

**Opinion No. 35-973**

April 3, 1935

**BY:** FRANK H. PATTON, Attorney General

**TO:** Mr. H. R. Rodgers, Superintendent of Public Instruction, Santa Fe, New Mexico.

{\*59} In your letter of April 1, 1935, you ask for an interpretation of Chapter 98, Laws of 1935. You refer to that part of the act which provides that:

"In case any district shall send children to another district, it shall budget for in its direct charge fund and pay to the district in which such children actually attend school a sum equal to the direct charge per capita cost of the district so educating such children for each child so attending."

You ask whether or not sinking and interest charges and transportation costs should be included when determining the direct charge per capita cost of the district.

Section 2 of Chapter 98, Laws of 1935, provides that district direct charge funds shall include among other things "transportation of pupils and interest on the sinking funds for district school bonds." Consequently, it is my opinion that your question should be answered in the affirmative.

You also ask the following question:

"Is levying of a direct charge upon the district for transportation mandatory?"

I find nothing in the act which makes it mandatory to levy any charge for transportation. However, if a levy is made it must be considered a direct charge except in so far as it may be supplemented in the manner stated in Section 2 of Chapter 98, Laws of 1935.

{\*60} Trusting that the above answers the questions asked, I am

By QUINCY D. ADAMS,

Asst. Atty. General