

**Opinion No. 51-5387**

July 19, 1951

**BY:** JOE L. MARTINEZ, Attorney General

**TO:** Mrs. Beatrice B. Roach Secretary of State Santa Fe, New Mexico

{\*76} In reply to your letter of May 3, 1951, in which you request an interpretation of §§ 10-501 and 10-504 of the 1941 New Mexico Statutes Annotated.

§ 10-501 reads as follows:

"Every state officer, elective or appointive, who is the head of or in charge of any state office, state department, state bureau, state board or state {\*77} commission, and every state employee or agent who is the head of, or in charge of, or the executive officer of any state department, state bureau, state board or state commission, and every executive officer by whatsoever title designated, who is in charge of any state educational institution or any other state institution, shall during the months of January and July of each year prepare, make and sign a written or printed certified report, correctly and completely showing the names and addresses of each and all officers, employees and agents in their respective offices, departments, boards, commissions and institutions, and their respective duties and compensation, and shall forthwith file said report in the office of the secretary of state."

For a definition of the terms, I call your attention to § 10-503 of the 1941 New Mexico Statutes Annotated, which reads as follows:

"The words 'state departments' and 'state department' as used in this act shall include the offices of the governor, the Secretary of state, the attorney general, the Supreme Court, the state auditor, the state treasurer, the state superintendent of public instruction, the commissioner of public lands, the state corporation commission, the state comptroller, the state tax commission, the department of public welfare, the disabled soldiers relief commission, the state bank examiner, the state engineer, the inspector of mines, the adjutant-general, the superintendent of public buildings at capitol, the state law librarian, the state highway engineer, and all other state departments, state bureaus, state commissions and state boards now existing or hereafter created."

§ 10-504, 1941 New Mexico Statutes Annotated, reads as follows:

"Any person violating any of the provisions of this act shall be guilty of a misdemeanor and shall be punished therefor by a fine, not exceeding \$ 250 nor less than \$ 50.00; and if violated by an elective state officer, he shall be liable to impeachment, and if violated by any person other than an elective state officer, he shall be liable and subject to removal for neglect of duty."

The sections above quoted make it a mandatory duty of the Secretary of State to see that the reports are filed and sets forth the penalty or penalties for failure to file. Also, § 10-503 specifically names the State Comptroller as one covered by this act.

I have examined Form No. 03337, which you enclosed in triplicate, and which has been sent by the State Comptroller to all State departments, agencies, etc., of the State of New Mexico. I fail to find any authority under §§ 10-501 and 10-504 for the State Comptroller to take it upon himself to require a copy of the report to be submitted to him. I have also checked the duties of the State Comptroller and fail to find any authority for his circulating these forms.

It is my interpretation that these reports must be made twice each year, one in January and one in July, by all State departments, agencies, etc., including the State Comptroller and filed with the Secretary of State.

Trusting that this fully answers your inquiry, I remain