

## Opinion No. 48-5140

March 22, 1948

**BY:** C. C. McCULLOH, Attorney General

**TO:** Mr. E. D. Trujillo, Secretary State Board of Finance Santa Fe, New Mexico

{\*140} We wish to acknowledge receipt of your inquiry of March 17, 1948 pertaining to whether or not Section 7-307 of the New Mexico Statutes, 1941 Compilation (Chapter 134, Laws of 1929), which apparently made a continuing appropriation for the New Mexico School of Mines, is still in force in view of Chapter 12 of the New Mexico Laws of 1943.

Chapter 134 of the New Mexico Laws of 1929 reads as follows:

"Section 1. For the 18th and 19th fiscal years of the State of New Mexico, there is hereby appropriated for the New Mexico School of Mines from the Mineral Leasing Land Act Fund, created by Section 35, of Senate Bill No. 2775 (Public No. 146 -- 66th Congress) the sum of Fifteen Thousand Dollars (\$ 15,000.00), for each of said fiscal years. Any unappropriated balance in the Mineral Leasing Lands Act Fund shall be turned into the fund for General State purposes.

"Section 2. The same appropriation as made in Section 1, of this Act for the 18th and 19th fiscal years, is hereby declared {\*141} to apply and be continued to, and in every fiscal year subsequent to the 19th fiscal year, **unless any Legislature, subsequent to the one at which this Act is passed shall provide otherwise.**" (Emphasis Ours.)

Chapter 12 of the New Mexico Laws of 1943 provides in part as follows:

"Section 1. That all moneys annually received by the State under the provisions of the Act of Congress approved February 25, 1920 (41 Stat. 437) entitled 'An Act to Promote the Mining of Coal, Phosphate, Oil, Oil Shale, Gas and Sodium on the Public Domain', as amended, be, and the same are hereby appropriated for the use and benefit of the Public Schools of the State of New Mexico for instructional service, except the annual appropriation out of said fund for free textbooks, as provided by Section 3, Chapter 76 of the New Mexico Session Laws of 1941 (55-1705 New Mexico Statutes 1941 Annotated), and Twenty Five Thousand Dollars (\$ 25,000.00) which is hereby appropriated annually to the Department of the Bureau of Mines of the New Mexico School of Mines, and the State Treasurer is hereby authorized and directed to place all such funds annually, as received, to the credit of the 'State Public School Equalization Fund'"

It is interesting to note that the language used in Chapter 12 of the New Mexico Laws of 1943 is very much different from that used in Chapter 138, New Mexico Laws of 1931 (Section 55-631, 1941 New Mexico Compilation) which reads as follows:

"Annual appropriation of Mineral Leasing Land Act Fund balance to state school building, text book, and rural aid fund. -- There is hereby appropriated for the purposes of this fund, annually, all of the balance, not otherwise appropriated, in the Mineral Leasing Land Act Fund created by section 35 of the act of Congress approved February 25, 1920, being Public Act No. 146, 66th Congress (30 U.S.C. sec. 191). The appropriation provided in this act shall not be interpreted to preclude nor have preference to the annual appropriation for the New Mexico School of Mines provided by chapter 134 of the Session Laws of 1929, (secs. 7-307, 7-308), but shall be subsequent thereto."

It is our opinion that Chapter 12 of the New Mexico Laws of 1943 supersedes Chapter 134, Laws of 1929 and that the continuing appropriation made under the last named act to the New Mexico School of Mines of \$ 15,000.00 each fiscal year is no longer in effect as the Legislature in 1943, by Chapter 12, appropriated **all moneys** annually received by the State from The Mineral Leasing Land Act, without exempting in any manner the appropriation heretofore made by Chapter 134, New Mexico Laws of 1929.

Trusting that the aforementioned satisfies your inquiry, I remain

By ROBERT V. WOLLARD,

Asst. Atty. General