

Opinion No. 68-06

January 10, 1968

BY: OPINION OF BOSTON E. WITT, Attorney General

TO: Luis Martinez, Commissioner County of Taos Taos, New Mexico. Floyd G. Davis, Mayor City of Farmington P. O. Box 900 Farmington, New Mexico

QUESTIONS

In view of the adoption of Constitution Amendment No. 2, may public moneys now be invested in insured savings and loan associations in New Mexico.

CONCLUSION

Not until enabling legislation is enacted.

OPINION

{*13} ANALYSIS

Article 8. Section 4, as amended by Constitutional Amendment No. 2, which received a favorable vote in the November (1967) election, reads as follows:

Any public officer making any profit out of public moneys or using the same for any purpose not authorized by law, shall be deemed {*14} guilty of a felony and shall be punished as provided by law and shall be disqualified to hold public office. All public moneys not invested in interest-bearing securities shall be deposited in national banks in this state, in banks or trust companies incorporated under the laws of the state, [or in federal savings and loan associations in this state, or in savings and loan associations incorporated under the laws of this state whose deposits are insured by an agency of the United States,] and the interest derived therefrom shall be applied in the manner prescribed by law. [The conditions of such deposits shall be provided by law.]

The portions of the above quoted provisions which are placed in brackets are those which the legislature and the electorate recently approved.

As yet no conditions have been enacted in regard to deposits of public moneys in savings and loan associations. In fact, the present statutes provide for such deposits to be placed in qualified banks furnishing the necessary collateral security. See Sections 11-2-25, 11-2-33 and 11-2-17. N.M.S.A., 1953 Compilation. Thus, we conclude that implementing legislation is necessary.

By: Oliver E. Payne

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