

STATE OF NEW MEXICO  
OFFICE OF THE ATTORNEY GENERAL



HECTOR H. BALDERAS  
ATTORNEY GENERAL

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April 24, 2020

The Honorable Eliseo Lee Alcon  
New Mexico District - 6  
Box 2134  
Milan, New Mexico 87021  
[eliseo.alcon@nmlegis.gov](mailto:eliseo.alcon@nmlegis.gov)

Re: Opinion Request—Legislative intent

Dear Representative Alcon:

You have requested our advice regarding whether a legislator’s intent supersedes an error of interpretation by the bill drafter. Specifically, your letter discusses a capital outlay funding request for “[p]lanning for enhancements to soccer fields and Kerns park-baseball field which will include park amenities such as playground, storage, trails, ADA parking and access, bathrooms, concession, and maintenance equipment.” The project language for Senate Finance Committee Substitute for Senate Bill 280 (Capital Outlay Expenditures) that was signed into law by the Governor on April 5, 2019 states, “to plan, design, construct, equip and make improvements to Kearns field to comply with the federal American with Disabilities Act of 1990 in Milan in Cibola County.”

Based on our examination of the relevant New Mexico constitutional, statutory and case law authorities, and on the information available to us at this time, we conclude that once legislation is enacted, the plain meaning of the language contained in the legislation is controlling regardless of a legislator’s intent. Further, once funds are appropriated by the legislature, those funds cannot be expended for any purpose that the Legislature did not contemplate in the statute. *See State ex rel. Schwartz v. Johnson*, 1995-NMSC-080, ¶ 3, 120 N.M. 820, 907 P.2d 1001. (“Absent a proper delegation of authority from the state legislature, the executive branch is precluded from exercising any control over the expenditure of appropriated money in a manner that would affect the legislature’s choice of purpose.”) The statute in question contains no delegation of authority; rather, the statutory language is a straightforward appropriation for a statutorily established purpose.

There are three rules of statutory construction that apply to this matter. First, a statute should be read according to its plain, written meaning. *See Wilson v Denver*, 125 N.M. 308, 314, 961 P.2d 153 (1998). Second, a statute should be read in a common sense manner. *See State v. Portillo*, 110 N.M. 135, 137, 793 P.2d 265 (1990). Third, a statute should be read together with other statutes relating to the same subject matter to ascertain the legislative intent. *Roth v. Thompson*,

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113 N.M. 331, 334, 825 P.2d 1241 (1992). “When a statute contains language which is clear and unambiguous, we must give effect to that language and refrain from further statutory interpretation.”); *Perea v. Baca*, 94 N.M. 624, 627, 614 P.2d 541, 544 (1980) (“If there is any doubt as to the meaning of the words, we are permitted to interpret by looking to legislative intent, but otherwise, we should not.”); *State v. Elliott*, 89 N.M. 756, 757, 557 P.2d 1105, 1106 (1977) (“Statutes are to be given effect as written and, where free from ambiguity, there is no room for construction.”).

The plain, written meaning of Senate Finance Committee Substitute for Senate Bill 280 unequivocally states that the funds appropriated will be used, “to plan, design, construct, equip and make improvements to Kearns field to comply with the federal American with Disabilities Act of 1990 in Milan in Cibola County.” The appropriation, therefore, cannot be utilized for any other purpose.

You have requested a formal opinion on the matters discussed above. Please note that such an opinion is a public document available to the general public. Although we are providing you with our legal advice in the form of a letter instead of an Attorney General's Opinion, we believe this letter is also a public document, not subject to the attorney-client privilege. Therefore, we may provide copies of this letter to the general public. If we may be of further assistance, or if you have any questions regarding this opinion, please let us know.

Sincerely,



Sally Malavé  
Assistant Attorney General