

No. 507

**SCHOOL DISTRICTS—TRANSPORTATION—
SCHEDULE, alteration of**

Held: Subsection (8) of Section 7, Chapter 152, Laws of 1941, provides the exclusive means of altering a schedule for transportation of school children.

November 13, 1942.

Mr. Bert W. Kronmiller
County Attorney
Big Horn County
Hardin, Montana

Dear Mr. Kronmiller:

You have requested my opinion concerning the following facts:

Several families having children of both grade school age and high school age reside in an isolated portion of Big Horn County. There has never been any school established in this particular isolated section of the county, nor do you believe the grade school children live near enough together that if a grade school were established it would serve all pupils. The parents of the children of both grade school and high school age have made application to the County Superintendent of Schools for an increase in the amount provided

for in the schedule set out in Chapter 152, Laws of 1941, for the transportation of the children. The County Superintendent of Schools has granted application for an increase, and the action of the County Superintendent has been approved by the State Superintendent of Schools. You inquire whether or not the parents of the children living in the isolated area can require the Board of Trustees of the School District wherein they reside, to pay the increased schedule; or, after the school district has paid the amount provided by the schedule, has the school district done all that is necessarily required of them by law?

Section 7, Chapter 152, Laws of 1941, provides the schedule for paying for individual transportation, rent, or board in lieu of bus transportation provided by the district. Subsection (8) of Section 7 provides as follows:

"In isolated cases where it will be more economical and desirable to close a school and board a pupil or pupils in a private home or in a dormitory, this schedule may be altered by the county superintendent of schools with the consent of the state superintendent of public instruction."

Subsection (9) of Section 7 provides:

"Except as provided above, this schedule shall not be altered by any authority, other than, the legislative assembly of the State of Montana."

Subsection (9) of Section 7 of the act is clear and explicit. "Except as provided above" refers to the only section of the act which provides for an alteration of the schedule. That provision is subsection (8) of Section 7, which provision defines a limited and clear instance when the schedule may be altered—in isolated cases where it will be more economical and desirable to close a school.

The fact is, in the instant case, no school was closed, and the provisions of Subsection (8) of Section 7 are not applicable. It is my opinion that Subsection (8) of Section 7, Chapter 152, Laws of 1941, provides the exclusive means of altering a schedule for transportation of school children. The school district cannot legally pay more than the amount or amounts set out in the schedule as provided by Section 7 of the act.

It is my understanding the high school pupils live thirty-five miles from the high school located at Hardin, Montana, and the nearest grade school to the locality where the grade school pupils reside is in the neighborhood of eighteen miles. It is impractical to actually transport the children to the different schools because of the distance and because the road becomes impassable in winter time. The situation is one which should be remedied, and it is therefore my suggestion that the legislature's attention should be called to the deficiencies to be found in the practical application of the act.

Sincerely yours,

R. V. BOTTOMLY
Attorney General