

Opinion No. 2**STATE HIGHWAY COMMISSION; Funds; use of for legislative investigation—Article XII, Section 1b, Montana Constitution**

Held: Article XII, Section 1b of the Montana Constitution does not prohibit the expenditure of Highway funds to defray the cost of an audit of Highway Department receipts and expenditures for the use of the legislature in connection with a legislative investigation.

January 26, 1959

Honorable John J. MacDonald
Speaker of the House of Representatives
36th Legislative Assembly
Helena, Montana

Dear Mr. Speaker:

You have asked my opinion whether Article XII, Section 1b of the Montana Constitution, known as the anti-diversion amendment, prohibits the expenditure of any Highway Department funds for an audit of Highway receipts and expenditures in connection with the present legislative investigation of Highway affairs.

Article XII, Section 1b provides as follows:

"Sec. 1b. No monies paid into the state treasury which are derived from fees, excises or license taxes relating to registration, operation or use of vehicles on the public highways or to fuels used for the propulsion of such vehicles, except fees and charges paid to the board of railroad commissioners of the state of Mon-

tana and the public service commission of Montana or its successor or successors by motor carriers pursuant to law, shall be expended for other than cost of administering laws under which such monies are derived, statutory refunds and adjustments provided therein, payment of highway obligations, cost of construction, reconstruction, maintenance and repair of public highways, roads, streets, and bridges, and expenses authorized by the state legislature for dissemination of public information relating to the public highways, roads, streets and bridges of the state of Montana and the use thereof."

You will notice that the last provision of this amendment specifically authorizes the expenditure of Highway funds when authorized by the state legislature "for dissemination of public information relating to the public highways, roads, streets and bridges of the state of Montana and the use thereof."

The results of the audit to be made in this case are for the use of the legislative assembly and as such will constitute a public record to which members of the legislative assembly and the general public may resort for needed information concerning the expenditure of public funds for all of the above described purposes. This clearly comes within the constitutional meaning of "dissemination of public information" and is therefore specifically authorized by the amendment in question.

It is therefore my opinion that Article XII, Section 1b of the Montana Constitution does not prohibit the expenditure of Highway funds to defray the cost of an audit of Highway Department receipts and expenditures for the use of the legislature in connection with the pending legislative investigation.

Very truly yours,
FORREST H. ANDERSON
Attorney General