

BANK

BANKING:

Public deposits of State, county, cities and school districts come within the exception of the Federal Reserve Act permitting member banks to pay interest on demand deposits.

10-23 October 13, 1933.

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Mr. C. Moberly,
Committee on Finance,
Jefferson City, Missouri.

Dear Sir:

We are acknowledging receipt of your letter in which you inquire as follows:

"The Banking Act of 1933 provides certain exceptions to the prohibitions against payment of interest on demand deposits. One of the exceptions applies to 'any deposit of public funds made by or on behalf of any State, county, school district or other subdivision or municipality, with respect to which payment of interest is required by State law.'

We are receiving inquiries as to whether deposits of State, county, city, town and school district funds in Missouri which are payable on demand fall within this exception."

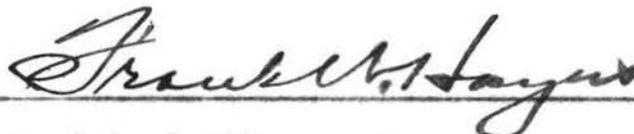
Section 11 of the Banking Act of 1933, passed by the last session of Congress, added a new Section to follow Section 19 of the Federal Reserve Act. Such Act reads as follows:

"No member bank shall, directly or indirectly by any device whatsoever, pay any interest on any deposit which is payable on demand: Provided, that nothing herein contained shall be construed as prohibiting the payment of interest in accordance with the terms of any certificate of deposit or other contract heretofore entered into in good faith which is in force on the date of the enactment of this paragraph; but no such certificate of deposit or other contract shall be renewed or extended unless it shall be modified to conform to this paragraph, and every member bank shall take such action as may be necessary to conform to this paragraph as soon as possible consistently with its contractual obligations: Provided, however, that this paragraph shall not apply to any deposit of such bank which is payable only at an office thereof located in a foreign country, and shall not apply to any deposit made by a mutual savings bank, nor to any deposit of public funds made by or on behalf of any State, county, school district, or other subdivision or municipality,

with respect to which payment of interest is required under State law."

In substance the above Section prohibits member banks from paying interest on demand deposits. The Section, however, excepts, among other things, "deposit of public funds made by or on behalf of any State, county, school district, or other subdivision or municipality, with respect to which payment of interest is required under State law." The Legislature by a great number of sections in various statutes has provided that the state, counties, school districts and cities of all classes shall deposit their public funds in public depositories. A quoting of each of these sections would unduly lengthen this opinion. They are in substance the same. They require the advertisement for public depositories and the successful bidder is obligated to pay interest to the depositor on its average daily balances. The statute, in each of these instances, requires that interest be paid on public moneys so deposited and we believe that member banks, under the foregoing Section, may still pay interest upon their demand deposits when made by the state, counties, school districts or municipalities; that the state, counties, school districts and municipalities of Missouri come within the exception contained in said Section.

Very truly yours,



Assistant Attorney General.

APPROVED:

Attorney General.

FWH:S