

Opinion No. 53-5883

December 31, 1953

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. Alva Simpson, Jr. State Director Department of Public Welfare Santa Fe, New Mexico

{*316} This will acknowledge receipt of your letter of December 8, 1953, in which you inquire as to whether the Department of Public Welfare and other State Agencies may transfer portions of their funds to the Citizens Advisory Committee on Needy Aged Citizens of New Mexico, which Committee was created by Chapter 148, Laws 1953. The pertinent statute, as you point out, is Section 18, Chapter 158, Laws 1953 which provides:

"No funds shall be allocated by any State administrative body to any state department, institution, board, commission or other agency created by statute for which no appropriation has been made by the Twenty-First Legislature."

The Department of Public Welfare and the Labor and Industrial Commission are both state administrative bodies and therefor fall within the prohibition of the above section, and may not transfer funds from their appropriations to this Committee.

In your request it is stated that the Committee anticipates the purchase of professional services for research and recommendations. It would seem, that had the Legislature intended the Committee to operate in this manner, it would have made appropriation therefor.

Under Section 73-103 of the 1941 Compilation, it appears that the Department of Public Welfare is given sufficient authority to have such studies made and pay the cost thereof, if in the opinion of the Board, such studies would be of assistance in carrying out the statutory duties of the Welfare Department. It would appear also that the Labor and Industrial Commission, if it has the necessary funds, could do the same thing insofar as such studies might concern labor problems.

If these studies will also be of service to the Citizens Advisory Committee, the reports can be made available to that Committee, although the cost must be borne directly by your Department, the Labor and Industrial Commission, or other State Department having a legitimate interest in these matters and having necessary funds appropriated which can be used for that purpose.

By: Walter R. Kegel

Assist. Attorney General