

No. 255

SCHOOLS—SCHOOL DISTRICTS—TRANSPORTATION—WARRANT REGISTRATION

Held: When a school district has provided for transportation and set up a budget therefor and the county commissioners have levied taxes for the necessary transportation, expense warrants may be issued in anticipation of moneys from the uncollected taxes.

October 1, 1941.

Mr. Nat Allen
County Attorney
Golden Valley County
Ryegate, Montana

Dear Mr. Allen:

You have asked this office for an opinion concerning the proper procedure in paying transportation expense under the so-called Transportation Act, Chapter 152 of the Laws of 1941. The question arises because of the fact no money will have been available from levies made for transportation until after November 30th, but transportation expenses will have to be paid commencing the first of October.

Section 964 and Section 1012 of the Revised Codes of Montana, 1935, make provision for the issuance of warrants in anticipation of the collection of school moneys for which levies have been made.

It is true trustees of school districts can exercise only such power as the law confers upon them, and they are bound to know they cannot go beyond its limitations. The Supreme Court of Montana has recognized the authority vested in trustees by the above mentioned sections of the Revised Codes of Montana, 1935, and in the case of *Farbo v. School District No. 1 of Toole County*, 95 Mont. 531, 543, 28 Pac. (2nd) 455, said:

Section 1012 Revised Codes of 1921 is complementary to section 964 to the extent that it permits school trustees to issue warrants in anticipation of school moneys which have been levied but not collected, for the payment of current expenses of schools, not in excess of the sum levied."

It is my opinion that, when a school district has provided for transportation and has set up a budget therefor and the county commissioners have levied taxes for the necessary transportation, the school trustees have authority to issue warrants against the transportation fund for transportation expenses in anticipation of moneys from uncollected taxes for which a levy has been made, not in excess of the sum levied.

Sincerely yours,

JOHN W. BONNER
Attorney General