

Opinion No. 38-2032

August 18, 1938

BY: FRANK H. PATTON, Attorney General

TO: Mr. C. C. McCulloh Assistant Special Tax Attorney State Tax Commission Santa Fe, New Mexico

{*264} Your letter of August 17th calls for an interpretation of that portion {*265} of Chapter 44 of the Session Laws of 1931 regarding tax levies raised for school purposes mentioned in said Act and which reads as follows:

"The proceeds therefrom to be expended under the direction of the State Tax Commission for the construction and equipment of new buildings for school purposes in any district in the county in which said condition exists."

In my opinion the requirement that the expenditures are to be under the direction of the State Tax Commission was primarily for the purpose of preventing any diversion of this fund.

I do not believe the Legislature intended that the State Tax Commission inspect and approve each and every individual detail. I think it was the general intent that the proposed scheme in its entirety have the approval of the State Tax Commission and that authorization for the expenditure have the approval of the State Tax Commission.

This being true, in my belief the State Tax Commission could properly designate the school board as its agent to take care of all necessary details and so long as the general expense is approved by the Tax Commission I believe we would have a substantial compliance with the statutory provision.

I would suggest that this matter, perhaps in some detail, be shown upon the minutes of the State Tax Commission at its next meeting and also showing that a vote of the Commissioners present was taken and that the plan in general was approved.