

**VOLUME 36****Opinion No. 87**

**APPROPRIATIONS — Vietnam veterans, disabled; VETERANS — Vietnam, disabled; Section 77-2502, Revised Codes of Montana 1947, House Bill 1116, Session Laws of 1974, House Bill 692, Session Laws of 1975.**

**HELD: Payment of the disabled Vietnam veterans honorarium authorized by Chapter 342, Session Laws of 1975, can and must be made from the appropriations contained in House Bill 1116, Session Laws of 1974, and House Bill 692, Session Laws of 1975.**

June 14, 1976

Mr. Morris L. Brusett  
Legislative Auditor  
State Capitol  
Helena, MT 59601

Dear Mr. Brusett:

You have requested my opinion on the following question:

Whether payment of the disabled Vietnam veterans honorarium authorized by Chapter 342, Session Laws of 1975, can be made from the appropriations contained in House Bill 1116, Session Laws of 1974, and House Bill 692, Session Laws of 1975.

The act to provide for the payment of an honorarium or adjusted compensation to each resident of Montana who served in the military service in the Vietnam area between January 1, 1961, and March 31, 1973, was enacted by Chapter 288, Session Laws of 1974, and codified as section 77-2501, et seq., R.C.M. 1947. Section 77-2502, R.C.M. 1947, provided in part, for payment to surviving servicemen under the following circumstances:

(2) Each resident of Montana who was in military service at any time during the Vietnam War, and during part or all of the period of such service was in the Vietnam area, is granted the sum of eighteen dollars and seventy-five cents (\$18.75) for each month and major fraction of a month of such service in the Vietnam area. For the purpose of this subdivision:

(a) any serviceman who, while on active duty in the Vietnam area during the Vietnam War, suffered disease or injury from any cause whatsoever, including injury from exposure to weather conditions, and in line of duty, and is hospitalized therefor by any of the military forces, shall be deemed to have been in military service in the Vietnam area as long as he shall be or was continuously hospitalized in any hospital or similar institution under the control of or employed by the United States, wherever situated;

(b) any serviceman who was taken prisoner by the enemy in the Vietnam area, and who was classified by the department of defense as a prisoner of war, shall be deemed to have been in military service in the Vietnam area as long as he shall be or was continuously so classified; but

(c) each such prisoner of war shall be paid not less than seven hundred fifty dollars (\$750), and no serviceman shall be paid, under any of the provisions of this subdivision, more than seven hundred fifty dollars (\$750).

The funds to make these payments were appropriated by House Bill 1116, Session Laws of 1974, with provided:

Section 1. There is appropriated from the general fund the sum of two million six hundred thousand dollars (\$2,600,000) to the board of examiners for the purpose of administering the act relating to payments of an honorarium to each resident of Montana who served in the military service in the Vietnam area during the Vietnam war and for payment of the honorariums due pursuant to such act. Any moneys remaining after the payment of all claims pursuant to the act establishing the honorarium shall be returned to the general fund.

The forty-fourth Legislative Assembly amended section 77-2502, *supra*, with Chapter 342, Session Laws of 1975, by adding the following subsection:

(4) Each resident of Montana who was totally disabled by a service-connected disability as certified by the veterans administration for service in the Vietnam area shall be paid the sum of seven hundred fifty dollars (\$750).

An additional appropriation was also enacted as House Bill 692, Session Laws of 1975, which provided another seven hundred ten thousand dollars (\$710,000.00) of general fund moneys for the "Vietnam honorarium program."

Both House Bill 116 and 692 appropriated moneys to fund the "Vietnam honorarium program" and together they provided the funding for all legitimate claims filed with the Board of Examiners on or before July 1, 1976.

The 1975 amendment to section 77-2502, *supra*, did not create a new class of eligible recipients. Rather it provided for a specific monetary payment of seven hundred fifty dollars (\$750.00) for those former servicemen who had served in the Vietnam area and had suffered a service-connected disability while in that area and who were totally disabled at the time of their discharge from active duty. These individuals were previously eligible for some type of honorarium payment under the provisions of section 77-2502(2) (a), R.C.M. 1947, but the 1975 amendment assured them of receiving the maximum amount provided for under the act.

I can conceive of no reason why eligible totally disabled veterans, as contemplated by the 1975 amendment to section 77-2502, *supra*, cannot be paid out of the funds appropriated specifically for that purpose by either House Bill 1116 or 692.

**THEREFORE, IT IS MY OPINION:**

Payment of the disabled Vietnam veterans honorarium authorized by Chapter 342, Session Laws of 1975, can and must be made from the appropriations contained in House Bill 1116, Session Laws of 1974, and House Bill 692, Session Laws of 1975.

Very truly yours,

**ROBERT L. WOODAHL**  
Attorney General