

Opinion No. 114.

**Appropriations—Department of Agriculture, Labor and Industry—
Division of Horticulture.**

HELD: Money appropriated for administration of the Department of Agriculture, under the item "For Operation" may not be used to pay for mileage and subsistence of men working as horticultural inspectors.

June 24, 1937.

Honorable J. T. Sparling,
Commissioner,
Department of Agriculture, Labor and Industry
Capitol Building
Helena, Montana

Dear Mr. Sparling:

You have submitted the question whether the Commissioner of Agriculture in his discretion may use money appropriated by the Twenty-fourth Legislative Assembly (House Bill 532, p. 485, 509, Laws of 1935) as follows: "For Operation," Fifteen Hundred dollars (\$1,500.), to pay claims for mileage and subsistence of men working as horticultural inspectors.

The appropriation for the Department of Agriculture, Labor and Industry by said House Bill is as follows (p. 509):

"ADMINISTRATION

For Salaries fixed by law, Five-thousand Dollars.....	\$5,000.
For Salaries not fixed by law, Four Thousand Dollars.....	4,000.
For Capital, Repairs and Replacements, Two Hundred and Fifty Dollars.....	250.
For Operation, One Thousand Five Hundred Dollars.....	1,500.
For printing and publishing advertising matter dealing with the tourist advantages of the State of Montana, Five Thousand Dollars.....	5,000.

*** * * HORTICULTURAL
DIVISION
FROM THE HORTICULTURAL
REVOLVING FUND (352-B)**

For Salaries and Expenses so much thereof as may be necessary

to pay lawful claims wherein funds are available.

FROM THE STATE HORTICULTURE REVOLVING FUND (219)

So much thereof as may be necessary to carry out the provisions of Chapter 51, Session Laws of 1927, which relates to the removal of infected trees.

FROM THE HIGHWAY FUND

For Salaries and Expenses,

Forty-five Hundred Dollars \$4,500."

Subdivisions (5) and (6) of Section 1 of said House Bill read as follows:

"(5) The term 'Operation' means all other expenditures which are necessary for the operation of the department, board, bureau, commission or institution to which the appropriation applies, including wages of employees for work not considered of a continuous nature.

(6) The term 'Salaries and Expenses' means any expense including salaries, capital, repairs and replacements and other operation as defined above."

Section 4 of said House Bill (p. 513 ID.), reads as follows:

"That all appropriations contained herein shall be used for the purposes designated and no other, and the definitions given in Section 1 of this Act shall govern all appropriations." (Underscoring ours.)

It will be noted that the term "Salaries and Expenses" as defined by the legislature includes any expense. We are unable to escape from the conclusion that the legislature intended the two Horticulture Revolving Funds (352-B and 219), and the Highway Fund to cover everything, that is, any expense incurred by the Horticultural Division. That phrase as used by the legislature covers all items, including "Other Operations" as defined under subdivision (5) above quoted. Furthermore, the item "For Operation, One Thousand Five Hundred Dollars (\$1,500)" was specifically appropriated for "Administration." Mileage and subsistence for men working as horticultural inspectors could not be prop-

erly classified as "Administration." This item, therefore, could not be used for salaries, capital, repairs, replacements, printing and publishing for which specific appropriations are made under "Administration" for the legislature has definitely limited the amount of money that could be used for such purposes. Likewise, since it has definitely limited the amount of money that may be used for "Salaries and Expenses" for the Horticultural Division, this item could not, in my opinion, be used for payment of mileage and subsistence of men working as horticultural inspectors.