

## Opinion No. 50-5281

February 13, 1950

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

**TO:** Mr. J. C. Hester State Budget Director Santa Fe, New Mexico

{\*130} This is in reply to your letter dated November 4, 1949 in which you request an opinion from this office as to the disposition to be made of approximately \$ 24,305.00 which now remains in the Predator Animal Account with the State Treasurer, since the law that created this commission expired June 30, 1949.

The act which created the Commission for Predator Control and which authorized the expenditure of a total of \$ 79,268.02 expired June 30, 1949. The act was created by the 1945 New Mexico State Legislature as Chapter 134 of the Laws of 1945 for a period of four years. On June 30, 1949, at the end of the life term of the act, there remains unexpended by said Commission \$ 24,305.00.

§ 11 of Chapter 134 of the New Mexico Session Laws of 1945 Session Laws reads as follows:

"This statute, unless further extended by an Act or Acts of the legislature, shall be operative for a period of four years only from the date when it shall go into effect."

Section 315i, Title 43, U.S.C.A. provides that moneys raised under the Taylor Grazing Act are to be expended as the State legislature of such state may prescribe for the benefit of the county or counties in which the grazing districts, or the lands producing such moneys are situated; provided that if any grazing district is in more than one State or county, the distributive share to each from the proceeds of said district shall be proportional to its area in said district, and that if any leased tract is in more than one state or county, the distributive share to each from the proceeds of said leased tract shall be proportional to its area in said leased tract.

You will also note that under this section of the Taylor Grazing Act, it clearly provides that the state legislature of the state may prescribe for the benefit of the county or counties in which the lands producing such moneys are located.

Under Section 550 (d) Expiration of Temporary Act, 59 C.J. on page 942, it is stated:

"Except in some jurisdictions, when a statute professes to repeal absolutely a prior law, and substitutes other provisions on the same subject, which are limited only until a certain time, the prior law does not revive after the repealing statute is spent, unless the intention of the legislature to that effect be expressed."

It is clear, therefore, that unless the State Legislature intended and so expressed its intention in the act, then said act cannot be revived after term of act is *{\*131}* expended. No intention is so expressed in Chapter 134 of the 1945 New Mexico Session Laws. No intention to revive or to transfer any unexpended money left after the term of the act is expended is provided for. I have checked the appropriation laws for the last four years and find no authority wherein this money would be transferred to the counties.

Therefore, it is my opinion that no disposition can be made of the \$ 24,305.00 which remains under Chapter 134, Laws of 1945, until the Legislature meets in 1951 and either revives or reenacts the same act or authorizes how the money shall be disposed of, as only the Legislature has the authority to do this.