

## **Opinion No. 42-4082**

May 6, 1942

**BY:** EDWARD P. CHASE, Attorney General

**TO:** Mr. Rex French State Treasurer Santa Fe, New Mexico

{\*191} In your letter of May 5, 1942, you request the opinion of this office on whether Chapter 175, Session Laws of 1941 reinstated Chapter 104, Session Laws of 1935 and Chapter 226, Session Laws of 1937.

Chapter 104 of the Session Laws of 1935 as amended by Chapter 226, Session Laws of 1937, authorized the governing boards of certain State institutions to erect, improve, equip, etc. buildings and acquire necessary lands for such institutions. Those laws also authorized the governing boards to issue and sell bonds to carry out the above purposes, and also for retiring any series bonds previously issued. By express limitations, however, no bond could have been issued under the 1935 law after June 30, 1937, and no bond could have been issued under the 1937 law after June 30, 1939.

The 1939 Legislature failed to re-enact section 2, Chapter 226, Session Laws of 1937, authorizing the issuance of bonds by the governing boards. Consequently, no bonds could have been issued by the governing boards of State institutions after June 30, 1939. In 1941, however, the Legislature reenacted Section 2, Chapter 226, Session Laws of 1937, which authorized the issuance of bonds.

{\*192} At the present time the provisions of Chapter 104, Session Laws of 1935 as amended by Chapter 226, Session Laws of 1937 as amended by Chapter 175, Session Laws of 1941, are all in full force and effect, and in my opinion state institutions may now issue improvement bonds.

In your letter you also ask whether the refunding bonds issued under Chapter 175, Session Laws of 1941 could be legal investments for your permanent funds. Section 5 of Chapter 104 of the Session Laws of 1935 as amended provides in part:

"The State Treasurer may, with the approval of the state board of finance and other officials whose approval may be required by law for the investment of public funds, purchase such bonds at par and accrued interest to date of delivery of such investment."

Since the above section is still a part of the present law, I am of the opinion that refunding bonds issued under Chapter 175, Session Laws of 1941, would be legal investments for your permanent funds.

Hoping this sufficiently answers your inquiry, I remain

By WILLIAM R. FEDERICI

Asst. Atty. General