

State Funds—Counties—State Warrants—State Auditor.

Sections 192 to 197, Revised Codes of 1921, construed as requiring the distribution to the several counties of the various funds referred to in the opinion, and the State Auditor should draw his warrant against the specific fund to be distributed.

Geo. P. Porter, Esq.,
State Auditor,
Helena, Montana.

My dear Mr. Porter:

You have requested my opinion as to whether the provisions of Chapter 112, Laws of 1921, cover the distribution to the several counties of the state of Montana of the Gasoline License Tax Fund, Common School Interest and Income Fund, Forest Reserve Fund, Inheritance Taxes, money received by the Real Estate Department of the Auditor's office, and as to whether warrants should be drawn to the respective counties by the State Auditor.

Chapter 112, above referred to, is Sections 192 to 197, inclusive, R. C. M. 1921.

Section 2394, R. C. M. 1921, requires the State Treasurer to apportion and distribute to the several counties the moneys in the "gasoline license tax fund," while Section 4061 provides for the distribution of real estate license fund and fines, by the State Treasurer.

Section 175 provides for the division and distribution of the Forest Reserve Fund by the State Treasurer, while Section 194 perpetually appropriates the following funds:

1. The income from all permanent funds and endowments, and from all land grants as provided by law;
2. All fees and earnings of each and every of such state institutions, from whatsoever source they may be derived;
3. All such contributions as may be derived from public or private bounty.

This section further provides that all fees and earnings of each and every of such state institutions, from whatsoever source they may be derived, other than as hereinbefore specified in Subdivisions 1, 2, and 3, shall be deposited by the State Treasurer to the credit of the general fund. The Auditor is required to keep separate accounts with each of these funds and show the receipts and disbursements therefrom.

Subdivision 17 of Section 151, R. C. M. 1921, makes it the duty of the Auditor to draw warrants on the State Treasurer for the payment of moneys directed by law to be paid out of the treasury, while Section 193, R. C. M. 1921, provides in part that no moneys received by the State Treasurer shall be paid out by him except upon state warrants issued by the State Auditor.

It is, therefore, my opinion that all of the foregoing funds are distributed or paid out by direction of law and that the Auditor should draw his warrant in each case on the specific fund to be distributed or paid out.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.