

Dear Miss Ireland:

You have submitted for my opinion an inquiry from K. W. Bergan, Superintendent of Schools, Browning, Montana. Mr. Bergan has asked if a school warrant could be drawn after the new budget for a school district has been approved, and prior to the levy for the new budget. Mr. Bergan has advised there were sufficient funds to the credit of the school district which were realized from surplus carried over from the previous budget.

The provisions of Section 964, Revised Codes of Montana, 1935, are pertinent to the question presented concerning the issuance of school warrants. The section 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.)

It is a reasonable conclusion from the above quoted that a warrant may always be drawn if there is sufficient cash to pay the same and the warrant is drawn under a current budget. Section 1019.17, Revised Codes of Montana, 1935, provides for the appropriations to lapse at the end of the school year with the exception of those for uncompleted improvements. The section also provides that "appropriation accounts shall remain open for a period of twenty (20) days thereafter for the payment of claims incurred against such appropriations prior to the close of the school year and remaining unpaid." Claims incurred after the close of the school year must be paid from the moneys available in the next budget. However, under Section 964, supra, warrants may not be issued in anticipation of funds for which there has been no tax levied. Such was the conclusion reached in Opinion No. 236, Volume 20, Report and Official Opinions of the Attorney General.

Section 1019.12, Revised Codes of Montana, 1935, provides that the final

**Opinion No. 54.**

**School and School Districts—  
Budgets—Warrants**

**Held:** Trustees of a school district may issue warrants for current expenses after the budget for the current year has been approved by the budget board and the county treasurer has opened accounts showing a cash balance to the credit of the district. Such warrants may not be drawn when there is not a cash balance sufficient to pay the warrants, in anticipation of moneys to be realized from taxes until after the levy has been made and approved by the board of county commissioners for the school district.

July 13, 1945.

Miss Elizabeth Ireland  
Superintendent of Public Instruction  
State Capitol  
Helena, Montana

budget shall be adopted not later than the second Monday in August, which day the county superintendent of schools shall present the budgets to the board of county commissioners for the purpose of fixing tax levies. However, the final budget may be adopted prior to the second Monday in August and a copy of the same delivered by the county superintendent to the county treasurer. Under the provisions of Section 1019.21, Revised Codes of Montana, 1935, the treasurer must open an account with each school district, "and shall enter in such account each item for which any appropriations was made in such final budget and the amount appropriated therefor." As a result of surplus funds from the previous budget being carried over, there could be a cash balance in the various items and warrants for the current school year could be drawn.

Section 964, which was quoted in part above, is a limitation on the authority of school trustees which is framed to prevent the district from being indebted beyond its anticipated funds, but the section is also a grant of power in that it permits a district to draw warrants against funds which are to its credit in the office of the county treasurer.

It is, therefore, my opinion that trustees of a school district may issue warrants for current expenses after the budget for the current year has been approved by the budget board and the county treasurer has opened accounts showing a cash balance to the credit of the district. Such warrants may not be drawn when there is not a cash balance sufficient to pay the warrants, in anticipation of moneys to be realized from taxes until after the levy has been made and approved by the board of county commissioners for the school district.

Sincerely yours,  
R. V. BOTTOMLY,  
Attorney General