

Opinion No. 69-66

June 19, 1969

BY: OPINION OF JAMES A. MALONEY, Attorney General Ethan K Stevens, Assistant Attorney General

TO: Mr. William Byron Darden, Attorney at Law, Counsel for New Mexico, State University, 200 West Las Cruces Avenue, Las Cruces, New Mexico 88001

QUESTIONS

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Is the New Mexico Department of Agriculture exempt from paying the \$ 10 docket fee in magistrate courts for filing criminal complaints for violations of statutes or regulations having the force of law?

CONCLUSION

Yes, but see analysis.

OPINION

{*99} ANALYSIS

Article XV, Section 1, New Mexico State Constitution, establishes the State Department of Agriculture as a political subdivision of the State, and so entitled, in cases within its jurisdiction, to file criminal charges in magistrate courts.

Section 36-6-2, supra, has been amended by Chapter 198, Section 2. New Mexico Laws 1969, effective April 2, 1969, so that after said date there is no docket fee to be paid provided the complaint is filed by a full-time, salaried county or state law enforcement officer, a campus security officer, an Indian Tribal or Pueblo law enforcement officer. Should any other person file a criminal complaint, the magistrate would have to collect the docket fee. It is suggested that you have all your complaints filed by the Sheriff of the county where the offense occurred.