1.25% thereof is used for marine purposes to propel vessels on the inland and surrounding waterways of this state. The legislature declares that it is the policy of this state to use the funds derived from the sale of marine gasoline to improve boating facilities throughout this state. Effective February 1, 1973, 1.25% of all state-imposed taxes collected on the sale of gasoline, fuel, oil, naphthene or any other propellant used in internal combustion engines, except fuel consumed in airplanes or diesel engines, shall be credited to the state waterways fund after deducting collection costs and refunds, to be disbursed by legislative action.

"(3) The revenue division, department of treasury shall annually present to the commission an accurate total of all such gasoline taxes collected and determine the revenue derived therefrom. The revenue division, department of treasury shall then determine what portion of these revenues were derived from the sale of marine gasoline by multiplying *this total* by 1.25% and shall then credit this amount *to the state waterways fund.*" (emphasis supplied)

It is clear from the above-noted statutory provision that the legislature intended that the state waterways fund receive 1.25% of the total gasoline taxes collected in the State of Michigan. If the general transportation fund share were deducted prior to the deduction of the waterways fund share, the waterways fund would receive something less than 1.25% of all gasoline taxes thereby thwarting the clear intent of the legislature. Therefore, it is my opinion that the state waterways fund's share of receipts is to be deducted from net revenue before computing the general transportation fund's share.

FRANK J. KELLEY,
Attorney General.

760225.3

VETERANS: Eligibility for assistance from Veterans Trust Fund.

A person separated from military service as a result of a physical or mental disability incurred in line of duty during peace time prior to completion of 180 days service is eligible for assistance from the Veterans Trust Fund if he or she was in active service at any time during period of conflict defined in the act.

A person prevented from serving 180 days of military service because of aggravation of a pre-existing disability satisfies the "reason of physical or mental disability incurred in line of duty" requirement for eligibility for assistance from the Veterans Trust Fund.

Opinion No. 4937 February 25, 1976.

Mr. Frank A. Schmidt, Jr.
Executive Secretary
Veterans Trust Fund Board of Trustees
Department of Management and Budget
Lansing, Michigan 48933

You have requested an opinion relating to the requirements for eligibility

of veterans for assistance under the provisions of the Veterans Trust Fund Act, 1946 1st Ex Sess PA 9; MCLA 35.601 *et seq*; MSA 4.1064(1) *et seq*. Your questions may be stated as follows:

> Does a veteran who has served less than 180 days during a wartime period, and who has a service-connected disability determined by the Veterans Administration to have been incurred during a period of peacetime service, meet the requirements for eligibility under the provisions of the Act?
>
> Does a veteran who has served less than 180 days during a wartime period because of aggravation of a pre-existing disability meet the requirements for eligibility under the provisions of the Act?

The eligibility provisions of the Veterans Trust Fund Act are found in 1946 1st Ex Sess PA 9, § 2; MCLA 35.602; MSA 4.1064(2), which reads in relevant part as follows:

> "For the purposes of the administration of this act, a Michigan veteran of World War I, World War II, the Korean conflict or veterans having served in the Vietnam era . . . shall be deemed to be any person, male or female, whose legal residence immediately prior to entering service was in Michigan, who entered upon or was in active service in the armed forces of the United States, at any time for at least 180 days from and after the date of World War I, World War II, the Korean conflict as defined by Act No. 190 of the Public Acts of 1965, as amended, being sections 35.61 and 35.62 of the Compiled Laws of 1948 or Vietnam era, as determined for the purposes of administration of this act, whether by induction, enlistment, commission, warrant or otherwise, and who has been honorably discharged, retired or separated therefrom, or who has reverted to an inactive status therefrom under honorable conditions . . . Any person who shall have been separated for a reason of physical or mental disability incurred in line of duty prior to the completion of 180 days' service shall be considered a veteran for the purpose of the administration of this act. . . ."

Thus, this section establishes two basic ways in which the duration of service requirement for eligibility can be satisfied. First, by service during wartime for at least 180 days. Second, by reason of a physical or mental disability incurred in the line of duty which prevents completion of 180 days service requirement.

By the fact situation of your first question, the veteran does not come within the first provision because he has served less than 180 days. As to the second provision, the statute states that less than 180 days of wartime service will be accepted in satisfaction of the durational requirement if a longer service is prevented by a physical or mental disability. In this factual situation, the disability was incurred during peace time. Consequently, he was "separated for a reason of physical or mental disability incurred in line of duty prior to the completion of 180 days service" and he may "be considered a veteran for the purpose of the administration of this act."

Passing to your second question, it would appear from the facts you

have stated the veteran was prevented from serving the full 180 days because of aggravation of a pre-existing disability. Whether aggravation of a disability satisfies the "reason of physical or mental disability incurred in line of duty" provision of the statute has not been decided by a court in relation to this act.

However, the last sentence of 1946 1st Ex Sess PA 9, § 1; MCLA 35.601; MSA 4.0064(1), indicates a general legislative intent to look to federal authority to interpret the eligibility provisions of the Veterans Trust Fund Act. Aggravation of a pre-existing disability is considered at 38 USCA 101(16), which reads as follows:

> "The term 'service-connected' means, with respect to disability or death, that such disability was incurred or aggravated, or that the death resulted from a disability incurred or aggravated, in line of duty in the active military, naval, or air service."

Accordingly, it appears that the aggravation of a pre-existing disability which results in service of less than 180 days in such a disability incurred in the line of duty as will satisfy the provisions of the act.

FRANK J. KELLEY,
Attorney General.

760225.1

COUNTIES: Medical Expenses of County Jail inmates.

Subject to certain exceptions, a county is responsible for the medical expenses of county jail inmates.

A county has no authority to seek reimbursement from an inmate for the cost of any medical care provided.

An inmate of a county jail is not eligible for medical assistance under Medicaid.

A county is responsible for providing medical care to county jail inmates only during the period such persons are actually incarcerated.

A county may seek reimbursement from the demanding authority for necessary medical expenses incurred in apprehending and returning a fugitive from an out-of-state jurisdiction.

Opinion No. 4957 February 25, 1976.

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