

## **Opinion No. 52-5576**

August 12, 1952

**BY:** JOE L. MARTINEZ, Attorney General

**TO:** Hon. T. C. Jaramillo State Senator La Joya, New Mexico

{\*284} On August 5, 1952, you requested an opinion concerning Chap. 85, New Mexico Session Laws of 1951. Your specific question was whether or not the State Board of Education can withhold school aid provided for in Chapter 35 because a certain county refuses to consolidate or enter into consolidation of its school districts.

Chapter 85, New Mexico Session Laws of 1951, reads as follows:

"Section 1. That Section 1, Chapter 126, Laws of 1949, be and the same is hereby amended to read as follows:

{\*285} "Section 1. There is hereby created a State Public School Aid Fund for grants in aid to the public schools of the State in those counties that are not able through their own maximum efforts to meet their approved school budgets. The State Treasurer is hereby directed to transfer five hundred thousand (\$ 500,000.00) dollars from the State Public School Equalization Fund during the fiscal year ending June 30, 1952, to the State Public School Aid Fund.

"Section 2. That Section 3, Chapter 126, Laws of 1949, be and the same is hereby amended to read as follows:

"Section 3. The State Treasurer shall annually take credit at the beginning of each fiscal year for any balance remaining in the State Public School Aid Fund and shall then transfer from the State Public School Equalization Fund annually an amount sufficient to bring the State Public School Aid Fund to the sum of five hundred thousand (\$ 500,000.00) dollars."

There is nothing in the above quoted chapter that would prevent any county in the State of New Mexico from being eligible for the public school aid therein provided if the said county you mention, through its own maximum efforts, is not able to meet its approved school budget. Nothing is said in the Act that this school aid shall be withheld from any county because it refuses to consolidate or to enter into consolidation of its school districts.

It is therefore my opinion that the school aid provided in Chapter 85, Laws of 1951, cannot be withheld from any county because it refuses to consolidate or enter into consolidation of its school districts.