

**Opinion No. 43-4384**

September 25, 1943

**BY:** EDWARD P. CHASE, Attorney General

**TO:** Mr. Fred J. Federici, District Attorney, Raton, New Mexico

We are in receipt of your letter of September 22, 1943, and the enclosed letter from the Taos County Board of Education, in which the question is asked whether or not a County School Board may buy war bonds with unexpended balances in some of their funds.

I have checked with care all the sections of the statute dealing with the financing of county schools and the powers of the County School Board and fail to find any provision authorizing them to invest any of their surplus funds. I have noted, in studying the general set-up of county school finance, that all school funds collected by any of the governing authorities shall be paid into the county treasury. (Sec. 55-622 of the 1941 Compilation). Also, that all items going into the various county school funds are strictly budgeted and that the items so budgeted may be expended only for the purposes set forth therein. (Sec. 55-614, 1941 Compilation). It thus appears that it is contemplated that all school funds be paid to the treasurer of the county and withdrawn only when the various items set forth in the budget become payable, and that if there be surplus funds, since they are lying with the county treasurer, or subject to his order, he is the proper one to invest such funds.

It is noted that the county treasurers, by sections 7-207 to 7-214 and 7-238 are given full authority to invest the funds in their hands.

It is, therefore, my opinion that the County Board of Education has no authority to invest any funds whatever.

You will please find enclosed a copy of this opinion, as requested.

By ROBERT W. WARD,

Assistant Attorney General