

**Opinion No. 39-3070**

March 27, 1939

**BY:** FILO M. SEDILLO, Attorney General

**TO:** Mrs. Thelma Lusk, Secretary, Carlsbad Board of Education, Carlsbad, New Mexico.

{\*29} Replying to your letter of recent date requesting an opinion as to the interpretation of Senate Bill No. 63 recently passed by the Legislature and designated as Chapter 62 of the 1939 Session Laws of New Mexico.

Chapter 120, Section 816, of the New Mexico Statutes, Annotated, 1929 Compilation, reads in part as follows:

"On or before August 1st of each year, the clerk of the board of school directors shall make and certify to the county school superintendent a complete census etc."

In the same chapter, Section 905, the clerk of the municipal school board shall perform the enumeration duties as is required in rural districts without extra compensation.

Chapter 62, Laws of 1939, reads in part:

"On or before April 15 of each year the county superintendent of schools shall cause to be made in each of the school districts under his supervision a complete census of all unmarried persons under the age of 21 years and over the age of 5 years, and the superintendent of each municipal and independent school district shall make a like census."

The law further directs the State Superintendent of Public Instruction to provide forms for this census, and directs that it be made by such person or persons as the proper superintendent may designate in each district and the cost of such enumeration shall be paid out of the funds of the district.

It is quite evident that the legislature amended Chapter 120, Section 816 of the New Mexico Statutes, Annotated, 1929, Compilation, and by implication also amended Chapter 120, Section 905 of the 1929 Compilation, and removed the duty of the clerks from taking the census and placed it in the hands of the proper superintendents so that under Chapter 62 of the 1939 law, clerks of a municipal school board will have nothing to do with taking the enumeration as these duties have been placed under the management of the county or municipal superintendent.

By: GEORGE LOUGEE,

Asst. Atty. Gen.