



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

December 15, 1992

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
TELECOPIER: 296-6296

ATTORNEY GENERAL OPINION NO. 92-155

The Honorable Dave Webb
State Senator, Eleventh District
18601 Nall
Stillwell, Kansas 66085

Re: Schools--Miscellaneous Provisions--Dues Payments
to Kansas Association of School Boards Authorized

Synopsis: Moneys legally paid by a unified school district
cease to be public funds when in the hands of the
recipient. Because a unified school district may
lawfully pay dues to the Kansas Association of
School Boards, Inc. (KASB), such moneys cease to be
public funds upon receipt by KASB. KASB is then
free to spend the money as it sees fit. Cited
herein: K.S.A. 72-5326.

* * *

Dear Senator Webb:

As senator for the eleventh district, you request our opinion
regarding the following:

"What statutory authority does [the Kansas
Association of School Boards, Inc.] have
to take local property tax dollars via.
[sic] local school board dues and purchase
real estate with those funds?"

The Kansas Association of School Boards, Inc. (KASB) is a
private nonprofit corporation, the purpose of which is:

"[T]o secure the best possible educational
opportunity for all the children of the
State of Kansas; to support and promote

legislation and educational policies approved by the membership; to keep its members informed and aware of important issues facing education through publications, workshops, and seminars; to seek the cooperation and assistance of all organizations with the same goal; to study the problems of school organization and administration and work for the most efficient and economical organization of Kansas schools consistent with our primary purpose." Kansas Association of School Boards, Inc., Articles of Incorporation, Third (May 10, 1988).

KASB is funded through dues assessed its members and from fees charged for special services provided by KASB. In exchange for the dues payments, KASB provides the following services: drafting legislation; lobbying members of the legislature; staff consultations; informational publications; and research information. Upon payment of special fees, members of KASB may receive the following additional services: legal assistance; negotiations services; consultant services; and superintendent search services. Members may also participate in the annual convention and seminars and workshops sponsored by KASB, obtain workers' compensation and errors and omissions insurance, and receive assistance in establishing district policies and projecting future enrollments.

A unified school district is an arm of the state existing only as a creature of the legislature to operate as a political subdivision of the state, and has only such power as is granted by the legislature. NEA-Wichita v. U.S.D. No. 259, 234 Kan. 512, 517 (1983). Moneys held by a unified school district constitute public funds, 63A Am. Jur. 2d Public Funds § 1 (1984), and can be expended by the district board only for purposes authorized by statute either expressly or by necessary implication. Joint Consolidated School District No. 2 v. Johnson, 163 Kan. 202, 208 (1947). Pursuant to K.S.A. 72-5326, "[t]he board of education of any school district . . . is hereby authorized to appropriate money out of its general fund to pay the annual dues in the [KASB]."

However, moneys legally paid by a unified school district cease to be public funds when in the hands of the recipient if the recipient is not a public entity. 63A Am. Jur. 2d Public Funds § 2 (1984). Therefore, because a unified school district may lawfully pay dues to KASB, such moneys

cease to be public funds when received by KASB. KASB is then free to spend the money as it sees fit.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Richard D. Smith
Assistant Attorney General

RTS:JLM:RDS: