

Dear Mr. Raftery:

You have requested my opinion on the following question:

May the Livestock Commission distribute the unexpended portion of the bounty fund created by Chapter 298, Revised Codes of Montana, 1935, to the several counties on the basis of taxes collected by the individual counties for bounty purposes?

Section 3414, Revised Codes of Montana, 1935, creates the state bounty fund. Section 3417.2, Revised Codes of Montana, 1935 gives to the Livestock Commission authority to enter into cooperative agreements with state departments, counties, associations, corporations and individuals for the systematic destruction of wild animals by hunting, trapping and poisoning operations. Section 3717.11, Revised Codes of Montana, 1935, provides in part:

"If, at the end of any bounty paying season, there shall be a surplus in the state bounty fund, such surplus may be used to hire salaried hunters and trappers to hunt and trap predatory animals and to purchase and supply poison to be used for a poison campaign on predatory animals . . ."

The above quoted section gives authority to the Livestock Commission to expend surplus funds of the state bounty fund at the close of the bounty paying season for the payment of salaries of predatory animal hunters, and for the purchase of poison to be used for a poison campaign on predatory animals.

The legislative intent as evidenced in the above quoted section is clear and specific regarding the disposition of excess funds. Section 3417.2, supra, makes the Livestock Commission the supervisory board for destruction of predatory animals and for the carrying out of the act. It further provides that the Livestock Commission may enter into cooperative agreements with state departments, counties, associations, corporations and individuals to increase the destruction of wild animals.

It would appear from the wording and intent of the above section that the Livestock Commission could enter into

Opinion No. 83.

Livestock Commission—Taxes, Livestock—Bounty, Wild Animals—Fund, Bounty—Predatory Animals, Bounty.

Held: The Livestock Commission may not distribute the unexpended portion of the bounty fund created by Chapter 298, Revised Codes of Montana, 1935, to the several counties on the basis of taxes collected by the individual counties for bounty purposes.

October 19, 1945.

Mr. Paul Raftery, Secretary
Montana Livestock Commission
State Capitol
Helena, Montana

cooperative agreements with individual counties in which the Livestock Commission agreed to furnish the services of hunters and/or trappers for specified periods, and furnish poison to be used for predatory animal control. This, of course, is based on the assumption that a surplus existed in the fund at the end of the bounty paying season.

It would further appear that the apportioning of funds to the individual counties out of the surplus from the state bounty fund, regardless of the basis for such apportioning, without the Commission actually supervising and controlling such expenditures, would be a violation of Section 3417.11, Revised Codes of Montana, 1935, which specifies the manner for expending said surplus, the agency having supervision over such fund necessarily being responsible for such expenditures. Therefore, the granting of apportioned shares of the surplus of the bounty fund to the respective counties for use in their own programs would enable them to expend such funds without the supervision and control of the commission and such expenditures could possibly be for measures other than those specified in Section 3417.11, *supra*.

In Opinion No. 52, Volume 19, Report and Official Opinions of the Attorney General, this office held that the Livestock Commission could, if there be a surplus in the state bounty fund at the end of the bounty paying season, pay the balance of a predatory animal hunter's salary, the other portions being paid by the United States Department of Interior, and county woolgrowers.

The Livestock Commission, under the provisions of Section 3417.2 and 3417.11, if a surplus exists in the state bounty fund at the end of a bounty paying season, may pay or partially pay salaries of hunters and trappers, and costs or partial costs for poison to be used in predatory animal campaigns. This could be in conjunction with county programs, but would retain the supervision and control of such expenditures in the Livestock Commission where, by express legislative wording, it was placed. We must take the law as the legislature expressed it.

It is therefore my opinion that the Livestock Commission may not distribute the unexpended portion of the

bounty fund created by Chapter 298, Revised Codes of Montana, 1935, to the several counties on the basis of taxes collected by the individual counties for bounty purposes.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General