

**Bonds—School District—Form Of—"Not to Exceed"—
Interest, Statement Of.**

The words "not to exceed" as used in reference to interest in the form of ballot for school district bonds, is a statement of a definite certain amount.

May 21, 1919.

Mr. C. R. Stranahan,
County Attorney,
Havre, Montana.

Dear Sir:

I am in receipt of your letter of recent date, in which you call attention to the expression "not to exceed" as contained in various entries in forms approved by this office, as not being an expression of a certain rate of interest and not complying with the provision of the statute that the interest rate should be a certain rate. I have examined the case cited in *State ex rel. Stanford vs. School District No. 1*, 15 Mont. 133, and I find that in that case the court held that the notice of election failed to state the rate of interest and also failed to state the time when the bonds were payable and when redeemable. This case was considered by this office and referred to in an opinion by the Attorney General, dated February 20, 1917, *Opinions of the Attorney General*, page 41. The form of ballot used in these approved forms is the form prescribed by Section 2016 of the School Laws of the Thirteenth Legislative Assembly of the State of Montana, page 285, which provides: "The ballots shall be in the form as follows: 'Shall bonds be issued and sold to the amount of _____ Dollars, and bearing not to exceed _____ per cent interest and for a period of not to exceed _____ years, etc.'"

If your contention in regard to the interest rate is sound, then the same objection could also be made to the time, as the statute provides: "Payable and redeemable at a certain time."

I am of the opinion that the expression "not to exceed six per cent" is the statement of a definite certain amount within the meaning of the statute and that therefore these forms do not violate the provision that the rate of interest shall be a certain rate.

Respectfully,

S. C. FORD,
Attorney General