

Opinion No. 465.

Schools—Budget—Levy.

HELD: Sections 5 and 11, of Chapter 178, Laws of 1933, are not incon-

sistent; Section 5 regulates the preparation of a preliminary budget by the school board, and Section 11 places certain limitations on boards of county commissioners in making the levy.

The levy up to seven mills is legal whether or not it produce \$125, or more, per pupil, but the levy may not exceed seven mills.

February 17, 1934.

You call attention to an apparent discrepancy between Sections 5 and 11 of Chapter 178 of the Laws of Montana, 1933. There is no real discrepancy between these two sections; each must be complied with.

Section 5 regulates the preparation of a preliminary budget by the boards of trustees of districts and for the county high schools. Section 11 places certain limitations on boards of county commissioners in making the levy.

The first limitation is that the total levy shall not exceed seven mills, except as later provided in that section. If a levy of seven mills or less will take care of the preliminary budget or budgets, the necessary levy is not further limited. If it appears that a seven mill levy will not produce a sum in excess of \$125 for each pupil in the county, the budget requirements are to that extent limited.

Any attempt to exceed a seven mill levy to produce a sum in excess of \$125 per pupil residing in the county is unlawful under Section 11 of Chapter 178. A levy to raise a greater amount per pupil, which levy does not exceed seven mills, is not illegal.