

Opinion No. 69-27

April 11, 1969

BY: OPINION OF JAMES A. MALONEY, Attorney General William F Riordan, Assistant Attorney General

TO: Mr. John S. MacKay, Business Manager, New Mexico School for the Deaf, Santa Fe, New Mexico 87501

QUESTIONS

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May the New Mexico School for the Deaf invest surplus funds in Certificates of Deposit?

CONCLUSION

Yes

OPINION

{*41} ANALYSIS

The 1968 Session of the New Mexico Legislature enacted Section 11-2-28, N.M.S.A., 1953 Compilation (1968 Interim Supplement), which reads as follows:

"Any board of finance may, whenever in its opinion such a course is advisable and the public money under its control, or any part thereof, will not be needed immediately for public purposes, place such funds on time deposit with a bank, or savings and loan association whose deposits are insured by an agency of the United States, taking the certificate of deposit or other evidence of indebtedness of such bank or savings and loan association receiving such deposit; Provided, however, that no time deposit shall be for a period longer than twelve (12) months and all such deposits shall be secured as provided by law. Any board of finance may deposit money in one or more accounts with any such savings and loan association or associations, but no board of finance, in any official capacity shall deposit money in any one (1) such association the aggregate of which would exceed the amount of insurance for a single depositor in an individual capacity and no county or municipal board of finance shall make any deposits outside of its county."

Under Section 11-2-6, N.M.S.A., 1953 Compilation, the Board of Regents for the School for the Deaf is the Board of Finance for that School.

I might also point out that under Section 11-2-25, N.M.S.A., 1953 Compilation (1968 Interim Supplement), the Board may deposit the funds with any bank in New Mexico,

insured by the Act of Congress creating the Federal Deposit Insurance Corporation or any savings and loan association insured by an agency of the United States without requiring the bank or savings and loan association to qualify as a public depository under the laws of New Mexico, as long as the amount of the insurance coverage would not be exceeded.

If the deposits are in such an amount that the Federal Deposit Insurance Corporation insurance coverage is to be exceeded, then the bank or savings and loan association must qualify as a depository of public moneys and give security as required by Section 11-2-18, N.M.S.A., 1953 Compilation. The amount of security given by the depository must equal or exceed the amount deposited. { *42 } (See Opinion of the Attorney General No. 67-5, dated January 11, 1967).