# Opinion No. 49-5217

May 24, 1949

**BY:** JOE L. MARTINEZ, Attorney General

**TO:** J. D. Hannah Executive Officer State Board of Finance Santa Fe, New Mexico

*{*42}* I have your letter of May 12, 1949, stating that the members of the Board of Regents of Highlands University wish to recondition some of the buildings which were damaged in the recent fire at Camp Luna. These buildings have been used as living quarters by the students at Highlands University and their loss has created a very serious housing problem at the University. These buildings are owned by the State National Guard and are made available to the University for housing veterans and their families. You ask the opinion of this office as to whether or not the State Board of Finance, under the authority of Section 18 of Chapter 179 of the Laws of 1949, may apropriate the sum of $ 50,000.00 from the general fund to take care of this emergency. You state that there is or will be on June 30, 1949, an unexpended balance in the general fund, together with funds which have not been appropriated for other purposes.

Section 18 of Chapter 179 provides as follows:

"The state board of finance shall have the authority to allocate any unencumbered balances or surpluses in the state general fund, not otherwise appropriated, for the specific purpose of highway construction and construction of state public buildings, or to allow any emergency appropriation; provided, that none of the funds shall be allocated for highway construction except in matching federal allotments."

While there might be some merit to a contention that the reconditioning of these buildings does not constitute a construction of state public buildings under the terms of this section, I feel that there is no question but that a fire such as the one at Camp Luna which resulted in leaving many veteran students and their families homeless constitutes an emergency and that the State Board of Finance, if adequate revenues are available, may appropriate any sum which it deems necessary to alleviate such a situation.

Trusting that the above sufficiently answers your inquiry and with kind personal regards, I am