

**Opinion No. 43-4376**

August 31, 1943

**BY:** EDWARD P. CHASE, Attorney General

**TO:** Mr. C. R. Sebastian, State Comptroller, Santa Fe, New Mexico

In your letter dated August 26, 1943, you enclose a letter from Miss Billy Tober of the State Department of Public Health, in which it is stated that a county warrant was issued to the state to be applied to the District Health Officer's Fund. This warrant was lost, and you inquire whether the State Department of Public Health should be required to furnish a bond to the county before a duplicate warrant is issued.

Section 7-243 of the New Mexico 1941 Compilation provides for a bond to be furnished to the state or county before a duplicate warrant is issued, in the event that a warrant has been lost or destroyed. However, this section would not apply to the state or a state department. Persons handling state funds are already bonded, and to request the state to give the county a bond is, in effect, requiring the state to give a bond to itself.

Since this statute does not specifically require a state or county to give itself a bond in case a warrant is lost, and since such action is entirely unnecessary, as the state is well able to reimburse the county for any loss occasioned by the issuance of a duplicate warrant, I do not believe such bond is necessary before a duplicate warrant is issued. A stop order should be placed with the County Treasurer on the lost warrant, and a duplicate warrant could then be legally issued without a bond in this case.

By C. C. McCULLOH,

First Asst. Atty. General