Board of Education, a copy of which you have included, is in compliance with the Federal Law and that it meets the requirements thereof.

OFFICIAL OPINION NO. 44

Mr. Conn J. Sterling,
Commissioner,
Indiana Department of
State Revenue,
141 South Meridian Street,
Indianapolis, Indiana.

Dear Sir:

Your letter of 11 May 1951 requests an opinion on the following question:

Is a vendor's lien reserved in a deed of conveyance taxable as a mortgage, even though no note is taken in connection therewith?

Section 64-901 Burns 1943 Replacement, same being the Acts of 1933, Chapter 81, Section 1, Page 523; 1935, Chapter 294, Section 1, Page 1452, Chapter 134, Section 1, Page 395 in part provides that written instruments evidencing and/or securing a debt not otherwise evidenced, including mortgages, shall be subject to the tax.

The lien reserved in a deed for conveyance is not, legally speaking, a vendor's lien. A vendor's lien on real estate for the unpaid purchase price is created by implication of law, but when a lien for the purchase money is expressly reserved by the vendor in his deed of conveyance, a lien is created by contract. It is a contract that the land shall be subject to a lien until the purchase money is paid, and is really a mortgage.

Qualls v. Union Central Life Insurance Co., 7 So. 2d 558, 559; 242 Ala. 619;

May 23, 1951.
It is clear from these authorities that a lien reserved in a deed of conveyance is to be considered a mortgage, and, therefore, in my opinion comes within the provisions of the Intangible Tax Act and is taxable.

OFFICIAL OPINION NO. 45
May 24, 1951.

Honorable Otto K. Jensen,
State Examiner,
State Board of Accounts,
Room 304, State House,
Indianapolis, Indiana.

Dear Sir:

Your letter of May 15, 1951, requests an opinion on the following questions to-wit:

"1. Are county sheriffs entitled to be compensated for custodial care of insane persons who are ordered confined to jail pending admittance into a state institution?

"2. Are county sheriffs entitled to expenses in addition to mileage when transporting prisoners or patients in a conveyance furnished by the sheriff?

"3. If your answer to both questions is in the negative, are sheriffs entitled to be reimbursed for any legitimate extraordinary expense that may incur if a claim therefor is supported by a receipt for such expenditure?"

You further state in your letter that there is a growing tendency among sheriffs who claim and receive a per diem fee under a subterfuge of administering special care to insane persons who are ordered confined to jail by the Judge of the Court pending admittance to a state hospital. Since fees have been paid upon the certificate of the Clerk pursuant to provision of Burns Section 22-1211 under the theory that the Clerk directs how such person shall be cared for and that the practices reached such proportions that it has caused con-