

Opinion No. 51-5331

January 25, 1951

BY: JOE L. MARTINEZ, Attorney General

TO: Honorable Calvin Horn Speaker of the House Santa Fe, New Mexico

{*5} I have your oral request for an opinion clarifying the question of whether the Legislature need take any action to implement Constitutional Amendment No. 7, which is an amendment to Article 12, Section 13 of the State Constitution.

{*6} Article 12, Section 13, in its original form, states as follows:

"The legislature shall provide for the control and management of each of said institutions by a board of regents, for each institution, consisting of five members to be appointed by the Governor, by and with the consent of the Senate, for a term of four years, and not more than three of whom shall belong to the same political party at the time of their appointment. The duties of said board shall be prescribed by law."

On the basis of the above constitutional provision in its original form, the Legislature, under Article 55-2101, et al., implemented said Article 12, Section 13, by providing for the control and the management of each of said institutions by a board of regents and under the terms provided by said constitutional provision.

Article 12, Section 13 of the Constitution of the State of New Mexico, as amended in 1949, provides as follows:

"The Legislature shall provide for the control and management of each of said institutions by a board of regents for each institution, consisting of five members who shall be qualified electors of the State of New Mexico, no more than three of whom at the time of their appointment shall be members of the said political party. The Governor shall nominate and by and with consent of the Senate shall appoint the members of each board of regents for each of said institutions. The terms of said members shall be for six years, provided that of the five first appointed, the terms of two shall be for two years, the terms of two shall be for four years, and the term of one shall be for six years."

In view of the above, the Legislature need not take any action to implement the provisions for the control and management of each institution by a board of regents, for that part of the constitutional amendment is not in conflict with the original constitutional provision and the Legislature has already provided for such control and management.

As to the question of whether any legislative action is needed to implement the remaining portion of Section 13, which has been changed in certain respects as to the term of office of a member of the board of regents, it is my conclusion that the

amendment to the constitution changing the term of office is superior to the statutes already in effect, and said statutes have been amended by the act of the constitutional amendment and no further legislative action is necessary.

It is also my conclusion that the Governor has the power to nominate and, by and with the consent of the Senate, shall appoint the members of each board of regents by virtue of Article 12, Section 13 of the State Constitution, and no statutory provision is needed to grant the Governor that power.

It is my opinion that those sections in the statute in conflict with the constitutional amendment are automatically amended to conform with the amendment to Article 12, Section 13 of the State Constitution.

Hoping that this satisfactorily answers your query, I am,