

Opinion No. 266

**State Highway Commission—Claims
—Actions—Transcript, Cost of.**

HELD: Where the funds of the State Highway Commission would be the chief beneficiary of any judgment rendered in an action brought by the State of Montana, a claim for preparing a transcript on appeal in such cases is properly chargeable against such funds.

July 6, 1933.

We acknowledge receipt of yours of June 30, submitting a bill of \$214.20 filed by Joseph V. Flaherty, Court Reporter of Silver Bow County for preparing transcript in the case of Standard Oil Company of California v. Idaho Community Oil Company in which the State of Montana is Intervenor, and requesting an opinion as to whether or not you may legally pay such claim.

This action was instituted during the administration of Mr. Foot, our predecessor, and the claim approved by his Chief Deputy, Mr. Ketter.

There is no specific statutory provision placing the duty to pay such claim upon your department, but your department would be the chief beneficiary of any judgment rendered by the court in favor of the state. In such matters it has been the practice of the Board of Examiners to direct the payment by that department or division of the state government most interested in the success of the particular action.

We are of the opinion that the claim is a legal obligation of the state and that you are authorized to pay the same after its approval by the Board of Examiners.