

Opinion No. 108.**Schools and School Districts—Costs,
school districts—Operating Expenses,
school districts.**

Held: The "actual costs" referred to in Section 5, Chapter 203, Laws of 1943, is to be determined by finding the average cost per child for the preceding year for maintaining the public elementary school to be attended — such "actual costs" of maintenance to be based upon normal and usual operating expenses rather than capital expenditures.

August 16, 1943.

Mr. Earl C. Ammerman
County Attorney
Park County
Livingston, Montana

Dear Mr. Ammerman:

You have asked me for an opinion concerning Section 1013, Revised Codes of Montana, 1935, as amended by Chapter 203, Laws of 1943, relating to the amount each school district should pay for children attending school in another district, and, particularly, just what is meant by the "actual cost" of maintaining school, and whether such expenses as the insurance on the building, repairs, etc., be included as actual costs of operating the school.

Section 5, Chapter 203, Laws of 1943, insofar as pertinent here, provides:

"When approval of attendance in another district within or without the county has been granted, the

district in which said child resides shall pay to the school district where such child attends, the actual cost of educating a child in the school attended. **Such actual cost to be determined by finding the average cost per child for the preceding year for maintaining the public elementary school to be attended.**" (Emphasis mine.)

As you have determined, I am of the opinion the term "actual cost" was intended to cover the cost of maintaining the school, based on the normal and usual operating expenses, such as hiring of teachers and other personnel, heat, lights, supplies, etc., and does not cover repairs of school building, costs of equipment, furnishings and items of like nature.

While not directly in point, it was held in *Marin Union Junior College Dist. v. Guinn*, 288 Pac. (Cal.) 799:

"That a statute providing for tax in county of students' residence to pay the cost of educating such students in a junior college district located in another county, and providing that funds should be in proportion to the total cost of educating, and that such funds should be used to maintain the junior college, did not include cost of capital expenditures, since 'capital expenditures' is in the nature of an investment for the future, whereas the 'cost of maintenance' is definite present expense."

Therefore, it is my opinion the "actual costs" referred to in Section 5, Chapter 203, Laws of 1943, is to be determined by finding the average cost per child for the preceding year for maintaining the public elementary school to be attended—such "actual costs" of maintenance to be based upon normal and usual operating expenses rather than capital expenditures.

Sincerely yours,
R. V. BOTTMLEY
Attorney General