

No. 484

**SCHOOLS—FINAL BUDGET—MISTAKE IN
FINAL BUDGET**

Held: After the approval and adoption of a final school budget as provided by law, no item thereof may be changed, corrected or altered.

September 19, 1942.

Mr. Oscar Hauge
County Attorney
Hill County
Havre, Montana

Dear Mr. Hauge:

You have requested my opinion, whether, under authority of State ex rel. School District No. 8 v. Lensman, 108 Mont. 118, 88 Pac. (2nd) 63, the final approved elementary school budget for the ensuing year may be changed. You believe that under authority of the case the mistake in the budget itself not only may, but should, be corrected; that expenditures may be made, liabilities and warrants incurred and issued up to the amount of the corrected budget. You inquire, then, whether it would be possible to increase the levy in the following year to take care of the warrants drawn but not paid by reason of the deficient levy for this year.

It is a policy of this office, when answering requests for opinions, to determine and answer the specific question asked. Thus, in Official Opinion No. 479, Volume 19, the specific question whether the tax levy could be changed after the final budget had been approved and the levy made was answered. No attempt was made to decide the question now asked.

From a study of the decision in the Lensman case (supra), I cannot say the mistake in the final budget as adopted may be corrected. In my opinion the decision of the court does not have nor was it intended to have such a broad scope. I would like to call your attention to the words of the court on page 130:

“ . . . Furthermore, under the Budget Law, the approval of a budget is required, not merely for the purpose of furnishing a basis for a levy of taxes, but its approval is a necessary prerequisite to the issuance of warrants as disclosed by section 1019.14, Revised Codes.”

The facts of the two cases are not in dispute. I refer you to Official Opinion No. 479, Volume 19:

“ . . . That case and the present case, however, differ in this respect: In State ex rel. School District No. 8, v. Lensman, the mandatory duty of approving the final budget was not performed and was

compelled by a writ of mandate. In the present case, the duty of the Board of School Budget Supervisors has been performed. **The final budget was approved.**" (Emphasis mine.)

Section 1019.14, Revised Codes of Montana, 1935, provides in part:

" . . . expenditures made, liabilities incurred or warrants issued in excess of any of the final budget detailed appropriations, as **originally determined** (emphasis mine), or as revised by transfer, as hereinafter provided, shall not be a liability of the district and no money of the district shall ever be used for the purpose of paying the same."

I believe the above section controls the question at hand. "As originally determined" means the determination as set forth in the final approved budget, and not the determination as set forth in the correct preliminary budget. No authority to correct the mistake in the budget itself is given by this section or any other section. Indeed, section 1019.14 expressly declares the final budget as approved shall constitute the budget for the year. Under this view it is not necessary to decide the second question asked.

It is my opinion that after the approval and adoption of a final school budget as provided by law, no item thereof may be changed, corrected or altered.

Sincerely yours,

R. V. BOTTOMLY
Attorney General