



OFFICES OF THE

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

JOHN C. DANFORTH
ATTORNEY GENERAL

July 1, 1975

OPINION LETTER NO. 158

Honorable James I. Spainhower
State Treasurer
Post Office Box 210
Jefferson City, Missouri 65101

Dear Mr. Spainhower:

This letter is in response to your question asking:

"Do the Funds recovered from checks written on the State Highway Fund or State Road Fund, which are not presented for payment within one year, revert to the above funds or the General Revenue Fund of the State?

"In the event it is your opinion that the funds revert to General Revenue, could the State Highway Commission request a replacement check out of the General Revenue Fund, payable to the proper vendor, where upon receipt of said check, it would be transmitted back to the fund from which it was originally charged and written, rather than being sent to the vendor?"

It is also our understanding that the State Highway Commission on October 10, 1974, sent a check made payable to a vendor to the Office of Administration, Division of Accounting, for cancellation. It appears, however, that the check was not canceled and was subsequently lapsed and the funds transferred to general revenue. The Commission has now requested that the amount of the check be restored to the road fund.

It is our view that the Missouri Supreme Court case of State Highway Commission v. Spainhower, 504 S.W.2d 121 (Mo. 1973) is

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decisive of the questions involved. In that case the court held that the interest derived from the investment of state road funds by the State Treasurer must be credited to the road fund and could not be diverted to general revenue.

You note in your request that Section 30.200, RSMo, provides in part that moneys set aside to pay any outstanding check or draft which has not been presented for payment shall be transferred to general revenue. In view of the holding in the case cited, it is our view that such provision is not applicable to checks or drafts drawn on the state road fund.

Therefore, the amount involved should be restored to the road fund.

Yours very truly,

A handwritten signature in cursive script, appearing to read "John C. Danforth".

JOHN C. DANFORTH
Attorney General