
May 6, 1933.

Hon. Grover Van Duyn,
Assistant State Superintendent of
Public Instruction,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter concerning chapter 96 of the Acts of 1933, entitled “An act concerning common schools, prescribing a method of financing such schools, and defining the number of instructors to be employed therein.” You submit the following questions:

“1. What funds, if any, will be available for the state support of the common schools provided for in said act?

“2. To what amount (if any) per person engaged in the work of instruction will each school corporation be entitled under the provisions of this act?

“3. Under the provisions of said act, can the respective school corporations count with certainty upon receiving any money from the auditor of state, and if so, how much per ‘person engaged in the work of instruction’?”

Section 1 of the above act provides as follows:

“Section 1. Be it enacted by the general assembly of the State of Indiana, that the auditor of state shall transfer, semi-annually, upon the order of the state finance board, from the general fund of the state treasury to the common school revenue fund, such amount of money, computed as hereinafter provided, as may be available for the respective school corporations of this state to be distributed according to the provisions of this act. One-half of the amount of money so transferred shall be transferred on the first day of January and the other one-half shall be transferred on the first day of July of each year.” (Our italics.)


It must be perfectly evident from the foregoing, that your questions are not legal questions and cannot be answered as
such. The amount of money, if any, which may be transferred from the general fund of the state treasury to the common school revenue fund on the dates set out in the act depends upon facts not set out in your letter and, in fact, not now available. The mandate to the auditor of state is to transfer from the general fund to the common school revenue fund upon the order of the state finance board such amount of money "as may be available." The above quoted language is not specifically defined by the act. The state board of finance, now abolished, but whose powers are exercised by the "Department of Treasury" had, under previous laws, general supervision of the state's fiscal affairs. The "Department of Treasury" under chapter 137 of the Acts of 1933 now exercises all the powers of such state board of finance, and, in addition thereto, many others therein specifically set out. In my opinion this department is now charged with the duty, under chapter 96, supra, of determining when funds in the general fund are available to supplement the common school revenue fund, not as legal questions but as questions of public business administration in view of other charges against said general fund as evidenced by legal appropriations payable therefrom.

I cannot, therefore, advise upon the facts before me as to what funds, if any, will be available for the state support of the common schools growing out of the provisions of chapter 96 of the Acts of 1933. I think this answers all three questions as fully as they can be answered upon the facts submitted.

PUBLIC INSTRUCTION, DEPARTMENT OF: Legality of teachers' contracts where required to teach subjects not embraced in license. Necessity of legal contract to authorize state to make distribution under chapter 96 of Acts of 1933.

May 9, 1933.

Hon. Grover Van Duyn,
Assistant Superintendent of
Public Instruction,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter submitting the following questions: