

Opinion No. 39-3342

November 24, 1939

BY: FILO M. SEDILLO, Attorney General

TO: Colonel Hugh M. Milton II, President of College New Mexico State College of Agriculture and Mechanic Arts, State College, New Mexico.

{*122} In your letter of November 23rd you ask the following questions:

"1. Is a member of the Board of Regents who resides in the immediate {*123} vicinity of the college entitled to the per diem of \$ 4.00?

2. If a board member has not been reimbursed during a previous appointment can a subsequent Board authorize the payment of the per diem for such periods which he served during a previous administration? To be more specific a Board member has served for a period of four years and did not draw a per diem therefor. After being reappointed a request was made for a per diem for all days served in the previous appointment. Can the present Board authorize the reimbursement therefor?"

Section 11, Chapter 238 of the Session Laws of 1939, reads as follows:

"No allowance shall be made for lodging and subsistence in excess of \$ 4.00 per day."

It further provides that all expenses for such purpose shall be allowed only when incurred and paid in conformity with rules and regulations issued by the State Comptroller, who is authorized and directed to issue such rules and regulations not in conflict with the provisions of said Act. The State Comptroller has issued rules and regulations wherein he has held that all members of the Board of Regents are entitled to the per diem of \$ 4.00.

The Board of Regents may authorize the payment of the per diem during the fiscal year that said board serves, but it cannot authorize the payment of the per diem for such periods which a board member might have served during previous fiscal years.

Trusting that the foregoing sufficiently answers your question, I am,