

**Opinion No. 24**

**SCHOOLS AND SCHOOL DISTRICTS; Tuition; elementary transfer students—SCHOOLS AND SCHOOL DISTRICTS; Tuition; high school students—Sections 75-1630 and 75-4230; Revised Codes of Montana—Chapter 70 and 99, Laws of 1959**

- Held:**
- 1. Tuition for elementary transfer students who attended school in the year 1958-59 shall be computed at the rate found in Section 75-1630, Revised Codes of Montana of 1947, prior to its amendment by Chapter 99, Laws of 1959.**
  - 2. The budget adopted after July 1, 1959, must contain a provision for payment of tuition at the rate in existence prior to the amendment of Section 75-1630, Revised Codes of Montana, 1947, by Chapter 99, Laws of 1959.**
  - 3. Tuition for high school students who were authorized to attend a high school in a county other than that of their residence**

**for the year 1958-59 is to be computed at the rate found in subsection (e) of Section 75-4230, Revised Codes of Montana, 1947, prior to amendment by Chapter 70, Laws of 1959, and payment is to be made from the transfer budget at such rate in the budget adopted after July 1, 1959.**

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August 21, 1959

Miss Harriet E. Miller  
State Superintendent of Public Instruction  
State Capitol  
Helena, Montana

Dear Miss Miller:

You have requested my opinion concerning the new tuition rates for transfer students enacted by Chapters 70 and 99, Laws of 1959. You advise me that there has been confusion as to whether the new rates will apply for the last fiscal year.

Neither of these laws was made operative on passage and approval and as a consequence the effective date will be July 1 of this year. As you know, under Section 75-1630, Revised Codes of Montana of 1947, as amended, applications must be made and permission granted to attend an elementary school outside the district of residence prior to July 1. Children who attended school in the school year 1958-59 had to receive permission prior to July 1, 1958. Payment for tuition by the district of residence to the district of attendance is made from the budget of the ensuing fiscal year (Sec. 75-1630, RCM, 1947). This means that for the school year 1958-59 the rates of tuition were fixed by the law in force at that time and the amount to be paid is an item of the new budget which is to be prepared and adopted in July and August, 1959.

The foregoing construes the statutes pertinent to elementary schools, and those pertaining to high schools are similar except that payment is made from a transfer budget which receives its funds from the county ten-mill high school levy as provided in Section 75-4230, Revised Codes of Montana of 1947.

It is, therefore, my opinion:

1. Tuition for elementary transfer students who attended school in the year 1958-59 shall be computed at the rate found in Section 75-1630, Revised Codes of Montana of 1947, prior to its amendment by Chapter 99, Laws of 1959.
2. The budget adopted after July 1, 1959, must contain a provision for payment of tuition at the rate in existence prior to the amendment of Section 75-1630, Revised Codes of Montana, 1947, by Chapter 99, Laws of 1959.

3. Tuition for high school students who were authorized to attend a high school in a county other than that of their residence for the year 1958-59 is to be computed at the rate found in subsection (e) of Section 75-4230, Revised Codes of Montana, 1947, prior to amendment by Chapter 70, Laws of 1959, and payment is to be made from the transfer budget at such rate in the budget adopted after July 1, 1959.

Very truly yours,  
FORREST H. ANDERSON  
Attorney General