

Opinion No. 58**Distribution and Apportionments of School Moneys — Change in Assessment Books by State Board of Equalization**

HELD: The State Board of Education and all county officials in apportioning school funds must distribute such money and make necessary computations on the basis of the assessment books as changed by the State Board of Equalization.

January 12, 1956

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

Dear Miss Condon:

You have requested my opinion concerning the proper figures of assessed valuation to be used by the Montana State Board of Education in apportioning a state public school equalization fund. You advise me that the State Board of Equalization has supplied you with the assessed value of the property in the various counties of Montana and that there is a difference between these figures and those supplied by the county assessors in several of the counties.

As the amount distributed from the state public school equalization fund to each county is apportioned on the basis of need, the amount realized from the county-wide school levy and the district levy is material in determining the apportionment. Sections 75-3613, as amended, and 75-3619, R.C.M., 1947, fix the formulae for apportionment of county and state funds, and the amounts received from the school levies are material in fixing the amounts to be distributed. It is apparent that the money to be realized from a levy is computed on the assessed valuation. The use of the correct valuation is most material in an equitable distribution of public school money.

All property other than motor vehicles is assessed between the first Monday of March and the second

Monday of July in each year under the provisions of Section 84-406, R.C.M., 1947, as amended by Chapter 265, Laws of 1955. It is the duty of the county assessor to complete an assessment book on or before the second Monday in July as required in Section 84-503, R.C.M., 1947. It is then incumbent on the county assessor to submit to the State Board of Equalization a statement containing a summation of all the facts in his assessment book.

Section 84-708, R.C.M., 1947, defines many of the powers and duties of the State Board of Equalization. In subsection 5, it states that the board has the power:

“To adjust and equalize the valuation of taxable property among the several counties, and the different classes of taxable property in any county and in the several counties and between individual taxpayers; supervise and review the acts of county assessors and county boards of equalization; change, increase or decrease valuations made by county assessors or equalized by county boards of equalization; and exercise such authority and do all things necessary to secure a fair, just and equitable valuation of all taxable property among counties between the different classes of property and between individual taxpayers.”

As the above-quoted portion of the statute specifically authorizes the State Board of Equalization to change, increase or decrease valuations made by county assessors, such changes would be of no effect if they were not recognized by the county assessors and the county assessment book altered in accord with the conclusions of the State Board of Equalization. The answer to this problem is found in Section 84-4004, R.C.M., 1947, which provides:

“As soon as the county clerk receives from the state board of equalization a statement of any change or changes made by the board in the assessment books of the county, or in any assessment therein contained, he must make the corresponding change or changes in the assessment books,

by entering the same in a column provided with a proper heading in the assessment books, . . . however, that if such assessment books are not in the possession of the county clerk at the time he receives any such statement, he must immediately make a copy thereof, attesting the same with his seal of office, and deliver such attested copy to the county officer then having possession of such assessment books, and it shall be the duty of such county officer to immediately make the corresponding change or changes in such assessment in the manner herein provided."

The effect of the above-quoted statute was recognized in *State ex rel. City of Butte vs. Weston*, 29 Mont. 125, 74 Pac. 415, where the Court said:

" . . . When the necessary corrections and additions have been made to it under the direction of the state and county boards of equalization, the clerk must complete the book by extending the tax so that the amount to be paid by each taxpayer for the year will be made to appear . . . "

Recent cases of our Supreme Court have recognized the paramount position of the State Board of Equalization in tax matters. In *State ex rel. Snidow vs. State Board of Equalization*, 93 Mont. 19, 17 Pac. (2d) 68, it was held:

"The state board of equalization is a powerful constitutional body which, while properly exercising its authority, is supreme in its own sphere. In *State ex rel. Schoonover v. Stewart*, 89 Mont. 257, 297 Pac. 476, we said that the board of necessity has a wide discretion in the exercise of its great powers. The authorities generally agree that its decisions, honestly arrived at, cannot be disturbed by the courts. . . . "

It is therefore my opinion that the State Board of Education and all county officials in apportioning school funds must distribute such

money and make necessary computations on the basis of the assessment books as changed by the State Board of Equalization.

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