

Opinion No. 380

Schools—High Schools — State Industrial School—Tuitions—Budget

HELD: A pupil's home school is

liable for the high school tuition charges of a pupil committed to the State Industrial School and may pay the same without waiting until the adoption of the next budget.

November 7, 1933

You submit the following: "On September 5th last we received under commitment from Deer Lodge County one, James Quinland. Jim was a sophomore in high school and we entered him here in Miles City in the high school along with the other boys who attend from the Institution. We made application to the County Superintendent at Anaconda for the transfer of the high school funds of \$65.00 for this boy. The County Superintendent has refused it for the reason that it was not contained in the budget and states that no exceptions have been made in that County as this is the second pupil to be refused a transfer of funds. We, of course, could not make application at the proper time for the transfer of these funds for the reason that the boy was not yet an inmate here. In one other case a boy committed at approximately the same time as Quinland, we made application to the County Superintendent of that County, which was Dawson, and the transfer of funds was made. I am writing to ask you at this time if under Section Eight, Chapter 178 of the Session Laws of 1933, the County Superintendent of Deer Lodge County can not be compelled to make the transfer of these high school funds at this time."

The budget laws were enacted by the legislature to prevent school districts and other public officials from exceeding the amounts previously approved for specific purposes, by budget boards; the annual tax levies are based upon the budget, and expenditures for any item not provided for by an approved budget is prohibited. (Section 14 and paragraph 2 of Section 23, Chapter 178, Laws of 1933.) The school officials are prohibited by these statutes from expending school money for any purpose unless previously authorized by the budget. If the officials disregard the budget and issue any warrant for any item not provided for in the budget, it is not a liability of the district and the county treas-

urer must not pay or register any such warrant.

Section 16 of Chapter 178 provides for certain emergencies but your proposition does not come within any of the emergencies enumerated. We believe, however, that your claim is such a "lawful claim" as may be provided for in the "next ensuing budget" referred to in Section 17 of Chapter 178. The meaning of "next ensuing budget", in our opinion, is the budget for the next ensuing school year.

It is our view that the school where the pupil resided when committed is liable for his tuition. If the budget of that school has not provided for its payment this year it must be taken care of in the next ensuing budget.

It may be that the officials of the pupil's home school, by co-operating with you, could adjust the matter under the provisions of Section 15, Chapter 178 now without waiting until the adoption of the next budget. Said Section 15 provides for the transfer of funds from one item of the budget to another item.