

Opinion No. 53-5829

October 22, 1953

BY: RICHARD H. ROBINSON, Attorney General

TO: Hon. Robert D. Castner State Auditor Santa Fe, New Mexico

{*240} You have asked if outstanding state warrants which have not been presented for payment can be cancelled by your office and, if so, after what period of time.

Since no specific statute exists on the subject, we believe that as to those warrants which have been returned the four year statute of limitations would run against the obligation from the date the services or materials were furnished. As to warrants which have not been returned, a written obligation is outstanding and the six year statute of limitations (27-103 N.M.S.A., 1941) would be applicable. However, this would not start to run until the payee had a reasonable time to present the warrant for payment; Cross v. Board of County Commissioners 9 N.M. 410, 4 A.L.R. 881, and if such reasonable time could be considered one year, the statute would have run within seven years from the date of the warrant.

Now the outstanding warrants, which are not in your possession, cannot be cancelled and the cancellation of the returned warrants would not affect the state's obligation. The problem is, therefore, one of accounting procedure. We do not recommend disregarding either obligation short of the periods above mentioned, nor paying them after the respective periods have run.

Sec. 7-104 N.M.S.A., 1941 provides that the State Comptroller (State Board of Finance) shall prescribe the system of accounting for state officials, and therefore we feel that it is within his discretion to determine and prescribe by regulation whether warrants are to be cancelled, and if so, which ones, when, and by whom, and the procedure to be followed in keeping a record of the obligation in event of cancellation.

By: Special Assistant