

Opinion No. 31-112

April 2, 1931

BY: E. K. Neumann, Attorney General

TO: Mrs. Georgia L. Lusk, Superintendent of Public Instruction, Santa Fe, New Mexico.

{*59} In your letter of April 1st you make inquiry as to the legality of school bond elections held before the meeting of the State Board of Education, and you desire to know what you should do in order to comply with the new provisions of law in connection with school bond elections.

Committee Substitute for Senate Bill No. 75 outlines the duties of the State Board of Education and gives such State Board the power to approve or disapprove any proposal for the issuance of bonds by any school district.

This section further provides, that no issue of bonds shall be valid or binding upon any school district without such approval having been first had and obtained in writing; also it is provided that such approval shall be made a part of the transcript of the proceedings in connection with the proposed bond issue, and it is made the duty of the district to furnish the State Board of Education all information necessary in the consideration of such proposal.

We believe it to be mandatory that the approval of the State Board of Education be had in order to make the bonds valid and binding. This does not mean, however, that such approval must be had before any other proceedings are instituted, and it is our opinion that such approval may be had at any time prior to the actual issuance of the bonds.

However, such approval should be obtained at the earliest possible moment and the certificate of approval should be incorporated in the first few pages of the transcript.

It is suggested that such approval follow the information set forth in the transcript by the State Tax Commission.

No doubt a number of school bond elections have already been held and it is suggested that you notify all districts concerned, that before filing their transcripts with this office for approval, that a certificate of the State Board of Education be included therein, showing its approval of the proposed bond issues.

By Frank H. Patton,

Asst. Att'y General