

Opinion No. 23-3680

March 6, 1923

BY: JOHN W. ARMSTRONG, Assistant Attorney General

TO: Requested by: Hon. Numa C. Frenger, Representative, Dona Ana County, New Mexico.

Appropriations for State Institutions May be Made Only Through the Regular Channel.

OPINION

{*24} Replying to your inquiry concerning the constitutionality of Senate Bill No. 88, we shall suggest that the bill is probably unconstitutional.

{*25} The constitution provides that "no law authorizing indebtedness shall be enacted which does not provide for levying a tax sufficient to pay the interest, and for the payment at maturity of the principal." The interest has been provided for and may not be diverted, in the manner provided, for use in payment of the running expenses of the several institutions mentioned.

Appropriations for these institutions may be made only through the regular channel. The constitution provides "except interest or other payments on the public debt, money shall be paid out of the Treasury only upon appropriations made by the Legislature."

As we understand the bill, the interest provided to meet the requirements of law is to be transferred to the Income Fund and used by such institutions in lieu of appropriations which otherwise it would be necessary for the Legislature to make. It would seem that what may not be done directly likewise may not be done indirectly.

The constitution further provides "every law making an appropriation shall distinctly specify the sum appropriated and the object to which it is to be applied." We think the law contemplates a full and fair presentation of the amounts and objects for which appropriations are made and that the several interest funds may not be used for the purposes mentioned through the procedure outlined by Senate Bill No. 88.

The sections of the constitution hereinabove referred to are 20 and 30 of article 4.