

**Deposits—State Funds—Funds—State Depository Board  
—Security—Trust Receipts.**

The State Depository Board is not authorized to accept trust receipts from a bank outside the State of Montana, indicating that such bank is holding securities for the account of the State of Montana as surety for bank balances in a bank in this state.

State Depository Board,  
Helena, Montana.

Gentlemen:

You have requested my opinion as to whether you have authority to accept a trust receipt issued by the Mechanics & Metals National Bank of New York City as security for deposits in the Metals Bank & Trust Company of Butte, Montana.

As I understand from your statement of facts the receipts will specify that government or other acceptable securities are held for the account of the State of Montana as security for the balances with the Metals Bank & Trust Company, Butte, Montana. The nature of securities authorized to be accepted by you is prescribed by Chapter 85 of the Laws of 1923, which provides in part as follows:

**“No deposits shall be made of state funds by such depository board, nor by the State Treasurer under direction of said board, unless such bank shall first have delivered to the State Treasurer as security thereof bonds of the United States, or of the State of Montana, or county, school or municipal bonds, or registered warrants of the State of Montana or of counties of the State of Montana, in at least an amount equivalent to**

the amount of such deposit, or **the bond of some good surety company** authorized to do business in the State of Montana in at least the amount of such deposit, which bonds, warrants, or security shall first be approved by the state depository board; provided, that the state depository board may require security in a greater amount than that above named. No deposit of said funds shall be made or permitted to remain in any bank unless such bank shall have first been designated as a depository by said state board, **nor until the security for the deposit shall have first been deposited with the Treasurer and been approved by the state depository board."**

The delivery of the trust receipts referred to in your inquiry does not, in my opinion, constitute a delivery of the securities named in the statute. It is to be noted that under Chapter 85 the bond of a foreign surety company may not be accepted. The obvious reason for this is that in the event a suit becomes necessary the state is not to be compelled to resort to foreign jurisdictions for the enforcement of its claim.

It is, therefore, my opinion that the trust receipts referred to in your inquiry may not be accepted in lieu of the securities themselves as security for state funds.

Very truly yours,

L. A. FOOT,  
Attorney General.