

**High School Levy—Taxation—Transportation—Schools—
Sections 18 and 86, Chapter 148, Laws 1931.**

Section 86, chapter 148, laws of 1931, does not provide a maximum levy where transportation is furnished and the total for transportation plus other maintenance cost exceeds \$125 per student pupil.

Mr. H. F. Miller,
County Attorney,
Fort Benton, Montana.

June 14, 1932.

My dear Mr. Miller:

I have your request for an opinion relative to sections 18 and 86, chapter 148, laws 1931, and particularly as to whether these two sections are in conflict.

Section 86, in part, is as follows:

“Provided, however, that the special county tax for high school purposes shall not exceed seven (7) mills, except in counties where the seven (7) mill levy will not bring in One Hundred Twenty-five Dollars (\$125.00) per high school student. In such case the maximum levy shall not exceed a rate which will bring in an amount equal to One Hundred Twenty-five Dollars (\$125.00) per high school student multiplied by the total number of students who are residents of the county and who were enrolled and in regular attendance in the high schools of the county for twenty (20) days or more during the year next preceding.”

Section 18 provides that,

“* * * the moneys needed to defray the expense of such rent of quarters, or of such transportation may be included in the amount to be raised by the special county tax for the mainte-

nance of high schools or a special tax therefor may be lieved upon the taxable property in the county.”

Your question is whether that portion of section 18 fixing the maximum levy permits or allows a special levy in addition to the seven mills, or \$125 per student maximum as provided in section 86, or must these moneys needed for transportation or rent of quarters be contained in and a part of the levy above referred to.

I do not find any opinion on this matter. However, the administrative construction given to it is that where the total amount, including the amount necessary for board, rent or transportation, does not exceed the total of \$125 per student it is, of course, included in the total cost of maintenance, including transportation, and no additional levy is made for that purpose. However, it seems to me the language of section 18 is clear to the effect that a special tax therefor may be levied in case it is necessary; otherwise, I cannot see any reason for the language “or a special tax therefor may be levied.”

Certainly nothing could be gained by levying a tax less than seven mills and then making an additional levy for transportation which added to the other would not exceed seven mills. We must give to the language the legislature used some meaning and this can only be done by saying that where it is necessary to go beyond the seven mills in order to raise money for the purpose of transportation, board, rent, etc., that a special levy may be made in addition to the seven mills.

Very truly yours,

L. A. FOOT,
Attorney General.