

Transfer among appropriations is authorized by Section 1019.15, Revised Codes of Montana, 1935, which provides:

"Whenever it appears to the clerk of any school district that the amount appropriated for any item in the final budget is in excess of the amount actually required to be expended for such item during the year for which such budget was adopted, and that the amount appropriated for any other item in such final budget, and payable from the same fund, is less than the amount which will be actually required for such item during such school year, the clerk of such school district may notify the county treasurer in writing to transfer the excess appropriations, or so much thereof as may be necessary, from one (1) item to the item for which the appropriation is deficient, and the county treasurer must thereupon make a transfer of such amount."

It is to be noted that an excess in one appropriation may be transferred to another when they are "payable from the same fund." Under Section 1019.3, Revised Codes of Montana, 1935, the item of "salaries" is found in Section 1 designated "general fund expenses."

A budget for transportation is required to be provided under Section 14 of Chapter 152, Laws of 1941, as amended by Chapter 189, Laws of 1943. This section, as amended, recognizes the fact that the transportation budget is a separate budget in that Section 14, as amended, states in part:

"When a copy of the final elementary budget for any school district is transmitted by the county superintendent of schools to the state superintendent of schools, as required by Section 1019.20, it shall be accompanied by a copy of the transportation budget, if any, adopted for such school district."

While it is true that Section 14 of Chapter 152, Laws of 1941, as amended, requires the amount of the transportation budget to "be shown and included in Section 1" of the budget, yet

Opinion No. 42

Schools—Transportation Budget— Transfer of Funds

Held: The excess funds in the salaries item of an elementary school budget cannot be transferred to the transportation budget, and any excess in the transportation budget cannot be transferred to any item in the general fund.

June 23, 1947

Mr. Patrick L. Donovan
County Attorney
Toole County
Shelby, Montana

Dear Mr. Donovan:

You have requested my opinion as to whether funds in the salaries item of an elementary budget may be transferred to the transportation budget.

this does not mean that they are "payable from the same fund." Prior to the enactment of Chapter 152, Laws of 1941, transportation expenses were paid from the general fund, but by the enactment of Chapter 152, Laws of 1941, a new fund was created to pay transportation charges. Under Chapter 152, and its amendments, additional sources of revenue were made available for transportation which included reimbursements from the state public school fund, Section 13 of Chapter 152, as amended, and an additional levy authorized by sub-section 2 of Section 14, Chapter 152, Laws of 1941, as amended. In other words, the transportation fund is made up in an independent manner from the general school fund and thus cannot be considered as the same fund.

If transfers between the general fund and the transportation budget were permitted, the limitations of the budget system would be defeated in that the additional levy authorized for transportation would be utilized for operation and maintenance contrary to the purpose for which the extra levy was granted. Also state funds earmarked for transportation would be diverted to other school purposes.

It is, therefore, my opinion that the excess funds in the salaries item of an elementary school budget cannot be transferred to the transportation budget, and any excess in the transportation budget cannot be transferred to any item in the general fund.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General