

## Opinion No. 53-5771

June 29, 1953

**BY:** RICHARD H. ROBINSON, Attorney General

**TO:** Mr. Fred W. Moxey, Secretary Capitol Buildings Improvement Commission Santa Fe, New Mexico

{\*171} On June 26th you requested an opinion concerning the legality of transferring certain funds from the State Building and Institution Bond Fund to the Capitol Custodian Commission for the purpose of landscaping and completing the capitol building grounds.

The use of the bonds known as State Building and Institution Bonds is set out in § 6-245 N.M.S.A., 1941 Compilation, pocket supplement, and reads as follows:

"The proceeds from the sale of said bonds shall be expended solely for acquiring, erecting, improving, constructing, remodeling and equipping buildings of the state, state agencies, state departments and state institutions, but not including political subdivisions of the state, as shall be determined by the state board of finance; provided that none of said proceeds shall be expended or allocated until after any report of any survey board or commission created by the legislature or appointed by the governor for the purpose of making a survey of educational and other state institutions, shall have been made and considered. The proceeds from the sale of said bonds shall remain in the hands of the state treasurer until allotted for purposes specified in this act (§§ 6243-6253), in amounts approved by the state board of finance."

The Capitol Buildings Improvement Commission has as its purpose the completion of the capitol buildings, the governor's mansion and the grounds thereof. The capitol Custodian Commission, as defined in § 6-207 N.M.S.A., 1941 Compilation, has control of grounds, as defined in the following section:

"Said capitol custodian, under the direction and supervision of the governor and secretary of state, shall have the custody and control of the state capitol grounds and buildings and premises which heretofore has been under the control of the capitol custodian committee. It shall be the duty of the capitol custodian to suitably provide for the preservation, repair, care, cleaning, heating and lighting of such buildings and the improvements, care and beautifying of said grounds and premises and for this purpose is given full power and authority to employ the necessary number of employees and to fix the terms of their employment, and the amount of their compensation, and to provide and enforce the rules and regulations for the conduct of such employees, and to make all rules and regulations for the conduct of all persons in and about the building and grounds necessary and proper for the safety, care and preservation of the same, and such custodian is further authorized to contract and provide {\*172} for the necessary

fuel, light, water and other things necessary and requisite for said buildings and grounds connected therewith."

From the reading of this section it is obvious that the Capitol Custodian Commission has full control of the maintenance of capitol building grounds. Therefore it would be a lawful purpose if the Board of Finance would transfer the State Building and State Institution Bond Fund moneys to the Capitol Custodian Commission for the completion of the capitol building grounds.

We sincerely hope that this answers your inquiry.

By: Fred M. Standley

Assist. Attorney General