

**Opinion No. 42-4089**

May 15, 1942

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

**TO:** Mr. Hiram M. Dow, President Board of Regents New Mexico Military Institute  
Roswell, New Mexico

{\*196} We have letter of May 13, 1942 in which you request an opinion of this office as to whether or not the Board of Regents of the New Mexico Military Institute can legally invest surplus money it has on hand in United States Government War Bonds.

Your attention is called to Section 112-126, New Mexico Statutes Annotated, 1929 Compilation, which provides in part as follows:

"If at any time the state treasurer, or the treasurer of any county, city or town or **board in control**, shall have on hand more money than can be divided equitably and ratably between depositories qualified as in this act provided, such treasurer may, with the approval of the proper {\*197} board of finance, temporarily invest such excess funds in United States bonds or treasury certificates under such rules and regulations as may be prescribed by the state board of finance."

There can be no doubt but that the Board of Regents of the New Mexico Military Institute is the board of control of that educational institution. See Article XII, Section 11, New Mexico Constitution, and Section 102-2001, New Mexico Statutes Annotated, 1929 Compilation.

In this connection you will note that Section 3, Chapter 175, Laws of 1933 (Section 112-106, 1938 Supplement) provides that the boards of control of the various public and educational institutions in this state, and all other boards handling public funds are designated as boards of finance for such institutions. This section provides further:

"\* \* \* Each of such boards shall receive, handle and account, as provided by law, for all public moneys received by it, and shall deposit the funds of such institutions or boards in a depository or depositories qualified in accordance with the requirements of this Act, equitably and upon the terms and conditions and in like manner and subject to such limitations as in this Act prescribed for the deposit of public moneys by other Boards of Finance."

In view of the foregoing, it is my opinion that the Board of Regents of the New Mexico Military Institute may legally invest surplus money it has on hand in United States Government War Bonds.

I note that you mention in your letter the mandatory provisions of our statutes relative to the security of deposits of public moneys in banks. We do not believe that these

provisions in any way prohibit the investment by you in United States Government War Bonds. You may refer to the section on public moneys in New Mexico Statutes Annotated 1929 Compilation (Section 112-101, etc.) and to the provisions of Chapter 175, Laws of 1933.

Trusting that the foregoing sufficiently answers your inquiry, and with kind personal regards, I am

By GEO. H. HUNKER, Jr.,

Asst. Atty. General