

**OPINION
61-60**

July 6, 1961 (OPINION)

COUNTIES

RE: Investment of Surplus Funds - Authorized Investments

This is in reply to your letter of June 28, 1961, concerning the investment of surpluses held by Divide County.

You state you have advised the Board of County Commissioners to the effect that the investment of surplus county funds in the issues of foreign governments is not authorized by statute and that such bonds held by the County should be liquidated and reinvested in United States Government Bonds.

You also state it appears that Divide County has invested certain amounts of the county emergency fund in a certificate of deposit with the Farmers State Bank of Crosby, North Dakota, and an additional sum from the general checking account funds and savings account shares in the Minot Federal Savings and Loan Association and in the Gate City Savings and Loan Association.

You point out that in checking the statutes it appears section 21-06-07 of the North Dakota Century Code authorizes a political subdivision to invest surpluses in United State Government Bonds and section 57-48-06 of the North Dakota Century Code authorized political subdivisions to invest surpluses in highway revenue anticipation certificates.

We agree with your opinion to the Board of County Commissioners that investment of surplus county funds in the issues of foreign governments is not authorized and that said bonds should be liquidated. There is no statutory authority for such investment.

We are also in agreement with your conclusion that there is no statutory authority which would authorize the County Commissioners to invest surplus funds in certificates of deposit or in savings and loan associations. As you have noted sections 21-06-07 and 57-48-06 authorize certain types of investments. It would appear, in the absence of other statutory authority, that funds of the county would have to be invested in accordance with those provisions or deposited in accordance with the provisions of chapter 21-04 of the North Dakota Century Code.

It should be noted that investment in savings and loan associations is authorized for certain funds. See for example, section 57-15-17(1) which permits the investment of school building funds in the purchase of shares or securities of federal savings and loan associations or state chartered building and loan associations within the limits of federal insurance. Apparently the reasoning behind this authorization is the fact that building funds presumably will not be needed on short notice for, as you have noted in your letter, and investment in a savings and loan association is actually a

purchase of savings account shares and there is no guarantee that the money will be available for ready withdrawal when needed. In the case of building funds, of course, there is ordinarily a great amount of planning, etc. that goes into construction of building and the funds should not be needed on short notice.

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