

Opinion No. 47-5117

December 22, 1947

BY: C. C. McCULLOH, Attorney General

TO: Mr. C. J. Boyd, Director, Aeronautics Commission, Santa Fe, New Mexico.

{*120} We wish to acknowledge receipt of your inquiry of December 15, 1947 wherein our opinion was requested as to the following questions:

1. Does the State Aeronautics Commission have the statutory authority, under Sec. 47-113, New Mexico Statutes, 1941 Annotated, through the State Board of Finance, to borrow not to exceed \$ 10,000 for administrative purposes?
2. Does the State, through the Aeronautics Commission, and/or the State Highway Commission have the legal power and authority to construct, maintain and operate a state-owned public airport and to accept Federal aid in connection therewith.

Section 47-113, New Mexico Statutes, 1941 Annotated, provides as follows:

"In the event the federal government shall institute any aeronautics program which may require this state to furnish any lands, material and equipment, then in that event the necessity for financial participation by this state is hereby declared to exist, and the state board of finance is empowered to borrow not to exceed ten thousand (\$ 10,000) dollars and to issue casual certificates of indebtedness therefor for the purpose of exercising the options taken by the New Mexico Aeronautics Commission as provided for herein and for meeting any other necessary expense in carrying out any cooperative agreement with the federal government including the payment of such necessary expenses of the New Mexico Aeronautics Commission as may be approved by the State Board of Finance."

From the foregoing language it is our opinion that the State Board of Finance has authority to borrow not to exceed \$ 10,000 for the purpose of exercising the options taken by the New Mexico Aeronautics Commission as provided in Section 47-112, and for meeting all necessary expenses in carrying out any cooperative agreement with the federal government, including the payment of such necessary expenses of the New Mexico Aeronautics Commission as may be approved by the State Board of Finance.

In answer to your second question, it is our opinion that the State of New Mexico, through the Aeronautics {*121} Commission, does not have legal authority under existing statutes to construct, maintain and operate a state-owned public airport.

It is our further opinion that under Sec. 58-254-255-256, Supplement to the 1941 Compilation, the State Highway Department does have legal authority to construct and maintain a state-owned public airport, and to accept federal aid in connection therewith.

Trusting the aforementioned satisfies your inquiry, I am

By ROBERT V. WOLLARD,

Asst. Atty. General