

Opinion No. 55-6184

June 9, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: John Block, Jr., Chairman, State Corporation Commission, Santa Fe, New Mexico

You have requested the opinion of this office on two questions, the first one being whether or not the 1955 Legislature intended that any balance remaining in the Pipe Line Administration Fund from departmental earnings over and above the amount appropriated for each fiscal year would revert to the General Fund or remain in the Pipe Line Administration Fund.

In 1953, the Legislature took the Pipe Line Administration Fund out of the State Corporation Commission Administrative Fund and made a specific provision thereof in Section 65-4-3, N.M.S.A., 1953, and it would appear that the intention of the Legislature at that time was to make this a revolving fund. However, the language could have been stronger in that regard and we suggest that this be kept in mind for future legislatures. Be that as it may, irrespective of whether it is a revolving fund or not, the fact still remains that the 1955 Legislature changed this matter and intended that any balance over and above the appropriation from the license fees collected should revert to the General Fund considering the reading of the appropriation together with Section 8 of the Appropriation Act.

It should be clearly understood that this situation only pertains to the biennium for which the 1955 Appropriation Act applies.

The Supreme Court of this State had a similar problem before it in the case of State of New Mexico ex rel. Prater et al v. Board of Finance et al, Opinion No. 5859, wherein they state as follows:

"Relators say that Section 21 of the Barbers' Act is a continuing appropriation to the board of all fees, and that Section 5 of the 1953 Appropriations Act is permanent legislation in that it amends Section 21, and by reason thereof offends the constitution which prohibits general legislation in appropriation bills. This contention must be rejected. Section 5 does not amend the Barbers' Board Act. It merely supersedes, as a temporary expedient, the appropriation contained in the Act for the biennium mentioned."

Your second question, we feel, has been answered by the enclosed Attorney General's Opinion No. 6157 on an analogous problem.

Hoping this satisfactorily answers your problem, we remain

By J. A. Smith

Assistant Attorney General