

High Schools—Apportionment of Funds.

The method of apportionment of funds raised by a special tax levy in counties not maintaining a county high school under Chapter 105 of 1917 Session Laws is based on total attendance in high school classes.

July 23, 1917.

Mr. Geo. R. Allen,
County Attorney,
Virginia City, Montana.

Dear Sir:

You have asked my opinion as to the method to be pursued by the County Superintendent in apportioning the funds raised by a special tax levy in counties not maintaining a county high school, under the provisions of Chapter 105 of the 1917 Session Laws.

The last part of Section 1 of this Chapter provides as follows:

“The money derived from such levy shall be apportioned by the county superintendent of schools to the several districts in which such accredited high schools are maintained in proportion to the total number of days’ attendance of accredited high school classes for the school year next preceding, as determined by the said county superintendent.”

The following was suggested in the letter from the trustees of School District No. 1 of your county, requesting your opinion upon this matter:

“We can see no doubt or ambiguity in the language used. The law clearly says ‘accredited high school classes.’ In this light how can any other interpretation be placed upon the law than that the apportionment must be made on the number of classes rather than the number of pupils in attendance?”

In your letter you state:

“It would seem that the intent of the legislature was, that the money derived from such levy should be apportioned in proportion to the total number of days’ attendance of accredited high school classes, as stated in said Act, apparently recognizing the fact, that it will require more teachers, higher teaching ability, more equipment and more expense generally in maintaining an accredited high school doing four years’ work, than another accredited high school doing only one or two years of accredited high school work, even though the attendance of pupils on the classes of the former should be less than the attendance of pupils on the classes of the latter.”

And you quote the following from the decisions of our Supreme Court:

“The intention of any legislation must be inferred in the first place from the plain meaning of the words used. If this intention can be so arrived at, the courts may not go further and apply other means of interpretation.”

State v. Cudahy Packing Co., 33 Mont. 190.

"A primary rule of construction is that the legislature must be assumed to have meant precisely what the words of the law, as commonly understood, import; and this may be said to be the fundamental and controlling rule of construction."

Osterholm v. Boston etc. Min. Co. 40 Mont. 520.

The State Board of Education, by virtue of the authority given it under Section 106 (4) of the School Law, "to accredit such high schools as maintain the standards of work prescribed by the board," have accredited district high schools throughout the state for 1, 2, 3 or 4 years' work. But the number of classes maintained by a school or the number of schools in a district has never been a basis for the apportionment of school funds in this state. The basis of apportionment of the common school funds is the number of school census children between the ages of 6 and 21 years. See Section 2003 of the School Law, and Article XI, Section 5 of the Constitution.

Section 211½ of the School Law of 1913 provided for the refund of county high school moneys levied and collected for maintenance from such district, in counties having county high schools, to districts maintaining accredited high school classes. But this Section did not apply to counties not having a county high school. You will notice that this refund was based on the number of years of accredited high school work, and required a certain standard of attendance for each year. In 1915 this Section was amended by Chapter 119, and by paragraph 2 a special tax levy was provided for district high schools in counties not having a county high school, and these funds were apportioned, "according to the average daily attendance in accredited high school classes for the school year next preceding." And by Chapter 105 of the 1917 Session Laws, such apportionment is made "in proportion to the total number of days attendance of accredited high school classes for the school year next preceding."

It occurs to me, therefore, that it was the intention of the legislature from the language used in this Section, to make the total attendance in high school classes the basis of the apportionment, and not the total number of classes which a district high school might be able to include in its curriculum. Under this interpretation a district high school having a greater number of pupils in attendance or maintaining a longer term so as to increase the total number of days attendance, would receive a larger proportion of the funds. And from an application of the rules of interpretation quoted by you, to the Act in question, I believe that the above was the intention of the legislature.

Respectfully,

S. C. FORD,

Attorney General.