

Opinion No. 65-91

June 8, 1965

BY: OPINION OF BOSTON E. WITT, Attorney General Thomas A. Donnelly, Assistant Attorney General

TO: Mr. Robert G. Mead, State Investment Officer, State Investment Council, Land Office Building, Santa Fe, New Mexico

QUESTION

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On behalf of the State Investment Council we respectfully request your opinion as to the date which proposed Constitutional Amendment No. 2 (House Joint Resolution No. 12) will be submitted to the electorate for their consideration.

CONCLUSION

September 28, 1965.

OPINION

{*155} ANALYSIS

House Joint Resolution No. 12, Twenty-Seventh Legislature, seeks to amend Article 12, Section 7 of the New Mexico State Constitution to place specific authority in the State Investment Council to sell fixed income securities at less than the original acquisition cost and immediately re-invest such monies in other fixed income securities having a substantially higher rate of interest and provide that a "portion of the increased interest income to be amortized over the life of the new investment" will be made so as to restore to the corpus of the fund the amount of the capital loss realized on the sale of the original investment. Secondly, such amendment would permit the legislature to enact legislation authorizing the State Investment Council to invest permanent funds up to a total of fifty percent of such funds in corporate stocks and bonds.

House Joint Resolution No. 12, itself is silent as to the time which such proposed constitutional amendment should be submitted to the electorate for ratification or rejection. Article XIX, Section 1 of the State Constitution spells out that:

"Any amendment or amendments to this Constitution may be proposed in either house of the legislature at any regular session thereof And the said amendment or amendments shall be voted upon at the next regular election held in said state after the adjournment of the legislature proposing such amendment or amendments, **or at such special election to be held not less than six months after the adjournment of said**

legislature, at such time as said legislature may by law provide . . ." (Emphasis supplied).

As specified by Article XIX, Section 1, of the State Constitution the legislature may provide by law for the calling of a special election for the consideration of proposed constitutional amendments.

By enactment of Chapter 276, Laws 1965, First Session, it was provided:

"Special election. -- All amendments to the Constitution of New Mexico proposed by the twenty-seventh legislature, unless otherwise specified in the amendments, shall be submitted to a vote of the qualified electors at a special election to be held on the fourth Tuesday of September, 1965."

Due to this specific enactment it is our opinion that unquestionably House Joint Resolution No. 12 should be submitted to the electorate for their consideration and vote at the special election for Constitutional Amendments to be held September 28, 1965.