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**SCHOOLS AND SCHOOL DISTRICTS; Finances; Funds; Investments;
SCHOOLS AND SCHOOL DISTRICTS; Districts; Funds; Interest
and Investment; SCHOOLS AND SCHOOL DISTRICTS; Board
of Trustees; Powers; Funds, investment of; PUBLIC FUNDS;
Deposit of; Investment by school districts; COUNTY
TREASURERS; Powers; Funds; deposit by school
district; COUNTIES; Funds; Deposit of; by
school district. Section 16-2618,
R.C.M. 1947.**

- HELD:** (1) That the trustees of any school district are authorized to direct the county treasurer to invest school funds in direct obligations of the federal government, or in savings or time deposits of a bank insured by the F.D.I.C.;
- (2) That the interest collected on such deposits shall be credited to such school district.

November 16, 1965

Mr. Keith Burrows
Roosevelt County Attorney
Wolf Point, Montana

Dear Mr. Burrows:

You have requested my opinion as to the effect of section 16-2618(8), R.C.M. 1947, upon the duties of the county treasurer with respect to the handling of school district funds. You advise me that the trustees of Wolf Point High School District 45 have directed the county treasurer to invest certain of that school district's funds in two Wolf Point banks. You inquire if it is proper for the trustees to direct the deposit of its funds in this manner in view of the provisions of section 16-2618(4), R.C.M. 1947, directing the county treasurer to deposit funds ratably among all banks of the county. You inquire if the county treasurer must credit interest derived from invested school district funds to that fund rather than to the general fund of the county as provided in section 16-2618(6), R.C.M. 1947.

Section 16-2618(8), R.C.M. 1947, was enacted as Chapter 32 of the session laws of 1965 and reads as follows:

Whenever in the judgment of the trustees of any common school district, high school district, or county high school it would be advantageous to invest any money of such school or school district in savings or time deposits in a state or national bank insured by the F.D.I.C., or in direct obligations of the United States government, payable within one hundred eighty (180) days from the time of investment, such governing body may in its discretion direct the county treasurer to make such investments. All interest collected on such deposits or investments shall be credited to the fund from which the money was withdrawn, provided that nothing in this act shall be interpreted to conflict with section 16-2050, R.C.M. 1947.

Generally speaking, sections 16-2618(1) through 16-2618(7), R.C.M. 1947, provide the method by which counties, cities and towns are to deposit and invest their funds. Section 16-2618(4), R.C.M. 1947, provides:

When more than one bank is available in any county, for the deposit of county funds, or in any city or town for the deposit of city or town funds, such deposits shall be distributed ratably among all of such banks qualifying therefor, substantially in proportion to the paid-in capital and surplus of each such bank willing to receive such deposits under the terms of this act, and it shall be the duty of said county, city or town treasurer to prorate all such deposits among all of the banks qualified to receive the same as in this act provided, to the end that an equitable distribution of such deposits shall be maintained.

Section 16-2618(6) provides:

Except as provided in subsection (8) of this section, all interest paid and collected on such deposits or investments shall be credited to the **general fund** of the county, city or town to whose credit such funds are deposited. Where moneys shall have been deposited in accordance with the provisions of this act, the treasurer shall not be liable for loss on account of any such deposit that may occur through damage by the elements or for any other cause or reason occasioned through means other than his own neglect, fraud, or dishonorable conduct. (Emphasis supplied.)

Thus it is seen that section 16-2618(6) provides that all interest collected on such deposits are to be credited to the general funds of the county. However, section 16-2618(8), R.C.M. 1947, the 1965 amendment, provides different treatment for school district funds by authorizing school trustees in their discretion to direct the county treasurer as to how school funds are to be deposited and invested and by providing that interest from invested school funds is to be credited to the fund from which the money was withdrawn rather than to the county general fund. Thus sections 16-2618(1) through 16-2618(7), R.C.M. 1947, deal generally with the depositing and investing of county funds whereas section 16-2618(8), R.C.M. 1947, deals specifically with the investing and depositing of school funds.

This office has cited decisions of our Supreme Court to the effect that where there is one statute dealing with a subject in general and comprehensive terms, and another dealing with a part of the same general subject in a more minute and definite way, the two should be read together and harmonized, if possible, with a view to giving effect to a consistent legislative policy; but to the extent of any necessary repugnancy between them, the special will prevail over the general statute. To this effect see Volume 11, Opinions of the Attorney General, p. 202.

The most recent pronouncement of our Supreme Court on this subject is found in **Williamson v. Skeritt**, 141 Mont. 422, 427; 378 Pac. 2d 215, where the court quoting with approval from **State v. Holt**, 121 Mont. 459, 476; 194 Pac. 2d 651, said:

" . . . Under the long settled and universal rule of construction, the provision of the special Act must prevail over the general provisions of the general law when the special and general laws are in conflict. And especially so, where, as here, the special Act treats the subject in a minute and definite way. And the rule is particularly compelling where, as here, the special Act treating of sales by the state's licensees, was enacted subsequent to the passage of the state liquor control Act prohibiting all sales of liquor except under state control. Here it is the latest expression of the legislative intention, and the special statute prevails in all cases coming within its field and scope. And this is the rule though the special law antedates the general."

And, the Supreme Court said in **State v. Brannon**, 86 Mont. 200; 283 Pac. 202, 209: "When the terms of a statute are plain, unambiguous, direct and certain, it speaks for itself, and there is nothing for the court to construe."

Section 16-2618(8), R.C.M. 1947, is plain, unambiguous, direct and certain. There is nothing for the court to construe. The legislature clearly intended to give school trustees discretion to direct the investing and depositing of school funds. By simultaneously amending section 16-2618(6), it specifically exempted interest from school funds from being credited to the county general fund.

It is, therefore, my opinion that: (1) the trustees of any school district are authorized to direct the county treasurer to invest school funds in direct obligations of the federal government, or in savings or time deposits of a bank insured by the F.D.I.C.; (2) the interest collected on such deposits shall be credited to such school district.

Very truly yours,

FORREST H. ANDERSON
Attorney General