

**Opinion No. 35-884**

February 4, 1935

**BY:** FRANK H. PATTON, Attorney General

**TO:** Mr. Alfonso Aguilar, Supt. of Insurance, Santa Fe, New Mexico.

{\*40} I have your letter of February 2nd relative to payment of \$ 20.00 per month out of your contingent fund as a contribution toward the payment of the salary of Mr. J. J. Romero as Secretary of the Commission.

The Department of Insurance was created as a part of the Corporation Commission by Chapter 135 of the Laws of 1925.

The Legislature made an appropriation in 1933 of \$ 1,450.00 for contingent and printing expenses for the Superintendent of Insurance.

You state in your letter that Mr. Romero has not in any way been connected with your department and has not rendered any services thereto.

The intention of the legislature in making your contingent appropriation was that it be used for the benefit of the Department of Insurance. It was not intended that your contingent fund be used for any other department, and while you are under the supervision and control of the Corporation Commission, nevertheless the fact remains that moneys appropriated for your department should not be used for any other purpose.

However, we believe the Corporation Commission had the right to assign Mr. Romero to duties in your office if it desired, and the payment from your contingent fund toward his salary, in part would not of itself constitute a violation of law.

We are unable to tell you anything in connection with your books in this respect and we can only say that had the matter come to our attention in the first instance, this office would not have approved this system.

In as much as these payments have already been made under orders of the State Corporation Commission, we believe you are protected and that you have not in any way of your own initiative, violated any law, in as much as you yourself have been under the orders of the State Corporation Commission.