

Opinion No. 66-08

January 13, 1966

BY: OPINION OF BOSTON E. WITT, Attorney General Oliver E. Payne, Deputy Attorney General

TO: Mr. Stanley J. Brasher, Administrative Aide, Office of the Governor, Santa Fe, New Mexico

QUESTION

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For purposes of Article IV, Section 5, New Mexico Constitution, how are the words "budgets, appropriations and revenue bills" to be construed?

CONCLUSION

See Analysis. The test is the bill's principal purpose.

OPINION

{*10} ANALYSIS

Your question arises because this will be the first regular even-year session of the legislature since the amendment of Article IV, Section 5 of the Constitution. This section, as amended on November 3, 1964, provides in pertinent part as follows:

"B. Every regular session of {*11} the legislature convening during an even-numbered year shall consider only the following:

- (1) **budgets, appropriations and revenue bills ;**
- (2) bills drawn pursuant to special message of the governor;
- (3) bills of the last previous regular session vetoed by the governor." (Emphasis added)

The word "budget" may be defined as a plan or method by means of which expenditures and revenues are so controlled for a definite period by some budgetary authority as to effect a balance between income and expenditures. **Graves v. Purcell**, 337 Mo. 574, 85 S. W. 2d 543.

An "appropriation bill" is one which authorizes the expenditure of public moneys and stipulates the amount, manner, and purpose of the various items of expenditure. **State ex rel. Finnegan v. Dammann**, 220 Wis. 143, 264 N. W. 622. There is, of course, a

pronounced distinction between the "appropriation" or the setting aside of a sum of money for a particular purpose, and the actual "disbursement" of funds to meet the object of such an "appropriation." **State ex rel. Kurz v. Lee**, 121 Fla. 360, 163 So. 859; **Suppiger v. Enkin**, 60 Idaho 292, 91 P. 2d 362.

An "appropriation bill" does not include an act of general legislation; and a bill proposing such general legislation is not converted into an appropriation bill simply because it has had engrafted upon it a section making an appropriation. An appropriation bill is one which has as its primary and specific aim the setting apart of a certain sum of public money for a specified purpose. Simply because a bill carries an appropriation as an incident to the general legislation contained therein does not convert the measure into an appropriation bill. **Dorsey v. Petrott**, 178 Md. 230, 13 A. 2d 630.

The term "revenue bill" is commonly used to designate legislation providing for the assessment and collection of taxes to defray the expenses of government. **Peyton v. Bliss**, Fed. Cas. 407. A revenue bill is one which has for its principal purpose the raising of revenue and such fact appears in the bill. **Anne Arundel County v. English**, 182 Md. 514, 35 A. 2d 135. A bill is not a revenue measure if such is not its principal object, though production of revenue is incidental to its enforcement. **Ard v. People**, 66 Colo. 480, 182 Pac. 892. Bills which have for their purpose some policing regulation and which are enacted pursuant to the state's police power, even if they incidentally levy or impose a tax or license fee are not revenue bills; they are regulatory measures. **Morgan v. Murray**, 134 Mont. 92 328 P. 2d 644.

The test to be applied then is the principal purpose or object of the bill.

Addendum to Opinion No. 66-8

Opinion No. 66-8, dated January 13, 1966, is not applicable to joint resolutions approving or disapproving proposed amendments to the United States Constitution. **Leser v. Garnett**, 258 U.S. 130.