

Dear Mr. Dignan:

You have requested my opinion concerning the application of the ten-mill levy provided for in Section 1203, Revised Codes of Montana, 1935, as amended by Chapter 51, Laws of 1945, to the budget of the Glasgow high school.

Section 1203, as amended, *supra*, provides for "a reserve fund for maintaining the elementary and high schools of the district from July first to November thirtieth, of the next succeeding school year." The section also states:

"The board of county commissioners shall thereupon levy a special tax for such purposes, not exceeding ten mills per dollar on the taxable property of the district . . ."

This section was construed by this office in Volume 15, page 186, Report and Official Opinions of the Attorney General, wherein it was held that the ten mill levy does not relate to high schools and is not available to such schools as a source of revenue. I refer you to that opinion for the reasoning therein contained with which I agree.

A high school is also precluded from such levy by the high school budget act which fixes the limitation on the high school budget and also on the county-wide high school levy. In Volume 20, page 254, Report and Official Opinions of the Attorney General, high school budgets and the levy for high schools were considered by this office. The above cited opinion covers the budgets for the school years 1943-1944 and 1944-1945, and the budgets for the school years 1945-1946 and 1946-1947 will have the advantage of Chapter 133, Laws of 1945, which permits a thirty per cent increase of the limitation on a high school budget and a resulting increase of the special high school tax as provided by Section 1263.11, Revised Codes of Montana, 1935, as amended.

It is to be noted that Section 1263.5, Revised Codes of Montana, 1935, as amended, fixes the limitations on high school budgets, but these limitations are increased for the years 1943-1944 and 1944-1945 by Chapter 191, Laws of 1943, and for the years 1945-1946 and 1946-1947 by Chapter 133, Laws of 1945. Any increase of a high school budget beyond the above noted limita-

Opinion No. 112.

**Levy—Schools and School Districts—
High Schools, Levy—Budget, High
School.**

Held: The ten-mill levy provided for in Section 1203, Revised Codes of Montana, 1935, as amended by Chapter 51, Laws of 1945, does not relate to high schools and may not be levied for high school purposes.

January 5, 1946.

Mr. Thomas Dignan
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Glasgow, Montana

tions must be met by an additional levy for high school purposes after submitting the question at an election as Section 1263.5, as amended, provides in part:

“ . . . provided further, that nothing herein contained shall be construed as preventing any school district from voting upon itself an additional levy for high school purposes, in accordance with the general school laws pertaining to the voting of additional levies by school districts.”

It is therefore my opinion that the ten-mill levy provided for in Section 1203, Revised Codes of Montana, 1935, as amended by Chapter 51, Laws of 1945, does not relate to high schools and may not be levied for high school purposes.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General