

Opinion No. 42-4033

February 26, 1942

BY: EDWARD P. CHASE, Attorney General

TO: Mrs. Grace J. Corrigan Superintendent of Public Instruction Santa Fe, New Mexico

{*164} We acknowledge receipt of your letter of February 21, 1942, requesting an opinion of this office as to whether or not the state, county or individual school owns state-furnished free textbooks, and also as to what provision may be made to keep the books insured.

The State of New Mexico has, since 1929, appropriated monies for the purpose of purchasing textbooks for the school children of this state. In the earliest act, provision was made authorizing the State Board of Education, for the protection of state-purchased textbooks, "to provide for their protection by insurance from fire and theft." See Section 11, Chapter 119, Laws of 1929, and Section 120-1711, New Mexico Statutes Annotated, 1929 Compilation, which is still the law.

In view of this provision and in view of the provisions contained in Section 1, Chapter 76, Laws of 1941, authorizing the State Board of Education to promulgate {*165} rules and regulations for the handling and distribution of free textbooks to the school children of the state, there can be no doubt but that the Legislature contemplated that the State of New Mexico would acquire title to these textbooks and that the state would hold title, even as against the counties and individual schools who later hold the textbooks as bailees for the state. If the Legislature had thought otherwise, it would not have intimated that the state had an insurable interest.

It is therefore my opinion that state purchased free textbooks are the property of the State of New Mexico and that the State Board of Education may provide for their insurance against fire and theft. As to whether or not the State Board of Education should provide insurance, we will not advise, as matters of policy are to be established by the Board.

By GEO. H. HUNKER, Jr.

Asst. Atty. General