

## **Opinion No. 90-12**

May 7, 1990

**OPINION OF:** HAL STRATTON, Attorney General

**BY:** Andrea R. Buzzard, Assistant Attorney General

**TO:** Honorable Gloria Howes, State Senator, 509 La Cima, Gallup, New Mexico 87301

### **QUESTIONS**

May a school district, under the appropriation made by 1990 N.M. Laws 1st Spec. Sess., ch. 1, § 8, grant "creative" salary increases, such as: calculate the average salary of all school district employees, apply 5% to that average salary, and then increase each employee's salary by that dollar amount?

### **CONCLUSIONS**

Yes. 1990 N.M. Laws 1st Spec. Sess., ch. 1, § 8 does not prohibit a school district from exercising its discretion in granting salary increases by using the suggested formula.

### **ANALYSIS**

1990 N.M. Laws 1st Spec. Sess., ch. § 1, § 8 provides:

There is appropriated from the general fund to the state department of public education thirty-five million dollars (\$35,000,000) for expenditure in the seventy-ninth fiscal year to be distributed by the state department of public education to fund salary increases and associated employee benefits for public school employees as follows: thirty-four million two hundred eighty-one thousand three hundred dollars (\$34,281,300) to be added to the state equalization guarantee distribution and distributed by an appropriate increase in the program unit value to provide an average five percent salary increase and associated employee benefits for certified and noncertified personnel and seven hundred eighteen thousand seven hundred dollars (\$718,700) to be added to the state transportation distribution to provide an average five percent salary increase and associated employee benefits for transportation personnel in the public school system.

Chapter 1 does not mandate that school districts increase each employee's salary by a certain percentage amount. The legislature has appropriated \$34,281,300, to flow to the districts, through the state equalization guarantee distribution, to provide funding, on a state-wide basis, for an average 5% increase to certified and non-certified personnel. The legislature also has appropriated \$718,700 to the transportation distribution to provide funding, on a state-wide basis, for an average 5% increase to school transportation personnel. Under 1990 N.M. Laws 1st Spec. Sess., ch. 1, § 8, a school district may, if it so chooses, grant salary increases by using the suggested formula.

**ATTORNEY GENERAL**

HAL STRATTON Attorney General