

Opinion No. 60-169

September 21, 1960

BY: OPINION of HILTON A. DICKSON, JR., Attorney General

TO: Mr. Joseph F. Halpin State Records Administrator State Records Center 404 Montezuma Street Santa Fe, New Mexico

QUESTION

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May the State Records Commission expend receipts from the sale of storage boxes and archival documents in the State Records center to restore depleted stocks of supplies?

CONCLUSION

No.

OPINION

{*560} ANALYSIS

The State Records Commission may not expend funds that have not been appropriated by the legislature. See Art. IV, § 30, Constitution of New Mexico.

Chapter 245, Laws 1959, § 18, appropriated to the State Records Commission for the 48th and 49th fiscal years the sum of \$ 20,000 for necessary remodeling, shelving, initial supplies, and equipment. The same section appropriated the sum of \$ 35,000 for salaries and other operating expenses. Section 5 of the same chapter, compiled as N.M.S.A., 1953 Comp., § 71-6-5 (P.S.), granted to the State Records Commission the authority to accept {*561} donations and to expend them in equipping the records center, or to acquire documentary materials. The chapter does not mention whether the commission may expend receipts from the sale of materials in the records center.

We turn to the general appropriations act of 1959, being Chapter 288, Laws 1959. Section 12 thereof provides:

"All revenues not otherwise appropriated in this act are hereby appropriated under existing laws, subject to established budgetary procedure."

Opinion of the Attorney General No. 57-141, June 19, 1957, construed an identical provision of the 1957 general appropriations act, and held that it did not cover revenues coming into the hands of state departments and agencies from unforeseen sources, but was only intended to cover other valid appropriations that had been made but had not

been included in the general appropriations act. We adhere to that ruling, and hold that receipts of the State Records Commission derived from the sale of boxes and archival materials in the State Records center are not funds that have been appropriated to the Commission, and may not be expended by the Commission.

By: Norman S. Thayer

Assistant Attorney General