

Opinion No. 13-1137

November 18, 1913

BY: H. S. CLANCY, Assistant Attorney General

TO: W. L. Kegel, Chief Clerk, Office of the Traveling Auditor, Care Gilkeson Hotel, Roswell, N. M.

COMPENSATION OF TREASURERS AND ASSESSORS.

Under statehood there is no such thing as "excess commission" of assessors and treasurers mentioned in Chap. 114, Laws 1909.

OPINION

{*318} I have your letter of the 13th inst. asking for the opinion of this office as to the enforcement of the provisions of Chapter 114, Laws {*319} of 1909, entitled "An Act regulating and Fixing the Compensation of Treasurers and Assessors of the Several Counties of the Territory of New Mexico."

This act provided that the county treasurers and assessors should receive as their compensation four per cent upon all moneys collected by the treasurers, until such percentage reached a certain amount, and any excess over and above that amount was to be turned over to the credit of a fund to be known as the "general county deficiency fund," to be used for the purpose of paying outstanding, floating indebtedness. This act became inoperative upon the admission of New Mexico as a state January 6, 1912, the fee system as a compensation for county officers was abolished, and there could not be any "excess" to be turned over to the general county deficiency fund after that date. This fund, upon its being exhausted after January 6, 1912, necessarily ceased to exist, and there is no now authority whatever for the transfer to it of any part of the taxes collected. Of course, if there is any money in this fund coming into it prior to the admission of the territory as a state, it can be used for the purpose specified in Chapter 114, above referred to. There is now no such thing as "excess commission" of assessors and treasurers, about which you write, and consequently there can be no moneys available for a deficiency fund.