

Appropriation, When Lapsed.

An appropriation cannot be made for a longer period than two years, and at the expiration of the second fiscal year, the unexpended portion of any appropriation reverts to the general treasury.

Helena, Montana, September 3, 1908.

Hon. Edwin L. Norris,
Governor,

Helena, Montana.

Dear Sir:—

I am in receipt of your favor of the 1st inst., enclosing a copy of a letter dated August 29th, 1908, and signed by Oscar J. Craig, secretary of the university library building commission. In your said communication you ask for an opinion of this office concerning certain questions submitted by Mr. Craig in his said letter. The questions are as follows:

1. The appropriation of \$50,000 for a library building and \$10,000 for the enlargement of the heating plant and improvement of the grounds was made for a specific purpose. Will this appropriation lapse into the general treasury if not expended by the end of the fiscal year?"

2. If this appropriation does lapse, what is the date? In other words, what is the end of the fiscal year for the university?"

In answer to the first question, you are advised that the unexpended portion of the appropriation of \$50,000 for a library building and \$10,000 for the enlargement of the heating plant and the improvement of the grounds will lapse into the general treasury and expire by limitation if not expended on or before November 30th, 1908. The fiscal year referred to in making the appropriation and the time of the ending thereof is specifically stated in Section 3 of the act making the appropriation. (H. B. No. 158, Acts of 1907, p. 534).

By opinion of this office rendered on November 10th, 1905, to Hon. Joseph K. Toole, governor, we held that the balance or unused portion of an appropriation for the first of two fiscal years for which appropriation is made for a specific purpose by the legislative assembly may be transferred and added to the appropriation made for the second fiscal year, and such is still the opinion of this office. (See Opinions of Attorney General, 1905-6, p. 260).

By provision of Section 12 of Article XII of the Constitution it is provided that "no appropriations of public moneys shall be made for a longer term than two years."

An appropriation such as those under consideration, has been held to be a continuing appropriation for the full term of two years, but at the end of the two years it lapses by virtue of the constitutional provision and goes back into the general fund of the state.

State ex rel Null vs. Mayhew, 10 S. D. 365

The second question is, in all likelihood, fully covered by the answer to the first. As said before, the act itself with certainty states the end of the fiscal year to be November 30, 1908.

Yours respectfully,

ALBERT J. GALEN,

Attorney General.