

## Opinion No. 22-3529

July 18, 1922

**BY:** A. M. EDWARDS, Assistant Attorney General

**TO:** Hon. John Joerns, State Educational Auditor, Santa Fe, New Mexico.

### Construction County Budget Act.

#### OPINION

{\*170} You have asked this office to construe Section 5, of Chapter 188 of the Laws of 1921, being a part of the Act providing for county budgets. The portion of this section concerning which you inquire is as follows:

"The State Traveling Auditor is empowered, should the payments for any specific item in such approved and certified budget estimate not be equal to the amount as so allowed for such item in said estimate to permit in writing the unused remainder as so allowed to be used toward the payment of any other item in such estimates in such approved budget in which the necessity therefore exists, but no such approval by the State Traveling Auditor shall have the effect of allowing total payments to be made in excess of the total budget estimates for each county in the state, as so finally approved and certified."

This means that should there be a surplus over the estimated amount in the approved budget, after paying all of the indebtedness under one item in the budget, such surplus may be permitted by the State Traveling Auditor to be applied to the payment of any deficit under another item in the budget. This does not mean, however, that if the indebtedness incurred under any item of the budget exceeds the estimated and approved amount available for such item, that a surplus under another item may be applied to the payment of such deficit.

The object of the budget law is to keep the expenditures for each county within its budget estimate, and this object would be defeated if any surplus can be applied for the payment of expenditures not authorized by the budget.

The following section of the Act provides that in event the revenue exceeds the budget estimates, such excess monies shall be applied in the budget estimate for the next succeeding year.

Section 7 of the Act provides penalties for any county commissioner or other officer who issues warrants or evidences of indebtedness contrary to the provisions of the Act, and makes the county treasurer liable for the payment of any such warrants issued.