

## Opinion No. [30-82]

July 18, 1930

**BY:** J. A. MILLER, Assistant Attorney General

**TO:** Mr. Guy L. McAfee, Providence Washington Insurance Co., Lubbock, Texas.

SCHOOLS AND SCHOOL DISTRICTS -- Certificates of Indebtedness. Sec. 120-810, Code 1929.

### OPINION

I have before me yours of the 16th inst. in re certificates of indebtedness of school districts.

Perhaps the quickest and most effective way of giving you such information as I possess would be to quote you the statute of New Mexico covering that subject. Section 120-810, Codification of 1929, is as follows:

**"Certificates of indebtedness.** In anticipation of the collection of taxes for which levies have previously been made, county and municipal boards of education with the consent of the education budget auditor may borrow money for school maintenance expenses upon certificates of indebtedness bearing interest at rate not in excess of eight per centum per annum. Such certificates of indebtedness shall be issued on the faith and credit and on behalf of the district for which such money is borrowed, and the total amount of such certificates issued and unpaid by a district shall not at any one time be in excess of the budget allowance for maintenance of schools in such district for a period of ninety days. The moneys thereafter first credited to the school maintenance fund of the respective debtor district shall be paid in satisfaction of such certificates of indebtedness.

When tax levies for the construction of, and repair to, school buildings have previously been made, county and municipal boards of education may borrow on certificates of indebtedness for the purpose of meeting immediate payments on contracts for such repairs and improvements. Such certificates of indebtedness shall be issued on the faith and credit and on behalf of the district for which such money is borrowed, and may bear interest at rate not in excess of eight per centum per annum. The moneys thereafter first collected on such levies shall be paid in satisfaction of such certificates of indebtedness."

You will note that these certificates of indebtedness when issued, under the circumstances authorizing their issue, become the obligations of the school district and not of the state. I do not know of any provision of law for the issuing of certificates of indebtedness in anticipation of a bond issue. You will note that they may be issued in anticipation of the collection of taxes for which levies have been previously made and

for school maintenance expenses, also for the purpose of meeting immediate payments on contracts for repairs and improvements to school buildings with the provision that the monies thereafter first collected on such levies shall be paid in satisfaction of the certificates.

As to their market value, I assume a purchaser would look upon them much as he would on promissory notes and take into consideration the responsibility, financial and moral, of the maker of the note.

As to the particular certificates which you say are to be issued in Lea County, I have no knowledge or information and consequently cannot pass upon their legality or advisability of investing therein; this being a matter of private concern and not within the province of this office.