

Deficiency Appropriation, Transfer of Funds.

The legislative assembly has power and authority to appropriate money to pay deficiency claims and in proper cases has authority to order the transfer of moneys in order to avoid deficiencies. The transfer amounts to a deficiency appropriation.

March 7th, 1911.

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

Dear Sir:

I am in receipt of your favor of the 4th inst., asking my opinion respecting the operation and effect of house bill No. 426, the same being an act authorizing and directing the transfer of certain moneys in the general fund to the maintenance account of certain state institutions, approved March 2nd, 1911.

I have with care read your communication regarding this bill and thoroughly agree with your views in the premises. I think in consequence of the enactment of this law, it is now only a question of method of procedure as between yourself and the state treasurer.

The legislative assembly has the unquestioned power and authority to appropriate money to pay deficiency claims, and should certainly have authority to order the transfer of moneys from the general fund to be devoted in payment of obligations of the state which would otherwise be deficiency claims, or for other purposes, in accordance with the language of the bill in question. This bill is in nature and effect a deficiency appropriation bill and the amounts named may be drawn to be credited and transferred to the maintenance account of each of the several institutions therein named. The money may be properly drawn from the treasury to pay claims against the state which would otherwise have been strictly considered as deficiencies.

In applying this act it may be well to designate a special fund to be carried upon your books and those of the treasurer as a "Special Maintenance Fund to Prevent Deficiencies of Certain State Institutions, as provided by house bill No. 426, approved March 2nd, 1911.

All claims proper to be paid from such fund should be paid by the treasurer upon your warrant after the state board of examiners shall have first approved the claims presented against the state as proper to be paid from such fund.

Respectfully submitted,

ALBERT J. GALEN,
Attorney General.