

Opinion No. 8

BONDS; War Veterans' Compensation Bond Retirement Funds; must be used to repay bonds—FUNDS; Bond retirement; may not be diverted to general fund—Initiative No. 54; Ch. 44, Laws of 1957.

Held: Moneys in War Veterans' Compensation Bond Retirement Funds may be used solely for payment of interest and principal on War Veterans' Compensation Bonds.

January 12, 1961

Honorable Clyde L. Hawks
Speaker of the House of Representatives
Capitol Building
Helena, Montana

Dear Mr. Speaker

You have requested my opinion on the following question:

"May the legislature legally provide for the transfer of any moneys in the War Veterans' Compensation Bond Retirement Funds, in excess of the amount required by the bonding companies to process claims against these funds, to the General Fund?"

Both Initiative No. 54, which authorized payment of the World War II veterans' bonus, and Chapter 44 of the Laws of 1957, which authorized payment of a similar bonus to Korean veterans, provide for the issuance of bonds to raise the money necessary to pay these bonuses. Both direct that such bonds:

"Shall contain the pledge of the State of Montana to continue to levy and collect the cigarette tax in this law provided for and place the proceeds thereof in the War Veterans' Compensation Bond Retirement Fund, until all bonds issued hereunder, and the interest accruing thereon, shall have been paid; . . ."

An examination of the bonds issued under the authority of these laws discloses that they contain the following language:

". . . the State of Montana hereby . . . pledges and undertakes to continue to levy and collect the additional tax upon cigarettes . . . and to place the proceeds thereof with the State Treasurer to the credit of the special fund created by said . . . (Initiative or Chapter) . . . which fund shall be kept segregated from all other moneys in the state treasury and shall, while any of said bonds or any interest thereon remains unpaid, be available solely for and applied to the payment of the principal of and the interest on said bonds as the same become due and payable."

It is thus apparent that the State of Montana is bound, by contractual obligation to the purchasers of these bonds, to use the money in these funds **solely** for the payment of the principal and interest due on the bonds. Since the limitations on the State's use of these funds is so clearly expressed in the bond contracts, it is my opinion that, so long as there are War Veterans' Compensation Bonds outstanding and unpaid, no part of the War Veterans' Compensation Bond Retirement Funds may be used for any purpose other than the payment of said bonds.

Very truly yours,
FORREST H. ANDERSON
Attorney General