

**Opinion No. 7**

**EDUCATIONAL INSTITUTIONS; Extension programs; fees—FEES;  
School extension programs—UNIVERSITY OF MONTANA; Extension  
program; fees to general fund—UNIVERSITY OF MONTANA;  
Funds; extension program fees to general fund—  
Sections 79-306, 79-601, 79-602 and 79-603, Revised  
Codes of Montana, 1947**

**Held: All fees derived from extension programs authorized by the  
State Board of Education must be placed in the General Fund.**

March 25, 1959

Mr. W. F. Koch  
State Controller  
State Capitol  
Helena, Montana

Dear Mr. Koch:

You have requested my opinion whether the fees derived from an extension program authorized by the State Board of Education may be placed in a trust account or must be deposited in the general fund.

The fees for the proposed trust account would not be credited to the general fund. The funds would be deposited to the credit of the institution and the state treasurer would have no knowledge of the size of the account nor control over the disposition of the funds.

Section 79-306, RCM, 1947, provides that the state treasurer is the treasurer for every state institution. Subsection 2 requires all state institutions not located in the capitol to deposit daily all moneys in banks located in the city where the institution is located. Such deposits must be made in the name of the State treasurer ". . . and shall be subject to withdrawal at his option . . ."

Section 79-601, RCM, 1947, requires all moneys received or collected by all higher educational institutions ". . . for any purpose whatever . . . be paid over to the state treasurer who shall deposit the same to the credit of the general fund of the state."

Section 79-602, RCM, 1947, authorizes the State Board of Examiners to establish contingent accounts at state institutions by ". . . transferring in trust to the business offices of said institutions such sums of money as may appear necessary, to be used by said institutions for the payment of demands requiring immediate cash payment . . ." This provision is consonant with Section 75-310, RCM, 1947, authorizing educational institutions to contract and pay for current expenses. This provision merely authorizes the Board of Examiners to place a sum of money in trust and does not permit the Board to designate a source of money as a trust for that specific purpose.

Section 79-603, RCM, 1947, permits the Board of Examiners to permit any state institution to retain ". . . incomes from dormitories . . . and moneys deposited in trust by students, members, inmates or other persons, which may be subject to refund to the depositors on demand or otherwise . . ."

The extension program in question here was authorized by the Board of Education and there is no statute requiring the fees derived from the program to be placed in trust. Section 79-601 limits the funds that may be retained by an institution. The only fees permitted for the

extension program are those charged for quarter credits and such fees do not come within the deposits contemplated by Section 79-603.

Therefore, it is my opinion that all fees derived from extension programs authorized by the State Board of Education must be placed in the general fund.

Very truly yours,  
FORREST H. ANDERSON  
Attorney General