

BIENNIUM:  
GENERAL REVENUE:  
STATE TREASURER:

Moneys and funds for which balances are subject to transfer to General Revenue shall be transferred and placed to the credit of the ordinary revenue fund of the State by the State Treasurer at the end of the biennium after all warrants on same have been discharged and the appropriation thereof has lapsed.



July 22, 1958

Mr. John W. Schwada  
State Comptroller and  
Director of the Budget  
State Capitol  
Jefferson City, Missouri

Dear Mr. Schwada:

This is in response to your inquiry for an opinion, May 28, 1958, which we quote in part as follows:

"Because the State is operating on annual appropriations for the 1957-58 fiscal year, the question has been raised concerning interpretation of Section 33.080 RSMo. This section provides for the deposit of money in the State Treasury to the credit of particular funds subject to appropriation by the General Assembly. \* \* \*

\* \* \*

"This clause refers to the transfer of moneys from special funds to General Revenue both at the end of the biennium and after the appropriation has lapsed. Appropriations for 1957-58 lapse on December 31, 1958, but this date does not end a biennium.

"The question is: Must moneys in funds for which balances are subject to transfer to General Revenue, be transferred on December 31, 1958?"

Article IV, Section 23, of the Missouri Constitution of 1945 states:

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"The fiscal year of the state and all its agencies shall be the twelve months beginning on the first day of July in each year. The general assembly shall make appropriations for one or two fiscal years, and the sixty-third general assembly shall also make appropriations for the six months ending June 30, 1945. Every appropriation law shall distinctly specify the amount and purpose of the appropriation without reference to any other law to fix the amount or purpose."

We quote Section 33.080 of the Revised Statutes of Missouri, 1949, as follows:

"All fees, funds and moneys from whatsoever source received by any department, board, bureau, commission, institution, official or agency of the state government by virtue of any law or rule or regulation made in accordance with any law, shall, by the official authorized to receive same, and at stated intervals be placed in the state treasury to the credit of the particular purpose or fund for which collected, and shall be subject to appropriation by the general assembly for the particular purpose or fund for which collected during the biennium in which collected and appropriated. The unexpended balance remaining in all such funds (except such unexpended balance as may remain in any fund authorized, collected and expended by virtue of the provisions of the constitution of this state), shall at the end of the biennium and after all warrants on same have been discharged and the appropriation thereof has lapsed, be transferred and placed to the credit of the ordinary revenue fund of the state by the state treasurer. Any official or other person who shall willfully fail to comply with any of the provisions of this section, and any person who shall willfully violate any provision hereof, shall be deemed guilty of a misdemeanor; provided, that in the case of state educational institutions there is excepted herefrom, gifts or trust funds from whatever source: Appropriations, gifts, or

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grants from the federal government, private organizations and individuals; funds for or from student activities, farm or housing activities, and other funds from which the whole or some part thereof may be liable to be repaid to the person contributing the same, and hospital fees; all of which excepted funds shall be reported in detail quarterly to the governor and biennially to the general assembly."

It is our opinion that moneys and funds for which balances are subject to transfer to General Revenue shall be transferred and placed to the credit of the ordinary revenue fund of the State by the State Treasurer at the end of the biennium. We do not feel that those moneys should be transferred prior to the end of the biennium.

Although Article IV, Section 23, authorized the general assembly to make appropriations for one or two fiscal years, we do not feel that this serves to bind the general assembly in the manner in which it chooses to provide for the collection of funds and the crediting thereof to specific accounts. Unless the general assembly specifically provides that moneys and funds for which balances are subject to transfer to General Revenue shall be transferred at the lapse of a particular appropriation we believe that there is no such inference in Article IV, Section 23 of the Constitution. There is apparent no restriction which would preclude the General Assembly from permitting specified agencies to retain in their credit account sums which they have collected, but for which there has been no appropriation to extend beyond a one-year period.

Webster's New International Dictionary, Second Edition, defines the term "biennial" as "something which takes place or appears once in two years as a biennial examination".

Webster defines "biennium" as "a period of two years".

The wording of Section 33.080, RSMo 1949, has not been changed since its enactment in 1933. At the time such statute was placed on the books, and until adoption of Missouri's Constitution of 1945, appropriations by the general assembly to support state agencies were made on a two year, or a biennium term. We believe that at the time this section was originally enacted the only logical construction that could have been placed upon it would be to the effect that the statute was to mean that the transfer would be made after all warrants on the unexpended balance remaining in all such funds have been discharged, and the appropriation thereof has lapsed, at the end of the biennium only. Since the general assembly chose not

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to amend Section 33.080 at the time of, or subsequent to, the acceptance of Article IV, Section 23 of the Missouri Constitution, 1945, we believe that there was no intention to restrict the period of crediting or collecting funds of the specified agencies to an appropriation period of one year.

CONCLUSION

It is the opinion of this office that moneys and funds for which balances are subject to transfer to General Revenue shall be transferred and placed to the credit of the ordinary revenue fund of the State by the State Treasurer at the end of the biennium after all warrants on same have been discharged and the appropriation thereof has lapsed.

Sincerely yours,

JOHN M. DALTON  
Attorney General

JBS/mjb