

Opinion No. 20

**Schools and School Budgets—
Schools and School Districts—
High School Budgets—taxation Levy**

Held: Chapter 274, laws of 1947, authorizes the maximum budgets for high schools to be increased during the next two fiscal years by fifty per cent

of the amount fixed by Section 1263.5, Revised Codes of Montana, 1935, as amended by Chapter 166, Laws of 1939, and Chapter 64, Laws of 1941, without a special levy approved by the qualified electorate.

Funds in addition to the maximum budget above noted may be granted by the qualified voters at an election submitting the question of such additional levy. In districts maintaining high schools such question would be submitted to the qualified voters of the districts. The additional levy for county high schools, in counties not divided into high school building districts would be submitted to all of the qualified voters in the county, while the question for the levy for county high schools situate in high school building districts would be submitted to the qualified voters of such building district.

April 2, 1947

Mr. W. W. Lessley
County Attorney
Gallatin County
Bozeman, Montana

Dear Mr. Lessley:

You have requested my opinion as to the effect of Senate Bill 101, which has been designated Chapter 274, Laws of 1947, in regard to high school budgets.

Chapter 274 provides the maximum for high school budgets for the school years 1947-1948 and 1948-1949 may be increased fifty per cent at the discretion of the trustees and the budget supervisors. By the terms of the act the computation is based on Section 1263.5, Revised Codes of Montana, 1935, as amended by Chapter 166, Laws of 1939, and Chapter 64, Laws of 1941. The trustees in fixing the maximum amount will determine the permissible maximum under Section 1263.5, as amended, and then add an additional fifty per cent. Funds received from the federal government

are excluded from the computation of the authorized maximum.

The maximum budget above mentioned is the amount that may be expended by the trustees of a high school without resorting to a special levy authorized by a vote of the qualified electors. Funds realized from a special levy would in fact increase the amount of money available for the operation and maintenance of the high schools during the next fiscal year.

Authority for the extra levy for districts maintaining high schools is found in Section 1263.5 Revised Codes of Montana, 1935, as amended by Chapter 166, Laws of 1939, and Chapter 64, Laws of 1941, which provides in part:

“ . . . 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 laws pertaining to the voting of additional levies by school districts.”

Previous to Chapter 274 (Senate Bill 101) there had been no provision for an additional levy for county high school to supplement the maximum budgets authorized by Section 1263.5, as amended. Now, under Section 2 of Chapter 274, if the trustees of a county high school find it necessary and advisable a special levy may be authorized by the qualified electors of the county if such county high school is not in a county divided into high school building districts. The extra levy for county high schools situated within a high school building district must be submitted to the qualified electors of such high school building district.

In your inquiry you raised some question concerning the effect of Section 3 of Chapter 274. The purpose of this section is to permit a special levy for high schools to raise the amount necessary for the maximum budgets as fixed by Section 1263.5, as amended, and Section 1 of Chapter 274. Under Section 1263.11, as amended, a special seven mill high school levy is authorized, which seven mill levy may be increased if seven mills will not raise \$125.00 per pupil.

Section 3 of Chapter 274 is broader than Section 1263.11, as amended, in that there is no limitation of seven mills and such omission is necessary because of the fifty per cent increase in the maximum budgets. Section 3 is not to be construed as permitting any additional increase in funds for high school budgets other than those previously mentioned in this opinion.

It is therefore my opinion:

1. Chapter 274, Laws of 1947, authorizes the maximum budgets for high schools to be increased during the next two fiscal years by fifty per cent of the amount fixed by Section 1263.5, Revised Codes of Montana, 1935, as amended by Chapter 166, Laws of 1939, and Chapter 64, Laws of 1941, without a special levy approved by the qualified electorate.

2. Funds in addition to the maximum budget above noted may be granted by the qualified voters at an election submitting the question of such additional levy. In districts maintaining high schools such question would be submitted to the qualified voters of the districts. The additional levy for county high schools, in counties not divided into high school building districts would be submitted to all of the qualified voters in the county, while the question for the levy for county high schools situate in high school building districts would be submitted to the qualified voters of such building district.

Sincerely yours,
R. V. BOTTOMLY
Attorney General