

**N.D.A.G. Letter to Koppy (Feb. 23, 1987)**

February 23, 1987

Mr. Allen Koppy  
Morton County State's Attorney  
Morton County Courthouse  
210 Second Avenue N.W.  
Mandan, ND 58554

Dear Mr. Koppy:

Thank you for your letter of February 9, 1987, inquiring as to the ability of the Morton County Board of County Commissioners to amend the county budget or to transfer county moneys from one fund to another in order to pay for a special election which may occur this year. According to your letter, no appropriation has been made in the current county budget to pay for a special statewide election in fiscal 1987.

I believe the last sentence of N.D.C.C. § 57-15-31.1 would be relevant to your factual situation. That sentence states as follows:

57-15-31.1. DEADLINE DATE FOR AMENDING BUDGETS AND  
CERTIFYING TAXES. . . .The current budget, except for property taxes,  
may be amended during the year for any revenues and appropriations not  
anticipated at the time the budget was prepared.

This particular sentence was added to N.D.C.C. § 57-15-31.1 by the 1981 Legislative Assembly. According to legislative history, the purpose of this amendment was to authorize a taxing district to amend the budget during the year so long as the amended budget could not result in a change of the amount of property tax previously levied. There is no requirement in the statute's last sentence of the existence of an appropriation before the amendment of the budget may occur. The only restriction is that the property tax levy may not be changed by the amendment of the budget.

In summary, the last sentence of N.D.C.C. § 57-15-31.1 allows a county to amend its budget for any appropriation not anticipated at the time the budget was prepared. The occurrence of a special election not anticipated at the time the budget was prepared would be an incident which would justify the amendment of the budget. However, the amendment of the budget may not result in a change in the amount of property tax previously levied.

Sincerely,

Nicholas J. Spaeth

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