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
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 pro-
visions 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 regula-
tions 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