

Opinion No. 53-5816

September 17, 1953

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. R. H. Grissom State Treasurer Santa Fe, New Mexico

{*225} This office has examined the proposed issuance of Bonds of the Municipality of Truth or Consequences, in the amount of \$ 75,000 for recreational purposes. We find that we must decline to approve the same for purchase by you with permanent school funds inasmuch as the present issue, when added to issues now outstanding, including outstanding General Obligation Water and Sewer Bonds, will exceed the 4% limitation prescribed by Article IX, Section 13 of the Constitution of New Mexico.

The particular question involved has been subject to numerous conflicting opinions by this office throughout the years but has never been decided by the Courts. Inasmuch as the proposed issue would be invalid under one interpretation of Article IX, Section 13, and valid under another, and inasmuch as Courts of other jurisdictions have interpreted similar provisions both ways, we do not feel that such bonds constitute safe interest-bearing securities, as are required for the investments of permanent school funds by Section 10 of the Enabling Act. Attorney General's Opinion No. 4821 (a), issued by this office on December 5, 1945, is affirmed and is the present opinion of this office. Opinion No. 5450 issued October 24, 1951, is hereby overruled.