

**Taxation—School Districts—Creation of New District.**

Taxes collected from railroad companies on property situated within the boundaries of a new school district, and paid into the funds of the old after the creation of the new district, should be transferred to the new district by the County Treasurer upon order of the Board of County Commissioners.

William L. Bullock, Esq.,  
County Attorney,  
Conrad, Montana.

My dear Mr. Bullock:

I have your letter requesting my opinion on the following question:

“Whether taxes collected from a railroad company on property situated within the boundaries of a new school district, and paid into the funds of the old district after the

creation of the new district, should be transferred to the new district by the County Treasurer, and if so, by whose authority?

Since School District No. 42 was created in May, and before the tax levy in July, the railroad property within the boundaries of School District No. 42 should have been assessed to School District No. 42, instead of to School District No. 43, and the taxes levied on such property should have been paid into the funds of School District No. 42. Having been illegally paid into the funds of School District No. 43, these taxes should be transferred to the funds of School District No. 42, where they belong, and the County Treasurer should make such transfer when authorized by order of the Board of County Commissioners.

While there is no direct statutory provision for a case of this kind, undoubtedly under their general powers the Commissioners may order the transfer of money that, according to your letter, has merely, through error, been placed in the wrong fund.

Very truly yours,

WELLINGTON D. RANKIN,  
Attorney General.