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1. EDUCATION, BOARD OF—SHALL TAKE INTO ACCOUNT TOTAL PAYROLL OF TEACHERS FOR YEAR 1946-1947 AND APPLY TO THAT BASE AT LEAST SEVENTY-FIVE PER CENT OF INCREASED REVENUE TO SALARY INCREASE OF TEACHERS FOR SCHOOL YEAR 1947-1948—SECTION 4848-6 G. C.—AMENDED SUBSTITUTE SENATE BILL 48, 97 GENERAL ASSEMBLY.
2. SALARY OF ONE TEACHER FOR EACH THIRTY PUPILS ADDED TO ENROLLMENT FOR YEAR 1947-1948 OVER ENROLLMENT OF PREVIOUS YEAR MAY BE CONSIDERED AS SALARY INCREASE—NO PART OF SALARY OF TEACHER EMPLOYED ON ACCOUNT OF INCREASE OF ENROLLMENT OF PUPILS LESS THAN THIRTY MAY BE SO CONSIDERED.

## SYLLABUS:

1. Section 4848-6, General Code, as amended by Amended Substitute Senate Bill No. 48 of the 97th General Assembly, will upon taking effect of that act, require that every board of education shall take into account the total payroll of teachers as established for the year 1946-1947, and apply to that base at least seventy-five per cent of the increased revenue received by such board under the provisions of that act to increasing the salaries of teachers for the school year 1947-1948.

2. Under the provisions of Section 4848-6, General Code, as amended by Amended Substitute Senate Bill No. 48 of the 97th General Assembly, the salary of one teacher for each thirty pupils added to the enrollment for the year 1947-1948 over the enrollment of the previous year, may be considered as a salary increase in compliance with the provisions of said Section 4848-6, but no part of the salary of a teacher employed on account of an increase of enrollment of pupils less than thirty may be so considered.

Columbus, Ohio, September 24, 1947

Hon. Erwin L. Clemens, Prosecuting Attorney, Defiance County  
Defiance, Ohio

Dear Sir:

I have your request for my opinion, reading as follows:

"1. The Boards of Education of this County are desirous of

knowing the basis of computing the minimum payment on teachers' salaries from monies received under the Daniels-Cramer School Bill. I assume that the amount received under the old school foundation law and the amount received under the new Daniels-Cramer Bill should be taken into consideration? Is the previous annual payroll of teachers considered in this computation?

2. An increase of 30 pupils, I assume, is required before an additional teacher can be hired. What effect would a portion of this increase of pupils have on payment of the salary of this additional teacher? In other words, must there be a total increase of 30 students before an additional teacher can be hired or is the Board authorized to pro-rate the teacher's salary in proportion to the increase in pupils under 30?"

Amended Substitute Senate Bill No. 48, as enacted by the 97th General Assembly, commonly known as the Daniels-Cramer school bill, had for its particular object providing for a larger contribution of the state through what is known as the school foundation program, for the support of the schools. Section 4848-1, General Code, prior to the passage of the above act, provided for a certain apportionment from the state public school fund to each school district of the state, of amounts based on the average daily attendance of the schools. Section 4848-3, General Code, provided for additional subsidies for school districts having certain specified qualifications as to the levy of school taxes.

Section 4848-4, General Code, made further provisions establishing certain minimum requirements of a district in order to bring it up to the standard intended by the foundation program.

Section 4848-6, General Code, provided specifically that a school district whose board of education has not conformed to all the requirements of the law, should not participate in the distribution of funds authorized by the provisions of Sections 4848-1, 4848-3 and 4848-9, General Code, except for good and sufficient reason established to the satisfaction of the superintendent of public instruction and the state controlling board. This section provided further that no school district wherein the total of the annual salaries paid to teachers of the district for any school year is less than seventy-five per cent of the total amount of the foundation program of such district, exclusive of transportation and tuition costs, should participate in the public school fund. The above provisions were embodied in Amended Senate Bill No. 39 of the 96th General Assembly.

The Daniels-Cramer law which will become effective September 24, 1947, amends all of these sections, substantially increasing the allotments to the various districts, and changing the basis from "daily attendance" to "daily membership." It is important to note, particularly, as bearing on your inquiry, the new paragraph introduced in Section 4848-6 and reading as follows:

"Provided further, for and during the school year 1947-1948, not less than *seventy-five per cent of the increase* in total state money, exclusive of tuition and transportation, which any school district receives under the provisions of this act, in excess of the amount of money such school district would have received for the same school year under the provisions of Am. S. B. 39 as passed by the 96th General Assembly, exclusive of tuition and transportation, *shall be used for increasing teachers' salaries as established for the 1946-1947 school year*, provided however that in any school district where the board of education determines that additional teachers are necessary the salaries of such additional teachers may be deemed increased salaries on the basis of one additional teacher to each thirty pupil increase in enrollment."

(Emphasis added.)

It will be noted that the above quoted provision expressly requires that not less than seventy-five per cent of the increase in total state money which a school district receives during the school year of 1947-1948 under the provisions of this act in excess of the amount such district would have received for the same school year under the law as it has heretofore existed, "shall be used for increasing teachers' salaries as established for the 1946-1947 school year." It appears to me that your first question is plainly answered by the language of the paragraph which I have above quoted. Of the increase granted by the new act, not less than seventy-five per cent is to be used for increasing teachers' salaries "as established for the 1946-1947 school year." The total payroll for that year is therefore of necessity the basis upon which the compulsory increase must be computed.

Whatever the payroll for the school year of 1946-1947 amounted to, it is to be increased for the following year in such amount that at least seventy-five per cent of the increase granted by the new law shall be added to that payroll. The next paragraph of the new act contains the following provision requiring a board of education participating in the funds authorized by the provisions of this act to adopt and file with the super-

intendent of public instruction on or before October 1, 1947, a teachers' salary schedule. This provision of the law reads as follows:

"Provided further, that any board of education participating in funds authorized by the provisions of Sections 4848-1, 4848-3 and 4848-9 of the General Code shall adopt and file with the superintendent of public instruction on or before October 1, 1947 a teachers' salary schedule with provision for increments based upon training and experience. On or before January 1 of each year thereafter there shall also be filed with the superintendent of public instruction by each city, exempted village and county superintendent of schools a statement as to the salaries being paid teachers in the school district or districts under his supervision."

This final statement is doubtless for the purpose of enabling the superintendent of public instruction to check the action of the board and see that the increase granted by the new law has been applied at least to the extent required toward increasing the salaries of teachers.

Your second question draws attention to the proviso in the first paragraph above quoted, wherein it is stated that "where the board of education determines that additional teachers are necessary the salaries of such additional teachers may be deemed increased salaries on the basis of one additional teacher to each thirty pupil increase in enrollment."

Since the General Assembly has seen fit to adopt the measure of one additional teacher for each thirty pupils it would seem that there is no opportunity by way of construction, to introduce any other scale or to read into the law any provision authorizing a board to pro-rate the teacher's salary in proportion to an increase of pupils under thirty.

The principal purpose of the new provisions which I have quoted is to give teachers a substantial increase in salary and yet the General Assembly recognized that in a growing district it might become necessary to employ one or more additional teachers, hence the provision that in case the board should determine it necessary to employ one or more additional teachers, it could have credit on the obligation to use seventy-five per cent of the increased allowance for salary increase, by way of payment of the salary of such new teacher or teachers, but only to the extent of one new teacher for thirty additional pupils. Nothing in the statute authorizes taking such credit for a portion of the salary of a teacher for a fraction of thirty pupils. The obvious purpose of this restriction is to

prevent a board from scattering this increased income unnecessarily, and thereby defeating what is the manifest purpose of the act.

It should not be overlooked that the provision requiring every board to pay to teachers at least seventy-five per cent of its allotment from the fundation program is still in the law, and the board must see to it that its teachers' payroll for the year 1947-1948 meets this requirement as well as the one relating to the increase.

Accordingly, in specific answer to your questions, it is my opinion :

1. Section 4848-6, General Code, as amended by Amended Substitute Senate Bill No. 48 of the 97th General Assembly, will upon taking effect of that act, require that every board of education shall take into account the total payroll of teachers as established for the year 1946-1947, and apply to that base at least seventy-five per cent of the increased revenue received by such board under the provisions of that act to increasing the salaries of teachers for the school year 1947-1948.

2. Under the provisions of Section 4848-6, General Code, as amended by Amended Substitute Senate Bill No. 48 of the 97th General Assembly, the salary of one teacher for each thirty pupils added to the enrollment for the year 1947-1948 over the enrollment of the previous year, may be considered as a salary increase in compliance with the provisions of said Section 4848-6, but no part of the salary of a teacher employed on account of an increase of enrollment of pupils less than thirty may be so considered.

Respectfully,

HUGH S. JENKINS,  
Attorney General.