

Funds—Hail Insurance—Interest—State Treasurer.

Interest on the State Hail Insurance Fund must be credited to that fund and not to the general fund of the state.

O. H. Junod, Esq.,
State Treasurer,
Helena, Montana.

My dear Mr. Junod:

You have requested my opinion whether Section 355, Revised Codes of 1921, as amended by Chapter 40, Session Laws of 1923, supersedes Section 182, Revised Codes of 1921, as amended by Chapter 85, Session Laws of 1923, with respect to the disposition of interest on the State Hail Insurance Fund. You state that the State Board of Hail Insurance has requested you to credit all depository interest derived from balances in the State Hail Insurance Fund to that fund.

Section 355, as amended by Chapter 40, provides in part as follows:

“The State Treasurer shall receive all moneys paid to him under this Act and shall place same to the credit of a fund to be known as the State Hail Insurance Fund and may from time to time transfer to the Hail Insurance Administrative Fund such sums as the State Board may deem necessary and proper to pay the expenses of administration together with

such sums as may be needed to pay all the warrants registered against the Hail Insurance Administrative Fund, plus the accrued interest thereon, and shall pay out of such funds on warrants drawn by the State Auditor by order of the State Board of Hail Insurance. * * * All interest and earnings obtained by the State Treasurer for such moneys shall be credited to the respective funds."

This section was approved February 28, 1923.

Section 182, Revised Codes of 1921, as amended by Chapter 85, Session Laws of 1923, provides for the designation of depositories for the safekeeping of public moneys in the hands of the State Treasurer, and contains the following:

"All interest paid and collected on deposits shall be by the State Treasurer credited to the general fund of the state."

This section was amended March 6, 1923. However, the provision: "All interest paid and collected on deposits shall be by the State Treasurer credited to the general fund of the state," was not amended, but was a part of Section 182 as it appeared in the Revised Codes before amended.

The question is, which of these provisions should be given effect with respect to interest on the Hail Insurance Fund?

The provision as contained in Section 355 is a provision relating to a special fund, while that contained in Section 182 pertains to the funds of the state in general. The State Hail Insurance Fund is a trust fund, not derived from taxation, but by agreement. It is collected on a contract and cannot be used except in payment of hail losses according to agreement between the State Hail Insurance Board and the insured.

It is, therefore, my opinion that the provisions of Section 355, Revised Codes of 1921, as amended by Chapter 40, Session Laws of 1923, control, and that interest on the State Hail Insurance Fund must be credited to that fund and not to the general fund of the state.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.