

Opinion No. 66-59

May 11, 1966

BY: OPINION OF BOSTON E. WITT, Attorney General George Richard Schmitt,
Assistant Attorney General

TO: State Investment Council, P. O. Box 966, Santa Fe, New Mexico 87501, Attention:
Mr. Howard Irwin

QUESTION

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1. Is the State Investment Council exclusively authorized by law to invest the "Public Buildings at Capitol, Permanent Fund"?
2. To what account should the State Investment Council deposit the income derived from the above mentioned Permanent Fund?

CONCLUSION

1. Yes.
2. "Severance Tax Bond Fund."

OPINION

{*72} ANALYSIS

The State Investment Council acting under the authority provided in Article XII, Section 7 of the New Mexico Constitution as amended and under the implementing statute, Section 11-2-8.9 N.M.S.A., 1953 Compilation is currently and exclusively handling the investment of state permanent funds. In 1966, our 27th Legislature (Second Session) passed Senate Bill No. 4, set out in its entirety as follows:

"AN ACT

AUTHORIZING THE STATE INVESTMENT COUNCIL TO INVEST THE PUBLIC BUILDINGS AT THE CAPITOL, PERMANENT FUND.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. The state investment council shall, in the same manner provided under Section 11-2-8.9 New Mexico Statutes Annotated, 1953 Compilation, for other permanent funds, assume the investment responsibility for the 'public buildings at

capitol, permanent fund' created by Section 7-1-16 New Mexico Statutes Annotated, 1953 Compilation."

The above cited law clearly adds another "permanent fund" to the Investment responsibility of the State Investment Council. Thus, from the effective date of this Act, the Council will be in charge of investing the "Public Buildings at Capitol, Permanent Fund" and should handle the investment of such fund in the same manner as the other funds under its control.

Originally the income resulting from the fund was deposited in the "Public Buildings at Capitol, Income Fund" also created by Section 7-1-16 supra. However in 1963 Section 6-2-21, N.M.S.A., 1953 Compilation was enacted which transferred the income accruing from the "public buildings at Capitol income fund" to the "severance tax bond fund." Therefore the State Investment Council should deposit all income resulting from the investment of this permanent fund into the "severance tax bond fund" very month, as is expressly provided by Section 6-2-21 supra.