

## No. 135

**GOVERNOR—FISCAL AGENCIES OF STATE, required to  
give bond when—CHANGE OF AGENCIES**

**Held:** If the Governor deems it necessary, any appointed fiscal agency of the state may be required to give bond to the State of Montana in such amount as the Governor may prescribe, approve and deem sufficient to insure the safety and prompt payment of all funds deposited with such agency. If the fiscal agency refuses to give the bond when required by the Governor so to do, the Governor may change the fiscal agency.

June 4, 1941.

Mr. Thomas E. Carey  
State Treasurer  
Capitol Building  
Helena, Montana

Dear Mr. Carey:

You have submitted the following:

"The state treasurer called the State Depository Board's attention to the fact that the State of Montana had on deposit with the Chase National Bank of New York State money for which no collateral was pledged. After discussion, the board recommended that the state treasurer submit the matter to the Attorney General for an opinion; further, the board instructed the treasurer that in the event the Attorney General recommended that the Chase National Bank should furnish collateral, the treasurer should so inform the bank. If the bank should refuse to comply with such a request, it would then be necessary for the state to secure a bond. . . . The above balance of \$27,220 in the Chase National Bank, New York, which is the fiscal agent for Montana is for the purpose of paying bonds and coupons of the State of Montana. These funds are in said bank for a short duration and collateral is not pledged. . . ."

The answer to your problem is contained within the provisions of Chapter 416 of the Revised Codes of Montana, 1935, and particularly with reference to Sections 5668.6, 5668.7 and 5668.13, which for your convenience are hereinafter set forth in full:

**"Section 5668.6. Governor to designate fiscal agencies for bonds.** The Governor of the state of Montana is hereby authorized to designate one or more banks or trust companies in each city in the United States where the bonds or interest coupons of any bonds issued by the state of Montana or any county, city, town, school district, irrigation district or drainage district of Montana, are made payable, as

the fiscal agency for the state of Montana for the payment of such bonds and coupons.”

“Section 5668.7. **Bond required of fiscal agencies.** Before establishing and designating such fiscal agency, the governor shall, if he deem it necessary, require a bond to be given by such bank or trust company to the state of Montana, in such amount as the governor may prescribe, approve and deem sufficient to insure the safety and prompt payment of all funds deposited with such fiscal agent. Such bond shall be approved by the Governor and filed in his office.”

“Section 5668.13. **Change of fiscal agency by governor—notice.** The governor of the state may at any time change any fiscal agency in case the agency theretofore designated shall neglect or refuse to act, and in case of a change being made, it shall be the duty of the state auditor to notify the state treasurer and all county, city, town, school district, irrigation district, and drainage district treasurers within the state of Montana, of such change, and shall publish the same as provided in Section 5668.10.”

Therefore, it is my opinion that, should the Governor deem it necessary, the Chase National Bank—as the designated fiscal agency of the State of Montana—may be required to give bond to the State of Montana in such amount as the Governor may prescribe, approve, and deem sufficient to insure the safety and prompt payment of all funds desposited with such fiscal agency. If said fiscal agency refuses to give the bond, should the Governor require the same, then—under the provisions of Section 5668.13—the Governor may change the fiscal agency. And in case of a change being made, it shall be the duty of the State Auditor to notify the State Treasurer, and all county, city, town, school district, irrigation district, and drainage district treasurers within the State of Montana, of such change, and he shall publish the same as provided in Section 5668.10.

Sincerely yours,

JOHN W. BONNER  
Attorney General