



**OFFICE OF  
THE ATTORNEY GENERAL**

**AUSTIN, TEXAS**

PRICE DANIEL  
ATTORNEY GENERAL

February 20, 1948

FAGAN DICKSON  
FIRST ASSISTANT

Hon. William L. Kerr, President  
Board of Regents  
State Teachers College  
Midland, Texas

Opinion No. V-509

Re: Transfer of funds from  
salary appropriations  
for 1948 Summer Ses-  
sion to salary appro-  
priations for 1947-  
1948 Long Session.

Dear Sir:

We refer to your letter of recent date which  
stated in substance as follows:

The Legislature in Acts 1947, 50th  
Leg., R. S., H. B. 246, p. 662, appropri-  
ated \$151,885.00 for salaries for Sul Ross  
State Teachers College for the 1947-48  
long session, and \$48,952.00 for salaries  
for the 1948 summer session.

The Board of Regents approved salar-  
ies at this school for the long session  
amounting to \$199,786.00; thus necessita-  
ting the augmenting of the appropriated  
amount.

The Veterans Administration has been  
slow in paying the amount due that school  
(and the others under our jurisdiction).  
For that reason, the President of Sul Ross  
would like to transfer \$18,401.00 from the  
summer school appropriation into the long  
session appropriation. For the summer  
session, the salaries will be paid out of  
the remaining funds in the summer appropria-  
tion, out of local funds and the funds which  
may then be available from the Veterans Ad-  
ministration.

Question: May the transfer proposed above legally be made?

The appropriation made to Sul Ross State Teachers College by the 50th Legislature, provides:

"	For the Years Ending	
	August 31, 1948	August 31, 1949
1. Salaries	\$151,885.00	\$151,885.00
2. Summer School	48,952.00	48,952.00
3. Maintenance, equipment and travel	30,000.00	30,000.00
4. Improvements and repairs	100,500.00	18,000.00
GRAND TOTAL	<u>\$331,337.00</u>	<u>\$248,837.00"</u>

The General Provisions of the 1947 Appropriations Act--Educational Institutions, at page 668, 1947 Session Laws, read in part as follows:

"Subsection (2). Salary Provisions. The rate of the salary paid an employee of any educational institution named herein for services during a summer session shall not exceed the salary rate paid the employee for the same or similar services in that institution during the preceding long session.

"Full-time employees on twelve (12) months basis may receive not more than Five Hundred Dollars (\$500) for correspondence course and/or extension center teaching, and may not be paid additional money for summer school teaching, and full-time employees on a nine (9) months basis may be paid for correspondence and/or extension center teaching or summer school or other services during the remaining three (3) months of the fiscal year, but may not receive more than at the rate of Five Hundred Dollars (\$500) per annum for correspondence course teaching during the fiscal year and/or extension center work during the regular nine (9) months session." (Emphasis ours.)

For many years prior to the 1948-49 biennium, the Legislature has itemized in particular the specific salaries to be paid to each and every professor and instructor on full time employment for the nine months long term, and to each and every administrative, physical plant, and library staff employee, etc., on full time employment on a twelve months basis. See Acts 1945, 49th Leg. R. S., H. B. 173. Immediately following the total amount appropriated for these itemized salaries for long term purposes, the Legislature has heretofore, as it now does in the 1947 Act, provided an additional lump sum appropriation to care for the professors, instructors and other persons employed to teach or to perform other services during the summer session, and who were not employed on a twelve months service basis. See H. B. 173: Item 155, p. 740 designated "Summer Session, Resident teaching and administration"; Item 243, p. 763; Item 86, p. 766; Item 288, p. 776; Item 132, p. 781; Item 213, p. 786; Item 94, p. 790 designated "Summer salaries"; Item 74, p. 792; Item 74, p. 795; Item 40, p. 797 (Sul Ross); and Item 77, p. 800.

The third paragraph of Subsection (2) in the General Provisions of H. B. 173, Acts 1945, which provision appears substantially reenacted in Subsection (2) in H. B. 246, Acts 1947, above quoted, authorizes the use of the lump sum "Summer School" appropriations for salary payments to full time employees on a nine months basis and to other persons not employed on a twelve months basis for teaching Summer School or for other services performed during the remaining three months of the fiscal year, the summer months or short session.

The 50th Legislature in H. B. 246 has departed from the practice of itemizing salary appropriations for the long session of the State Colleges. In its biennial appropriation for the fiscal years 1947-48 and 1948-49 it has made, first, a lump sum appropriation itemized as "1. Salaries" in the many College appropriations and in addition thereto a lump sum appropriation itemized as "2. Summer School". The Legislature having continued to appropriate a lump sum under item designated "2. Summer School", we believe it was its intention when it appropriated a lump sum under item designated "1. Salaries" that this latter appropriation was to cover all the salaries for the long session and twelve months employees which heretofore were provided for by the itemized salary method.

The item designated as "1. Salaries" in the Sul Ross appropriation constituting a specific appropriation to be used for the payment of salaries to persons employed for the long session of the College and others employed on a twelve months basis, it may be used only for the specific purposes appropriated. The Item designated as "2. Summer School" constituting a specific appropriation to be used for salary payments to full time employees on a nine months basis or other persons not employed on a twelve months basis for teaching Summer School or for other services performed during the remaining three months of the fiscal year, the summer months, it follows that the same or any portion thereof may not be transferred therefrom to be expended for long session salary payments. It is elementary, of course, that an appropriation may be used only for the purpose expressed therein or necessarily implied therefrom.

We have considered also the third paragraph in Subsection (2) of the General Provisions of H. B. 246, 50th Legislature, and advise that such provision does not authorize the proposed transfer of funds from the Summer School appropriation to the long term appropriation, the same purporting to authorize transfers of only those items or parts of items within the totals of each of the specific appropriations.

SUMMARY

The Board of Regents of the State Teachers Colleges is not authorized to transfer or use funds appropriated for Sul Ross State Teachers College under item designated "2. Summer School" in H. B. 246, Acts 1947, for the payment of salaries of long session employees who are provided for in appropriation item designated "1. Salaries" in said Bill.

Yours very truly,

APPROVED:

ATTORNEY GENERAL OF TEXAS

*Jagan Dickson*  
FIRST ASSISTANT  
ATTORNEY GENERAL  
CEO:wb:mw

By

*Chester E. Ollison*  
Chester E. Ollison  
Assistant