of 1945, page 1792 (Section 14-320 Burns' 1945 Pocket Supp.) is as follows:

"Section 9. The Commission is authorized to cooperate with the Government of the United States, and any agency or department thereof, in the acquisition, construction, improvement, maintenance and operation of airports and other air navigation facilities in this state, and to comply with the provisions of the laws of the United States and any regulations made thereunder for the expenditure of federal moneys upon such airports and other navigation facilities.

"It is authorized to accept, receive, and receipt for federal money and other moneys, either public or private, for and in behalf of any municipality or person, for the acquisition, construction, improvement, maintenance, and operation of airports and other navigation facilities, where such work is to be done by such municipalities or persons aided by grants of aid from the United States, upon such terms and conditions as are or may be prescribed by the laws of the United States and any rules or regulations made thereunder.

"All moneys accepted for disbursement by the commission in accordance with the provisions of this section shall be deposited in the state treasury, and, unless otherwise prescribed by the authority from which the money is received, kept in separate funds, designated according to the purposes for which the moneys were made available, and held by the state in trust for such purposes. The Commission is authorized, whether acting for this state or as the agent of any of its municipalities, or when requested by the United States Government or any agency or department thereof, to disburse such moneys for the desig-

nated purposes, but this shall not preclude any other authorized method of disbursement.”

It is further provided in Section 1 of Chapter 114, page 355 of the Acts of 1947 as follows:

“\* \* \* No such municipality shall directly accept, receive, receipt for, or disburse any funds granted by the United States under the Federal Airport Act, but it shall designate the director of the aeronautics commission of Indiana as its agent and in its behalf to accept, receive, receipt for and disburse such funds. It shall enter into an agreement with the said aeronautics commission prescribing the terms and conditions of such agency in accordance with the federal laws, rules and regulations and applicable laws of this state. Such moneys as are paid over by the United States government shall be retained by the state or paid over to said municipality under such terms and conditions as may be imposed by the United States government in making such grant.”

The administrator of civil aeronautics in the United States Department of Commerce has adopted regulations (as amended to September 24, 1947) containing the following applicable provisions:

“§ 550.20 *Project Accounts and Records.* (a) *Bank Account.* All project funds (including funds of the sponsor and funds received from the Federal Government or from other sources) shall be deposited in a bank or trust company satisfactory to the Regional Administrator and maintained in an account in such bank or trust company, separate and distinct from all other funds of the sponsor, entitled ‘Federal Airport Project, (name of airport)’.

“§ 550.21 *Grant Payments.* Within ten days after acceptance of the Grant Offer, the sponsor shall designate an official or officials or depository, authorized by law to receive public funds, to receive payments representing the United States’ share of the project costs. All such payments will be made to the official

or officials or depository so designated and certified by the sponsor, who, upon receipt thereof, or within a reasonable time thereafter, shall deposit, or pay over such funds to the sponsor for deposit, in a bank account in accordance with the requirements of Section 550.20 (a) of these regulations. The funds so deposited in such bank account shall be withdrawn only in payment of the project costs of development of the project. In case any balance or unexpended funds shall remain in the account after completion of the project and the payment of all costs thereof, the sponsor shall refund to the United States, upon demand by the Administrator, any unexpended balance of payments made by the United States into the account."

The first clause in the above quotation from Section 1 of Chapter 114 of the Acts of 1947 is modified by the last sentence of such quotation to the extent that if terms or conditions are imposed by the United States government in making the grant which are inconsistent with the provision as to disbursement of the monies then the provisions as to disbursement are modified accordingly. Under regulation 550.20 *supra* the project fund of both the sponsor and the federal government must be deposited in a single bank account and paid from that account. This is inconsistent with the provisions which contemplate that the funds of the United States be held separately in the state treasury as a trust fund for disbursement directly by the state treasury to the persons entitled thereto. Therefore, the requirements of the federal regulation bring into operation the last sentence of Section 1 of Chapter 114 of the Acts of 1947 which authorizes payment over to the municipality under the terms and conditions imposed by the United States government.

Under these rules and regulations the Indiana director of aeronautics will receive the federal moneys as agent of the sponsoring municipality and deposit them in the State Treasury as a trust fund for these particular projects. I understand that he will then disburse such moneys to the sponsoring municipalities for deposit in the bank account as set forth in Regulation 550.20, set forth above, where such moneys will be comingled with the funds of the sponsor, which are to

be devoted to that project. By these actions, the federal funds by operation of law and the contract of the parties will have become a special deposit in an amount certain for use by the Board of Aviation Commissioners for a specific purpose. This would constitute an appropriation of these moneys, making them available for expenditure upon these projects. It is my opinion that no further appropriation is strictly necessary.

Opinions of Attorney General (1945), p. 499.

However, the laws of this State concerning the appropriation of moneys by local units of government and the preparation of budgets are designed to afford to the taxpayers full information in regard to the financial affairs of local units and, in my opinion, the preferable procedure to fully effectuate this legislative purpose would be for the municipalities to appropriate the full amount of the project's cost and, in the detail of the designation of moneys available to meet that appropriation, to show the federal funds as anticipated revenue. By this method the taxpayer will receive a complete picture of the method of financing the project.

Upon disbursement of the federal funds to the sponsoring municipality for deposit in an approved bank, the director of aeronautics has fulfilled his duties as agent and discharged his responsibility. Payments from such bank accounts will be made by the sponsor without the intervention of the director as agent. Therefore, it would appear that there is no necessity of delegating any duties to the treasurer of the municipalities nor any necessity that the treasurer act as fiscal agent or in manner other than treasurer. An answer to your second question would therefore be unnecessary.