

**High Schools—Levies—Surplus—Funds—Budget—Warrants—Taxes.**

Ten mill levy provided by section 1203, R.C.M. 1921, cannot be used to supplement high school levies.

Funds on hand at end of school year of 1930 can be used to pay warrants of district for preceding year.

Miss Elizabeth Ireland,  
State Superintendent of Public Instruction,  
Helena, Montana.

June 29, 1931.

My dear Miss Ireland:

You have submitted several questions relative to high school and grade school expenditures under the new high school act and the new district school budget act.

The first question relates to whether the ten mill levy provided for in section 1203, R.C.M. 1921, could be used partly for elementary school purposes and partly for high school purposes.

In my opinion, the new high school code clearly contemplates that all of the money to be used for high school purposes shall be raised as provided therein and no provision is made therein for using any part of the ten mill general levy for school district purposes for the high school. My conclusion in this matter is based upon the following provision of the high school code (section 90):

"This budget board shall have the power and it shall be its duty to consider such rejected budget and shall arrive at a budget which shall not be subject to further review. After said board has arrived at a budget, the board of county commissioners shall

make a levy sufficient to raise the total amount of all budgets for high school purposes."

Section 92 provides:

"The moneys apportioned to any school district or county high school under this chapter shall be held by the county treasurer of the county to the credit of the school district or county high school as its high school fund, and distinct from all other public moneys; disbursements therefrom shall be made for high school purposes only by warrant specifying on its face the consideration for which it is issued."

Section 93 contains the following provision:

" \* \* \* provided that nothing herein contained shall be construed as prohibiting the issuance and payment of any warrants of any board of trustees of a county high school or of a school district maintaining a district high school out of any other moneys belonging to the said high school or high schools, which may have been theretofore apportioned to it, or which may have been received from other sources and are not subject to apportionment by the county superintendent of schools as in the case of the proceeds of the special high school tax."

As the expenditures cannot exceed the budget and the budget requirements are met by the general county high school tax, the common school levy must have been intended to take care exclusively of the grade school needs.

Your second question relates to the cash balance on hand July 1, 1931. In my opinion, the cash balance on hand at the end of the school year of 1931 can be used for the payment of warrants drawn against it for expenses of the preceding school year the same as though the high school code had not been enacted.

As to how the fund remaining, if any, will be divided, in my opinion, that is a question for the determination of the various school boards and should be made in such proportion as their needs may require.

Regarding the elementary school budget (chapter 146, laws of 1931) the purpose of the budget is to limit expenditures to the apportionments made in the budget. Warrants can be issued and registered only to the extent of the limit as fixed in the budget. When the budget has been exhausted no further warrants can be drawn. The treasurer is enjoined not to pay them. So that under the budget plan the question of whether sufficient taxes are received from the tax levy to meet the budget expenditures does not limit expenditures to cash received.

You are correct in assuming that the budget may include requests for funds for outstanding warrants at the beginning of the year.

Very truly yours,

L. A. FOOT,  
Attorney General.