

## Opinion No. 51-5338

March 1, 1951

**BY:** JOE L. MARTINEZ, Attorney General

**TO:** Honorable Edwin L. Mechem Governor State of New Mexico Santa Fe, New Mexico

{\*14} I am in receipt of your request for an opinion as to whether a bill which carries the emergency clause becomes effective immediately upon {\*15} the signature of a governor or upon the depositing of said bill with the Secretary of State.

Article 4 Section 22 of the Constitution of the State of New Mexico states in part as follows:

"Every bill passed by the legislature shall, before it becomes a law, be presented to the governor for approval. If he approves, he shall sign it, and deposit it with the Secretary of State; . . ."

Article 4 Section 23 of the Constitution of the State of New Mexico states as follows:

"Laws shall go into effect 90 days after the adjournment of the legislature enacting them, except general appropriation laws, which shall go into effect immediately upon their passage and approval. Any act necessary for the preservation of the public peace, health and safety, shall take effect immediately upon its passage and approval, provided it be passed by 2/3 votes of each house and such necessity be stated in a separate section."

In view of the two above sections of Article 4 the issue resolves itself as to the meaning of the word approval. A careful examination of the cases in New Mexico reveal that this particular point has not been decided by our courts but in the case of *Seven Hickory vs. Ellery* 103 U.S. 423 the court states on Page 424 as follows:

"The filing of the bill by the governor in the office of the Secretary of State with his signature of approval on it is just as effectual in giving it validity as a law as its formal return to the legislature would be. The bill becomes a law when signed. Everything done after that is with a view to preserving the evidence of its passage and approval."

The terminology used by the Supreme Court of the United States would lead to this inescapable conclusion that the signing of the bill by the governor is the approval referred to in the constitution and the filing of said bill with the office of the Secretary of State with his signature of approval is nothing more than to preserve the evidence of its passage and approval.

In view of the above, it is my opinion that a bill carrying the emergency clause becomes law upon approval of the governor by his signing said bill.