

Opinion No. 55-6217

July 7, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. J. D. Hannah, State Auditor, State Capitol Building, Santa Fe, New Mexico

In your letter of July 6, 1955, you mention that by Opinion No. 6193 you have been advised that the 1953 General Appropriations Act applies to transfer of balances of various boards, commissions and agencies to the General Fund. You ask our opinion as to the applicability and interpretation to be given to Section 9 of this Act, the pertinent portion of which provides as follows:

"Any balance remaining to the credit of any state board, commission or other agency except the Teachers' Retirement Board and the Public Employees' Retirement Board shall also be covered into the State General Fund at the end of each fiscal year appropriated for in this act **unless otherwise provided by law.**"

The underlined wording of the above statute can only refer, in our opinion, to statutes relating to the various boards which statutes were in existence at the time of the passage of the 1953 General Appropriations Act or which might be contained in other provisions of the 1953 Session Laws.

In Section 5 of the 1953 General Appropriations Act there is a provision requiring the reversion of all such funds. To construe this provision as being that referred to by Section 9 would completely destroy the effect of Section 9, and would violate the general rule of statutory construction that all provisions of an act are to be read together whenever possible. If the two sections are irreconcilable then the later, i.e., Section 9, would prevail. In either event the result above mentioned would follow.

Therefore you must look to the various statutes under which State boards, commissions and agencies are operating to determine whether there is any provision in them to prevent the coverage of their funds into the State General Fund. To the extent that such provisions are provided they will prevail. In the absence of such provisions the funds will be transferred to the State General Fund.

By Walter R. Kegel

Assistant Attorney General