

Opinion No. 59-93

August 10, 1959

BY: HILTON A. DICKSON, JR., Attorney General

TO: Honorable Lawrence Goodell State Representative Chaves County 1408 W. 4th Street Roswell, New Mexico

{*152} This is written in reply to your recent request on the following questions:

1. Whether you are a legal member of the State Board of Educational Finance?
2. Are legislators serving on Boards of Regents at the various institutions of higher learning legal members of these Boards?

In answer to these questions, it is my opinion that:

1. No, you are not a legal member of the State Board of Educational Finance.
2. No, see analysis.

The answer to your first question is arrived at by virtue of a comparison of the powers and duties of the Board of Educational Finance with the standards of what constitutes a civil office as set out in the case of **State ex rel Gibson v. Fernandez**, 40 N.M. 288, 58 P. 2d 1197, and analyzed in the Opinion of the Attorney General No. 59-79, dated July 22, 1959 at page {*153} 13, a copy of which is enclosed for your convenience. It is my considered opinion that membership on the Board of Educational Finance constitutes a civil office within the meaning of the **Gibson** case, supra, and therefore, it is a violation of Article IV, Section 28, Constitution of New Mexico, for a legislator to be a member of this Board.

In your second question, you ask if legislators serving on Boards of Regents of the various institutions of higher learning are legal members of these Boards. As far as I have been able to determine there are but two legislators serving on Boards of Regents of institutions of higher learning -- e.g., State Senator J. U. Richardson, Dona Ana County, now on the Board of Regents of New Mexico State University, and State Representative Carl Turner, Socorro County, serving on the Board of Regents of Northern New Mexico Normal School. The answer to your question will, therefore, be restricted to these institutions. An examination of the statutes establishing these institutions and granting powers to the Boards of Regents leads me to the conclusion that legislators are not permitted to be members of the Boards of Regents of New Mexico State University and Northern New Mexico Normal School. The Boards have functions which relate to the general supervision of the institutions' affairs, both fiscal and policy. Membership on these Boards constitutes holding a civil office under the standards set out in the **Gibson** case, supra. It is, therefore, my opinion that Senator

Richardson and Representative Turner are not legal members of the Boards of Regents on which they are now serving because of the prohibition found in Article IV, Section 28, Constitution of New Mexico.