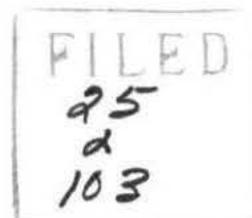


January 22, 1970

OPINION LETTERS 25 and 103
Answered by Gardner

Dexter D. Davis, Commissioner
Department of Agriculture
Jefferson Building
Jefferson City, Missouri 65101



Dear Commissioner Davis:

Reference is made to your recent letters from which it appears that you wish to establish and administer a program for using the money in the Agriculture Emergency Fund for emergency relief and rehabilitation. You request our opinion on the question whether an appropriation must be made by the Legislature in order to use any portion of these funds for administrative purposes.

You state that at the present time Missouri has approximately \$2,800,000.00 in that fund. This money consists of the trust assets of the Missouri Rural Rehabilitation Corporation which had been assigned to the Secretary of Agriculture of the United States and, on application by the Commissioner, returned to the State of Missouri pursuant to the Rural Rehabilitation Corporation Trust Liquidation Act, Public Law 499, 81st Congress, approved May 3, 1950 (64 Stat. 98).

The receipt of money by the State is controlled by Article IV, Section 15, of the Constitution of Missouri, which states in part as follows:

" . . . All revenue collected and moneys received by the state from any source whatsoever shall go promptly into the state treasury, and all interest, income and returns therefrom shall belong to the state. . . ."

Article IV, Section 28, of the Constitution of Missouri, describes the manner in which withdrawals may be made from the state treasury, and reads in part as follows:

Dexter D. Davis, Commissioner -

"No money shall be withdrawn from the state treasury except by warrant drawn in accordance with an appropriation made by law, nor shall any obligation for the payment of money be incurred unless the comptroller certifies it for payment and certifies that the expenditure is within the purpose of the appropriation and that there is in the appropriation an unencumbered balance sufficient to pay it. . . ."

Thus, an appropriation would be required to permit any portion of the Agriculture Emergency Fund to be withdrawn from the state treasury.

The last sentence of Article IV, Section 23, of the Constitution of Missouri, provides:

". . . 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 understand that you suggest that the following provisions be included in the appropriation bill to be submitted to the Legislature at the Emergency Session:

"To the Governor. All money in the Agriculture Emergency Fund for investment, reinvestment, and for emergency agriculture relief and rehabilitation, including administrative expenses."

If the suggested provision is enacted into law, it is apparent that a specific appropriation is made for administrative expense in accordance with requirements of the Constitution of Missouri.

Yours very truly,

JOHN C. DANFORTH
Attorney General