

**Counties — County Commissioners — Schools — School  
Funds—Funds—Sinking Funds—Interest—Bonds—Taxes.**

The provisions of Sections 1228 and 1229, as amended by Chapter 153 of the Laws of 1923, are mandatory, and

under them school districts must levy and collect enough taxes each year to pay the interest and create a sinking fund to redeem the bonds at their maturity.

Edgar J. Baker, Esq.,  
 County Attorney,  
 Lewistown, Montana.

My dear Mr. Baker:

You have requested my interpretation of the provisions of Sections 1228 and 1229, Revised Codes of 1921, as amended by Chapter 153, Laws of 1923, which took effect on March 1st of this year.

You state that School District No. 1 of Fergus county has outstanding at the present time the following bond issues:

Issue of 1911, \$67,000.00, of which \$30,000 was paid on January 1, 1921, leaving a balance of .....	\$ 37,000.00
Issue of 1915.....	7,500.00
Issue of 1917.....	50,000.00
Issue of 1921.....	250,000.00
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	\$344,500.00

These are all twenty-year bonds. You ask whether under the provisions of the above sections the Board of Education is required to include in its budget a sum sufficient to pay one-twentieth of all the above bonds and whether the Board of County Commissioners is required to make a levy sufficient to raise for the sinking fund, exclusive of interest on said bonds, an amount sufficient to pay one-twentieth of the above listed bonds each year, beginning with 1924, until the bonds are paid.

Section 1228, as amended, provides as follows:

“The School Trustees of each district having an outstanding bonded indebtedness at the time of the passage of this Act, shall on or before the second Monday in June of each year ascertain and certify to the Board of County Commissioners of such county the amount necessary and required to pay all interest becoming due on such bonds during the ensuing fiscal year and to pay such portion of the principal of such bonds as is to become due during such ensuing fiscal year, if any, and in any event such amount must be sufficient to pay all interest becoming due on such bonds during the ensuing fiscal year and to place in the bond sinking and interest fund of such district an amount equal to a sum produced by taking the whole amount of the principal of all bonds of the whole issue or series as originally issued and dividing such amount by the whole number of years for which such bonds were originally issued to run. Any board of trustees failing

to comply with the provisions of this section shall be subject to immediate removal from office by the County Superintendent, and in the event of such failure the County Superintendent shall advise the Board of County Commissioners on or before the first Monday in August of the amount of money necessary to be raised for the above mentioned purposes."

Section 1229, as amended, provides:

"The Board of County Commissioners, at the time of making the levy of taxes for county purposes, must levy a tax for that year upon all taxable property in such district for payment of interest on and redemption of such bonds. \* \* \* And if such levy is to be made for the purpose of paying the interest on and principal of bonds issued before the passage of this Act, then such levy must be high enough to raise an amount sufficient to pay all interest becoming due on said bonds during the current fiscal year and to pay such portion of the principal of such bonds as is to become due during such current fiscal year, if any, and in any event such levy must be high enough to raise an amount sufficient to pay all interest becoming due on said bonds during the current fiscal year and to place in the bond sinking and interest fund of such district an amount equal to a sum produced by taking the whole amount of the principal of all bonds of the whole issue or series as originally issued and dividing such amount by the whole number of years for which such bonds were originally issued to run; and all moneys so levied, when collected, must be paid into the county treasury and deposited to the credit of a fund to be known as the bond sinking and interest fund, and shall be used for the payment of bonds and interest coupons and for no other purpose whatever, and the County Treasurer shall open and keep in his books a separate and special account thereof which shall at all times show the exact condition of such fund."

Section 1229 further provides that in the event the Board of County Commissioners shall fail to make the levy called for, any taxpayer or the holder of any bond may go into court and by mandamus compel it to do so and the costs shall be charged to the Board of County Commissioners personally.

It is, therefore, my opinion that these provisions of the statute are positive and mandatory and that the tax must be sufficient to pay the whole interest due on each issue and to provide a sinking fund equal to one-twentieth of the total issues outstanding. The sinking fund, however, should be kept separate for each issue.

Very truly yours,

L. A. FOOT,  
Attorney General.