

**High School Levy—Mistake—Taxation—Board of County Commissioners—Powers—Budget.**

When a mistake was made as to assessed valuation of property subject to high school tax the board of county commissioners has power to raise the levy so as to produce the required amount to balance the budget.

Mr. R. C. Dillavou,  
County Attorney,  
Billings, Montana.

September 26, 1932.

My dear Mr. Dillavou:

I have your request for an opinion regarding the action of the county commissioners of Yellowstone county approving the budget made by school district No. 2 wherein a mistake was made as to the taxable value of the county. At the time that the levy of seven mills was made it was estimated that the taxable value of the property was considerably in excess of what it has since been determined to be; in other words, a mistake was made and by taking the unwarranted greater amount as the taxable value the budget requirements would be met. The question now is whether in view of the mistake that was made the board can correct the same and raise the levy so as to produce the amount called

for in the budget on the value which has since been determined to be correct.

The law seems to leave no discretion with the board of county commissioners after the budget for high school purposes has been approved, but requires them to levy a sufficient amount to produce the budget estimate.

In view of the fact that a mistake was made and that a levy should have been made sufficient to produce the estimate budgeted, I can not see but that the board still has jurisdiction to raise the levy so as to produce the required amount according to the now determined value of the property in the county.

Very truly yours,  
L. A. FOOT,  
Attorney General.