

**Opinion No. 55-6148**

April 25, 1955

**BY:** RICHARD H. ROBINSON, Attorney General

**TO:** Mrs. Georgia L. Lusk, Superintendent of Public Instruction, State Capitol Building, Santa Fe, New Mexico

This will acknowledge receipt of your letter of April 12, 1955 in which you inquire as to who bears the responsibility for the transportation of non-public school children under the terms of Senate Bill No. 177, being Chapter 273, Laws of 1955. The pertinent portion of this bill which amends Section 73-7-36 of the 1953 Compilation, provides as follows:

"Provided further, that each county may furnish transportation from general funds, and not out of any funds or taxes raised or levied for educational purposes or appropriated in aid of the state public schools, to supplement the present school bus transportation system for the aid and benefit of all pupils attending school in compliance with the compulsory school attendance laws of the state of New Mexico, upon the same terms and in the same manner and over the same routes of travel as is provided for pupils attending the state public schools.

"The board of county commissioners of each county may contract with the busline operators for the transportation of pupils attending schools other than the state public schools, in compliance with the compulsory school attendance laws of the state of New Mexico in the same manner and over the same routes of travel as is provided for the pupils attending the state public schools; such transportation to be paid for with funds appropriated by each county for that purpose from the general funds of said county."

It is clear, we believe, from the above quoted matter that the entire responsibility for the transportation of these children rests upon the county commissioners of each county.

The financial burden is to be borne by the general fund of the county, and specifically not from funds raised or levied for educational purposes. This is a matter which is completely apart from your jurisdiction and entirely within the province of the county commissioners.

By: W. R. Kegel

Assistant Attorney General