

## Opinion No. 22-3332

March 16, 1922

**BY:** HARRY S. BOWMAN, Attorney General

**TO:** Hon. Edward L. Safford, State Auditor, Santa Fe, New Mexico.

### **Payment Per Diem and Mileage to Members State Board of Education.**

#### **OPINION**

{\*134} Complying with an oral request for an opinion regarding the payment of per diem and mileage to members of the State Board of Education, in view of the provisions of Section 7, Chapter 206, Laws 1921, (the general appropriation act) I wish to advise you as follows:

Section 3, Chapter 82, Laws 1915, provides that the members of the State Board of Education shall receive five cents per mile for each mile actually and necessarily traveled by them from and to their respective place of residence for the purpose of attending each meeting of the board, and five dollars per day for each day of actual and necessary attendance upon such meetings, and that such compensation shall be paid out of the Interest on Deposits Fund.

Section 7, Chapter 206, Laws 1921, provides that no officer or employee of the state shall be allowed or paid any sum for transportation, lodging or subsistence except when traveling on duty away from his designated post of duty, nor in excess of necessary traveling expenses actually incurred and paid.

The latter mentioned section is in some respects in conflict with Section 3, Chapter 82, Laws 1915, and being the later enactment would prevail. The 1915 law is amended so as to provide for the payment of actual expense incurred in traveling and it is also apparent that the five dollar per day provision for payment is amended so as to cover only necessary expenses actually incurred for lodging and subsistence not in excess of five dollars per day as provided for in said Section 7.

It is, therefore, necessary to hold that only actual and necessary traveling expenses which includes lodging and subsistence shall be paid to members of the State Board of Education.