

Opinion No. 41-3777

April 28, 1941

BY: EDWARD P. CHASE, Attorney General

TO: Mr. C. E. Needham, President New Mexico School of Mines Socorro, New Mexico

{*65} In your letter of April 26 you inquire how far the Legislature may go in introducing general legislation into an appropriation bill, especially when such legislation is contrary to existing statutes. You point out that Section 130-1101, 1929 Compilation, authorizes the trustees of your school to admit non-residents "upon such terms as the regents shall prescribe."

The situation existing by reason of the proviso immediately following the appropriation for the New Mexico School of Mines in Section 2 of Chapter 212 of the Laws of 1941, being the appropriation bill, makes it unnecessary to go into the question of how far the Legislature may amend or supersede general statutes by provisions in the appropriations act, since the general statute cited by you is not amended or superseded. The trustees are still left the right to admit non-resident students upon such terms as the regents shall prescribe. They may still charge such students more or less than \$ 150.00 per year, except that, because of the condition in such proviso and upon which the appropriation for the next two years is made contingent, if less than \$ 150.00 is charged non-residents they forfeit this appropriation.

It is well settled that the Legislature may include in the appropriation legislation germane thereto. In my opinion this proviso is germane to the appropriation made and properly included in the appropriation bill. See *State ex rel Lucero vs. Merron*, 17 N.M. 304. It has been consistently the custom since statehood to include in the appropriation bill provisos with respect to admission to the institutions for which money is appropriated. Indeed in the case above cited such a provision, among others, is pointed out as a germane and proper one to be included in appropriation bills. (17 N.M., at 315, referring to Section 2 of Chapter 83, Appropriation Act in the Sessions Laws of 1912).

By A. M. FERNANDEZ,

Asst. Atty. General