

**Opinion No. 235****Schools—School Districts—Funds—  
Warrants.**

HELD: Unless it is necessary to keep the schools operating, a school district is not justified in setting aside school funds to operate schools from July to December out of the tax collections made in May instead of applying such funds to take up outstanding warrants of the school district.

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May 29, 1933.

You request my opinion relative to school districts setting aside school funds to operate schools from July until December out of the tax collections made in May instead of applying such funds to take up outstanding warrants of the school district.

The treasurer is authorized to register school warrants only when there are no funds in the district to pay them, and the law contemplates that such registered warrants will be called for payment as soon as funds are available in that fund and in the order of the registration of the warrants. (56 C. J. 568 and cases cited, and code provisions.) We find no provision in Chapter 160, Laws of 1933, that justifies a different method of handling.

If the May tax collections placed in a reserve fund are used for ordinary school purposes, such as teachers' salaries and other operating expenses, we can see no reason why such action would not be an unfair and unreasonable discrimination against those holding outstanding warrants issued for the same class of expenses. It is the uniform practice to call for payment warrants issued against a particular

fund in the order of their registration, and this is in compliance with the statutes. (Sections 4752-4756 R. C. M. 1921.)

If it comes to a question of a school district being unable to keep the school operating for the time required by statute, it might be justified in using current funds for such purpose instead of calling outstanding warrants, but not otherwise.