



STATE OF KANSAS

Office of the Attorney General

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Attorney General

July 7, 1976

ATTORNEY GENERAL OPINION NO. 76- 212

Mr. Merle R. Bolton
Commissioner of Education
State Department of Education
120 East 10th Street
Topeka, Kansas 66612

Re: Public Funds--Public Depositories--Savings Accounts

Synopsis: The governing body of a Kansas county, unified school district, and community junior college, may provide for the keeping of its active public funds in both checking and savings accounts, in the manner described in earlier Opinion No. 75-448.

* * *

Dear Commissioner Bolton:

In Opinion No. 75-448, I discussed and reviewed a proposal for a revised method of handling funds of the City of Prairie Village, Kansas. Briefly, under that proposal, the city would maintain one or more savings accounts with the city depository bank, in addition to its checking account or accounts. When deposits increased the balance in a checking account above an agreed-upon amount, those deposits in excess of the "checking floor" would be transferred automatically to a savings account. As checks were drawn by the city which would reduce the balance of the checking account below the fixed checking balance, the funds necessary to pay these items would be transferred from the savings to the checking account upon daily authorization by a duly authorized city official.

I concluded that this procedure did not constitute the investment of public funds within the scope of K.S.A. 1974 Supp. 12-1675 as amended. That provision governs the investment of "any moneys

Mr. Merle R. Bolton

Page Two

July 7, 1976

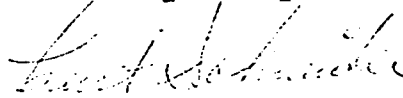
not immediately required for the purpose for which the moneys were collected or received." Although moneys held in savings accounts under this arrangement are interest-bearing, they are clearly funds which are subject to being drawn upon daily, by transfer to active checking accounts, to meet obligations of the city. In a recent opinion to Mr. Dan Turner, City Attorney of the City of Topeka, I concluded that 1976 amendments to K.S.A. 12-1675 did not affect the legality of this practice, precisely for the reason that funds held in savings accounts under this procedure did not constitute idle or inactive monies.

You inquire, now, whether unified school districts and community junior colleges may utilize the procedure outlined in Opinion No. 75-448 for the handling of their public funds. I find no legal reason why the governing body of a unified school district or community junior college may not include in its contract or contracts of deposit with its duly designated depositories provisions for the establishment and maintenance of savings accounts as well as checking accounts for the keeping of active public funds, K.S.A. 9-1401 authorizes the governing body of any municipal or quasi-municipal corporation to designate state and national banks and trust companies to serve as depositories of its funds. The terms of the contracts of deposit are not specified by statute to require that all active funds be held in checking accounts. Absent contrary state regulation, and there is none, the governing body of a unified school district or community junior college is free to contract for the keeping of its active funds in both savings and checking accounts with its duly designated depository or depositories, and to provide for the handling of such active funds in the manner described in Opinion No. 75-448. Obviously, the amount of the "checking floor," or minimum balance in the checking account may vary, depending upon the amount which the depositing governing body and the depository agree shall be maintained in the checking account, as a condition of the deposit contract.

Similarly, boards of county commissioners may utilize this same authority, to provide for the keeping of county funds as described above.

Obviously, the terms of any such deposit contract, and the procedures for handling of such monies, must conform to all applicable regulations of the Federal Reserve System and any other applicable federal requirements. Any inquiries concerning federal requirements should be directed to the proper federal regulatory agency.

Yours very truly,


CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj