

**High Schools, District High Schools, County High Schools.
Division of Funds Between County Free High Schools and
District High Schools. Refund of High School Moneys to
Districts.**

A district maintaining high school work, in accordance with Section 2112 of Chapter 76, Laws of 1913, is entitled to its portion of the levy made by the county commissioners for

maintenance purposes only; any portion of the levy made by the officials for purposes other than maintenance are not intended to be divided between the county free high school and district maintaining the high school work.

February 6, 1914.

Hon. H. A. Davee,
Superintendent Public Instruction,
Helena, Montana.

Dear Sir:

I am in receipt of your communication under date of the 28th ultimo, submitting certain questions in regard to the interpretation of Secs. 2108 and 2112 of Chap. 76, Laws 1913, and specifically the following question:

"In the case of a district which has been duly accredited for two years work, is such district entitled to a refund of one-half of the total of four mills levied by the county free high school board, or on the three mills levied for maintenance purposes?"

Sec. 2108 of this act provides for a high school levy and names three purposes for which such levy may be made, to-wit: building purposes, for payment of teachers' wages, and for payment of contingent expenses. Sec. 2112, providing for refund of high school moneys in certain cases where districts maintain high school work, is in part as follows:

"Any district which maintains high school classes, duly accredited by the state board of education, shall be entitled on such accrediting to a refund of county high school moneys, levied and collected for maintenance from such district as follows:"

The legislature in providing for these levies has recognized three purposes for which money may be raised, as is shown by Sec. 2108, and in providing for a division of this levy between the county high school and district schools maintaining high school work, it has used the term "moneys levied and collected for maintenance." There is a distinction between what may be termed a building fund and a levy for maintenance. The term "maintenance" contemplates the support or carrying on of something already in existence; a building fund, properly speaking is a fund set aside for erecting a building at some future time. The legislature apparently intended that so long as there was a possibility that students from a district would attend the county high school for a part of their high school course, that the district from which they came should contribute to the building fund of the county high school, but that when a district high school was fully established in accordance with the requirements of the state board of education they should no longer be under this requirement. This is shown, I think, by the exemption made in the last part of Sec. 2112.

The expression "all the high school levy" must be read with the remainder of the section, and in reading this expression with the words used in the first part of the section in which the legislature prescribes what funds are to be divided, we are forced to the conclusion that all the high school levy refers to "moneys levied and collected for maintenance."

You are, therefore, advised, in answer to your question, that a district maintaining high school work, in accordance with Sec. 2112, would be entitled to its named portion of the levy made for maintenance purposes only, and that if any portion of the levy made by the county high school board was for purposes other than maintenance, such district would not be entitled to share that portion of the levy which was made for other than maintenance.

Yours very truly,

D. M. KELLY,
Attorney General.