

Opinion No. 32-500

August 17, 1932

BY: Quincy D. Adams, Asst. Attorney General

TO: Hon. Juan N. Vigil, State Comptroller, Santa Fe, New Mexico.

{*173} This is in reply to your letter of August 16, 1932, in which you make reference to the statute providing that where fees of the office of county clerk exceed a certain amount an additional deputy may be provided. The statutes also provides for a deputy county clerk, whose position is not dependent upon the fees collected. You wish to know if the two salaries thus provided may be paid to one deputy.

Section 33-3202 of the 1929 Compilation provides in part as follows:

"Provided, that whenever during any calendar year the fees earned and turned into the county treasurer by the county clerk, excessive of those derived from the district court as shown by the certificate of the county treasurer, shall exceed in counties of the first class the sum of \$ 3500.00; . . . an additional deputy or deputies may be employed in such clerk's office in sufficient number to take care of any emergency . . but in no case shall the salary exceed \$ 100.00 per month, . . ."

Interpreting the above language according to its ordinary and usual meaning, it appears to me that the salary of not to exceed \$ 100.00 per month can only be paid in the event that "an additional deputy or deputies" are hired. The apparent intention of the statute is to permit the county clerk to have additional assistance to take care of an emergency created by an unusual amount of work in her office.

Consequently, I am of the opinion that the additional allowance for deputy hire can only be paid in case an additional deputy is actually hired.