

No. 150

STATE BONDS—EDUCATIONAL BONDS—
APPROPRIATIONS

Held: Where insufficient moneys from tax levy are on hand to retire maturing state bonds, overdraft cannot be created in order to make up deficit.

June 24, 1941.

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

Dear Mr. Carey:

You state the final payment on the \$5,000,000 State Educational Bonds of 1920, amounting to \$172,000 in bond principal and \$3,400 in interest, will become due and payable July 1, 1941. From the tax levied for the payment of this indebtedness, there are \$118,000 in the State Treasury on hand to pay this balance, leaving a deficit of approximately \$45,000. Taxes under the tax levy are delinquent in the sum of approximately \$150,000 and you anticipate collection of these delinquent taxes in an amount more than sufficient to take care of the deficit. Your question is:

“May the State Treasurer legally pay the bonds and interest when due, if there are not sufficient funds on hand, and show an overdraft in that fund in anticipation of taxes due the state?”

In my opinion, there is no authority in our laws for such a procedure. It is sufficient answer to quote Section 34, Article V of the Montana Constitution:

“No money shall be paid out of the treasury except upon appropriations made by law, and on warrant drawn by the proper officer in pursuance thereof, except interest on the public debt.”

Sincerely yours,

JOHN W. BONNER
Attorney General