

**Opinion No. 236.**

**School Districts—Warrants—  
Taxation.**

Held: A school district may not issue warrants in anticipation of monies for which there has been no tax levy made.

August 3, 1944.

Mr. K. W. MacPherson  
County Attorney  
Powell County  
Deer Lodge, Montana

Dear Mr. MacPherson:

You have submitted for my opinion the following question:

"Can the Elliston high school district register warrants during the school years 1944-45 in anticipation of income which will be provided by a levy to be made for the tax year 1945?"

In answering your question it is necessary to examine Section 964, Revised Codes of Montana, 1935, which provides in part:

" . . . Such warrants shall show for what purpose the money is required, and no such warrant shall be drawn unless there is money in the treasury to the credit of such district; provided, that school trustees shall have the authority to issue warrants in anticipation of school moneys which have been levied, but not collected, for the payment of current expenses of schools, but such warrants shall not be drawn in any amount in excess of the sum already levied." (Emphasis mine.)

To like effect is Section 1012, Revised Codes of Montana, 1935, which states in part:

"The board of trustees of any school district, shall have authority to issue warrants in anticipation of the collection of school moneys for which levies have been made, but which have not been collected for the payment of current expenses of the schools of said district." (Emphasis mine.)

It is apparent from the express language of the above quoted sections that school districts may issue warrants in anticipation of school moneys which have been levied but not collected, but not in anticipation of moneys for which there is no levy. (See *Farbo v. School District*, 95 Mont. 531, 28 Pac. (2nd) 455 and Volume 16, Report and Official Opinions of Attorney General No. 91.)

It may not be amiss to call attention to the following provision of the Budget Act, in Section 1263.14, Revised Codes of Montana, 1935, as follows:

"Expenditures made, liabilities incurred or warrants issued in excess of any of the final budget detailed appropriations, as originally determined or as revised by transfer, as hereinafter provided, shall not be a liability of the district or of the county high school and no money of the district, or county high school, shall ever be used for the purpose of paying the same."

It is therefore my opinion that a school district may not issue warrants in anticipation of moneys for which there has been no tax levy made.

Sincerely yours,  
R. V. BOTTOMLY  
Attorney General