

**Bonds—Buildings — Construction — Educational Institutions—Funds—Indebtedness—State.**

Necessary filling in and around state educational buildings, both to make them fit for service and to establish a grade, is within the contemplation of the Act authorizing an indebtedness for construction and can be paid for out of money raised from the sale of educational bonds.

H. J. Menzemer, Esq.,  
President School for the Deaf and Blind,  
Boulder, Montana.

My dear Mr. Menzemer:

You have requested my opinion in regard to the letting of a contract for filling in around the state buildings at the Boulder School.

I note what you say regarding your understanding that money raised by the Initiative Bond Measure for buildings at the various state schools cannot be used for this purpose and that it would be useless to let a contract unless it could be paid for out of such funds, for the reason that no other funds are available at this time.

The Initiative Measure, authorizing an indebtedness of \$5,000,000 for the construction of buildings at the various state educational institutions, authorized an expenditure "for the construction, repair and equipment of the necessary buildings at the several educational institutions of the state of Montana."

The question, therefore, arises as to whether the filling in around the buildings, in order to place them on a reasonable grade with other buildings and in some instances to permit of their use, would come within the term "construction." There can be no doubt that an excavation for the purpose of putting up a building would be a necessary and proper charge against construction, and it would follow that if it were necessary in completing a group of buildings to fill

in around the buildings so that they could be used in the manner contemplated by the plans, this would constitute a proper charge against construction, the same as would an excavation.

It is, therefore, my opinion that necessary filling in around the buildings, both to make them fit for service and to establish a grade, is within the contemplation of the act authorizing an indebtedness for construction and can be paid out of money raised from the sale of educational bonds.

Very truly yours,

WELLINGTON D. RANKIN,  
Attorney General.