

APPROPRIATION: Approval by the Governor of appropriation bill makes funds immediately available.

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August 27, 1937

Dr. J. C. Miller  
Acting President  
State Teachers College  
Maryville, Missouri



Dear Dr. Miller:

We wish to acknowledge your letter and inclosures of August 26, 1937, wherein you request our opinion as to the date the funds appropriated by the Fifty-ninth General Assembly to the various state teachers colleges, as set forth in House Bill No. 503, became available to them. You state that the funds must have been available before June 29, 1937, in order for them to qualify for a Federal grant for which applications have been made.

Certified copies of three affidavits addressed to Mr. Edgar C. Burkhardt, Acting State Director PWA, under date of August 26, 1937, have been furnished to this department to which the name of Honorable Lloyd C. Stark, Governor of Missouri is affixed, and which read as follows:

" August 26, 1937

"Mr. Edgar C. Burkhardt  
Acting Director  
Public Works Administration  
Federal Building  
St. Louis, Missouri

Dear Mr. Burkhardt:

"On June 24, 1937, I had a conference with the Presidents of the five State Teachers Colleges in Missouri. The purpose of this conference which had been called by me

was to release the funds to the Teachers Colleges which had been appropriated by the Fifty-Ninth General Assembly as set forth in House Bill Number 503. This bill which had been subsequently approved by both the Appropriations Committees of the Senate and House of Representatives was passed and became an Act on June 6, 1937.

"At the conclusion of the conference, I released to the Northeast Missouri State Teachers College, located at Kirksville, Missouri, under the item 'Additions' \$300,464 from the general revenue of the state. In so doing, I contemplated the construction of an education building with repairs to the present junior high school building and an administration-arts building on the campus at Kirksville.

"Northeast Missouri State Teachers College had filed an application for a grant from the Public Works Administration which had been approved. The amount of funds released under 'Additions' included the applicant's part, \$300,000, on project docket No. No. 1309.

Yours very truly,  
(signed) Lloyd C. Stark  
Governor.

"STATE OF MISSOURI)  
County of Cole )

"I, Lloyd C. Stark, Governor of the State of Missouri, affirm that the matters and facts as set forth in the foregoing letter are true.

(signed) Lloyd C. Stark

August 27, 1937

Governor  
(signed)  
J. L. Ritzenthaler  
Notary Public  
(SEAL)  
Commission expires Jan. 21, 1941. "

" August 26, 1937

"Mr. Edgar C. Burkhardt  
Acting Director  
Public Works Administration  
Federal Building  
St. Louis, Missouri

Dear Mr. Burkhardt:

"On June 24, 1937, I had a conference with the Presidents of the five State Teachers Colleges in Missouri. The purpose of this conference which had been called by me was to release the funds to the Teachers Colleges which had been appropriated by the Fifty-Ninth General Assembly as set forth in House Bill Number 503. This bill which had been subsequently approved by both the Appropriations Committees of the Senate and House of Representatives was passed and became an Act on June 6, 1937.

"At the conclusion of the conference I released to the Northwest Missouri State Teachers College, located at Maryville, Missouri, under the item of 'Additions,' \$240,000 appropriated from the state revenue and \$35,000 from the State Teachers College fund. In so doing, I contemplated the erection of a training school building

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and library building on the college campus at Maryville.

"Northwest Missouri State Teachers College had filed applications with the Public Works Administration for grants which had been approved. One application was for a grant of \$135,000 to be applied on a training school building to be constructed at a cost of \$300,860, and the other application was for a grant of \$62,000 to be applied on a library building to be constructed at a cost of \$138,994.

"The amount of funds released under 'Additions' included the applicant's part of \$242,854 on Projects Dockets No. Mo. 1307 and 1328.

Yours very truly,  
(signed) Lloyd C. Stark  
Governor.

"STATE OF MISSOURI)  
County of Cole )

"I, Lloyd C. Stark, Governor of the State of Missouri, affirm that the matters and facts as set forth in the foregoing letter are true.

(signed) Lloyd C. Stark  
Governor

(signed)  
J.L.Ritzenthaler  
Notary Public  
(SEAL)

Commission expires Jan. 21, 1941. "

" August 26, 1937

"Mr. Edgar C. Burkhardt  
Acting Director  
Public Works Administration  
Federal Building

August 27, 1937

St. Louis, Missouri

"Dear Mr. Burkhardt:

"On June 24, 1937, I had a conference with the Presidents of the five State Teachers Colleges in Missouri. The purpose of this conference which had been called by me was to release the funds to the Teachers Colleges which had been appropriated by the Fifty-Ninth General Assembly as set forth in House Bill Number 503. This bill, which had been subsequently approved by both the Appropriations Committees of the Senate and House of Representatives, was passed and became an Act on June 6, 1937.

"On June 22, 1937, I had a conference with Dr. J. D. Elliff, President, Board of Curators of Lincoln University, and I released to Lincoln University, located at Jefferson City, Missouri, under item 'Additions' \$200,000 appropriated from the general revenue fund. In so doing, I contemplated the construction of a women's dormitory and a library building on the campus of Lincoln University at Jefferson City, Missouri.

"Lincoln University had filed application for a grant from the Public Works Administration on this project which had been approved. Your application was for a grant of \$117,000 to be applied on the above project. The amount of funds released under 'Additions' included the applicant's part of \$143,000

Dr. J. C. Miller

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on project docket No. 1329.

Yours very truly,  
(signed) Lloyd C. Stark  
Governor.

"STATE OF MISSOURI)  
County of Cole )

"I, Lloyd C. Stark, Governor of the  
State of Missouri, affirm that the  
matters and facts as set forth in  
the foregoing letter are true.

(signed) Lloyd C. Stark  
Governor

(signed)  
J. L. Ritzenthaler  
Notary Public  
(SEAL)  
Commission expires Jan. 21, 1941."

The above affidavits state that House Bill No. 503 was finally passed by both Houses of the Legislature on June 6, 1937.

Article IV, Section 36, of the Constitution of Missouri, provides when appropriation bills go into effect, as follows:

"No law passed by the General Assembly, except the general appropriation act, shall take effect or go into force until ninety days after the adjournment of the session at which it was enacted, unless in case of an emergency (which emergency must be expressed in the preamble or in the body of the act), the General Assembly shall, by a vote of two-thirds of all the members

elected to each house, otherwise direct; said vote to be taken by yeas and nays, and entered upon the journal."

Section 659, Revised Statutes Missouri 1929, provides when the laws shall take effect, in part, as follows:

"A law passed by the general assembly shall take effect ninety days after the adjournment of the session at which it is enacted, subject to the following exceptions:

"(a) A law necessary for the immediate preservation of the public peace, health or safety, which emergency must be expressed in the body or preamble of the act and which is declared to be thus necessary by the general assembly, by a vote of two-thirds of its members elected to each house, said vote to be taken by yeas and nays, and entered on the journal, or a law making an appropriation for the current expenses of the state government, for the maintenance of the state institutions or for the support of public schools, shall take effect as of the hour and minute of its approval by the governor; which hour and minute may be endorsed by the governor on the bill at the time of its approval.  
\* \* \* "

It is to be noted that appropriations for the support of public schools take effect 'the hour and minute of its approval by the Governor.'

The court, in the case of Bishop v. Prairie Oil & Gas Company, 222 Pac. (Ok1) 954, l. c. 956, in defining the term 'approval,' states as follows:

"To give 'approval' is in its essential and most obvious meaning to confirm, ratify, sanction, or consent to some act or thing done by another."

That the Governor sanctioned or consented to the Act of the Legislature appropriating funds for the support of the state teachers colleges, on June 24, 1937, and released the funds appropriated to them is evidenced beyond dispute by the affidavits hereinabove set out.

We are of the opinion that it was mandatory, under the above statutory and constitutional provisions, that the Governor give his approval to the Bill to make the funds available, whether same be orally or in writing, and that when the Governor announced on June 24, 1937, that he was approving same and that the funds would be released they were available to the use of the State Teachers Colleges as of that date.

Respectfully submitted,

MAX WASSERMAN  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
(Acting) Attorney General

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