

Opinion No. 54-6023

October 13, 1954

BY: RICHARD H. ROBINSON, Attorney General

TO: State Corporation Commission State Capitol Building Santa Fe, New Mexico.
Attention: Ingram B. Pickett Chairman

{*488} You have requested this office to clarify Section 7-203, N.M.S.A., 1941
Compilation, with respect to the following paragraph:

"* * * It shall be the duty of every official, or person in charge of any state agency, receiving any moneys, in cash or by check, draft or otherwise, for or on behalf of the state or any agency thereof from any source, except as hereinafter in section 23 (§ 7-251) provided, to forthwith and before the close of the next succeeding business day after the receipt of such moneys to deliver or remit the same to the State Treasurer. * * *"

This statute, in our opinion, means literally that all receipts of any State official or agency must be deposited with the State Treasurer before the close of the next succeeding business day after the receipt of such moneys. We can find nothing which would exempt the State Corporation Commission in any respect from this Statute. Of course, where you have such moneys which have not yet been earned by the State, they are to be deposited in a suspense account in order that possible refunds might be facilitated. In this respect, it is noted that there are in existence, suspense accounts for some of the departments under your jurisdiction, and where such is the case, no problem will arise over the deposit of receipts of said departments with the State Treasurer by the close of the next succeeding business day since possible refunds can be easily made under Section 7-203, N.M.S.A., 1941 Compilation.

This office is aware of the fact that during certain periods of the year your various departments receive large volumes of reports accompanied by money to satisfy statutory requirements {*489} with respect to fees, taxes, etc. If you find a possible situation where refunds might be necessary of receipts by a department which does not now have a suspense fund in existence to handle such a contingency, then you should remedy the problem with the State Board of Finance and/or the State Legislature by establishing a suspense fund for said Department or Departments.

By: Jack A. Smith

Assist. Attorney General