



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GROVER SELLERS  
ATTORNEY GENERAL

Hon. Gibb Gilchrist, President  
Agricultural & Mechanical College of Texas  
College Station, Texas

Dear Sir:

Opinion No. 0-7200

Re: Under the Educational Appropriation Bill can any unexpended balance remaining in items 10a and 10b at the expiration of the fiscal year ending August 31, 1946 be legally expended for the same purposes during the fiscal year ending August 31, 1947?

Your letter of recent date asking our opinion on the above subject reads as follows:

"The Educational Appropriation Bill for the current biennium (Chapter 377, General and Special Laws - 49th Legislature, Regular Session, pages 695-6) includes the following items under the heading of Agricultural and Mechanical College of Texas - Main Extramural Divisions - Engineering Experiment Station:

"10a. Aerodynamic research, including wind tunnel completion and operation, flight test research salaries, wages, equipment, travel and supplies  
For the fiscal year ending August 31, 1946

45,000.00

"10b. Chemurgic research for basic investigation in Texas raw materials and agricultural products includ-

ing salaries, wages, equipment,  
travel and supplies.  
For the fiscal year ending Au-  
gust 31, 1946 \$25,000.00  
For the fiscal year ending  
August 31, 1947 25,000.00

"Provided that any unexpended  
balance remaining in items 10a  
and 10b at the expiration of  
the fiscal year ending August  
31, 1947, is hereby reappropria-  
ted for the same purposes for  
the fiscal year ending August  
31, 1948.

"Since the Legislature cannot make appro-  
priations for a longer term than two years and  
since there is no appropriation under item 10a  
for the fiscal year ending August 31, 1947, it  
is obvious that it was the intention of the  
Legislature to reappropriate any unexpended  
balance remaining in items 10a and 10b at the  
expiration of the fiscal year ending August 31,  
1946, for the same purposes for the fiscal year  
ending August 31, 1947, and that its failure to  
do so is the result of a clerical or typographi-  
cal error. Therefore, we are submitting to you  
for a ruling the question of whether any un-  
expended balance remaining in items 10a and 10b  
at the expiration of the fiscal year ending  
August 31, 1946 can legally be expended for the  
same purposes during the fiscal year ending  
August 31, 1947."

Sections 10a and 10b, as quoted above, are taken  
from House Bill #173 as passed by the 49th Legislature, 1945.  
The caption of the Bill reads as follows:

"An Act fixing appropriations for educa-  
tional institutions of higher learning, and  
declaring the policy thereof; prescribing  
certain rules and regulations to be followed

in determining said appropriations; requiring audits; making appropriations for the support maintenance, buildings, and improvements of the several State institutions of higher learning for the two fiscal years, beginning September 1, 1945, and ending August 31, 1947, both dates inclusive; and for certain other educational agencies of the State; prescribing certain restrictions concerning the expenditures of said appropriations; containing a saving clause; and declaring an emergency." (Underlining ours)

It is to be noted that no wording in the caption could leave even an implication that it was the intention of the drafters of the bill to make an appropriation for any period or periods other than the two fiscal years, i.e., September 1, 1945 to August 31, 1946, and September 1, 1946 to August 31, 1947. Article 8, Section 6 of our Constitution prohibits the Legislature from making an appropriation for a longer term than two years. Therefore, should we attempt to give the wording found immediately following Section 10b, as quoted above, its apparent meaning, we would run aground with the Constitution and find the attempted appropriation to be void.

There is a provision similar to the one you have pointed out found in the same appropriation bill (See page 706, General and Special Laws, 49th Legislature, Regular Session, 1945). This provision reads as follows:

"It is provided that any funds appropriated for Substation No. 21, for building construction, which are not expended during the fiscal year ending August 31, 1946 are hereby reappropriated to the fiscal year ending August 31, 1947."

We believe it was the intention of the Legislature to reappropriate the unexpended balances remaining in Items 10a and 10b at the end of the fiscal year 1946 for use in accomplishing the same purposes during the fiscal year ending 1947, and that figures 1947 and 1948 were inadvertently used.

You are advised, therefore, that it is the opinion of this department that any unexpended balance remaining in Items

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10a and 10b at the expiration of the fiscal year ending August 31, 1946 may legally be expended for the same purposes during the fiscal year ending August 31, 1947.

Trusting the above fully answers your inquiry,  
we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

By /s/ E. M. DeGaurin  
Assistant

Approved Apr 27, 1946  
Carlos C. Ashley  
First Assistant  
Attorney General

Approved: Opinion Committee  
By LPL  
Chairman

EMDeG:ET:djm