

**Opinion No. 32-422**

March 21, 1932

**BY:** E. K. Neumann, Attorney General

**TO:** Mr. J. A. McNabb, Jr., First Asst. State Comptroller. Santa Fe, New Mexico.

{\*152} In your letter of March 16th you desire to know if a certain interest fund of a certain school district may be transferred to the Direct Charge Fund of such district inasmuch as levy was made and said interest fund raised to cover interest on a bond issue which was never sold and which bonds were destroyed by the Governing body.

It is the general rule, of course, that funds may only be used for the purpose for which the levy was made, but when the purpose disappears, the reason for the rule of necessity disappears also.

Interest and Sinking Funds for school district bonds are, under the law, Section 4, Chapter 119, Laws of 1931, included in Direct District Charge Funds, but to permit a transfer of this sum to some other item would in effect increase budget for such item and expenditures of more than the amount budgeted is illegal.

In our opinion, this money should not be used this year for any purpose, but should remain as it is and when the new budget is made up, it may be taken into account and credited to and transferred to some item to be budgeted under Direct Charge.

This money was raised by special levy for the benefit of that particular district. It was over and above the general levy and to handle it in this manner would permit such district to benefit by such special levy. This is equitable and we think meets all legal requirements.

By Frank H. Patton,

Asst. Attorney General