



1957

Attorney General Opinions

North Dakota Law Review

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ATTORNEY GENERAL OPINIONS

BANKS AND BANKING — BAD CHECKS

August 30, 1957

Chapter 99 of the 1957 Session Laws does not add a new element to the crime of issuing checks without sufficient funds or with no account. The new provisions of the statute have the effect of providing a method for proving a prima facie case as to the intent of the drawer of the instrument. It is not essential that the notice of dishonor specified in the statute be sent prior to issuance of a warrant for arrest for violation of the law, provided that there is other evidence sufficient to prove the necessary intent and knowledge.

EDUCATION — COUNTY TUITION FUND — PER PUPIL PAYMENTS

August 27, 1957

A school district must employ all certified or permit teachers in order to qualify for payments under Section 15-5601 of the 1953 Supplement to the North Dakota Revised Code as amended by Chapter 149, 1957 Session Laws. The language of this statute is that payment shall be made to school districts "employing teachers holding valid certificates or permits." Therefore, a district which otherwise qualifies under the above act, but employs any teacher who does not hold a certificate or permit, such district is not entitled to payments under the above statute.

KOREAN VETERANS BONUS ACT — ELIGIBILITY OF HOLDERS OF
GENERAL DISCHARGE

August 26, 1957

The term "honorable discharge, or its equivalent" found in Section 2-4a of Chapter 242 of the 1957 Session Laws includes the individual who has a General discharge under honorable conditions from one of the Armed Services. The Legislature did not use the term "honorable discharge" in its technical sense since it was not capitalized as a proper noun and is qualified by the phrase "or its equivalent." Army Regulations recognize that both Honorable and General discharges are given under honorable conditions and entitle an individual so discharged to full rights and benefits.

KOREAN VETERANS BONUS ACT — SURVIVING BENEFICIARY AND
DECEASED APPLICANT

June 24, 1957

Section 3 of Chapter 242 of the 1957 Session Laws provides that “. . . If the veteran be deceased, payment shall be made to the beneficiary.” This section is to be interpreted to mean beneficiary as defined in Section 2 of the same act and not beneficiary as set out in North Dakota Revised Code of 1943 Section 56-0104 (3).

No rights become vested under this act on the date an application is filed. Anticipated benefits of an applicant who dies prior to receipt of payment do not become an integral part of his estate subject to distribution as prescribed by North Dakota Revised Code of 1943 Section 56-0103. When the Adjusted Compensation Division receives notice of the death of an applicant the application is no longer effective and it is necessary that the proper beneficiary make a new application for the bonus.