

## Opinion No. 51-5369

June 6, 1951

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

**TO:** Honorable Mack Easley New Mexico Legislative Council State Capitol Santa Fe, New Mexico

{\*49} Replying to your letter concerning the possibility of hiring an out-of-state applicant as Director of the New Mexico Legislative Council, may I answer the several points raised seriatim.

1. The provision in the Act creating the New Mexico Legislative Council and the Legislative Council Service which recites that the director shall be selected on the basis of fitness does not exempt him from the requirements of § 10-105, New Mexico Statutes Annotated, since the Act creating the Council and the Service carries its own appropriation. The power to hire a non-resident for a position requiring professional training and for which qualified prospective employees are not available, given when all or part of his salary is to be paid from funds appropriated by the General Appropriations Act, does not exist in the case of the Council.

2. The Board of Finance is given specific appropriations by the Legislature. It has no authority to deal with its funds other than provided by law. It is permitted to allocate unencumbered balances or surpluses in the State General Fund, otherwise not appropriated for the specific purpose of highway construction and the construction of State public buildings or to allow any emergency appropriation. The Board has no authority otherwise to grant money to any department. Hence the Board could not grant the Legislative Council funds out of its appropriation with which to hire a non-resident. Such an act would be in violation of Art. 4, Section 30 of the Constitution of the State of New Mexico.

3. The act creating the Legislative Joint Committee and the Legislative Council indicates that research work is to be done by the Legislative Council Service. Hence it would not be proper for the Legislative Joint Committee or the Legislative Council to contract with any organization to do its work.

I believe that this answers the three questions which you raised in your communication. Assuring you of my pleasure in being of service, I am