

STATE OF MONTANA  
DEPARTMENT OF JUSTICE  
AGENCY LEGAL SERVICES BUREAU  
444-2026

MEMORANDUM

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**TO:** DARLENE STAFFELDT, Director  
Statewide Library Resources  
Montana State Library

**FROM:** JIM SCHEIER  
Assistant Attorney General

**RE:** Library Federations

**DATE:** October 14, 1999

Your recent email asks the following questions, which I have paraphrased:

Montana is divided into six library federation areas. Each federation has a headquarters library, designated by the State Library Commission (Commission), to which state money is sent once a year by the Commission to run the federations. The state funds are derived from two sources: 1) coal severance tax monies distributed pursuant to Montana Code Annotated § 13-35-108, and 2) base grants authorized by Montana Code Annotated § 22-1-331.

House Bill 125 (HB 125), passed by the 1999 Legislature, amended the laws to permit libraries other than public libraries to participate in the federations. When this bill was presented to the Legislature, it was presented with the argument that the funds from the above two sources distributed to the federations would still be used only for public libraries. Some of the federations would like to know whether they can use state funds to engage in federation-wide projects that benefit non-public libraries as well as public libraries that are members of the federation. Another question is whether state funds can be used for reimbursement for travel expenses incurred by employees of non-public libraries.

**The short answer to your questions is that federations are permitted to use funds received from the State for projects that benefit non-public library members, and they may also use those funds to reimburse travel expenses of employees of such libraries. Alternatively, they may specify in the federation contract that funding received from the State will not be used for those purposes.**

**Montana Code Annotated § 22-1-401 sets forth the Legislature's policy with respect to library federations:**

**It is the policy of the legislature to encourage the most efficient delivery of library services to the people of Montana. To that end the state should be divided into regions within which libraries desiring to participate in the distribution of such state funding to libraries as may be available from time to time shall organize into library federations to pool resources and information and avoid duplication of effort.**

**A library federation is "a combination of libraries serving a multicounty, multicity, or city-county area within a federation area designated by the state library commission." HB 125 changed the permissible composition of library federations. Prior to the amendment federations could only be formed pursuant to contracts between libraries serving cities, towns, and counties. HB 125 added "school, special, college, or university libraries" to the list of entities that may agree by contract to form a federation, and provided that those additional, non-public library entities "may participate in a federation." Montana Code Annotated § 22-1-402 (as amended by HB 125, effective October 1, 1999).**

**Montana Code Annotated § 22-1-402(2)(c), which was not changed by HB 125, provides:**

**The expense of providing library services for the library federation must be based on funds received from the state or participating libraries as agreed upon in the contract. The funds of the federation must be maintained as a separate account as provided in the contract. Participating libraries shall transfer semiannually to the account all money collected for the federation in their respective jurisdiction.**

**Montana Code Annotated § 22-1-412, which also was not changed by HB 125, provides:**

**It is the purpose of 22-1-413 and this section to establish a program whereby state funds may be appropriated to the Montana state library commission to provide the benefits of quality public library service to**

**all residents of Montana by developing and strengthening local public libraries through library federations as defined in 22-1-402.**

**Montana Code Annotated § 22-1-413, as amended by HB 125, describes the procedure for funding federations:**

**The Montana state library commission must receive and shall administer the appropriation for state funding to public library federations. The commission shall allocate the appropriation among grant programs and shall allocate funds among federations according to formulas for distribution as the commission establishes in rules adopted pursuant to 22-1-103. Federations receiving state funds from the commission shall submit annual plans for the expenditure of state funds and report semiannually to the commission concerning the progress of the various projects for which state funding was received. The reports must contain an accounting for all state funds received.**

**Money for the federations comes from two sources. A portion of coal severance taxes collected by the State is allocated for, among other activities, “provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, . . .” Montana Code Annotated § 15-35-108(3). In addition, the Commission is required to provide “a base grant for each public library to support the cooperative activities and services of the six library federations in the state.” Montana Code Annotated § 22-1-331.**

**When all of these statutes are read together, it becomes apparent that there is no prohibition against a federation using money distributed to it by the State to fund activities that benefit all the members of the federation, including non-public library members. Moreover, there is no prohibition against a federation using money distributed to it by the State to reimburse employees of non-public libraries for travel expenses related to federation activities.**

**The statutes governing the establishment and administration of library federations do not distinguish between public libraries and “other public, school, special, college, or university” libraries. All may “participate” in a federation, which logically means that all may benefit from the various activities of a federation of which they are members. While Montana Code Annotated § 22-1-331 authorizes base grants only to “public libraries,” as defined in Montana Code Annotated § 22-1-326, the grants are intended “to support the cooperative activities and services of the six library federations in the state.” (Emphasis added.)**

**Of course, since federations are formed pursuant to a contract among the participating entities, the contract may provide for the allocation of funding sources within the federation. For example, since the non-public libraries do not receive the base grants mentioned in Montana Code Annotated § 22-1-331, or benefit from coal tax monies, a federation contract could require non-public library members to contribute an agreed-upon amount of money for federation activities (“[t]he expense of providing library services for the library federation must be based on funds received from the state or participating libraries as agreed upon in the contract.”) Montana Code Annotated § 22-1-402 (2)(c) (Emphasis added). A federation contract could legitimately provide that funds received from the State will not be used to fund federation activities that benefit non-public library members of the federation. The contract could also provide that travel expenses of employees of non-public library entities will not be reimbursed with state funds.**

**I hope this answers your questions. Give me a call if you have additional questions or would like to discuss this.**

**jms/alh**

## Staffeldt, Darlene

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To: Jim Scheier  
Subject: Funding of federations

Jim, As you know the state of Montana is divided into six federation areas as far as library services are concerned. Each federation area has a headquarters library 22-1-402MCA, that we send monies to once a year to run the federations. The monies are from CST (coal severance tax) monies 15-35-108 MCA and from base grants 22-1-331 MCA. HB125 from the 1999 session made the Federations multitype (including libraries other than just public libraries). When presented to the legislature the arguments included that the monies would still be used only for the public libraries. Now we have some of our Federations asking if they can do Federation wide projects that benefit all types of libraries and/or if they can reimburse school librarians for travel expenses to the meetings as they currently do for the public librarians? Can the monies be used for the benefit of all types of libraries in the federations? Can direct payments for travel reimbursement or grants for shared resources be provided to the non-public library members? If you have any followup questions please let me know. I will be in the office Monday through Thursday noon this week (October 4-7, 1999). Thanks, Darlene

Darlene Staffeldt  
Montana State Library  
PO Box 201800  
Helena MT 59620-1800  
406-444-5381  
dstaffeldt@state.mt.us