

Funds—Revolving Funds—State Board of Examiners—State Institutions.

The state board of examiners has power to call in the unexpended balances in the composite revolving funds of state institutions. Such unexpended balances do not revert to the general fund of the state on July 1st.

Hon. J. E. Erickson,
Governor of Montana,
Helena, Montana.

May 26, 1925.

My dear Governor Erickson:

You have submitted to me a letter of F. B. Linfield, director of the agricultural experiment station of the university of Montana, to Chancellor Brannon, in which the following statement is made: "The probabilities are that the state authorities will call in all the balances in our income funds on July 1st and that these will revert to the general fund of the state at that time."

You ask my opinion on the following questions:

1. Has the board of examiners power to "call in all the balances" referred to?
2. Do these balances revert to the general fund of the state after July 1st next?

It is first necessary to determine what is meant by the words "our income funds," as used in the above letter.

House bill No. 400, session laws of 1923, pages 570-572, made certain specific appropriations for the support of the university of Montana, including the agricultural experiment stations. Section 3 of the act contains the following language:

"The amounts appropriated by the foregoing sections of this act are hereby declared to be the maximum amounts which may be expended by each institution hereinabove specified for all purposes and from all funds during the fiscal years ending June 30th, 1924 and June 30th, 1925: * * * provided, however, that the provisions of this section shall not apply to the expenditures or the revolving funds of the dormitories and dining rooms; nor to other self-supporting activities."

By order No. 2701, the state board of education designated various "self-supporting activities" of the university of Montana, including among them experiment stations and sub-stations, and requested the state board of examiners to establish for each of said designated activities "a composite revolving fund," to include the income from said self-supporting activities and to be retained and administered at each of said institutions "in accordance with sections 194, 195 and 196 Rev. Codes 1921."

An order of the state board of examiners, in conformity with the request of the state board of education, was entered on April 18, 1923, and is still in force and effect. These are the funds referred to in Dean

Linfield's letter, and included among other things moneys received from the operation of the agricultural experiment station of the university of Montana.

Section 194, R. C. M. 1921, reads as follows:

"Appropriations for support state institutions—Revolving appropriations. For the support and endowment of each and every of the state institutions of the state of Montana now existing or hereafter to be created there is annually and perpetually appropriated respectively:

"1. The income from all permanent funds and endowments, and from all land grants as provided by law;

"2. All fees and earnings of each and every of such state institutions, from whatsoever source they may be derived;

"3. All such contributions as may be derived from public or private bounty.

"The entire income from all such permanent funds and endowments and from all land grants, and all contributions from public and private bounty, shall be kept by the state treasurer in specific fund accounts, so entitled as to indicate clearly their purposes and sources. All income from fees and earnings of each and every of such state institutions, from whatsoever source they may be derived, other than as hereinbefore specified, shall be deposited by the state treasurer to the credit of the general fund, but the state auditor shall keep upon his books such separate accounts with each and every of such institutions as may be required by the state board of examiners, and shall exhibit in each of said accounts all receipts and payments into and from each of said accounts. Said accounts, shall be entitled 'Revolving appropriations,' preceded by the name of the institution to which they pertain, and with such other descriptive titles as may be necessary to designate them clearly and unmistakably."

Section 304, R. C. M. 1921, provides:

"All moneys now or hereafter appropriated for any specific purpose shall, after the expiration of the time for which so appropriated, be covered back into the several funds from which originally appropriated: provided, however, that any unexpended balance in any specific appropriation may be used for either of said years for which such appropriation has been made."

The language used in designating the several funds created for the support of the university of Montana is sometimes confusing, and no reason would appear to me to exist for having one fund administered by the state treasurer designated as a "revolving appropriation fund" and another one, administered by those in charge of the experiment station, known as a "composite revolving fund."

The following, however, appears to me sufficiently clear from the law :

Money received by an experiment station of the university of Montana from the sale of stock or produce is an "earning of such state institution," within the meaning of subsection 2 of section 194, above quoted. Therefore, by the express provisions of section 194, such money is "annually and perpetually appropriated for the support of said institutions." Such money, whether it be in a "revolving appropriation" created by section 194, or in a "composite revolving fund" created by the state board of examiners, does not revert to the general fund of the state under the provisions of section 304, supra, for the reason that it is perpetually appropriated for the support of the institutions designated.

It is only those funds which are appropriated for a specified limited time that revert to the general fund at the expiration of the period for which they were appropriated.

Your second question is, therefore, answered in the negative.

Your first question must, in my opinion, be answered in the affirmative. The board of examiners clearly has authority to rescind its order of April 18, 1923, and "call in" the money now in the "composite revolving fund," the creation of which it has authorized, and to require same to be deposited in the "revolving appropriation" funds created by section 194, R. C. M. 1921. This would result in the fund being deposited with the state treasurer and bills drawn on the same would go through the board of examiners in the regular way. It would not, however, change the actual purpose of the fund, nor result in its reversion to the general fund of the state.

Very truly yours,

L. A. FOOT,
Attorney General.