

Opinion No. 31-165

May 10, 1931

BY: Frank H. Patton, Asst. Attorney General

TO: Mr. J. M. Lujan, State Comptroller, Santa Fe, New Mexico.

{*76} Your letter of even date regarding bonds of deputies in the various offices, both state and county, has been received.

In answer to your request for information on this matter, we wish to say that unless a particular deputy in any office is required, under the law, to give bond the payment of the premium upon any bond given is not properly chargeable to the state.

The official of the office who is required to make bond under the law can require his deputies to execute to him an indemnity bond. We believe this to be the usual practice in this state, and see no objection to the procedure.

The officer who has been appointed or elected to the office is the one who is properly chargeable and accountable for the funds handled and controlled by and through his office. The state must in all instances look to such officer for an accounting. Any loss suffered by such official upon his bond and paid by said officer or by the bonding company may, in a civil action between said officer and his deputy who has given an indemnity bond, be recovered, but the state is not to {*77} be concerned with a matter of this kind.