

Opinion No. 39-3086

April 4, 1939

BY: FILO M. SEDILLO, Attorney General

TO: Mrs. Jennie M. Kerby, Director, Department of Public Welfare, Albuquerque, New Mexico.

{*32} By written memorandum dated April 4, 1939, you ask for an interpretation of Section 1806 of Chapter 236, New Mexico Session Laws of 1939, which provides as follows:

"All amounts remaining in the 'Liquor Control Receipt Fund,' on the last day of each month, shall by the State Treasurer, be transferred to Social Security Fund; and the sum of Six Hundred Thousand Dollars per annum or so much thereof as may be required in the opinion of the Department of Public Welfare shall be used for the purpose of making payments for 'Old Age Assistance,' and any sum in excess of Six Hundred Thousand Dollars received from said source shall be expended for 'Aid to Dependent Children,' and 'Aid to Needy Blind,' in such proportions as shall be designated by Board of Public Welfare."

Your first inquiry is whether or not it is mandatory upon the Department of Public Welfare to use the first Six Hundred Thousand Dollars (\$ 600,000.00) transferred to the Social Security Fund under this Act for the purpose of making payments for "Old Age Assistance."

The Department of Public Welfare may use as much as Six Hundred Thousand Dollars (\$ 600,000.00) but the statute is not mandatory that the Department do so, but rather the statute contemplates that the Department may use so much of the Six Hundred Thousand Dollars (\$ 600,000.00) as may be required in the opinion of the Department.

You further inquire what disposition may be made by the Department of that portion of the Six Hundred Thousand Dollars (\$ 600,000.00) not used for the purpose of making payments for "Old Age Assistance," and to this inquiry it is my opinion that that portion of the Six Hundred Thousand Dollars (\$ 600,000.00) not used by the Department for the payment for "Old Age Assistance" will remain in the Social Security Fund to be distributed by the Department as the other funds in the Social Security Fund are distributed.

Trusting the foregoing sufficiently answers your inquiry, I am,

By: FRED J. FEDERICI,

Asst. Atty. Gen.