

Opinion No. 32-510

September 3, 1932

BY: E. K. Neumann, Attorney General

TO: Honorable Warren Graham, State Treasurer, Santa Fe, New Mexico.

{*177} Your letter of August 30th, 1932 states that the Fish and Game Department is to request the State Board of Finance to be allowed the credit of interest to its daily balance in the State Treasury, and request our opinion if the Fish and Game Department is entitled to this credit.

It is our opinion that all interest earnings upon daily balances on deposit, with the exceptions hereinafter noted, should be credited to the Interest on Deposits Fund and eventually to the General Fund of the State. The law of this state is silent upon such matter, but seems to contemplate such procedure. Such intention is indicated by Sec. 112-202 of the 1929 Code which is as follows:

"All interest collected by the state treasurer on deposits, whether on time deposits or otherwise, in any bank, of moneys belonging to the common school permanent or income funds, or to any other fund derived from lands granted to the state of New Mexico by any act of Congress, shall be treated by the state treasurer as income of the funds to which such moneys belong and as collected by him shall be credited accordingly."

This section, by excluding all other funds, would seem to direct that only funds deposited in any bank belonging to the common school permanent or income funds or other funds derived from lands granted to the state by any act of Congress are entitled to the interest income upon bank deposits.

It necessarily follows, however, that the funds mentioned in said Sec. 112-202 are excluded from the rule announced in the second paragraph of this letter.