



THE ATTORNEY GENERAL
OF TEXAS

AUSTIN 11, TEXAS

WILL WILSON
ATTORNEY GENERAL

May 14, 1957

Hon. William S. Fly

Opinion No. WW- 132

Hon. Max C. Smith

Co-Chairmen of the Conference
Committee on House Bill No. 133
of the 55th Legislature

Re: Effect of appropriation of the
Foundation School Fund contained
in the Conference Committee
Report on House Bill 133 on the
Foundation School Program.

Dear Sirs:

You have requested an opinion on the following questions:

"(1) Will the provisions contained on page III-43
abolish the Foundation Program of Education?"

"(2) Will the provisions contained on page III-43
abolish our guaranteed State minimum salary schedule?"

"(3) Assuming in all of these questions and
particularly in reference to this question that House Bill
8 will contain an appropriation of an estimated sum of
money, will the provisions contained on page III-43 of
the Conference Committee Report eliminate automatic
financing of public education?"

"(4) Are the appropriations contained in the
Conference Committee Report lump sum appropriations
which may then require percentage pay-offs under the
Foundation School Program?"

"(5) Assuming that the Conference Committee Report
is passed as it is written on page III-43 and further
assuming that House Bill 8 passes with an estimated
appropriation to provide for the additional salary schedule,
and is properly certified by the Comptroller and a shortage
arises during the biennium in the general revenue fund, then
what appropriation would suffer as a result of this shortage
in funds? In other words, would the Foundation School
Fund suffer or would it be the other agencies and departments
provided for in House Bill 133 (General Appropriation Bill)?"

Item 2 of the appropriation contained on page III-43 ap-
propriates the Foundation School Fund estimated to be \$102,973,009
for the fiscal year ending August 31, 1958, and \$108,037,465 for the
fiscal year ending August 31, 1959. Such appropriation is required
to be paid out of the Foundation School Fund as provided in Senate Bill

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116, Acts of the 51st Legislature, as amended, to April 1, 1957.
Item 2 further contains the following language:

"It is the intent of the 55th Legislature that the moneys appropriated above from the Foundation School Fund and the General Revenue Fund are to be used only for financing the Foundation School Program of this State as it was statutorily authorized as of April 1, 1957; and that none of such appropriated moneys shall be expended for financing higher salary rates for public school teachers and other personnel, or other purposes, which may be authorized subsequent to April 1, 1957."

In Attorney General's Opinion No. WW-102 it was held that House Bill No. 8 establishes new minimum salary schedules for various public school teachers and administrators and prescribes the formula basis for the calculation of same. It was further held in Attorney General's Opinion WW-102 that House Bill No. 8 directly affects the amount of allocation to be made to the Foundation School Fund pursuant to the provisions of Senate Bill 116 as amended by House Bill No. 8. The appropriation above quoted does not appropriate a fixed amount but appropriates an estimated amount of money to be determined by the law as it existed April 1, 1957. This appropriation does not affect the amount of money to be allocated to the Foundation School Fund. If House Bill No. 8 is enacted into law, it will directly affect the amount of allocation to be made to the Foundation School Fund and thereby reduce the amount of moneys that would have been placed in the General Fund without the enactment of House Bill No. 8.

In answer to your questions you are advised that:

1. The provisions contained on page III-43 do not abolish the Foundation Program of Education.
2. The provisions on page III-43 do not abolish guaranteed minimum salary schedule.
3. Assuming that House Bill No. 8 will contain appropriation of an estimated sum of money appropriating the Foundation School Fund as amended by House Bill No. 8, the provisions contained on page III-43 of the Conference Committee Report will not eliminate automatic financing of public education.
4. The appropriations contained in the Conference Committee Report on page III-43 is not a lump sum appropriation or a fixed sum appropriation. Rather it is an appropriation of an amount estimated to be \$102,973,009 for the fiscal year ending August 31, 1958, and estimated to be \$108,037,465 for the fiscal year ending August 31, 1959.

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5. Assuming that the Conference Committee Report is passed as it is written and assuming that House Bill No. 8 passes with an estimated appropriation to provide for the additional salary schedule and both bills are certified by the Comptroller and subsequently a shortage arises in the General Revenue Fund, the appropriations to other agencies and departments which are financed from the General Revenue Fund will be affected by the shortage rather than the Foundation School Fund.

SUMMARY

The appropriation contained on page III-43 of the Conference Committee Report appropriates an estimated amount of money to be determined by the provisions of Senate Bill No. 116, Acts of the 51st Legislature, Regular Session, 1949, as amended, to April 1, 1957, and does not affect allocations to be made to the Foundation School Fund by any amendment to Senate Bill No. 116, enacted subsequent to April 1, 1957.

Yours very truly,

WILL WILSON
Attorney General

WVG;JR:cs

APPROVED:

OPINION COMMITTEE
H. Grady Chandler, Chairman

L. P. Lollar

Edwin P. Horner

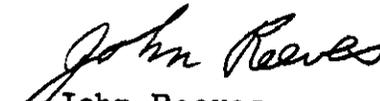
J. L. Smith

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