

**Opinion No. 76****Schools—District High Schools, Disposition of Funds Remaining  
After Abandonment.**

**Held:** 1. Funds which remain unexpended after the abandonment of a District High School should be transferred to the general fund of the elementary schools of the district.

December 29th, 1949.

Mr. James F. Walsh  
County Attorney  
Rosebud County  
Forsyth, Montana

Dear Mr. Walsh:

You requested my opinion concerning the disposition of funds which remain after the abandonment of a District High School.

There is no statutory provision made for the disposal of unexpended funds of a District High School which has been abolished. Such is not true in the case of the abolishment of a County High School as Section 1262.26, Revised Codes of Montana, 1935, (now Section 75-4127, Revised Codes of Montana, 1947) provides for the distribution of remaining funds of a County High School. Also Section 970, Revised Codes of Montana, 1935, as amended by Chapter 168, Laws of 1943 (now Section 75-1522, Revised Codes of Montana, 1947) designated the manner of distribution of funds remaining of an abandoned school district. In

the case of *State v. Brandenburg*, 107 Mont. 199, 82 Pac. (2d) 593, the Court considered the manner of disposal of funds realized from the sale of a building which had been acquired for the use of the County High School. The Court held that the funds should not be allocated to all of the high schools in the County but must be held by the treasurer for the use of the County High School. The situation of a District High School is analogous in that the capital expenditures made for a District High School result from a tax on the school district. While you did not state the source of the money on hand, yet it is reasonable to assume that much of it came from a tax on the district and as a consequence should be so used as to be of benefit to the district.

It is, therefore, my opinion that funds which remain after the abandonment of a District High School should be transferred to the general fund of the elementary schools of the district.

Very truly yours,  
ARNOLD H. OLSEN,  
Attorney General.