

OPINION
44-23

March 31, 1944 (OPINION)

APPROPRIATION

RE: Highways

I have your letter of March 11, making several inquiries with reference to the provisions of chapter 64 of the 1943 Session Laws. You inquire whether the three percent additional appropriation, provided for in section 2 of that chapter, is intended to cover only funds expended currently within the biennial period.

You are advised that it is our opinion that the three percent additional appropriation for operating expense out of the Construction Fund covers only funds expended during the biennial period. The three percent appropriation is made to be used only if the appropriation provided for in Section 1 is insufficient, due to the amount of work undertaken. An additional appropriation is made, which shall not exceed three percent of the cost of construction, reconstruction, maintenance, and all other work undertaken in whole or in part from federal, county, or state funds. The purpose of such three percent additional appropriation is to cover additional costs of administration due to such increased work.

It is also our opinion that the three percent can be transferred only as the construction, reconstruction, maintenance, or other funds are expended. The three percent cannot be based on the construction costs of a prior biennium, because the purpose for making such additional appropriation is to provide additional costs of administration for the work to be done in the current biennium. Therefore, such additional appropriation of three percent is based on the costs of construction in the current biennium. Transfer of such funds may be made only as needed to meet such additional cost.

You also inquire as to what disposition shall be made of the Operating Fund cash balance at the end of the biennium. In our opinion, such balance should be transferred back to the Construction Fund, after all prior expenses have been paid. The general operating expense appropriation provided for in section 1 of the above chapter is the amount the Legislature appropriated for the present biennium, and such balance cannot be considered as a revolving fund.

ALVIN C. STRUTZ
Attorney General