

Opinion No. 46**Schools and School Districts—
Emergency Budgets—Federal Funds,
Use of—School Budgets.**

Held: The funds received by the school districts from the Federal Government under Public Law 874, 81st Congress, shall not be used by the school districts in addition to the appropriations found in the budgets of the school districts, but shall be used to relieve the tax burdens due to the increased enrollment resulting from federal installations in the districts.

November 7th, 1951.

Mr. Ted James
County Attorney
Cascade County
Great Falls, Montana

Dear Mr. James:

You have requested my opinion concerning the use of federal funds re-

ceived by school district #1 of your county from the federal government by virtue of Public Laws 874. You advise me that there has been a material increase in school enrollment due to new federal agencies established in your city. The sum of \$34,451.51 was received from the federal government after June 30, 1951, as assistance to the school district. Your specific question is directed to the proper use of this money under our school budget law.

Public Law 874, 81st Congress, reads in part as follows:

"Section 1. In recognition of the responsibility of the United States for the impact which certain federal activities have on the local educational agencies in the areas in which such activities are carried on, the congress hereby declares it to be the policy of the United States to provide financial assistance (as set forth in the following sections of this act) for those local educational agencies upon which the United States has placed financial burdens by reason of the fact that—

- (1) the revenues available to such agencies from local sources have been reduced as the result of the acquisition of real property by the United States; or
- (2) such agencies provide education for children residing on federal property; or
- (3) such agencies provide education for children whose parents are employed on federal property; or
- (4) There has been a sudden and substantial increase in school attendance as the result of federal activities."

The obvious purpose of the congressional act is to relieve in part the taxpayers in your locality from the increased burden on your schools.

While the federal money was granted to the school district to relieve the tax load, yet the congressional act did not alter the operation of our budget laws or school finance statutes.

From the correspondence submitted with your letter, it appears that the federal money was not included in income for the current school budget, as the funds were received subsequent to the computation of the budget. It is the proposal of the school board to

use the money under an additional federal funds budget.

The basis of our school finance system is a per capita distribution of district, county and state funds for the support of the schools allocated on the basis of "the average number belonging" or the attendance for the previous school year. Sections 1 and 2, Chapter 199, Laws of 1949. This act, Chapter 199, Laws of 1949, established a "foundation program" for our schools which is not only a minimum standard but also a maximum standard with certain permissive increases authorized. That the total amount of the general fund expenses shall not exceed the foundation program, with permissive increases and voted levies, is provided in Section 9 and 14 of Chapter 199, Laws of 1949, as amended by Chapter 208, Laws of 1951.

The items in the budgets which are to be expended during the year constitute appropriations and the trustees cannot under Sections 75-1714 and 75-4519, Revised Codes of Montana, 1947, exceed the total of these items. If additional expenses are incurred they are not liabilities of the district.

It appears that the trustees of the school district in your county attempted to set up an independent budget for the expenditure of the funds received from the federal government, although there is no statutory authority for such a procedure. As was previously pointed out, the sum of money received was a reimbursement for the additional expense to the district. If an additional budget to spend the money is created and the foundation program is exceeded, then there will be no relief to the taxpayers and the purpose of the grant will thus be defeated.

It is true that an independent transportation budget is adopted each year, but this is done by virtue of Section 75-3414, Revised Codes of Montana, 1947, which specifically states that such a budget shall be provided. Similar budgets are used for vocational training, and school lunch program, but these activities are independent of, and an adjunct to the operation of the schools under the general school laws, as is apparent from a reading of Sections 75-4245 and 75-4802, Revised Codes of Montana, 1947.

As you stated in your letter the funds in question were not received until after June 30, 1951, the end of the fis-

cal year for the schools and did not constitute "cash on hand" at that time. However, it is the lack of appropriations in the budget which constitutes the real barrier to the expenditures of this money, as was pointed out above. If there has been an increase in enrollment so as to constitute an emergency within the meaning of the definition found in Sections 75-1716 and 75-4521, Revised Codes of Montana, 1947, then emergency budgets may be adopted and the cash on hand may be used to pay the appropriations of such budgets. If emergency budgets are not adopted, the funds will be available for use in the following fiscal year.

As these federal funds are to be used to relieve the local taxpayers from the increased load, the money should be allocated to all of the funds in the budget, including the independent budgets which are supported by levies on the property in the district, in the proportionate amount each bears to the whole.

It is, therefore, my opinion that the funds received by the school districts from the Federal Government under Public Law 874, 81st Congress, shall not be used by the school districts in addition to the appropriations found in the budgets of the school districts, but shall be used to relieve the tax burden due to the increased enrollment resulting from federal installations in the districts.

Very truly yours,
ARNOLD H. OLSEN,
Attorney General