

Opinion No. 60-57

March 28, 1960

BY: OPINION of HILTON A. DICKSON, JR., Attorney General

TO: Mr. A. E. Hunt Director Department of Finance and Administration P. O. Box 1359
Santa Fe, New Mexico

QUESTION

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Can the Director of the Department of Finance and Administration authorize the State Highway Commission to issue warrants upon the State Treasurer signed by the Chief Highway Engineer?

CONCLUSION

Yes.

OPINION

{*415} ANALYSIS

Several sections of the statutes are relevant to your inquiry. Sec. 4-4-9, N.M.S.A., 1953 Comp. (PS) provides that it is unlawful for the State Treasurer to pay public funds out of the treasury except upon warrant issued by the Director of the Department of Finance and Administration. Sec. 11-2-43, N.M.S.A., 1953 Comp. (PS), provides that all disbursements of public funds must be made by warrants drawn by the Director of the Department of Finance and Administration. Sec. 11-2-67, N.M.S.A., 1953 Comp. (PS), provides similarly that the Director shall issue all warrants. However, Sec. 11-2-71, N.M.S.A., 1953 Comp. (PS) provides that the Director of the Department of Finance and Administration may, if he deems it expedient, authorize state agencies and departments to issue their own warrants and exempt those agencies and departments from submitting vouchers through the Finance Department.

At first blush, this last section would appear to be in conflict with the first three above cited. However, if we observe that all four of these sections were passed or amended to read as they do now by the same legislature (Ch. 252, Laws, 1957), it would appear that these sections can be harmonized. The first three sections set down the general policy to be that all warrants should be issued by the Director of the Department of Finance and Administration. Sec. 11-2-71, supra, would appear to be an exception to this general policy which the legislature granted to the Director when, in his opinion, the best interests of the State would be served by allowing a department to issue its own warrants. The legislative intent in these four sections when read together would seem to

be that as a general rule warrants shall be drawn by the Director of the Department of Finance and Administration; but where the Director feels that more efficient government can be achieved, he may allow a department to issue their own warrants.

Since the Chief Highway Engineer is the chief administrative officer of the Highway Department, it would be proper for the Director of the Department of Finance and Administration to authorize him to sign the warrants issued by his department.

By: Boston E. Witt

Assistant Attorney General