

No. 454

PUBLIC WELFARE, imprest funds of Department of

- Held:** 1. Collateral securities for imprest funds of Department of Public Welfare may be deposited with the Federal Reserve Bank.
2. Proposed collateral agreement and receipt approved as revised in compliance with Section 21 of Chapter 29 of Laws of 1939, and Section 182, Revised Codes of Montana, 1935.

July 27, 1942.

Mr. J. B. Convery, Administrator
State Department of Public Welfare
Helena, Montana

Dear Mr. Convery:

In your recent letter you outlined proposed arrangements whereby securities pledged by the depository banks in Helena as security for imprest funds of your department will be deposited with the Federal Reserve Bank of Minneapolis under a collateral agreement and receipt. You ask for an opinion whether the proposed plan will afford the protection for these funds contemplated by law and also whether the proposed form of agreement in all respects meets the legal requirements for the purpose intended.

The controlling statute is Section 21 of Chapter 129, Laws of 1939, page 295, which provides in part:

"The state department shall establish and maintain a bank account or accounts properly safeguarded by the deposit of such securities as may be used by depositories as security for funds under the control of the state treasurer, and these securities shall be subject to the approval of the state examiner and the state board of public welfare."

This section provides the securities shall be of the same type as those deposited to secure funds under the control of the State Treasurer, but it does not expressly require they be deposited in any particular manner.

By analogy it would seem proper to handle these securities in the same manner as provided by the State Depository Law, which is Section 182, Revised Codes of Montana, 1935. That statute contains a provision as follows:

"... provided, that when negotiable securities are furnished, such securities may be placed in trust and the trustees' receipt may be accepted in lieu of the actual securities when such receipt is in favor of the state treasurer, his successors in office, and the state of Montana, and the form of receipt and the trustees have been approved by the state examiner."

Under this statute it is my opinion the proposed deposit of collateral securities with the Federal Reserve Bank of Minneapolis would fulfill the requirements above quoted.

In answer to your second question, it is my opinion the proposed form of receipt fulfills all requirements except one.

Referring again to the portion of Section 21 of Chapter 129 of the Laws of 1939 quoted above, you will note the securities deposited "shall be subject to the approval of the state examiner and the state board of public welfare." In the proposed receipt the approval clause has a place for signature only by the State Examiner or deputy. A signature blank or blanks should be added immediately below this for signature of the proper officers of your board. With this addition the proposed form of receipt will be satisfactory.

I have revised your form and a copy of such revised form is attached hereto for your convenience.

Sincerely yours,

HOWARD M. GULLICKSON
Attorney General

TO FEDERAL RESERVE BANK OF MINNEAPOLIS

We ask you to accept as custodian for safekeeping, and to execute the receipt below for the following described securities;

These securities are owned by the undersigned Bank, which is herein called the Depository. Certain funds have been or will be deposited in the Depository by or in the name of the State Department of Public Welfare of Montana, herein called the State Department. A more particular description of the deposit account or the funds therein is as follows:

Imprest fund.

As security for these deposits such securities have been assigned by the Depository to the State Department of Public Welfare.

We represent that there has been a full compliance with all laws which in any way pertain to the making of the deposits or the assignment of the securities or your acting as custodian thereof, and, more particularly, that the selection of the Depository as such and the amount and kind of the securities assigned and the manner of assignment thereof and the selection of you as custodian and the form of the receipt below have all been approved, and are in all other respects, as required by law.

As custodian you are to follow these instructions:

1. Until you receive from the undersigned Administrator of the State Department or a successor to his office instructions to the contrary, you are to detach and surrender to the Depository any interest coupons on the securities from time to time as such coupons mature.

2. You are to surrender all the securities to said Administrator or any successor to his office upon (a) the written demand of himself or such successor and in addition (b) the written approval of such surrender by the then State Examiner of the State of Montana or his deputy.

3. You are to surrender all the securities to the Depository upon, but not without, (a) the written order to do so of the Administrator or any successor to his office and in addition (b) the written approval of such surrender by the then State Examiner of the State of Montana or his deputy.

Signed in quadruplicate....., 19.....

(Name of Bank).....

(Location).....

By.....

Cashier President

State Department of Public Welfare

By.....

Administrator

(Print Administrator's name here).....

APPROVAL

Federal Reserve Bank of Minneapolis as custodian and the form of receipt set forth herein and the securities therein described are hereby approved.

.....
 State Examiner, State of Montana
 By.....
 Deputy

 State Board of Public Welfare

 By.....
 Chairman
 Attest:

 Secretary

RECEIPT

We acknowledge receipt of the securities described in the above communication and agree to act as custodian thereof in accordance with the instructions therein. This receipt is not assignable or negotiable.

Signed in quadruplicate....., 19.....

FEDERAL RESERVE BANK OF MINNEAPOLIS

By.....
 Assistant Cashier