

March 27, 1980

OPINION LETTER NO. 34
(Answer by Letter-Dean)

Honorable Flavel J. Butts
Representative, 132nd District
Room 106A, Capitol Building
Jefferson City, Missouri 65101



Dear Representative Butts:

This is in response to your opinion request in which you inquire as to whether a school board may invest surplus district funds in a bank outside the district and county under Section 165.051, RSMo, even though there are interested and qualified banks within the district.

In preparing this reply we have reviewed Opinion No. 291, rendered September 24, 1974, to Representative Russell Brockfeld. We believe that opinion continues to be correct and that it is controlling in this instance.

That opinion held:

. . . a school district may invest surplus funds in certificates of deposit . . . only in a bank in the county in which the school district is located, except where the conditions set out in Section 110.040 prevail.

A copy of the complete opinion is enclosed for your use.

Honorable Flavel J. Butts

Arguments have been presented to us about the validity of Opinion No. 291 of 1974. We note the sections in question, 165.051 and 165.201 to 165.291, RSMo, have not been significantly altered by the legislature since the opinion was issued. Had the legislature believed the opinion to be incorrect, the statute in question could have been changed. Since no legislative action has taken place we believe it inappropriate to now withdraw the opinion and reverse our position. We believe the research and reasoning that lead to Opinion No. 291 of 1974 is still valid.

We conclude, therefore, that school districts are prohibited from investing surplus funds in banking institutions outside the county in which the district is located except under the circumstances set forth in Section 110.040, RSMo.

Sincerely,

JOHN ASHCROFT
Attorney General

Enc: Op. No. 291
Brockfeld, 9/24/74