

Opinion No. 55-6327

November 28, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. D. M. Smith, Jr., State Comptroller, Santa Fe, New Mexico

We are in receipt of your letter of November 15 concerning an interpretation of Chapter 284, 1955 Session Laws. Section 2 of that Act reads as follows:

"The funds hereby appropriated to each of the state institutions and agencies listed in section 1 of this act shall be expended solely for non-recurring capital outlay purposes, **including the acquiring, repairing, renovating, improving, constructing, and equipping** of state owned institutional buildings and other permanent improvements, and including architects' fees for such projects, and including the purchase of land, **as may be determined to be necessary in the case of each institution or agency** by its board of regents or other governing authority."

You ask (1) whether or not the purchase of office equipment is within this statute, and (2) whether or not painting is a capital outlay item within this statute.

In answer to question (1), it is our feeling that the traditional definition of capital outlay has been modified by all the language after the first comma following the words "capital outlay purposes". The word "equipping" would appear to be within the meaning of the definition furnished in this statute, and, therefore, any office equipment would be within the meaning of this statute.

In answer to question (2), you state that from an accounting point of view painting is a maintenance problem rather than a capital outlay problem. However, the word "repairing" in the underlined language above appears to modify the words "capital outlay" and be definitive of the legislative intent on this matter. We believe that the repairing, renovation and improvement of a building would include the painting of that building. There would be nothing in the language of this statute which would prohibit the statute from also including the repainting of a previously painted building.

Therefore, it is the opinion of this office that Chapter 284 of the 1955 Session Laws would permit the purchase of equipment for the various agencies and also for the painting and renovating of buildings owned by the State agencies.

We sincerely hope that this answers your inquiry.

By Fred M. Standley

Assistant Attorney General