

Opinion No. 33-577

April 15, 1933

BY: E. K. NEUMANN, Attorney General

TO: Hon. Arsenio Velarde, State Auditor, Santa Fe, New Mexico.

{*36} In your letter of April 5, 1933 you ask the question whether or not "an appropriation set forth in the General Appropriation Act limiting the expenditures of any department, takes precedence over any act specifying that a department shall operate on a certain percentage of fees collected."

I will confine this opinion to the discussion of one specific instance which involves facts such as you have referred to. In 1927 the Legislature created the "Pipe Line Contingency Fund" and provided that certain license fees collected by the State Corporation Commission should be {*37} paid into such fund. (Chapter 125, Laws of 1927).

We will assume that the legislature intended to and did make a continuing appropriation of such fund for the use of the Corporation Commission in administering said act. In the 1931 and 1933 General Appropriation Acts an appropriation is made for the same purpose but for a smaller amount.

It is my opinion that the General Appropriation acts are controlling in this case for the period during which they purpose to make appropriations. See 59 C.J. 260, McCracken v. State, 167 P. 1001, 41 Nev. 49.

Trusting that this fully answers the questions presented, I am

By: QUINCY D. ADAMS,

Asst. Attorney General