

Opinion No. 43-4230

February 12, 1943

BY: EDWARD P. CHASE, Attorney General

TO: Mr. R. H. Grissom, Educational Budget Auditor, Office State Comptroller, Santa Fe, New Mexico

We have your letter of February 3, 1943, wherein you state the law provides when a warrant is lost, a bond must be filed for double amount before duplicate warrant can be issued. You then inquire whether this provision also applies to certificates of indebtedness where such a certificate has been duly signed by the President and Secretary of the Board and the Educational Budget Auditor for a specified amount, stating the name of the payee.

The provisions you refer to are Sections 7-242 and 7-243 of the New Mexico 1941 Compilation. It authorizes the issuance of a duplicate under certain designated circumstances in case of loss or destruction of any warrant, draft,, check or order for the payment of money out of the Treasury of the state or any county.

Certificates of indebtedness are usually more in the nature of a promissory note than an order for the payment of money. However, it is possible that certain certificates of indebtedness have been issued from time to time which would be in the nature of an order for the payment of money. If so, the above provisions would apply. However, since in most instances such certificates of indebtedness are, in fact, only promissory notes, the above sections would not have application and would be no authority whatsoever for the issuance of a duplicate certificate of indebtedness.

Hoping that the foregoing fully answers your questions, I am

By HARRY L. BIGBEE,

Asst. Atty. General