

OPINION
53-7

January 13, 1953 (OPINION)

APPROPRIATIONS

RE: Withholding a Twenty-five Percent For Last Quarter

In yours of January ninth you ask our opinion as to the application of section 54-2710 N.D.R.C. to the several states of fact recited in your letter.

Section 54-2710 provides that, of appropriations made for the maintenance of any state institution, department, board, commission or bureau, twenty-five percent thereof must be conserved and be available only at the beginning of the fourth quarter of the biennium.

This department has consistently held that this statute related only to such appropriations as were strictly for the maintenance of the department for which the appropriation was made. And, further, that it did not apply to appropriations which in their nature were seasonal. "Maintenance" would apply to such expenses as were continuously occurring, such as salaries, clerk hire, telephone tolls, and other expenses which are usually payable monthly. Those appropriations from which seasonal expenses are paid are not controlled by this section. Such, in our opinion, would be seasonal expenses connected with the enforcement of hunting and fishing regulations which occur usually in the hunting and fishing seasons. Such, too, would be printing bills for seasonal hunting and fishing licenses. Travel expenses are at a minimum during the winter season, and at a maximum during the summer. Such expenses must be paid as they accrue, since, to hold otherwise, travel which proper management of the department required might be prohibited or curtailed.

It will be noted that chapter 31 Laws of 1951, by which your appropriation was made, states that the appropriations are made "for the purpose of defraying the expenses of the maintenance and operation of the game and fish department."

Therefore, the appropriation covers both the maintenance and the operation of the department. It may be said, that there are two purposes intended: One, the maintenance of the department, consisting principally of the salaries etc. of the personnel, general office expenses, et. Two, the supervision and management of the game and fish of the state and the enforcement of the laws relating thereto.

It seems, therefore, that, since the supervision of the game and fish, and the enforcement of the game laws are essentially seasonal, and the expenses thereof are incurred seasonally, they should be paid as incurred. The same applies to the purchase of printed notices, licenses, proclamations, etc which precede the seasonal opening of hunting and fishing seasons. Such printing surely is seasonal. Purchase of such supplies ordinarily would be for a year's supply and

must be paid for a purchased.

It is, therefore, our opinion that each and all of the classes of expenses enumerated in your letter may be paid from the appropriations without regard to the withholding of twenty-five percent for the last quarter of the biennium as provided by section 54-2710 N.D.R.C. 1943.

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