

## Opinion No. 51-5444

October 10, 1951

**BY:** JOE L. MARTINEZ, Attorney General

**TO:** Hon. Beatrice B. Roach Secretary of State Santa Fe, New Mexico

{\*151} This is in reply to your letter of October 9, 1951, in which you request an opinion and approval for the transfer of \$ 1,000 from the \$ 10,000 appropriation for the purpose of printing election statistics, with which \$ 1,000 transfer you wish to buy office furniture and equipment for your office.

I find that on page 493 of Chapter 227 of the 1951 Session Laws, the appropriation bill provided for the Secretary of State, under item 8, the sum of \$ 10,000 for the fortieth fiscal year for printing election statistics. You now state that a substantial surplus remains upon completion of the said publication and that the Finance Board, on October 8, 1951, approved the proposed transfer depending upon the formal approval of the Attorney General.

Under Section 21 of Chapter 227, at page 523 of the 1951 New Mexico session laws it is provided:

"The State Board of Finance may reduce all appropriations made herein by not to exceed twenty-five per cent (25%), excepting interest payments on debt, appropriations made to pay premiums on insurance and official bonds, and salaries for State elected officials originally fixed by the Constitution; and provided that the State Board of Finance may readjust all salaries and items provided in this Act."

It is my interpretation of the above quoted section that the Legislature intended, by this proviso, that the Finance Board have the powers within the limits of the appropriation to adjust all departmental budgets as it has in the case of those departments and agencies as set forth in Section three of the 1951 Appropriation Act. The pertinent language of that section of the Appropriation Act is found on page 510, Sec. 3 of Chapter 227, 1951 Session Laws, which reads as follows:

"For each of the Fortieth and Forty-first fiscal years, except as otherwise indicated, appropriations are made for departments shown in this section; such appropriations to be paid for each department from revenues provided by law for each, respectively.

"Provided, that no department shall expend more than the amount of appropriations for {\*152} all items enumerated under each, nor shall any department expend or incur indebtedness in excess of the revenue provided for it; and provided, that the appropriations within the total for each department may be readjusted through a budget submitted to and approved by the State Board of Finance; and said Board of Finance is authorized to adjust the appropriations for any department when necessary for the

effective administration of the department. Provided, further, that the State Board of Finance may increase any of the budgets when necessary and if the department concerned has available revenues to cover the increase."

It is, therefore, my opinion that the Finance Board has supreme power to make this \$ 1,000 transfer and since the Finance Board has approved the same, I find that they can legally do so under the Appropriations Act, and I approve the same.

I trust that this fully answers your inquiry.