

certain school district in Flathead County, near Olney, the final school budget was adopted, upon the basis of a school enrollment of from three to ten children. This small school attendance existed for a number of years and was of a permanent nature. That shortly after school opened, and after the adoption of your final budget, additional people moved in to the community in the district, until there are now approximately forty children enrolled in the school, and no doubt this enrollment will be further enlarged. It appears that you have two schools in this district. The question is whether or not there are any provisions in the law to meet the additional expense occasioned by what we may describe as, "more or less of an emergency."

Section 1019.15 authorizes the transfer of excess appropriation from one item to another and the county treasurer is required, upon notice, to make a transfer of such amount.

Section 1019.16, R. C. M., 1935. provides:

"The provisions of this act shall not apply in the case of any emergency caused by the destruction of impairment of any school property necessary for the maintenance of school, or by the entering, by a court of competent jurisdiction, of a judgment for damages against the district, or by enactment of legislation, after the adoption of any final budget, requiring expenditures not contemplated therein, but the trustees of any district, when any such emergency arises therein, may proceed, in any manner authorized by law, to levy taxes, raise funds, and make expenditures to meet and overcome such emergency."

Section 1019.14 limits expenditures and the appropriation as fixed in the budget, and provides that warrants issued in excess of the final budget, with a detailed appropriation as originally determined, or as revised by transfer, 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.

Section 1019.25 gives the state superintendent of public instruction general supervisory control over the enforcement of the provisions of the

#### Opinion No. 43.

##### School Districts—Budget.—

HELD: School District cannot exceed in expenditures, the amount provided for by final budget.

February 15, 1937.

Miss Ruth Reardon  
State Superintendent  
of Public Schools  
Attention R. C. Haight, Deputy  
Dear Miss Reardon:

You have requested opinion on the following facts. It appears that in a

budget act, and authorizes her to adopt proper rules to secure the enforcement thereof.

Under Section 1019.15, the board may possibly secure some relief from this situation by transferring excess funds from one item to another, but this section does not authorize an excess expenditure over the total budget provided.

Section 1019.16 has application to the following emergencies:

First: for the destruction of any school property;

Second: to pay a judgment;

Third: on expenditures incurred by reason of new legislation.

In either of these events the board has the power to raise funds in any manner provided by law in excess of the budget, but it appears that the situation is not such an emergency as is provided for in said section. Your correspondence advises that the former superintendent of public instruction, Miss Ireland forwarded approximately \$525.00 for the Olney school, not earmarked. No doubt the superintendent of public instruction had in mind Section 1019.25, which gave her general supervision over the enforcement of the budget act, and her oral instructions were with a view to liberally construe the budget act, yet it is apparent that the superintendent of public instruction did not have authority to, nor did she propose to, over-ride the budget act and authorize an excess expenditure.

It has been urged that the enforcement of the budget act as applied to the Olney School may be in conflict with our constitution, which provides for the establishment and maintenance of a uniform system of public instruction. However, I do not arrive at such a conclusion. In the first place, the legislature has not declared a situation as has arisen in the Olney School an emergency, and secondly, it appears that school has almost completed the minimum required term. Therefore, a uniform system of public instruction is being maintained.

My language herein should not be taken as an intimation that I approve of only a six months period of school.

On the other hand, I believe every child is entitled to at least a nine months period of school. However, unless the school can secure some relief by the transfer of funds, or from private sources, certainly you are not justified in expending funds in excess of your final budget.

Therefore, it is my opinion that the board of trustees is not authorized to exceed any expenditure of total sums provided in the final budget or the budget with sums as transferred to different items.