

## **Opinion No. 58-19**

January 24, 1958

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

**TO:** Edward M. Hartman, Director, Department of Finance and Administration, P. O.  
Box 1359, Santa Fe, New Mexico

### **QUESTION**

#### QUESTION

May fees collected by the State Auditor during the 46th Fiscal Year, including amounts receivable by reason of audits performed by the staff of the State Comptroller prior to July 1, 1957, be credited against the \$ 140,000.00 minimum requirement set forth in Chapter 235, Laws of 1957, as a condition attached to the appropriation thereby made to the State Auditor?

#### CONCLUSION

Yes.

### **OPINION**

#### ANALYSIS

Chapter 235 of the Laws of 1957, the General Appropriations Act, in § 1 thereof, makes an appropriation to the State Auditor for each of the 46th and 47th Fiscal Years. It also provides that the balance in the "Public Auditing Fund" on June 30, 1957 and all receipts for audits performed by the State Auditor's staff shall be deposited in the General Fund. It further provides that if fees collected for auditing services "performed by the State Auditor's staff" are less than \$ 140,000.00 per year, the appropriation is reduced in the amount of the deficiency.

We understand that on June 30, 1957 more than \$ 40,000.00 was receivable for audit services previously performed by the Comptroller's staff. Your question arises by reason of the language in the Appropriations Act, quoted above, which would appear to key the State Auditor's appropriation solely to the amount collected by the State Auditor for services performed by his staff.

We think that the legislative intent in this respect is clarified by reference to Chapters 248 and 251 of the Laws of 1957, both approved on the same date as the General Appropriations Act. Chapter 248, in § 17 thereof, strongly indicates the legislative intention that audits completed by the office of the State Comptroller prior to July 1,

1957 "shall be considered as audits performed under the provisions of this act." By § 9 of Chapter 251 of Laws of 1957, records of the State comptroller relating to audits are transferred to the State Auditor and the previous office of State Comptroller is abolished.

In view of these provisions, it is our conclusion that the amount collected by the State Auditor with respect to services performed by the staff of the State Comptroller prior to July 1, 1957, should be included in the amount to be credited against the \$ 140,000.00 minimum requirement with respect to the 46th Fiscal Year.