

Opinion No. 46-4951

September 11, 1946

BY: C. C. McCULLOH, Attorney General

TO: Mr. H. B. Sellers Chief Tax Commissioner Santa Fe, New Mexico

{*273} In your letter dated September 10, 1946, you state that a county has requested approval of a 2 mill levy for bridge maintenance within irrigation districts in said county.

Pursuant to Section 58-316 of the 1941 Compilation you inquire whether this levy can be properly made outside the Constitutional 20 mill limitation.

Section 58-316 authorizes a special tax levy each year of not to exceed 2 mills, and was passed in 1925.

Article 8, Section 2, of the New Mexico Constitution was amended in 1933 and, in part, provides as follows:

"Provided, however, that taxes levied upon real or personal tangible property for all purposes, except special levies on specific classes of property, and except necessary levies for public debt, shall not exceed 20 mills annually on each dollar of the assessed valuation thereof, * * *"

Since a levy, as provided for in Section 58-316, is a county-wide levy, and is not on specific classes of property, it would not fall within the exemption of the Constitutional section above quoted. Such a levy would be for a general county purpose, {*274} and would constitute a part of the funds necessary for current expenses; and, in my opinion, the levy could not legally be made outside the 20 mill limitation.