

**Opinion No. 221.****School Districts—Budget—Surplus  
Fund from Sale of Buildings—Funds.**

Held: Money realized from the sale of school buildings shall become a part of the funds available for use of the school district in the next school year and be used for the purposes of the next ensuing budget.

June 14, 1944.

Mr. H. R. Eickemeyer  
County Attorney  
Cascade County  
Great Falls, Montana

Dear Mr. Eickemeyer:

Your office requested my opinion concerning the disposition of the money realized from the sale of a school building, which was no longer needed for school purposes.

Section 1205, Revised Codes of Montana, 1935, provides that surplus moneys in the general school fund may be used for the purpose of retiring bonds, improving buildings, and erecting buildings after securing a vote of the electors.

The above section was first enacted in 1871 and has not been specifically repealed. However, the school budget law, Chapter 146, Laws of 1931, has modified Section 1205.

Section 14 of Chapter 146, which is now Section 1019.14, Revised Codes of Montana, 1935, provides:

“When the 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.

It is apparent no expenditure may be made by the trustees of a district unless there is an appropriation in the budget.

It is also to be noted Section 1019.4, Revised Codes of Montana, 1935, provides that the county superintendent shall prepare an estimate of revenues and included in the estimate is "All other sources, except Tax Levies." Also under Section 1019.10, Revised Codes of Montana, 1935, the county treasurer must prepare a financial statement to be attached to the preliminary budget which includes "Cash on hand June 30, General Fund (Including Reserve)."

It appears to be the intent of the budget act that cash on hand shall be used for the budget in the next year. (See also Opinion No. 306, Volume 16, Report and Official Opinions of the Attorney General; Opinion No. 369, Volume 15, Report and Official Opinions of the Attorney General.)

It is therefore my opinion the money realized from the sale of school buildings shall become a part of the funds available for use of the school district in the next school year and be used for the purposes of the next ensuing budget.

Sincerely yours,  
R. V. BOTTOMLY  
Attorney General