

Opinion No. 42.

**University of Montana—State Board
of Education—Powers to Collect Fees
from Students for Student Union
Building.**

HELD: The State Board of Education has power to collect fees from students for Student Union Building.

February 15, 1937.

Hon. Ray N. Shannon
State Treasurer
The Capitol

Dear Mr. Shannon:

You have submitted the following:

“We have two funds in trust for
the University of Montana.

The University Students Union
Building Interest and Sinking Fund.

This money is accumulated through \$5.00 charged each student per year. These fees, plus the net profit derived from the operation of the building, go to make up the amount in the fund.

The second fund they have, is built up by a \$5.00 fee assessed each student per quarter, or \$15.00 per school year, which is placed in what is known as the Montana State University Building Fund.

How far can the State Board of Education go in the levying of fees or building tax, which these fees represent?

At present, each student is required, through a resolution passed by the State Board of Education, to pay \$20.00 per year for building funds.

Is a fee a tax, or is it just a charge for education?"

While your questions are rather general, in my opinion authority to collect the fees in question by the State Board of Education, has been granted by Chapters 10 and 24, Laws of 1933-34, Extraordinary Session, and Chapter 133, Laws of 1935. We also call your attention to the following decisions by our Supreme Court: *State ex rel. Veeder v. State Board of Education et al.*, 97 Mont. 121, 33 Pac. (2) 516; *State ex rel. Wilson v. State Board of Education et al.*, 102 Mont. 165, 56 Pac. (2) 1079; *State ex rel. Dragstedt v. State Board of Education et al.*, 103 Mont. 336, 62 Pac. (2) 330, and the cases therein cited. We call your attention particularly to the language of the Supreme Court on pages 135 and 136 in 97 Montana.