

## Opinion No. 31-250

August 27, 1931

**BY:** E. K. Neumann, Attorney General

**TO:** Mrs. Georgia L. Lusk, Supt. of Public Instruction, Santa Fe, New Mexico.

{\*100} In your letter of August 26th, you ask if the Department of Education may purchase with the Rural Aid Fund library books that are not included in the list of suggested supplementary readers approved by the State Board of Education when the state adoption of textbooks was approved.

The answer to such question, as stated, must be NO, but it may be modified as hereinafter outlined. The Rural Aid Fund is under the control of the State Board of Education exclusively and the powers to administer such fund are found in Section 1 of Chapter 119 of the Session Laws of 1931, under subparagraph 2 which is as follows:

"If and when the legislature shall create a state school building, text book and rural aid fund, or make any funds available for such purposes;

A. To purchase and loan textbooks to all pupils in public day and evening schools of all elementary, junior high and high school grades.

B. To adopt a multiple list of books to be used for such loaning purposes."

The balance of the section refers to other matters. Then again in Section 2 of the same Chapter we find in part as follows:

"The State Board of Education, in addition to the powers already given it by law, shall have full control of the administration of the state school building, textbook and rural aid fund, when such fund shall be created by law, or of any other fund created for similar purposes."

The balance of the section refers to this and other matters not pertinent to the question at hand.

The legislature, by Chapter 138 of the 1931 Session Laws, created a state school building, text-book and rural aid fund and Section 1 is as follows:

"There is hereby created a state school building, text book and rural aid fund, which shall be expended under the supervision of the State Board of Education under the powers of said Board as now or hereafter provided by law."

It seems to us that the rural aid fund, for the purposes mentioned, is entirely under the control of the State Board of Education, and the State Board of Education may, as

hereinbefore pointed out, select a multiple list of books to be used for such loaning purposes in connection with the text book department of the fund created. We doubt that it is necessary that the books selected for this purpose be the supplementary readers or the books approved by the State Board of Education when the state adoption of text books was approved, but that the State Board of Education may, at this time, select or adopt, as stated, a multiple list or other books than those already approved. We doubt, however, that the Department of Education may purchase such books, unless specifically authorized to do so by the State Board of Education.