

**Opinion No. 43-4409**

November 16, 1943

**BY:** EDWARD P. CHASE, Attorney General

**TO:** Mr. Benjamin D. Luchini, Chairman Executive Director, Employment Security Commission of New Mexico, Albuquerque, New Mexico

We have your letter of November 10, 1943, wherein you request an opinion concerning the construction of Section 57-815 (a) of the New Mexico 1941 Compilation, which section provides:

**"Collection of Contributions.** -- (a) Interest on Past-Due Contributions. -- Contributions unpaid on the date on which they are due and payable, as prescribed by the commission, shall bear interest at the rate of one (1) per centum per month from and after such date until payment, plus accrued interest, is received by the commission. Interest collected pursuant to this sub-section shall be paid into the unemployment compensation fund."

Your question is, when a payment is delinquent, for instance one day, whether you should charge interest for an entire month, or whether you should charge interest only at the prescribed rate for the actual period of delinquency.

It is noted that the statute specifically provides that contributions shall bear interest at the **rate** of one per centum per month from and after such date **until payment**.

In view of this specific language of the statute, it is my opinion that you should compute the interest for the actual period of delinquency at the rate of one per cent per month which, as you state in your letter, would be roughly one-thirtieth of one per cent for each day, when a part of a month is involved.

The statute prescribes a rate of interest which shall be assessed until payment. It does not provide that whenever a person is delinquent for a period of less than a month, or a fraction of a month over a month, that he shall pay interest for a full month at the prescribed rate.

Hoping that the above fully answers your question, I remain

By HARRY L. BIGBEE,

Assistant Attorney General