

Opinion No. 58-113

June 2, 1958

BY: OPINION OF FRED M. STANDLEY, Attorney General Robert F. Pyatt, Assistant Attorney General

TO: Mrs. U. D. Sawyer, Chairman, Old Lincoln County Memorial Commission, Lincoln, New Mexico

QUESTION

QUESTION

The Commission has recently deposited funds accrued through receipts from sales and admission fees in an account with the State Treasurer. Will these funds revert to the general fund at the close of the present fiscal year?

CONCLUSION

Yes.

OPINION

ANALYSIS

It could well be argued the receipts in question constitute "institutional receipts" as used in Laws 1957, Ch. 235, Sec. 2, p. 549, which are appropriated along with appropriations from the general fund.

Be that as it may, Laws 1957, Ch. 235, Sec. 6 A, found at p. 571 provides:

"There is also hereby appropriated to the state general fund any balance remaining or accruing to the interest and sinking funds of public defense certificates, provided all such certificates have been retired. **Any balance remaining to the credit of any state board, commission or other agency shall also be covered into the state general fund at the end of each fiscal year appropriated for in this act unless otherwise provided by law.** Provided that this paragraph shall not apply to any state department participating with the federal government in any agreement whereby the federal government provides matching funds, and the grant of such funds to the department would be impaired by the requirements of this paragraph." (Emphasis added).

We do not find any provisions of law providing to the contrary, either in Chapter 4 Article 12, N.M.S.A., 1953 Comp., or elsewhere. Nor are we aware of any federal participation which might cause the second proviso to become operative in this respect.

It follows any unspent balance of the funds in question will revert at the close of the present fiscal year.