

## **Opinion No. 58-49**

March 10, 1958

**BY:** OPINION OF FRED M. STANDLEY, Attorney General Alfred P. Whittaker, Chief, Assistant Attorney General

**TO:** Arthur L. Hamilton, Chief, Fiscal Control Division Department of Finance and Administration, P.O. Box 1359, Santa Fe, New Mexico

### **QUESTION**

#### QUESTION

Does the appropriation to the New Mexico Institute of Mining and Technology of funds of the Mineral Leasing Act, provided in § 2, Chapter 235, Laws of 1957, supersede the appropriation of Mineral Leasing Act funds to the Bureau of Mines of the New Mexico School of Mines, found in § 73-7-45?

#### CONCLUSION

Yes.

### **OPINION**

#### ANALYSIS

Section 73-7-45, N.M.S.A., 1953, being § 1 of Chapter 12, Laws of 1943, undertakes to appropriate all funds received by the State under the provisions of the Mineral Leasing Land Act, 41 Stat. 437, as amended, for the use of the public schools of the state for instructional service, excepting (1) an appropriation for free text books as provided by law, and (2) \$ 25,000 "which is hereby appropriated annually to the department of the Bureau of Mines of the New Mexico School of Mines, . . ."

Chapter 235, Laws of 1957, the General Appropriation Act, in § 2, provides appropriations for the various educational institutions of the State for the 46th and 47th fiscal years. Such appropriations include specified appropriations from the state general fund and also "the institutional receipts, grants and unencumbered incomes from lands and permanent funds." The appropriation for the School of Mines (see § 73-27-2) appears as follows:

New Mexico Institute of Mining and Technology . . .

"Forty-Sixth Forty-Seventh  
Fiscal Year Fiscal Year  
\$ 377,573 \$ 385,287

Bureau of mines and mineral resources . . .

"Forty-Sixth Forty-Seventh  
Fiscal Year Fiscal Year  
\$ 249,503 \$ 254,628

Provided that seventy-five thousand dollars (\$ 75,000) for each fiscal year shall be appropriated from funds of the Mineral Leasing Act and that receipts and sale of bulletins and other publications are hereby appropriated annually."

In our opinion, the proviso undertakes to provide the source of \$ 75,000 of the amounts just previously appropriated to the School of Mines for each fiscal year to the Bureau of Mines and Mineral Resources. This appropriation, found in the General Appropriation Act of 1957, must be held to supersede the continuing appropriation found in § 73-7-45, with which it conflicts. Accordingly, there is now under the law a single appropriation of \$ 75,000 in the aggregate to the Bureau of Mines of the School of Mines from funds under the Mineral Leasing Act.

Similar questions have previously been dealt with by this office. Opinions to the same effect, that a later General Appropriation provision supersedes an earlier and inconsistent continuing appropriation provision, are found, for example, in Opinion No. 5729, issued April 15, 1953, and Opinion No. 4917, issued July 1, 1946.