

Opinion No. 13

**Payments—Transportation Budgets—County and School
District Contributions.**

Held: The one-third contribution of school districts for their elementary school transportation budgets is to be paid from the five mill district levy authorized by Section 10, Chapter 199, Session Laws of 1949, if there are sufficient funds remaining after deducting the operation and maintenance costs of the budgets for

the elementary schools. If there are not sufficient funds remaining, then an additional levy may be made without an election to meet the district's one-third obligation for transportation. The one-third contribution of the County for the transportation budgets of the elementary schools is to be paid from the ten mill levy authorized by Section 1202 of the Revised Codes of Montana, 1935, as amended by Section 11, Chapter 199, Session Laws of 1949, in accordance with the schedule set out in Chapter 200, Laws of 1949.

The two-thirds contribution or balance of each county for the high school transportation budget is paid from a separate transportation County wide levy authorized by sub-section (b) of Section 14, Chapter 152, Session Laws of 1941, as amended by Chapter 189, Session Laws of 1943.

April 11th, 1949.

Miss Mary M. Condon
State Superintendent of Public Instruction
State Capitol
Helena, Montana

Dear Miss Condon:

You have requested my opinion concerning the effect of Chapters 199 and 200, Laws of 1949, as to payments to be made by school districts for both elementary and high school transportation budgets.

Prior to the enactment of Chapter 199, Laws of 1949, (H. B. 161) the elementary schools' one-third of the transportation budgets was paid under the provisions of Subsection 1, Section 14 of Chapter 152, Laws of 1941, as amended by Chapter 189, Laws of 1943, from the ten mill district levy authorized by Section 1203, Revised Codes of Montana, 1935, as amended by Chapter 51, Laws of 1945. Section 1203 as amended was repealed by Chapter 199, Laws of 1949 and as a consequence the school district's contribution to the transportation budget must be found in Chapter 199, Laws of 1949. Section 10 of Chapter 199 amends Section 1019.19 of the Revised Codes of Montana, 1935, and provides for a five mill district levy for elementary school budgets. As the previous source of the district's contribution has been repealed, Section 1203 as amended, it is reasonable to assume that an elementary district must pay its contribution to the transportation budgets from the five mill levy. However, if the budgets for the operation and maintenance of the elementary schools of a district will utilize all of the proceeds of the five mill levy, and the authorized twenty per cent increase over such an amount, then under Subsection 2, Section 14 of Chapter 152, Laws of 1941 as amended by Chapter 189, Laws of 1943, an additional levy for transportation may be made in such number of mills as will raise not to exceed one-third of the total amount set out in the Budget for transportation without being authorized at an election. An additional levy for transportation may be authorized by the qualified electors of the

district. It is to be noted that the State's contribution for bus transportation is to be computed by the schedule fixed by Chapter 200, Laws of 1949, which might not cover the one-third of the approved budgets with a resulting deficiency to be paid by the district from any excess amount above its one-third contribution remaining from the district five mill levy or from the levy authorized by the electors of the district. Opinions No. 120 and 178, Volume 21, Report and Official Opinions of the Attorney General.

The county's one-third share of the transportation costs for elementary schools will be paid from the ten mill levy provided for in Section 1202, Revised Codes of Montana, 1935, as amended by Chapter 273, Laws of 1947, and Chapter 199, Laws of 1949. The authority for such contribution of the County's one-third is found in Subsection (b), Section 13 of Chapter 152, Laws of 1941, as amended by Chapter 189, Laws of 1943, Chapter 169, Laws of 1947 and Chapter 200, Laws of 1949. This contribution by the county is fixed at one-third of the schedule and a deficiency may be incurred from such computation in the same manner that was pointed out above in regard to the state's one-third contribution.

District and County high schools receive reimbursement from the State for one-third of their transportation budgets, computed according to the schedule, in the manner outlined in Opinion No. 120, Volume 21, Report and Official Opinions of the Attorney General. Chapter 200, Laws of 1949 increases and fixes the bus transportation schedule but does not alter the method of computation defined by the above cited opinion of this office. The remaining two-thirds or balance of the high school transportation costs is paid from a County-wide tax which is not limited in amount as Subsection (b) of Section 14, Chapter 152, Laws of 1941, as amended by Chapter 189, Laws of 1943, reads:

" . . . The County Commissioners, except as hereinafter provided, shall make a county-wide levy of such number mills as will raise such total."

It is my opinion:

1. The one-third contribution of school districts for their elementary school transportation budgets is to be paid from the five mill district levy authorized by Section 10, Chapter 199, Laws of 1949, if there are sufficient funds remaining after deducting the operation and maintenance costs of the budgets for the elementary schools. If there are not sufficient funds remaining then an additional levy may be made without an election to meet the district's one-third obligation for transportation.

2. The one-third contribution of the county for the transportation budgets of the elementary schools is to be paid from the ten mill levy authorized by Section 1202, Revised Codes of Montana, 1935, as last amended by Section 11, Chapter 199, Laws of 1949, in accordance with the schedule set out in Chapter 200, Laws of 1949.

3. The two-thirds contribution or balance of each county for the high school transportation budgets is paid from a separate transportation county-wide levy authorized by Subsection (b) of Section 14, Chapter 152, Laws of 1941, as amended by Chapter 189, Laws of 1943.

Very truly yours,
ARNOLD H. OLSEN,
Attorney General.