

Opinion No. 35-1146

August 22, 1935

BY: FRANK H. PATTON, Attorney General

TO: Mr. A. E. Erickson, Secretary, State Federation of Taxpayers' Associations, 200 West Gold Avenue, Albuquerque, New Mexico.

{*79} I have your letter of August 20th regarding proposed Constitutional Amendment No. 1. You desire to know, first, whether, if in the event the amendment is ratified at the special election, such ratification automatically repeals the soldier's exemption and the \$ 200.00 exemption now allowed to heads of households, or whether it will require further action of the Legislature to complete the repeal of such exemptions.

In my opinion, the ratification of Amendment No. 1 would automatically repeal both the soldier exemption and the \$ 200.00 exemption for the head of the family.

The present exemption laws were passed in order to place into effect Section 5, Article 8 of the State Constitution. Upon ratification of the amendment, the old constitutional provision is of course eliminated. Therefore, the present statute would possess no validity and consequently, in the event of ratification, there would be no exemption {*80} permitted during 1936 in as much as the Legislature does not meet until January of 1937.

The amendment, as ratified, will not be self-executing and it will be necessary for the Legislature to pass a law placing same in operation.

Your second question refers to bill to be sponsored by the Taxpayer's Association and you desire to know whether such bill should carry a provision to the effect that the exemption is not to apply to interest on bond issues, sinking funds and special assessments as is provided in this amendment.

It is my belief that in order to avoid confusion and possibility of conflict between the Constitution and the statute that any law placing the amendment into operation should conform as closely to the wording of the constitutional provision as possible and for this reason I believe it would be wise to include such provision in the proposed law.

As to whether the Legislature may pass a bill under the amendment with an exemption in an amount less than \$ 2,500.00, wish to say that it is my belief that said \$ 2500.00 is the maximum amount which the Legislature may exempt and that it may determine upon a smaller amount if it so desires.