

Opinion No. 58. .

State Treasurer—Appropriations—
Funds—Unexpended Balances—
Reverting Funds

Held: Any balance in the appropriation from the general fund of the state to the Unemployment Compensation Commission of Montana for the period beginning July 1, 1945, and ending June 30, 1946, and for the period beginning July 1, 1946, and ending June 30, 1947, under House Bill No. 325, page 579, Laws of 1945, must revert at the end of the second year thereof, as provided in said appropriation bill, Section 304, Revised Codes of Montana, 1935.

August 1, 1945.

Mr. George P. Porter
State Treasurer
State Capitol
Helena, Montana

Dear Mr. Porter:

You have asked my opinion as to whether Section 13 (a) of Chapter 190, Laws of 1945, controls the appropriation made from the general fund to the Unemployment Compensation Commission of Montana, or whether the appropriation bill itself, being House Bill No. 325, Laws of 1945, controls said appropriation.

In the first place, in interpreting statutes passed at the same session of our legislature in regard to the same subject, the two enactments must be read together and effect given to both, if possible, to make them operative. (*McElwee v. McNaughton*, 19 Mont. 474, 48 Pac. 1118; *Ross v. Greenwald*, 112 Mont. 324, 115 Pac. (2d) 290.)

To give literal construction to Section 13 (a) of Chapter 190, Laws of 1945, insofar as it applies to "all moneys appropriated by the state from the general fund for the purpose of adminis-

tering this act . . ." would be to commingle this appropriation from the general fund of the state with funds received from the federal government and other funds. Thus, such appropriation would become unidentified so far as your office is concerned, nor could any other state officer or the legislature itself have any way of following these funds once they become commingled with the government and other funds.

Such a procedure would contravene Section 12 of Article XII of our Constitution which provides in part that "no appropriation of public moneys shall be made for a longer term than two years . . ." because under said Section 13 (a), it is provided "any balance in this fund shall not lapse at any time, but shall be continuously available to the commission for the expenditure consistent with this act."

The foregoing is, of course, in conflict with the appropriation act itself, being House Bill No. 325, which provides in part:

"In cases of necessity, appropriations may be used for either year, provided, however, that any unexpended balance at the end of the second year shall revert to the funds from which they were appropriated." (Emphasis mine.)

Thus it will be noted that the appropriation act itself controls the appropriation, and by its terms any unexpended balances in said appropriation at the end of the second year revert to the general fund. This reasoning is fortified by Section 304, Revised Codes of Montana, 1935, which is a part of "The Budget System Act," which section reads as follows:

"All moneys now or hereafter appropriated for any specific purpose shall, after the expiration of the time for which so appropriated, be covered back into the several funds from which originally appropriated; provided, however, that any unexpended balance in any specific appropriation may be used for either of said years for which such appropriation has been made."

Therefore, it is my opinion that any balances in the appropriation from the general fund of the state to the Unemployment Compensation Commis-

sion of Montana for the period beginning July 1, 1945, and ending June 30, 1946, and for the period beginning July 1, 1946, and ending June 30, 1947, under House Bill No. 325, page 579, Laws of 1945, must revert at the end of the second year thereof, as provided in said appropriation bill, and Section 304, Revised Codes of Montana, 1935. Your office should set the said appropriation up in your books in the same manner as you do any other appropriations from the general fund of the state, giving the same a distinct fund or account number so as to keep it separate and distinct from any other moneys in your hands.

All other moneys mentioned in Section 13 (a) of Chapter 190, Laws of 1945, may be covered by you into the "special fund" therein designated, in accordance with the provisions of Section 13 (a) of Chapter 190, Laws of 1945.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General