

Appropriations, Payment of Deficiencies.

Where there is a deficiency in an appropriation for the first year of a two year appropriation, such deficiency may be paid from the revenue appropriated for the second year and the total deficiency carried to the end of the second year.

Helena, Montana, February 7, 1910.

Hon. H. R. Cunningham,
State Auditor,
Helena, Montana.

Dear Sir:—

I am in receipt of your letter of January 31, 1910, in which you state that the appropriation made for the salaries of district judges and county attorneys for the year ending February 28, 1910, lacks \$3,590.00 of being sufficient to pay the salaries of district judges, and \$49.98 of being sufficient to pay the salaries of county attorneys for the year ending on that date, and you request an opinion as to whether the appropriation for the purpose of paying the salaries of these officials for the year beginning March 1, 1910, and expiring February 28, 1911, will be available for the purpose of paying such deficiencies for the year ending February 28, 1910.

In our opinion you can legally pay the salaries of these officials in full for the quarter ending February 28, 1910, from the appropriation for the year beginning March 1, 1910.

Our supreme court, in the case of *State v. Cook*, 14 Mont. 333, in construing the appropriation extending over a period of two years, said:

“The appropriation involved is for specific purpose, and is for two years. We think the appropriation in question being for two years, is subject to any terms and liabilities that may be incurred by the state's agents during the whole period that it was intended by the legislature that it should continue.”

Therefore, as soon as the appropriation for the year beginning March 1, 1910, is available it is our opinion that you have the right to draw warrants against that to pay whatever salaries are then due to the district judges and county attorneys, and by this procedure the total deficiency due these respective officials will fall at the end of the two years appropriation, and at a time when the legislature can make an appropriation to meet the deficiency without these officials waiting any great length of time for the balance of their salaries.

See Opinion to Governor Toole, of November 10, 1905;
(Opinions of Attorney General, 1905-06, p. 260.)

Very truly yours,

ALBERT J. GALEN,

Attorney General.