

## Opinion No. 51-5466

December 10, 1951

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

**TO:** Honorable Robert D. Castner State Auditor Santa Fe, New Mexico

{\*176} This is in reply to your letter of December 3, 1951, requesting an interpretation of the following portion of § 58-201 N.M.S.A. 1941, relating to the Highway Commission:

"The members of such Commission, as compensation for their services, shall receive the sum of Ten Dollars (\$ 10.00) per day while actually engaged in the discharge of their duties as members of such Commission, and their actual and necessary expenses while traveling on the business of the Commission. No member of said Commission shall receive compensation or expenses for more than ninety (90) days in the aggregate, during any one (1) year."

You ask whether under this statute a Commissioner "could receive the actual traveling expense for ninety days, even though these travel expense dates do not coincide with the dates of compensation \* \* \*." It is my opinion that such travel expenses could be so received by a Commissioner under certain circumstances.

In my opinion it is clear that this statute authorizes a maximum of ninety days compensation per year for each Commissioner, and also authorizes each Commissioner to receive a maximum of ninety days of expenses incurred "while traveling on the business of the Commission." The fact that the language of the last sentence of this statute reads "compensation **or** expenses" supports this interpretation.

Therefore, if the Commissioner has received his maximum of ninety days compensation for time spent {\*177} engaged in his duties on the Commission but has received only fifty days traveling expenses for that period, he is still entitled to receive, in my opinion, remuneration for a maximum of forty more days of expenses actually incurred while traveling on the Commission's business. The fact that he is entitled to no more **compensation**, at the rate of \$ 10.00 a day, is immaterial.

It should be noted that there is no statutory limit to the amount of time a Commissioner may give to his Commission duties each year. But there is a limit upon the amount of compensation he may receive. With this further fact in view, and bearing in mind that traveling expenses are also limited to the ninety day maximum, in my opinion the only reasonable interpretation that can be given to this statute is the one outlined above.

It is clear, however, that once a Commissioner has received his maximum of ninety days traveling expenses for one year, as well as his compensation limit, he can receive no further travel expenses for that year under this statute, no matter how urgent his business for the Commission may be.

I hope that this opinion has answered all your questions on this subject.