

## Opinion No. 60-26

February 16, 1960

**BY:** OPINION of HILTON A. DICKSON, JR., Attorney General

**TO:** Warren T. Brown, M.D. Chairman, Governor's Special Committee on Mental Health  
P. O. Box 711 Santa Fe, New Mexico

### QUESTION

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You requested our interpretation of Section 3 (A) and Section 3 (B) of Article XIV of the New Mexico Constitution as amended.

#### CONCLUSION

See Analysis:

### OPINION

#### {\*372} ANALYSIS

Section 3 (A) of Article XIV, New Mexico Constitution reads as follows:

"Each of said institutions shall be under such control and management as may be provided by law."

Section 3 (B) of said Article of the Constitution reads as follows:

"Each of said institutions shall be under the control and management of a board whose title, duties and powers shall be as may be provided by law. Each of said boards shall be composed of five member who shall hold office for the term of four years, and shall be appointed by the governor by and with the consent of the senate, and not more than three of whom shall belong to the same political party at the time of their appointment."

A mere reading of these two sections gives the impression that {\*373} they are in conflict. A closer reading, however, reveals that they are not. Section 3 (A) gives the legislature the power to provide for the control and management of the said institutions. Section 3 (B), however, places certain limitations upon that power bestowed upon the legislature. It seems clear that the two sections, when read together, give the legislature the power to provide for the control and management of the institutions in question subject to the limitations of Section 3 (B). It would seem, therefore, that the legislature may alter the control and management of the institutions except that it cannot change the number of members on the board nor can it change the power of appointment which

is in the governor, nor could it provide that all of the board members may be of the same political party.

When these two sections are read together, the apparent inconsistency disappears and it becomes clear that Section 3 (B) only limits the power of the legislature under Section 3 (A) to provide for the control and management.

The institutions which are controlled by these provisions are the ones set forth in Article XIV, Section 1, which are the New Mexico State Penitentiary, the Miners' Hospital, the State Hospital at Las Vegas and the New Mexico Boys' School.

By: Boston E. Witt

Assistant Attorney General