

**County Unit School District—Issuance of Funding Bonds
—Indebtedness and Expenses for Maintenance—Resolutions
and Proceedings to Fund Warrants to be Issued in the Future
—Issuance of Warrants in Anticipation of Expenses.**

By Chapter 97 of the Laws of 1921 it is contemplated that the indebtedness of a school district must already have been incurred and must be in the form of outstanding warrants before bonds may be issued.

The issuance of warrants prior to incurring an indebtedness and then funding them would be improper under the provisions of said chapter.

The issuance of warrants except for an indebtedness already incurred is not authorized by law. It would be improper to include both present indebtedness and indebtedness yet to be incurred in one resolution for the issuance of bonds under the provisions of Chapter 97 of the Laws of 1921.

C. C. Rowan, Esq.,
County Attorney,
Red Lodge, Montana.

My dear Mr. Rowan:

I have your inquiry regarding the issuance of funding bonds to take care of present indebtedness and of expenses for the maintenance of your County Unit School District for the rest of the year, under Substitute Senate Bill No. 121, Chapter 97 of the Laws of 1921.

You ask whether resolutions and proceedings would be proper at this time, authorizing the issuance of bonds to fund warrants to be issued later, as the necessities of the schools may require for the completion of the school year, and whether warrants may be issued and registered in anticipation of expenses, and included in proceedings for issuance of bonds prior to the actual incurring of the expense.

The provisions of the Act referred to are as follows:

"Section 1. The Board of School Trustees of any School District or County High School in the State of Montana shall have, and are hereby given, in addition to the powers already conferred upon them, authority, whenever at any time such District shall have a floating indebtedness incurred, on or before July 1, 1921, for teachers' salaries, school supplies and equipment, new buildings heretofore completed, necessary repairs to school buildings and heating plants therein, or other necessary expenses incurred in the maintenance of schools in such district, to fund such indebtedness and to issue negotiable coupon bonds therefor and to pledge the credit and resources of the district represented by warrants heretofore issued whether in excess of funds on hand and anticipated revenues or otherwise for the payment of the principal and interest of such bonds.

"Section 2. In addition to the powers conferred by Section one of this Act, and in anticipation of the subsequent issuance of the funding bonds authorized by this Act, but subject to the constitutional limitations as to the total indebtedness of School Districts or County High Schools, all Boards of School Trustees are hereby given authority to issue warrants in excess of the available funds of the School District or County High School and in excess of the amount levied by said School District or County High School for the current school year. Said warrants shall be issued only in payment of the current expenses of said School for the completion of the school year of 1920-1921, and not for the purpose of increasing salaries, purchasing new equipment or increasing school facilities in any manner whatsoever. The warrants so issued may likewise be funded in accordance with the terms of this Act."

This clearly contemplates that the indebtedness must already have been incurred before bonds could issue, and must be in the form of outstanding warrants. The issuing of warrants in advance of incurring indebtedness and then funding them would not, therefore, be in accordance with the provisions of the Act. Furthermore, the issuance of warrants except for an indebtedness already incurred is not authorized by the general school law.

It is, therefore, my opinion that it would be improper to include both present indebtedness, and indebtedness yet to be incurred, in one resolution, or any other proceeding for the issuance of bonds under the provisions of the above Act.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.