

Opinion No. 39-3365

December 27, 1939

BY: FILO M. SEDILLO, Attorney General

TO: Mr. J. R. Modrall, Attorney, Unemployment Compensation Commission
Albuquerque, New Mexico.

{*128} You inquire whether the funds from the Unemployment Compensation Commission are covered as to collateral security by the same law that applies to general state funds.

All funds mentioned in Sections 5, 6 and 7 of Chapter 175, Laws of 1939, being Sections 9, 12 and 13 of the Laws of 1936 as amended, while in the custody of the State Treasurer as ex-officio Treasurer of the Commission, are covered by the Public Monies Act, Chapter 175 of the Laws of 1933 (Sections 112-104, et seq., 1938 supplement), and all those funds are secured by the collateral mentioned in that Act in accordance therewith.

Section 5 of said Chapter 175, Laws of 1933, provides "that no public monies in the custody of the state treasurer * * * shall be deposited in any bank * * * until such bank is qualified to receive deposits of public monies by depositing collateral securities or by giving bond as provided by this act." Section 11 of the Act makes it clear that its provisions are applicable to all monies whether belonging to the State of New Mexico, or to any board or institution. It is clear from a reading of the entire Act that the Legislature intended to cover all public monies from whatever source received and for whatever purpose used.

The funds in the hands of the State Treasurer as Ex-officio Treasurer of the Unemployment Compensation Commission are public monies lawfully in his custody. I do not take much stock in the expression found in Section 9, Laws of 1936, as amended, to the effect that the Unemployment Compensation Commission is a "special fund separate and apart from all public monies or funds of this state." Their character as public monies is not lost to those funds by calling them something else. If the words quoted mean anything over and above what was already provided by other language in the Act, they mean that the fund shall be separate and apart "from {*129} all **other** public monies or funds of this state."

By A. M. FERNANDEZ,

Asst. Atty. Gen.