

priated for general relief and contingencies to sponsor, or co-sponsor projects of Works Progress Administration.

2. A warrant or check drawn February 26, 1938, is an expenditure out of the appropriation for the fiscal year ending March 1st, 1938, and money represented by such warrant or check does not lapse to the general fund at the expiration of the fiscal year.

March 4, 1938.

Mr. I. M. Brandjord
State Administrator.
Department of Public Welfare
Helena, Montana

Dear Sir:

The State Board of Public Welfare, by motion duly seconded and carried, authorized and directed you, as State Administrator, to draw a check in the sum of One Hundred Fifty Thousand Dollars (\$150,000), payable from the appropriation made for general relief and contingencies, in payment for the purchase of materials, equipment, supplies, and other non-labor costs on Works Progress Administration projects, to be used as sponsors' or co-sponsors' contributions for Works Progress Administration projects in various counties of the state. You have asked as to the legality of the proposed expenditures.

The specific statutory provisions in point are as follows:

Subsection (d) of Section III, Part I, of Chapter 82, Session Laws of 1937:

"The state department of public welfare is hereby authorized, and it shall be its duty to administer and supervise all federal funds allocated to the state and all state funds appropriated to the state department of public welfare, for the activities and purposes set forth under each part of this act. The state department of public welfare is also hereby authorized and it shall be its duty to do all things necessary, in conformity with federal and state laws, for the proper fulfillment of the purposes set forth in this act."

Section VII, Part I, of Chapter 82:

"The state department is hereby charged with authority over and ad-

Opinion No. 255.

**Public Welfare—Appropriations, When
Lapse — Sponsor — Works
Progress Projects.**

HELD: 1. The State Board of Public Welfare may use money appro-

ministration or supervision of all the purposes and operations as set forth under the several parts of this act. The state department shall:

"(a) Administer or supervise all forms of public assistance including general relief, * * *.

"(g) Assist and cooperate with other state and federal departments, bureaus, agencies and institutions, when so requested, by performing services in conformity with the purposes of this act."

Section XIV, Part I, of Chapter 82:

"Power to Make Contracts. The state board is empowered to enter into contracts and leases with the United States of America, its instrumentalities, or its agencies, or any thereof, to carry out any of the purposes set forth in this act and may in such contracts or leases authorize the United States, its instrumentalities or agencies, or any thereof, to exercise such supervision over any property belonging to the state board, or any matter or thing the subject of said contract or lease, as it may be required by the United States, its instrumentalities, or its agencies, or any thereof, until such time as any money expended, advanced or loaned by the said United States, its instrumentalities, or agencies, and agreed to be repaid thereto by the state board shall have been fully repaid. It is the purpose and intent of this act that the state board shall be authorized and empowered to accept, cooperation from the United States of America, its instrumentalities and agencies in all matters deemed necessary by the state board to carry out the purposes of this act, and the state board shall have full power to do all things necessary in order to avail itself of such aid, assistance and cooperation under federal legislation heretofore or hereafter enacted by congress or under any proclamation or order of the executive, or of any executive department or agency, of the United States, now or hereafter promulgated or made."

By the above sections the state department of public welfare and the state welfare board are authorized and empowered to: (1) Administer and supervise general relief. (2) To ad-

minister and supervise all state funds appropriated to the state department of public welfare. (3) To authorize and cooperate with federal departments, bureaus, agencies, and institutions by performing services in conformity with the purposes of the Welfare Act. (4) To contract with the government of the United States and its agencies and instrumentalities to carry out the purposes of the Act. (5) To authorize the agencies of the United States to exercise supervision over any property of the state board. (6) To do all things necessary in order to avail itself of such aid, assistance, and cooperation under federal legislation as deemed necessary to carry out the purposes of the Act.

The declared purposes of Chapter 82 are to provide aid to the unemployable destitute and those made destitute through lack of employment; to provide for assistance to aged persons in need; to provide a grant for needy dependent children, for the needy blind, and for crippled children.

The Works Progress Administration is a federal instrumentality designed to alleviate need and to provide aid to the unemployed by supplying employment and rehabilitation to the destitute. In sponsoring Works Progress Administration projects the State Welfare Board is carrying out the highest purposes of the Welfare Act by providing the destitute and needy with employment instead of doles, and at the same time by giving the employed a chance to preserve their labor skill and do useful public work. It is my opinion that the sections quoted are specifically designed to authorize the state department to cooperate by sponsoring such federal ventures as Works Progress Administration projects. If there was any doubt as to the authority of the state board, under Chapter 82, to sponsor such project, it would be removed by reference to Chapter 85, Laws of 1937, Section 1 of which is as follows:

"Whereas the recent unprecedented drought in many sections of Montana, together with the nationwide economic depression, have brought about an acute employment situation with respect to the citizens of Montana, the alleviation of which requires the immediate inauguration and aggressive prosecution of an efficient and economical program of employment

which will take advantage of all available federal, state and other funds promptly, to the end that employment of Montana citizens may be augmented to the greatest possible degree, that all federal funds may be used, and that citizens of this state may be removed from public relief rolls and be given gainful employment.

"It is hereby declared to be a public policy that this state and all political subdivisions thereof, cooperate with any agency of the federal government in and for the construction, operation and maintenance of any plans and projects in aid of which such federal agency is about to or has expended funds furnished by the federal government, intended for a useful purpose, and calculated to furnish employment and assistance to the needy citizens of this State."

By this chapter, passed at the same legislative session as Chapter 82, it is made the duty of the state and its political subdivisions to take advantage of all available state funds to the end that more federal funds may be available to alleviate the need, and, to as large an extent as possible, provide for the employment of Montana citizens.

It is part of the policy of the State of Montana to cooperate with the federal government, and by Section 2 of Chapter 85, in order to carry out this statewide policy, the state and its political subdivisions are authorized to furnish materials, equipment, rentals, supplies, and supervision. That is just what is proposed to be done by the motion about which you have inquired. In view of these two sections it is my opinion that the state board not only has the power and authority to make such grants, but it is made their duty to do so to carry out the declared public policy of the state.

You have also raised the question if the expenditure can lawfully be made subsequent to the fiscal year for which such appropriation was made.

The check you issued on February 26, 1938, under authority and by direction of the state board is an unconditional order to pay One Hundred Fifty Thousand Dollars (\$150,000) to the United States Treasury out of funds available in the appropriation for general relief and contingencies. Then it is not a proposed expenditure,

but a present expenditure as of February 26, 1938, and made before the expiration of the fiscal year. It is only the unexpended portion of an appropriation which will lapse into the general fund. When warrants have been issued against the fund, the money represented by these warrants does not lapse, because that money has been used and expended before the expiration of the fiscal period. (See *State v. Brian*, 84 Neb. 30, 120 N. W. 916.)

Then it is my opinion that the State Board has the power to sponsor Works Progress Administration projects, and the warrant issued on February 26, 1938, to purchase materials, etc., is a valid expenditure out of the funds for the fiscal year ending March 1, 1938.