

**Opinion No. 44-4474**

March 9, 1944

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

**TO:** Mr. C. R. Sebastian, State Comptroller, Santa Fe, New Mexico

We have your letter of March 8, 1944, wherein you inquire concerning whether or not the purchase of land for a building may be considered as a part of a new building that can be paid out of the one per cent of the maintenance fund specified for such purposes by Section 55-629 of the Supplement to the N.M. 1941 Compilation.

This statute specifies that such proportion of the above mentioned fund may be used only for emergency building and repair purposes. It is significant to note that Section 55-720 of the N.M. 1941 Compilation, which authorizes the issuance of school bonds, specifies that they may be issued for the erection of school buildings **and purchase of school grounds**. This would indicate that Section 55-629 only pertains to the actual construction of a building, and does not authorize the acquiring of a building site from such funds.

See People v. Chicago A & R Co., 257 Ill. 208, 100 N. E. 503, wherein it is pointed out that taxes levied for building purposes "could only be used to pay for the building of a school house, or to create a fund to meet bonds issued for that purpose."

In view of the foregoing, it is my opinion that the use of this fund for emergency building and repair purposes is limited to the actual construction and repair of buildings.

By HARRY L. BIGBEE,

Asst. Atty. General