STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

January 23, 1978

ATTORNEY GENERAL OPINION NO. 78-31

Mr. M. P. Zobkiw
Harvey County Engineer
Post Office Box 351
Newton, Kansas   67114

Re: Counties--Special Highway Improvement Fund--Uses

Synopsis: The special highway improvement fund may not be used
for the construction of a county highway department
building.

*   *   *

Dear Mr. Zobkiw:

K.S.A. 68-590 provides that monies in the special highway improve-
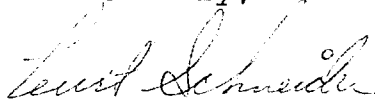ment fund shall be used

> "for the purpose of the construction or recon-
> struction of highways, bridges, roads and
> streets and necessary incidental facilities
> . . . ."

You ask whether monies in the fund may be used to construct a
new highway department building. In my judgment, they may not.
You urge that a shop building is an incidental facility to highway
construction and maintenance. The quoted language requires that
monies in the fund be used for the construction of highways, bridges,
roads and streets and "necessary incidental facilities." In my
judgment, such "incidental facilities" are facilities which are
incidental to the construction or reconstruction of a particular
highway, bridge, road or street, and not merely any facility which

is "incident" to highway construction and maintenance in general. Stated otherwise, an "incidental facility" which may be constructed with monies in the special highway improvement fund is any facility the construction of which is incidental to the improvement of a highway, bridge, road or street which is being constructed or reconstructed with monies in the fund. To use the fund for construction of general capital improvements for the road and bridge department, unrelated specifically to the improvement of specific highway, bridge and street projects, in my judgment exceeds the statutory purpose for which the fund was created.

Yours truly,

CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj