



STATE OF KANSAS

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January 6, 1975

Opinion 75-10

The Honorable C. Taylor Whittier  
Commissioner of Education  
State Department of Education  
120 East 10th Street  
Topeka, Kansas 66612

Dear Commissioner Whittier:

You inquire concerning the investment of idle funds of unified school districts in state or federally chartered savings and loan associations. K.S.A. 1973 Supp. 17-5002(b) states in pertinent part thus:

"The governing body of any . . . school district is hereby authorized to invest its funds not immediately required for the purposes for which the funds were collected or received in shares or savings deposits of each of any one or more state or federally chartered savings and loan associations, which are located in . . . any county in which such school district is located. No such investment shall be made in any one savings and loan association of more than the amount such investment is insured by the federal savings and loan insurance corporation. *Any such investment may be made for such periods as provided by K.S.A. 1970 Supp. 12-1675, and acts amendatory thereto.*

The provisions of this subsection are hereby declared to be a part of and supplemental to all other laws relating to the investment of funds by municipal or quasi-municipal corporations, counties or school districts." [Emphasis supplied.]

You inquire, first, whether unified school districts may invest idle funds in passbook accounts in state or federally chartered savings and loan associations and if so, for what periods of time. It is a settled proposition that a unified

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school district has only those powers conferred expressly or by reasonable and necessary implication from those expressly granted. *Rose v. School District No. 97*, 162 Kan. 720, 197 P.2d 181 (1974). The power of unified school districts to invest idle funds is entirely a statutory power, and the authority to invest such monies in savings and loan associations derives entirely from the statute cited above.

K.S.A. 1973 Supp. 12-1675, first enacted in 1968, authorizes school districts to invest idle funds in commercial banks and trust companies in time deposit, open accounts for periods of not less than thirty days, or certificates of deposit for not less than ninety days, nor for more than six months. In 1969, school districts were first authorized to invest idle funds in "shares or savings deposits" in savings and loan associations. Ch. 130, § 1(b), L. 1969, amending K.S.A. 1968 Supp. 17-5002, provided in pertinent part thus:

"Any such investment: (1) Shall be of a duration of not less than ninety (90) days nor more than six (6) months; (2) shall earn or bear interest at the same rate that commercial banks are authorized to pay on time deposit open accounts pursuant to. . . K.S.A. 1968 Supp. 75-4212; and (3) shall be held and deemed to be a legal investment of such funds for for all purposes."

This language was deleted by amendments in 1971, and the prescribed minimum and maximum durations of such investments were replaced by the reference to K.S.A. 12-1675:

"Any such investment may be made for such periods as provided by K.S.A. 1970 Supp. 12-1675, and acts amendatory thereto."

This sentence constitutes a grant of authority for the making of such investments for *only* "such periods" prescribed by K.S.A. 1970 Supp. 12-1675. The question here is what are "such periods." The periods of investment prescribed by the latter statute are prescribed only with reference to specific kinds of accounts or investments and the investment authority provided by K.S.A. 1973 Supp. 11-5002 must be construed accordingly. Monies in "time deposit, open

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accounts" must be invested for periods of not less than 30 days. A "time deposit, open account" is defined at K.S.A. 1973 Supp. 9-701(j) to mean

"a deposit, other than a 'time certificate of deposit,' with respect to which there is in force a written contract with the depositor that neither the whole nor any part of such deposit may be withdrawn, by check or otherwise, prior to the date of maturity, which shall not be less than thirty (30) days after the date of the deposit, or prior to the expiration of the period of notice which must be given by the depositor in writing not less than thirty (30) days in advance of withdrawals."

If a savings and loan association offers time deposit, open accounts as defined above, a unified school district may deposit idle monies therein, for a period of not less than thirty days. However, a time deposit, open account does not appear to be comparable to a passbook account. Generally, the contract between a depositor and a savings and loan association with respect to a passbook account requires no fixed period during which the deposit must be maintained. It is, accordingly, our opinion that K.S.A. 1973 Supp. 17-5002 does not authorize unified school districts to invest idle funds in a passbook account in a savings and loan association in which the deposits are withdrawable at any time and upon demand. This section does authorize unified school districts to invest idle funds in state and federally chartered savings and loan associations for a minimum period of thirty days only in time deposit, open accounts, as defined by K.S.A. 1973 Supp. 9-701(j).

In addition to time deposit, open accounts for periods of not less than thirty days, K.S.A. 1973 Supp. 12-1675 authorizes investment in certificates of deposit for periods of not less than ninety days nor more than six months. Thus, in response to your second question, it is our opinion that unified school districts may invest idle funds in state or federally chartered savings and loan associations in certificates of deposit for periods of not less than ninety days nor exceeding six months.

Very truly yours,

  
VERN MILLER  
Attorney General

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