another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping or travel use.

"(3) Motor home, which is a vehicular structure built on a self-propelled motor vehicle chassis, primarily designed to provide temporary living quarters for recreational, camping, or travel use.

"(4) Truck camper which is a portable structure, designed to be loaded onto, or affixed to, the bed or chassis of a truck, constructed to provide temporary living quarters for recreational, camping or travel use. Truck campers are of two basic types:

"(i) Slide-in camper, which is a portable structure designed to be loaded onto, and unloaded from, the bed of a pickup truck, constructed to provide temporary living quarters for recreational, camping, or travel use; and

"(ii) Chassis-mount camper, which is a portable structure designed to be affixed to a truck chassis, and constructed to provide temporary living quarters for recreational, travel or camping use." MCLA 325.651(f); MSA 14.447(121)(f)

As can be seen, 1970 PA 171, deals with equipment and facilities having the characteristics of mobility and temporary use.

The legislature, on the same day, provided for trailer parks of continual use and trailer parks of nonrecreational use in 1970 PA 172, and for the mobile and temporary campground in 1970 PA 171. The intent of the legislature to regulate the whole field of trailer parks and campgrounds is evident.

A development of permanently sited mobile homes thus would fall within the parameters of 1959 PA 243, as amended by 1970 PA 172.

For the foregoing reasons, it is my opinion that a development such as that proposed in the instant situation must be licensed under 1959 PA 243, *supra.*

FRANK J. KELLEY,
Attorney General.

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BANKING: Deposit of state money

CONSTITUTIONAL LAW: Deposit of state money in banks

SCHOOL DISTRICTS: Funds on deposit in banks

COMMUNITY COLLEGES: Funds on deposit in banks

WORDS AND PHRASES: "state money"

Funds disbursed by the State Treasurer to local school and community college districts, after disbursement, are no longer state monies within the purview of Const 1963, art 9, § 20.

Opinion No. 4786-A April 28, 1976.

Richard J. Francis
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You have requested my reconsideration of that reference in OAG 1973-1974, No. 4786, p 91 (October 15, 1973) which concluded that, within the meaning of Const 1963, art 9, § 20, the term "state money" includes state appropriations to community colleges and school districts.

Const 1963, art 9, § 20 provides as follows:

> "No state money shall be deposited in banks other than those organized under the national or state banking laws. No state money shall be deposited in any bank in excess of 50 percent of the capital and surplus of such bank. Any bank receiving deposits of state money shall show the amount of state money so deposited as a seperate item in all published statements."

Since issuing Opinion No. 4786, *supra,* in reliance upon *Advisory Opinion re Constitutionality of PA 1966, No. 346,* 380 Mich 554; 158 NW2d 416 (1968), I have ruled that state funds appropriated to the State Housing Authority lose their identity as state funds after being transferred to the Authority. OAG 1973-1974, No. 4841, p 187 (October 24, 1974)

In *Monticello House, Inc* v *Calhoun County,* 20 Mich App 169, 172-173; 173 NW2d 759, 760-761 (1969), the court stated:

> "Plaintiff avers that state funds are not involved since such amounts as are received from the state lose their identity as such when received by the county. . . .
>
> "* * *
>
> "In a project of this nature, admittedly there is some state reimbursement. However, it appears that these funds are actually county moneys. Although there is no Michigan authority on this point, the Ohio case of *State* v *Lucas* (1949), 39 Ohio Op 519 (85 NE 2d 155), holds that *state funds appropriated and paid to a county lose their identity as state funds upon being paid to that county.* The reasoning expressed in *Lucas* applies to the situation before us:
>
> " 'Political subdivisions of the state are entitled to a share of many funds collected by the state for express purposes, such as the gasoline fund, auto tax fund, sales tax fund, *school fund,* and others, all of which by express direction of the law must be used by the counties and other political subdivisions for the purposes provided by statute. It would not be contended that any of such funds, after payment thereof to the political subdivisions, are still state funds, although collected and distributed by the state, although, under the provisions of the various statutes, such funds may only be legally used for specified purposes.' . . ." (emphasis added)

Based on the statements of the Courts in the *Monticello House, Inc,* and *Constitutionality of PA 1966, No. 346* cases, *supra,* it is clear that "state money", as used in Const 1963, art 9, § 20, does not include state funds which have been transferred to a political subdivision of the state.

In *Bacon* v *Kent-Ottawa Metropolitan Water Authority,* 354 Mich 159, 169; 92 NW2d 492, 497 (1959), the court enunciated as a rule of constitutional construction that provisions of the constitution are to be interpreted in accordance with existing laws and legal usages of the time, and also in accordance with common understanding of such existent laws and usages. Similarly, in *American Youth Foundation* v *Township of Benona,* 8 Mich App 521; 154 NW2d 554 (1967), at page 529, the court stated:

> "The framers of the Constitution are presumed to have knowledge of existing laws and to act in reference to that knowledge. . . ."

An examination of relevant statutes which existed during the drafting of the 1908 and 1963 Constitutions shows that monies of the state and such agencies as school districts were not treated similarly. For example, the Treasurer of the State of Michigan has long been charged with the responsibility of keeping account of the location of state monies. In this respect, 1861 PA 111, § 1; MCLA 21.181; MSA 3.701, provides as follows:

> "That it shall be the duty of the state treasurer to keep the accounts of the treasurer with all banks or depositories, *where any moneys of the state may be kept or deposited,* upon the regular books in his office, so that each item of all such accounts shall appear therein." (emphasis added)

Yet the State Treasurer has not recognized a duty to account or report for funds once disbursed to school districts. (See Annual Reports—Michigan Department of Treasury)

Another statute which distinguishes school district funds from state monies is 1932 (1st ex sess) PA 40, § 1; MCLA 129.11; MSA 3.751, which states as follows:

> "*All moneys which shall come into the hands of any* officer of any county, or of any township, *school district,* city or village, or of any other municipal or public corporation within this state, pursuant to any provision of law authorizing such officer to collect or receive the same, *shall be denominated public moneys within the meaning of this act.*" (emphasis added)

Again recognizing that school district funds are not subject to the control of the State Treasurer or any constitutional limitation, 1932 (1st ex sess) PA 40, § 2; MCLA 129.12; MSA 3.752, states:

> ". . . *the district board or board of education of any school district,* or the legislative body of any city or village of this state, shall provide by resolution for the deposit of all public moneys, including tax moneys, coming into the hands of the county treasurer, township treasurer, school district treasurer, city treasurer or tax collector, or village treasurer, respectively, in one or more banks or trust companies to be designated therein, and in such proportion and manner as may be

> therein provided . . . Upon designation of any depository or depositories in compliance with the provisions of this act, it shall be the duty of such treasurer or tax collector to deposit all funds coming into his hands, including tax moneys, therein, in his name as treasurer or tax collector, and in such proportion and manner as may be provided by said resolution. . . ." (emphasis added)

The School Code of 1955 also provides for statutory responsibility for the deposits of school district funds. Section 610 of the Code, 1955 PA 269, § 610; MCLA 340.610; MSA 15.3610, states as follows:

> "The treasurer of each district shall deposit the funds of the district in any bank or trust company authorized to do business in this state, and such deposit shall be made in his name as treasurer of the district. The board of each district shall, by resolution, determine a depository or depositories in which the funds of the district shall be deposited and it shall be the duty of the treasurer to deposit all funds of the district therein, *and in such proportion and manner as may be provided by the board.*" (emphasis added)

In enacting the original Constitutional limitation on the deposit of state funds in banks, the framers of the 1908 Constitution made the following comment in reference to Const 1908, art 10, § 15:

> "This is a new section designed to render the moneys of the state absolutely secure." 2 Official Record, Constitutional Convention, 1907-1908, p 1435

It is noteworthy that despite this apparent Constitutional limitation, the legislature has enacted statutory limitations on the amount school districts may deposit in any one bank in Section 611 of the School Code. In pertinent part, Section 611 of the Act, 1955 PA 269, § 611; MCLA 340.611; MSA 15.3611, provides as follows:

> "No bank or depository shall receive a larger deposit of the funds of any district than $100,000.00: Provided, That any bank whose combined capital and surplus exceeds $50,000.00 may receive deposits of said funds in an amount not more than double the combined capital and unimpaired surplus of said bank."

The treatment of school district funds apart from the Constitutional limitation of art 9, § 20 *supra,* can also be found in the predecessor acts of the School Code of 1955, *supra.* 1881 PA 164, ch III, § 25, as amended by 1915 PA 40, recognized the authority of the school district treasurer to deposit district funds in banks up to a limit of $100,000.00 per bank. 1923 PA 212 subsequently amended this limitation to permit deposits in banks with over $50,000.00 in capital and surplus of twice the combined capital and surplus. It should also be noted that the courts, whenever referring to school district funds, have consistently used the term "public funds" as opposed to state money. See *Rural Agricultural School District No. 1* v *Guardian National Bank of Commerce of Detroit,* 6 F Supp 482 (ED Mich, 1934); *Reichert* v *United Savings Bank,* 255 Mich 685; 239 NW 393 (1931); *Board of Education of Detroit* v *Union Trust Co,* 136 Mich 545; 99 NW 373 (1906).

Since it must be presumed that these statutes and practices were known to the delegates of the 1908 and 1961 Constitutional Conventions, it is significant when reading the discussion at the time Const 1963, art 9, § 20 was submitted, that no recognition was given to the fact that the section would in any way affect the status quo. The discussion consisted of the following:

> "The first paragraph of the proposal dealing with state deposits in banks is section 15, article X of the present constitution unchanged. In the opinion of the committee and of the fiscal officers of the state it is adequate and satisfactory." 1 Official Record, Constitutional Convention, 1961, p 766

Thus, had the delegates intended the term "state funds", as used in Const 1908, art 10, § 15 and Const 1963, art 9, § 20, to include school district funds, a substantial portion of the statutes in the State of Michigan would have thereby been rendered unconstitutional.

I am cognizant of the legal postulate that school districts are agencies of the state. *School District of the City of Lansing* v *State Board of Education,* 367 Mich 591; 116 NW2d 866 (1962). However, in matters outside of education, school districts are sometimes classified apart from state agencies. In the case of property tax impositions the courts have declared school districts to be municipal corporations, *Hall* v *Ira Township,* 348 Mich 402; 83 NW2d 443 (1957); *Kent County Board of Education* v *Kent County Tax Allocation Board,* 350 Mich 327; 86 NW2d 277 (1957), and for the purposes of condemnation powers under 1911 PA 149, as amended by 1966 PA 351, § 1; MCLA 213.21 *et seq;* MSA 8.11 *et seq,* school districts have been defined as public corporations. *Union School District of the City of Jackson* v *Starr Commonwealth for Boys,* 322 Mich 165; 33 NW2d 807 (1948). In addition, I have indicated in a letter opinion to State Senator Mack on July 17, 1972, that for conflict of interest purposes, when a school board member acts in an administrative area, as opposed to an educational area, he is classified as a public servant, not a state officer.

Similarly, I concluded in a letter opinion to Albert Lee, C.P.A., on February 6, 1975, that community colleges are not state agencies for the purposes of Const 1963, art 4, § 53, which states the responsibility of the Auditor General to conduct post audits of all state agencies. In that opinion, I made the following statement:

> "A community college district may be generally analogized to a local school district in that it serves as the geographical subdivision of the state for the purpose of providing public educational institutions under the direct supervision and control of a locally elected board with the institution being supported in part by local taxes. The analogy is further enhanced by the fact that both boards of community college districts and those of local school districts are subject to the leadership and general supervision of the state board of education.[1] In addition, it should be pointed out that at the time the 1963 Constitution became effective, over one-half of the community and/or junior colleges then

in existence were under the supervision of and operated by boards of education of K-12 school districts." (footnote omitted)

The analysis employed in concluding that community colleges are not state agencies for the purpose of Const 1963, art 4, § 53 is also applicable to Const 1963, art 9, § 20. I therefore conclude that state moneys appropriated and transferred to local community college districts are not state monies. By way of caveat, however, I must point out that although community college districts are not subject to any bank deposit limitations either by way of constitutional provision or statute, the board of trustees for such institutions have a responsibility to insure the safety of district funds. Thus, in deciding where and in what proportion to deposit such funds, the trustees must be guided by the limitations imposed upon state agencies or school districts.

State colleges and universities may be distinguished from school districts and community colleges in that the governing bodies of colleges and universities are elected statewide, or, in some cases, appointed by the Governor and that the students thereof are admitted on a statewide basis without discrimination as to admission or fees. In addition, Const 1963, art 8, § 4, indicates that colleges and universities lack taxing authority and must depend on tax monies from legislative appropriations. The Supreme Court has further declared that the governing boards of state colleges and universities are state officers. *Regents of the University of Michigan* v *Employment Relations Commission,* 389 Mich 96; 204 NW2d 218 (1973)

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ADMINISTRATIVE LAW AND PROCEDURE: The Brown-McNeely Insurance Fund is a state agency.

BROWN-McNEELY INSURANCE FUND: The Brown-McNeely Insurance Fund is a state agency.

The Brown-McNeely Insurance Fund is a state agency.

Opinion No. 4934 May 5, 1976.

Thomas C. Jones
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You have requested my opinion as to the status of the Brown-McNeely Insurance Fund created by 1975 PA 43 which amended the Insurance Code, 1956 PA 218; MCLA 500.100 *et seq;* MSA 24.1100 *et seq* by adding Chapter 25. The fund was created to ". . . provide malpractice insurance to eligible providers . . ." MCLA 500.2502(1); MSA 24.12502(1).