

Opinion No. 57-167

July 12, 1957

BY: OPINION OF FRED M. STANDLEY, Attorney General Fred M. Calkins, Jr.,
Assistant Attorney General

TO: Richard C. Grandi, Business Manager, New Mexico Western College, Silver City,
New Mexico

QUESTIONS

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May the New Mexico Normal School at Silver City finance the construction of a dormitory by the sale of an issue of Dormitory Revenue Bonds secured by a pledge of the income to be derived therefrom under the provisions of § 73-29-1, et seq., N.M.S.A., 1953, and a separate issue of Building and Improvement Bonds secured by a pledge of a fixed amount of the School's income from trust lands under the provision of Chapter 121, Laws 1949?

CONCLUSION

Yes.

OPINION

ANALYSIS

As indicated by the question above, the New Mexico Western College wishes to in part finance the construction of a dormitory by the sale of an issue of Dormitory Revenue Bonds secured by a pledge of income. The remaining portion of the same building program will be financed by a separate issue of Building and Improvement Bonds secured by a pledge of a fixed amount of the Schools' income from trust lands.

§ 73-21-1, N.M.S.A., 1953 Comp., authorizes the Board of Regents of any educational institution of this State to borrow money for the purpose of constructing any income producing building, such as the contemplated dormitory.

Chap. 121, Laws of 1949, authorizes and empowers State institutions, through their governing boards, to erect necessary structures by the issuance and sale of Building and Improvement Bonds.

§ 9 of Chap. 121, supra, provides that income from lands held in payment of principal and interest on trust can be pledged for the payment of principal and interest on bonds issued by the board of any institution coming under the provisions of the Act.

As a general rule, a local school organization has no inherent authority to negotiate loans but the State Legislature has the power to grant such organizations the authority to borrow money for school purposes. The loans, of course, must, therefore, result from legislative enactment which grants a local school organization the power and authority to borrow money. As indicated in 79 C.J.S. 28, a school organization may borrow money so long as they exercise their authority in conformance with the statutes.

By way of conclusion, it is our opinion that it is proper for the Regents of the New Mexico Western College to finance the construction of a dormitory in part under the respective legislative acts so long as substantial conformation is complied therewith. The intent of both acts appears to be the financing of school buildings and we believe it quite proper for the total amount to be secured on the basis of the two separate legislative acts.