

**Opinion No. 40-3402**

January 23, 1940

**BY:** FILO M. SEDILLO, Attorney General

**TO:** Mr. E. R. Cooper, Assistant District Attorney, Las Vegas, New Mexico.

{\*133} In response to your letter of January 19 may I state that in my opinion Chapter 82, New Mexico Session Laws of 1937 applies only to mileage allowed and paid from "public funds" and has no application to the payment of mileage or other expenses to appraisers appointed pursuant to Section 5 of Chapter 181, New Mexico Session Laws of 1937.

Such an appraiser is entitled to \$ 5.00 per diem, with a \$ 25.00 limit, together with "necessary expenses incurred in the performance of his duties in an amount determined by the court in which the estate is being administered."

If the trip made by such an appraiser is, in the opinion of the court, a necessary trip, then the necessary expenses incurred thereby, by the appraiser, are payable in an amount to be determined by the court.

In this connection we enclose herewith our former opinions Nos. 1953 and 2006 for your information.

By: FRED J. FEDERICI,

Asst. Atty. Gen.