

Opinion No. 87.

Schools and School Districts—Bonds—
Budget, School, Surplus Funds.

Held: Surplus school funds not needed for current school expenses may not be used to pay the outstanding bonds of the school district, but must become a part of the funds available for use of the school district in the next school year and used in the next ensuing budget.

October 23, 1945.

Mr. J. J. McIntosh
County Attorney
Rosebud County
Forsyth, Montana.

Dear Mr. McIntosh:

You advise me that a third class school district in Rosebud County has a surplus in the school funds which the trustees plan to use in the retirement of district bonds. You also stated that an election has been held authorizing the use of the surplus for the retirement of the bonds. You ask if the surplus may be used in this manner.

In your letter you state that the election was held under Section 1205, Revised Codes of Montana, 1935, which provides that surplus moneys not necessary for school expense may be used for retiring bonds after a favorable vote has been secured from the qualified electors. However, this office has held that Section 1205, supra, has been modified by the school budget law and that all expenditures by a school district must be made in accordance with the budget law. (Volume 15, page 369; Volume 16, page 306; Volume 19, page 282; Volume 20, pages 283 and 300, Report and Official Opinions of the Attorney General.)

Section 1019.14, Revised Codes of Montana, 1935, which is a part of the school budget law, provides that expenditures may be made by a school district in accordance with the appropriations fixed in the budget and that expenditures are limited to the items of the budget. Section 1019.17, Revised Codes of Montana, 1935, provides that funds not expended lapse at the end of the school year. These funds then become a part of the cash on hand for the next ensuing budget.

Section 1224.25 and 1224.26, Revised Codes of Montana, 1935, provide for the determination of the amounts necessary for payment of interest and principal of school district bonds and for the annual levy for the payment.

It is therefore my opinion that surplus school funds not needed for current school expenses may not be used to pay the outstanding bonds of the school district, but must become a part of the funds available for use of the school district in the next school year and used in the next ensuing budget.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General