

Opinion No. 57-305

November 25, 1957

BY: OPINION OF FRED M. STANDLEY, Attorney General Alfred P. Whittaker,
Assistant Attorney General

TO: Paul F. Rutledge, Secretary, Capitol Buildings Improvement Commission, Post
Office Box 2239, Santa Fe, New Mexico

QUESTION

QUESTION

May funds appropriated by the Legislature, to be used for acquisition of land and planning expenses for long-range capitol grounds and building improvement, be used for the purpose of supervision, salvage planning, maintenance and protection of the old penitentiary buildings and site?

CONCLUSION

No.

OPINION

ANALYSIS

Your inquiry rises in connection with the transfer of real property on Cordova Road, in Santa Fe, New Mexico, including the former site of the New Mexico state penitentiary, to the Capitol Buildings Improvement Commission pursuant to Chap. 92, L. 57. We understand that the Commission feels that its responsibility for the property acquired requires that caretaker and supervisory personnel, responsible only to the Commission, should be employed for the supervision, maintenance and protection of the old Penitentiary site. We also understand that the only fund available to the Commission at this time is the sum of \$ 90,000, which was appropriated by Chap. 235, L. 57, "to be used for acquisition of land and planning expenses for long-range Capitol grounds and building improvement." Accordingly, your inquiry is whether such fund may properly be used for the purposes stated in the question above.

As you know, Art. IV, Sec. 30, New Mexico Constitution, provides as follows:

"Appropriations - Requirements. -- Except interest or other payments on the public debt, money shall be paid out of the treasury only upon appropriations made by the legislature. No money shall be paid therefrom except upon warrant drawn by the proper officer. Every law making an appropriation shall distinctly specify the sum appropriated and the object to which it is to be applied."

Pursuant to the express language of this provision, and in accordance with the law which generally governs the expenditure of moneys appropriated by legislative authority, funds which have been appropriated to an agency may be expended only for the purpose or object specified in the appropriation. (See 81 C.J.S., States, § 167.) It is apparent on the face of your inquiry that your proposal contemplates the expenditure of funds, appropriated for a stated purpose, for other purposes which fall within the stated purpose neither by expression nor reasonable implication.

We conclude, therefore, that the funds so appropriated may not be applied to the purposes contemplated in your inquiry. We suggest that your proposal might properly be referred to the State Board of Finance for consideration, pursuant to its constitutional and statutory powers to deal with fiscal emergencies.