

**High Schools—Taxes Collected After Creation—Right to Share in Distribution of Delinquent Taxes.**

An accredited High School is entitled to share in the distribution of delinquent taxes collected since its creation, but levied prior thereto.

Miss May Trumper,  
Superintendent of Public Instruction,  
Helena, Montana.

My dear Miss Trumper:

You have submitted to this office the question of whether in apportioning County High School funds raised under the 5-mill levy authorized to be made for High School purposes, delinquent taxes, which were levied prior to the existence of a High School and which have since been collected, should be taken into account in apportioning the funds between the various High Schools of the county.

Section 2112 of Chapter 76 of the Laws of 1913, as amended by Chapter 119, Laws of 1915, reads in part as follows:

"In any county where a county high school has been established, any school district which maintains high school classes duly accredited by the State Superintendent of Public Instruction shall be entitled on such accrediting to share in all county high school moneys levied and collected for maintenance, and the money derived from such levy shall be apportioned by the county superintendent of schools to the several accredited high schools in the county according to the average daily attendance in accredited high school classes for the school year next preceding, as determined by the said county superintendent."

School taxes or revenue are to be apportioned and distributed in the manner and proportion provided for by the constitutional or statutory provisions relating thereto. (35 Cyc. 1046.)

In *School District No. 1. v. Weber*, 75 Mo. 558, it was held that school taxes should be distributed among school districts in the manner provided by the law in force when the distribution is made, rather than according to the law in force when the taxes should have been levied and collected. Furthermore, there is no provision of law authorizing delinquent taxes to be apportioned only to schools in existence when the tax was levied.

Section 2112, *supra*, authorizes only High Schools "duly accredited by the State Superintendent of Public Instruction" to share in High School moneys, and unless such new High School has been so accredited, it is not entitled to the benefit of the Act.

I am, therefore, of the opinion that an accredited High School is entitled to share in the distribution of delinquent taxes collected since its creation, but levied prior thereto.

Very truly yours,

WELLINGTON D. RANKIN,  
Attorney General.