

Opinion No. 39-3362

December 27, 1939

BY: FILO M. SEDILLO, Attorney General

TO: Mr. Tom W. Neal, Director, Legislative Reference Bureau, Santa Fe, New Mexico.

{*127} In your letter of December 19th you request an opinion from this office regarding our construction of Section 1, Chapter 23 of the Session Laws of 1935 with regards to powers which may subsequently be vested in the State Comptroller. Section 1 of said chapter reads as follows:

"Section 1. **The State Comptroller is hereby made and constituted the executive officer of the State Board of Finance and shall be subject in all things to the direction and control of said Board.** All the powers of said State Comptroller, except those heretofore or hereafter transferred to some other bureau, office, or department, are hereby vested in the State Board of Finance and shall be performed by the said State Comptroller in the name and under the direction and control of said Board. All assistants and other employees of the State Comptroller, including the State Educational Budget Auditor, shall remain unaffected by this act, except that their duties shall be performed subject to the general control and supervision of the State Board of Finance."

Being that the State Comptroller shall be subject in all things to the direction and control of said board, I am of the opinion that powers subsequently vested in the State Comptroller are to be exercised by him for and on behalf of the State Board of Finance.

I also feel that in revising the statutes it would seem necessary wherever powers were granted to the State Comptroller by any act of the legislature passed prior to 1935, to substitute the "State Board of Finance" for "State Comptroller" to conform to the clear intent of Section 1, Chapter 23 of the Session Laws of 1935. I also feel that the same revision should be made to later acts which conferred on the State Comptroller certain additional powers, which he can exercise only at the direction and control of the State Board of Finance.