

## Opinion No. 33-617

July 5, 1933

**BY:** E. K. NEUMANN, Attorney General

**TO:** Mr. Thomas F. Keleher, Jr., Chrmn., Board of County Commissioners,  
Albuquerque, New Mexico.

{\*62} Upon the request of Mr. Mabry, the District Attorney, which request was made by telephone, I am giving an opinion as to the possibility of paying county salaries at this time.

As I understand the matter, your Board of County Commissioners inherited a deficit and the question is now can the present Board of Commissioners, out of the revenue available for the year 1932-'33, pay county salaries without regard to the deficit.

It is my opinion that you not only have power to pay your salaries out of the revenues available this year, but it is your duty to do so, for reason that the moneys appropriated for the past fiscal year cannot be used for the payment of bills incurred in previous fiscal years. An overdraft or a deficit in any particular account remaining from the previous fiscal year is nothing but a bill incurred during the year in which the deficit was created.

It must be borne in mind, however, that before these salaries can be paid they must have been budgeted for the fiscal year 1932-'33, and you can in no manner exceed your budget allowance therefor. It must also be remembered that they must be paid out of the revenues of the current fiscal year and, when we {\*63} say revenues of the current fiscal year, we mean those revenues collected for use in this fiscal year. If you have collected, during the current year, moneys which are properly subject to credit to a previous fiscal year, such moneys cannot be used to defray the expenses of the current year, as revenue of the current year, as long as there remains a charge against the county for the year to which such moneys are properly subject to credit.