



STATE OF KANSAS

## Office of the Attorney General

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Curt T. Schneider  
Attorney General

November 7, 1975

ATTORNEY GENERAL OPINION NO. 75- 425

Mr. Ward E. Loyd  
Calihan, Green, Calihan & Loyd  
212 West Pine Street  
Post Office Box 1016  
Garden City, Kansas 67846

Re: General Bond Law--Bonds and Warrants--Investment  
of Proceed of Certain Bond Issues

Synopsis: The investment of bond proceeds not currently needed  
by the issuing municipality is governed solely by the  
provisions of K.S.A. 1974 Supp. 10-131.

\* \* \*

Dear Mr. Loyd:

You have requested an opinion from this office whether K.S.A. 17-5002 supplements the provisions of K.S.A. 1974 Supp. 10-131 so as to permit school districts to invest idle proceeds of bond issues in shares or savings deposits of savings and loan associations, in light of the description of investments contained in K.S.A. 1974 Supp. 10-131 and K.S.A. 1974 Supp. 12-1675 [as amended by ch. 68, § 1, L. 1975.]

In this regard, K.S.A. 17-5002 provides in pertinent part at subsection (b) that:

"(b) The governing body of any municipal or quasi-municipal corporation, fireman's relief association, county or 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 the investing municipality, quasi-municipal corporation, county or in any county in which such school district or fireman's relief association is located. No such investment shall be made in any one savings and loan association or 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. 1973 Supp. 12-1675, and acts amendatory thereto"

K.S.A. 12-1675 states:

"The governing body of any county, city, school district or quasi-municipal corporation is hereby authorized and empowered to invest any moneys not immediately required for the purposes for which the moneys were collected, or received, in (a) temporary notes issued by such county, city or school district or quasi-municipal corporation; (b) time deposit, open accounts for periods of not less than 30 days, or certificates of deposit for periods of not less than ninety (90) days and not exceeding six (6) months, in commercial banks or trust companies located in such county or in a county or counties in which all or part of such city, school district or quasi-municipal corporation is located; or if no commercial bank or trust company is located in the appropriate county, accounts, or certificates of deposit, for periods of not less than ninety (90) days and not exceeding (6) months, in commercial banks or trusts companies located in a county adjacent to any such county; or (c) United States treasury bills or notes with maturities as the governing body shall determine, but not exceeding three (3) months. The investment authorized in clause (c) herein shall be utilized only if the investment authorized in clause (b) herein is not possible because the appropriate eligible commercial banks or trust companies cannot or will not make such time deposit, open accounts, or certificates of deposit, available to the county, city, school district or quasi-municipal corporation at a rate equal to the rate prescribed in K.S.A. 75-4210, and amendments thereto."

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The apparent conflict here arises by virtue of K.S.A. 10-131 which states that:

"The governing body of any municipality, as defined in K.S.A. 10-101 which has heretofore issued or may hereafter issue bonds for any purpose, is hereby authorized and empowered to invest any portion of the proceeds of said bonds, which is not currently needed, in direct obligations of the United States government, which mature or are redeemable without loss of principal and interest whereof are guaranteed by the government of the United States, or in the municipality's temporary notes issued pursuant to K.S.A. 1970 Supp. 10-123 or in interest-bearing time deposits in commercial banks or trust companies located in the county or counties in which the municipality is located."

"Municipality" means and includes "every corporation and quasi-corporation empowered to issue bonds in payment of which taxes may be levied."

Of pertinence to this issue, K.S.A. 10-125 provides:

"This act shall govern the issuance of all municipal bonds, except where different provisions are specifically provided by law, in which case the specific provisions, shall control only so far as they conflict with this act."

Accordingly, K.S.A. 1974 Supp. 10-131 read in conjunction with the above definition of "municipality" and K.S.A. 10-125 clearly renders those bonds or notes issued by a school district subject to the requirements of the general bond law contained in K.S.A. 10-101 et seq.

Furthermore, the term "idle funds" as it is used in K.S.A. 17-5002(b) relates to those funds derived from a wide spectrum of potential sources. Its application includes all funds "... not immediately required for the purposes for which the funds were received or collected ..." However, K.S.A. 1974 Supp. 10-131, specifically undertakes to direct the manner of investment of a particular type of "idle funds"--

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proceeds derived from the issuance of bonds which are " ... not currently needed ..." In view of the specific application of K.S.A. 1974 Supp. 10-131, in its direction of the investment of bond proceeds not immediately required, it is the opinion of this office that the investment of those bond proceeds not currently needed by the issuing municipality is governed solely by the provisions of K.S.A. 1974 Supp. 10-131.

In light of the above, no answer is necessary for the second question you have posed.

Very truly yours,



CURT T. SCHNEIDER  
ATTORNEY GENERAL

CTS:HTW:bv