

**Opinion No. 112.**

**Highway Patrol—Fines—Claims  
Against Highway Patrol.**

Held: Claims for board of prisoners and other expenses, in connection with arrests made by state highway patrol must, in order to be allowed, be presented within time provided by appropriation bill.

August 24, 1943.

Mr. C. L. Sheridan  
Supervisor  
Montana Highway Patrol  
Helena, Montana

Dear Mr. Sheridan:

You have submitted claims filed by two counties of the state, and covering board of prisoners and fees in connection with criminal matters, all arising by reason of prosecutions of persons apprehended or arrested by state highway patrolmen as follows:

One claim covering prisoners arrested or apprehended prior to June 30, 1942, and the claim having been filed in July, 1943;

The other claim covering prisoners arrested or apprehended prior to June 30, 1942, and filed in January, 1943.

You have requested my opinion whether the claims may be allowed.

Chapter 148, Laws of 1941, provides fines and forfeitures collected in any court from persons apprehended or arrested by patrolmen for violations of any of the laws and regulations relating to the use of state highways and the operation of vehicles thereon, must include all court costs and fees; and, after deducting these costs and fees, the court shall immediately transmit the balance of the fine to the State Treasurer.

It is then provided:

"In the event no fine is imposed, the court costs and fees and the expenses of the counties, in the event prisoners have been boarded, shall constitute a proper claim against the State of Montana and said claim or claims shall be paid in the manner provided by law out of funds appropriated for such purpose."

At the time the arrests were made on which these claims are based, Section 1741.12, Revised Codes of Montana, 1935, provided the balance of a fine, remaining after deducting costs and fees, should be transmitted to the State Treasurer, credited to the state highway patrol revolving fund, and be used for the purposes of the patrol, warrants thereon to be issued as provided by law. Section 14, Chapter 199, Laws of 1943, now provides the fines should be credited to the general fund of the state, and Section 15 makes the general laws applicable to payments therefrom.

It is apparent these fines become funds of the state, and this is true whether credited to the state highway patrol revolving fund, under Section 1741.12, Revised Codes of Montana, 1935, or the general fund, under Section 14, Chapter 199, Laws of 1943, and in the state treasury are subject to the provisions of Section 34, Article V of the State Constitution, providing:

"No money shall be paid out of the treasury except upon appropriations made by law, and on warrant drawn by the proper officer in pursuance thereof, except interest on the public debt."

House Bill No. 380 (pages 401 to 426, Laws of 1941), made appropriations for the state highway patrol, covering the year beginning July 1, 1941, and ending June 30, 1942, and it is specifically provided by subdivision 8 of Section 1:

"The appropriations contained in this act are intended to provide only necessary expenditures for the year for which the appropriation is provided. All claims for such expenditures must be presented for payment not later than thirty (30) days after the close of the fiscal year. In cases of necessity, appropriations may be used for either year, provided, however, that any unexpended balances at the end of the second year shall revert to the funds from which they were appropriated."

The fiscal year to apply to the arrests in question closed on June 30, 1942; the claims in question were not presented within thirty days from the close of the year.

It must therefore necessarily follow the claims were not presented in time and may not now be allowed. The legislature is the only authority which may now allow payment thereof by appropriate appropriation on a duly submitted claim.

Sincerely yours,  
R. V. BOTTOMLY  
Attorney General