

seven mills will not produce the amount, larger levy can be made.

July 2, 1943.

Mr. Wilbur P. Werner
County Attorney
Glacier County
Cut Bank, Montana

Dear Mr. Werner:

In connection with Opinion No. 72, Volume 20, Report and Official Opinions of the Attorney General and the statement therein made "said county wide levy not to exceed \$135.00 per pupil," you submit the following facts:

"At time Glacier county has made a seven mill levy, which brings in a sufficient amount of money to make between \$150.00 and \$160.00 for each high school student . . . the individual high school district budgets have always stayed within their limitation for maximum expenditure for their students, as provided in Chapter 64, Laws of 1941."

You ask for a reconsideration of the statement in my opinion the county wide levy shall not exceed \$135.00 per pupil, in view of the situation in your county where the maximum seven mill levy permitted does produce more than \$135.00 per pupil.

The opinion referred to was given reference to a single question, i. e., the sources of income to be used in determining the available funds to meet the maximum budget for high schools, as provided by Chapter 64, Laws of 1941, and Chapter 191, Laws of 1943, and the statement to which you raise question was not necessary to the opinion, and is now specifically withdrawn.

Section 1263.11, Revised Codes of Montana, 1935, authorizes and directs the board of county commissioners, in each county in which one or more high schools are maintained, to levy a special tax for such high school or high schools, which special tax shall not exceed seven mills. It is then provided in those counties where the seven mill tax levy will not produce \$125.00 for each pupil residing in the county regularly, and enrolled and attending high school in the county for not less than forty days during the last completed school year, together with the amount contained in the budget provided for in Section

Opinion No. 83.

High Schools—Taxation—Rates of Levy Permitted.

Held: County commissioners may make levy for high school purposes up to seven mills, even though money derived from the levy exceeds \$135.00 per pupil; in those counties where the

1263.8, the levy can be for such number of mills as will produce the \$125.00 per pupil.

The \$125.00 limit provided in Section 1263.11, Revised Codes of Montana, 1935, was raised to \$135.00 by Chapter 191, Laws of 1943, this increased limitation to be effective only for the school years ending June 30, 1944, and June 30, 1945.

It is apparent the legislative intention is the county commissioners may make a levy up to seven mills, even though the money derived from the levy exceeds \$135.00 per pupil; and in those counties where the seven mills levy will not produce this amount, the levy can be made in excess of seven mills and so as to produce \$135.00 per pupil.

Sincerely yours,
R. V. BOTTOMLY
Attorney General