

Opinion No. 24-3771

July 8, 1924

BY: JOHN W. ARMSTRONG, Assistant Attorney General

TO: Requested by: Hon. Justiniano Baca, Commissioner of Public Lands, Santa Fe, New Mexico.

Interest on Deposits of Moneys Derived Directly or Indirectly From School or Institutional Lands Belongs to the School Fund or Institution Whose Lands or Moneys Produce It.

OPINION

{*151} Essential features of your statement and request for an opinion submitted July 2, 1924 are as follows:

In accordance with the Public Monies Act of March 9th, 1923, all monies on deposit with the Commissioner of Public Lands and receipts since the passage of the Act, have been remitted to the State Treasurer. The money which this office deposits with the State Treasurer under the Public Monies Act has been derived directly from the lands under control of this office and the interest received by the State Treasurer has been derived directly from the money on deposit, received from the disposition of the lands and indirectly from the land itself.

At least \$ 125,000.00 are deposited monthly with the State Treasurer and which draws interest either for the institution by which it was created or for other purposes.

Your opinion is requested as to whether the monies above stated and the interest derived therefrom are the property of the institution by which it was created, or whether the funds derived as interest from the suspense and income fund accounts may be used for any purpose whatever.

It is our opinion that interest and all moneys derived from the sources you mention must be placed to the credit of the school or institutional fund whose lands directly or indirectly produce the same.

The Enabling Act and the Public Moneys Act, both, seem to contemplate such procedure in the execution of this important trust. From these two Acts, we quote as follows:

That it is hereby declared that all lands hereby granted, including those which, having been heretofore granted to the said territory, are hereby expressly transferred and confirmed to the said state, shall be by the said state held in trust, to be disposed of in whole or in part only in manner as herein provided and for the several objects specified

in the respective granting and confirmatory provisions, and that the natural products and money proceeds of any of said lands shall be subject to the same trusts as the lands producing the same.

Disposition of any of said lands, or of any money or thing of value directly or indirectly derived therefrom, for any object other than that for which such particular lands, or the lands from which such money or thing of value shall have been derived, were granted or confirmed, or in any manner contrary to the provisions of this act, shall be deemed a breach of trust. -- Sec. 10, Enabling Act.

Upon the first day of each month all interest accrued upon the deposit with it of any public monies under the {*152} provisions of this Act shall by the bank be credited to the State, county, city or town, or board in control, whose monies it so holds. -- Sec. 14, Chap. 76, S. L. 1923.