

Opinion No. 36-1391

June 23, 1936

BY: FRANK H. PATTON, Attorney General

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

{*125} I have your letter of June 22nd wherein you refer to Chapter 66 of the Session Laws of 1935, which creates a State Public School Equalization Fund, and you desire to know what amount is to be distributed before arriving at the balance to be distributed in accordance with paragraph two of Section 13 of said Act, that is, whether actual budgets or basic budgets shall be used in determining said balance.

It is my belief that Section 13, to which you make reference, must be read in connection with Section 11 of said Act.

Section 11 provides that upon certification of the State Educational Budget Auditor and the State Superintendent of Public Instruction to the State Auditor and the State Treasurer, the State Treasurer shall distribute to the County Treasurer of the respective counties the difference between the basic allowances as defined in the Act and the aggregate sum of:

"An amount equivalent to ninety percent collection of five mills on the assessed valuation of each respective county; * * *"

This section then further provides that the amounts represented by **these** differences shall be paid by the State Treasurer to the County Treasurer of each of the respective counties as credits to the school maintenance funds of the counties upon proper certification. The County Treasurer then is to pro-rate these amounts among the maintenance funds of the school administrative divisions in that county in accordance with the approved budgets.

It is therefore my opinion that the basic budget rather than the {*126} actual budget should be used in determination of this balance.