

## Opinion No. 55-6107

February 17, 1955

**BY:** RICHARD H. ROBINSON, Attorney General

**TO:** D. M. Smith, Jr., State Comptroller, Santa Fe, New Mexico

In your letter dated February 8, 1955, you state that the Lea County Treasurer has invested surplus funds in U.S. War Savings Bonds and that the county funds are deposited to the account of the Lea County Treasurer without designating specific funds going to make up the total. You asked three questions as follows:

1. Was the investment of surplus cash made in such a way that it satisfies the provisions of that portion of Section 11-1-5, New Mexico Statutes, 1953 Compilation, which states: "and such accounts shall be designed to show the amounts due and received from each source, by funds, and all receipts, vouchers, and other documents kept or that may be kept necessary to isolate and prove the validity of every transaction and claim."?
2. In consideration of the provisions of Section 11-2-51, New Mexico Statutes, 1953 Compilation, was the investment of surplus cash made in such a way that ownership of interest earned can be determined?
3. In consideration of the provisions of Section 11-1-5, New Mexico Statutes, 1953 Compilation, may all of the interest earned be recorded on the books of the county as revenue to the General Fund?

The first and third questions relate to § 11-1-5, which requires the State Comptroller to formulate, prescribe and install a system of accounting for counties and provides that the accounts shall show the receipt, use and disposition of public moneys and property and the income derived from public property and sources, and that such accounts shall be designed to show the amounts due and received from each source, by funds. Since this section only applies to the system of accounting prescribed by the State Comptroller, I do not believe it would govern in connection with the investment of surplus cash in U.S. War Savings bonds. Such investment is specifically authorized in § 11-2-7. The county treasurer's books, however, should reflect the surplus in each fund established by the county budget going to make up the total amount invested and when the government bonds are sold, the principal of the proceeds of sale should be credited to each fund in proportion to the amount invested together with the interest on the proportionate amount invested from each fund. Except for funds which are non-transferable, such as interest, sinking, road and election funds, the interest to be derived from the various other fund investments could be transferred to the general fund, upon approval for such transfer in the same manner as provided for transfers generally.

With regard to your second question, § 11-2-51 of the 1953 Compilation merely declares that county moneys shall be considered moneys of the county board of control, which is the board of county commissioners. However, I see no reason why the various funds contributing to the total amount invested could not be credited with the interest earned by the surplus of such funds going to make up the total investment.

By C. C. McCulloh

Assistant Attorney General