

Opinion No. 55-6097

February 4, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. L. C. Brown, Administrative Officer, State Soil Conservation Committee of N.M.,
P. O. Box 786, State College, New Mexico

Receipt is acknowledged of your letter dated January 28th in which you request an opinion as to whether or not the Board of Supervisors of the Caballo Soil Conservation District of Hatch, New Mexico, have the authority to sell United States Government Bonds which they now hold and to reinvest the money from the sale of said Bonds in real estate loans or other investments which will bring a higher rate of interest.

I have checked the statutes very carefully and fail to find any specific statutory authority authorizing a Soil Conservation District to sell United States Government Bonds which they have as investments and to reinvest the money on real estate loans or other loans in order to get a higher rate of interest or otherwise, nor do I find any specific statutory authority for a Soil Conservation District to invest in United States Government Bonds.

I find, however, that a Soil Conservation District is a political subdivision of the State of New Mexico and the monies of a Soil Conservation District are also public monies. I find the following under the heading of Public Funds in Vol. 42 of Am. Jur., Section 10:

"Boards or officials having public funds in their control are without power to depart from the literal statutory requirements as to loans and investments of such funds. A county treasurer has no authority, under a statute authorizing him to invest sinking funds in his hands in specified classes of securities, to sell or exchange such securities, after purchase, and invest the funds in other securities."

I have also found an old opinion which has not been repealed, namely Attorney General's Opinion No. 667, dated October 13, 1933, which in substance held that investment of public funds are limited to such interest bearing securities as are provided by statute, which do not include loans to private individuals.

It is therefore the opinion of this office that in view of the fact that there is no specific statutory authority for any Soil Conservation District of the State of New Mexico to invest in United States Government Bonds, and in view of former Opinion of this Office No. 667, the Caballo Soil Conservation District of Hatch, New Mexico or any other Soil Conservation District of the State of New Mexico has no specific statutory authority to reinvest the money derived from said sale on real estate loans for the purpose of securing higher rates of interest.

Trusting that this fully answers your inquiry, I remain

By: Hilario Rubio

Assistant Attorney General