

**School Districts—Use of Sinking Fund of One Bond Issue to Purchase Bonds of a Later Issue.**

A sinking fund may not be used for any other purpose than that provided by law, namely, that of taking up the outstanding bonds for which the sinking fund was established, or in investment in interest-bearing bonds of the United States or the State of Montana.

Moneys in the sinking fund of a school district may not be invested in bonds of the district, other than outstanding bonds of the issue for the redemption of which the sinking fund was created.

J. E. Kelly, Esq.,  
County Attorney,  
Boulder, Montana.

My dear Mr. Kelly:

You have submitted to this office the following statement of facts:

“Some of our school districts have a sinking fund of a good substantial amount and the same districts are in need of funding bonds for the purpose of taking up maintenance expenses heretofore incurred under a recent enactment.”

—and you wish to be advised whether this sinking fund can be used to purchase these funding bonds.

Subdivision 1 of Section 2020 of the School Law (Chap. 76, Laws of 1913) provides:

“Provided, that the board may with the surplus of such sinking fund, when the same shall be One Thousand (\$1,000.00) Dollars or more, purchase any of the outstanding bonds issued by the board. Such purchase shall be made at the lowest price such bonds can be purchased at, but at no more than par value of such bonds, and whenever (thereafter) there shall be such a surplus of sinking fund amounting to the sum of One Thousand (\$1,000.00) Dollars, the board shall purchase therewith like bonds, on the same terms and conditions as hereinbefore specified.”

All this section means is that the Board may purchase their outstanding bonds, for which the particular sinking fund was established, as often as the surplus accumulated is \$1,000 or more, at the lowest market price, but in no case at more than par. By reading the section with the word “thereafter” as inserted after the word “whenever” above, the meaning of the clause in this section becomes clear. It means simply that additional bonds of the same kind shall be purchased whenever the sinking fund has accumulated an additional \$1,000.

Whenever an investment is made of a sinking fund, it must be made as provided by statute. The only provision for investing a sinking fund of a school district is either in its own outstanding bonds for which the sinking fund was established—which is not properly speaking an investment but a taking up of part of the bonds—or in interest-bearing bonds of the United States or the State of Montana, as provided in Subdivision 2 of this section. There is no authority of law for investing them in funding bonds issued by the district.

It is, therefore, my opinion that moneys in the sinking funds of school districts may not be invested in bonds of the district, other than outstanding bonds of the issue for the redemption of which the sinking fund was created.

Very truly yours,

WELLINGTON D. RANKIN,  
Attorney General.