

Opinion No. 5

**Univeristy of Montana—Northern Montana College—Residence Halls
—Veterans Housing—Student Unions.**

**Held: 1. Chapter 291, Laws of 1947 authorizes any of the six units
of the University of Montana to merge funds accruing from**

college facilities and to pledge such funds to retire loans outstanding against such facilities.

January 29, 1949.

Chancellor George A. Selke
University of Montana
State Capitol
Helena, Montana

Dear Chancellor Selke:

You have requested my opinion concerning the legality of merging the moneys accruing from net rental incomes of the following facilities at Northern Montana College:

1. Veterans' Housing
2. Men's Residence Hall
3. Student Union
4. Women's Residence Hall

You have stated that the first three buildings are entirely free from debt and you ask specifically if the surplus net income from such three buildings could be pledged to retire the bonded indebtedness of the women's residence hall.

Sections 836.1 to 836.6, inclusive, Revised Codes of Montana, 1935, as amended by Sections 1 to 7, inclusive, Chapter 291, Laws of 1947, provide for the erection and financing of residence halls at state educational institutions.

Section 1 of Chapter 291 is as follows:

"Section 1. Section 836.1, Revised Codes of Montana, 1935, is hereby amended to read as follows:

'Section 836.1. Erection of Residence Halls and Other Facilities at Institutions Controlled by State Board of Education. The state board of education is authorized to:

(a) Erect, equip and improve from time to time at any of the six units of the University of Montana under its control such residence halls and other facilities as may be required for the good of the institutions.

(b) Rent the rooms in such residence halls and provide board and services to the students, officers, guests, and employees of said institutions at such rates as will insure a reasonable excess of income over operating expenses.

(c) Hold the funds derived from the operation of such residence halls and other facilities and spend the same for repairs, replacements and betterments including the erection of additional residence halls and other facilities.

(d) Exercise full control and complete management of such residence halls and other facilities.

(e) **As used herein 'facilities' shall mean all dormitories, residence halls, dining rooms, refectories, health service buildings, student unions,** at any of the six units comprising the University of Montana under the control of the state board of education."

Section 2 of Chapter 291 is as follows:

"Section 2. Section 836.3, Revised Codes of Montana, 1935, is hereby amended to read as follows:

'836.3. Provisions for Carrying Out Powers. In carrying out the above powers, said board may:

(a) Borrow money and issue negotiable bonds payable from income as herein provided in order to provide money to erect, equip and improve facilities or to refund bonds issued for such purposes.

(b) **Pledge the rents and income received from the residence halls and other facilities for the discharge of loans so executed."**

I interpret these two sections as giving any of the six units of the University of Montana the power to merge the net income of its facilities and pledge all or any part of such incomes to retire loans on the facilities. As set forth in Section 4 of Chapter 291 net income at one unit shall not be used to discharge obligations created for residence halls or other facilities at another unit of the University of Montana.

This opinion, however, is qualified insofar as student union buildings are concerned. It shall not apply to any student union building erected under the provisions of Chapter 10, Laws of Extraordinary Session 1933-34. This exception is made because Chapter 10, *supra*, provides for special student fees to underwrite part of the cost of the student union buildings and further provides that any surplus earnings from such buildings shall revert to the student fund.

The Northern Montana College Student Union is a war surplus building that the Federal Works Agency procured and transported to Havre, Montana. The Federal Works Agency supplied the money for the purchase of the building and the expense of moving it. The costs of putting the building into operation were supplied by the Veterans Education Fund as a reimbursement to Northern Montana College for providing education for veterans. Therefore, it is my opinion that student union monies at Northern Montana College may be merged because the student union building at such college was neither financed nor erected under the provisions of Chapter 10, *Supra*.

Very truly yours,
ARNOLD H. OLSEN,
Attorney General.