

Opinion No. 36-1474

November 24, 1936

BY: FRANK H. PATTON, Attorney General

TO: Mr. Jas. J. Connelly State Treasurer Santa Fe, New Mexico

{*35} Your letter of November 23rd, together with copy of letter of the Adjutant General dated November 21st to yourself and form of certificate of indebtedness in the sum of \$ 8,500.00, all have reference to the expense of calling troops to the County of San Miguel at the last general election.

The certificate of indebtedness is issued under authority of Sec. 75, Chapter 113, of the Laws of 1925 as amended by Sec. 12 of Chapter 39 of the Laws of 1931.

I understand you desire to know if you can purchase this certificate of indebtedness as an investment of the permanent funds of the State Penitentiary.

The permanent fund of the Penitentiary is created by virtue of Sec. 132-190 of the 1929 Compilation. It consists of proceeds of sales of lands belonging thereto that may have been or may hereafter be granted to the state, not otherwise appropriated by the terms and conditions of the grant, and such other moneys as may be specifically provided by law.

Sec. 132-192 of the 1929 Compilation provides that the State Treasurer shall keep the permanent funds, enumerated in the above-cited section, invested in "safe interest-bearing securities."

Before the State Treasurer may invest any of such permanent funds in such interest bearing securities it is his duty, under Sec. 132-193, to secure the approval of the Governor and the Secretary of State to such proposed investment.

The proposed investment is to be submitted to those officials in writing and their approval likewise shall be obtained in writing.

Upon obtaining such approval it is the duty of the State Treasurer then to submit to the Attorney General copy of the security and then the Attorney General either approves or disapproves in writing the legality of same.

Assuming that you have obtained the approval of the Governor and the Secretary of State to make the above-mentioned investment, this office approves the legality of the said certificate of indebtedness in the amount of \$ 8,500.00, and it is our opinion that same constitutes "a safe interest-bearing security" within the meaning of Sec. 132-192 of the 1929 Compilation.

We herewith return your file in this connection.