

Section 1205, R. C. M., 1921, to which you refer, was enacted by the territorial legislature long before Montana became a state, and we think is modified by the school budget law which was enacted at a much later date. Section 14 of Chapter 146, Laws of 1931, provides as follows:

"When a budget board has determined and fixed the amount which may be expended for each item in the budget of a school district, it shall enter the amount so fixed for each item in column 3, of Section 1 of the budget, and the amount so entered in such column for each item and the total of all amounts so entered in such column shall constitute the final budget, and the appropriations for each school district for the current school year, and the board of school trustees and all officers and employees of such district shall be limited in the making of expenditures or incurring of liabilities to the amount of such detailed appropriations, respectively; provided that transfers may be made from the appropriation of one (1) item to the appropriation for any other item, as hereinafter provided; expenditures made, liabilities incurred or warrants issued in excess of any of the final budget detailed appropriations, as originally determined, or as revised by transfer, as hereinafter provided, shall not be a liability of the district and no money of the district shall ever be used for the purpose of paying the same."

We do not see how this part of the school budget Act can be reconciled with Section 1205, R. C. M., 1921, and if there is no appropriation for repairing the school house provided for in your budget, we do not think an election will remedy the situation.

Section 14 of Chapter 146, Laws of 1931, provides for the transfer from one item of the budget to another, but makes no provision for the expenditure of funds appropriated by the budget for anything not in the budget. The school officers are limited in expenditures to those provided for in the budget, and the Section further provides that "any other expenditures made, liabilities incurred or warrants issued in excess of any of the final budget, detailed appropriations, as originally determined, or as revised by transfer, as hereinafter provided, shall

#### Opinion No. 534

##### School Districts—Budget—Funds Remaining from Budget Appropriation, Use of—Buildings.

HELD: Funds of a school district not expended during the school year, in accordance with the appropriation provided in the budget, will lapse.

Such funds may not be used "in repairing the school."

May 11, 1934.

You request my opinion on the following matter: "A certain school district in this County will have some six or seven hundred dollars left over after paying all the expenses of the last nine months of school. They desire to use this money in repairing the school."

**not be a liability of the district and no money of the district shall ever be used for the purpose of paying the same.** Section 15 of the same Chapter explains just what transfers are meant as referred to above.

Any funds not expended during the school year in accordance with the appropriation provided for in the budget lapse as provided in Section 17 of said Chapter 146, which section is as follows:

“All appropriations, other than appropriations for uncompleted improvements in progress of construction, shall lapse at the end of the school year; provided that appropriation accounts shall remain open for a period of twenty (20) days thereafter for the payment of claims incurred against such appropriations prior to the close of the school year and remaining unpaid. After such period shall have expired all appropriations, except as hereinbefore provided regarding uncompleted improvements, shall be null and void and any lawful claim presented thereafter against any such appropriation shall be provided for in the next ensuing budget.”

We do not think these provisions relating to the budget can be reconciled with said Section 1205, R. C. M., 1921, and are, therefore, of the opinion that the funds left over from the budget appropriations for the current year may not be used “in repairing the school,” but will lapse into the unappropriated funds of the district. Funds “for repairing the school,” however, may be provided for in your budget for the coming school year.

As a rule, revenues raised for a particular purpose must be used in good faith for that purpose. (56 C. J., page 752, Sec. 890.)