

Opinion No. 54-5923

March 29, 1954

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. O. J. Holder Educational Budget Auditor P. O. Box 668 Santa Fe, New Mexico

{*370} In your letter of March 17, 1954, you request the opinion of this office upon the following question:

"It is legally possible under Chapter 104, Laws of 1953, to pay those Superintendents elected and taking oath of office January 1, 1953, the increased pay as provided by Chapter 104, Laws of 1953?"

There is no prohibition in the above quoted statute against the increased payments provided therein. However, Article 4, Section 27, of the Constitution of New Mexico,

"§ 27. (EXTRA COMPENSATION.) -- No law shall be enacted giving any extra compensation to any public officer, servant, agent or contractor after services are rendered or contract made; nor shall the compensation of any officer be increased or diminished during his term of office, except as otherwise provided in this constitution."

The persons involved were elected as County School Superintendents and at the time of their election were entitled by statute to receive certain compensation for their duties. The statute involved was passed and became effective subsequent to their election. It purports to give such persons increased pay for performing the duties of County School Superintendent. This clearly would increase the compensation of such officers during their term of office.

It is the opinion of this office, therefore, that County School Superintendents, holding office at the time of the passage of Chapter 104, Laws of 1953, are not entitled to the increases provided therein during their term of office.

By: Walter R. Kegel

Assist. Attorney General