

Opinion No. 39-3135

May 16, 1939

BY: FILO M. SEDILLO, Attorney General

TO: Mr. Rex French, State Treasurer, Santa Fe, New Mexico.

{*49} Your letter of recent date requesting an opinion as to whether Chapter 125 of the Laws of 1939 is in agreement with the Federal Act, that is, the Taylor Act, and, if the money which has been turned over to the State Treasurer can be distributed when Chapter 125 of the Laws of 1939 becomes effective, has been duly received.

Your question refers to the Act of Congress of June 28, 1934 (48 Stat. 1269) Public No. 482, 73rd Congress, known as the Taylor Grazing Act and involves Section 10 of this Act, which reads as follows:

"That, except as provided in Sections 9 and 11 hereof, all moneys received under the authority of this Act shall be deposited in the Treasury of the United States as miscellaneous receipts, but 25 per centum of all moneys received from each grazing district during any fiscal year is hereby made available, when appropriated by the Congress, for expenditure by the Secretary of the Interior for the construction, purchase, or maintenance of range improvements, and 50 per centum of the money received from each grazing district during any fiscal year shall be paid at the end thereof by the Secretary of the Treasury to the State in which said grazing district is situated, to be expended as the State Legislature may prescribe for the benefit of the county or counties in which the grazing district is situated; Provided, that if any grazing district is in more than one State or county, the distributive share to each from the proceeds of said district shall be proportional to its area therein."

The material part of this section reads as follows:

"to be expended as the state Legislature may prescribe for the benefit of the county or counties in which the grazing district is situated."

To comply with this Federal Act, the Legislature of the State of New Mexico passed Chapter 125, Laws of 1939, in Section I of which is set out how the funds received by the State of New Mexico as its distributive share of the amount collected by the United States Government under the provisions of the Taylor Grazing Act shall be distributed by the State Treasurer to the counties which are situated in the grazing districts.

Section 2 of this chapter reads in part as follows:

"Section 2. All money so received by any county shall be placed in a special fund known and designated "The Farm and Range Improvement Fund," and shall be expended by the county as herein prescribed for the benefit of the county in the conservation of soil

and water, the control of rodents and predatory animals and the extermination of poisonous and noxious weeds and for the construction and maintenance of secondary roads."

The question to be determined from the reading of the parts of the acts above quoted is has the Legislature of New Mexico in its Act complied with the intent of Congress in the distribution of the funds received from the Federal Government.

It is my opinion that it has; that the conservation of soil and water, that the control of rodents and predatory animals, and the extermination of poisonous and noxious weeds, and the construction and {*50} maintenance of secondary roads within the county are a direct benefit to the county situated within the exterior boundaries of any particular grazing district, and therefore, you would be justified in making distribution of the funds as authorized by the Legislature in Chapter 125, Laws of 1939.

By: GEORGE LOUGEE,

Asst. Atty. Gen.