

## Opinion No. 47-5091

October 27, 1947

**BY:** C. C. McCULLOH, Attorney General

**TO:** Victor Salazar, Chairman, Reciprocity Commission, State Capitol Building, Santa Fe, New Mexico

{\*100} This will acknowledge receipt of your letter of October 20, 1947 reference to authority of the State Reciprocity Commission to enter into an agreement with the State of Texas for granting exemptions on mileage taxes.

On September 23, 1947, this office wrote an opinion, No. 5079, on this matter and held that such a reciprocal agreement could not be entered into because there was no "substantial reciprocity." That opinion was based on the fact that the State of New Mexico was attempting to reciprocate mileage taxes for license taxes. We assumed at that time that the Texas license fee was the ordinary fee charged for licensing a vehicle. Under the facts upon which Opinion No. 5079 was given, the opinion still stands.

Now you mention in this, your later letter, that you have received information that the State of Texas once had a mileage tax but that the law reference thereto was repealed and at the same time the license fee in Texas was increased. You state that from the information you have, the increase in the license fee by the State of Texas was made in order to incorporate mileage taxes therein; and that the Texas license fee is about double that imposed by New Mexico.

Chapter 56, Laws of 1947, creates the State Reciprocity Commission and sets out generally what the policy of the Legislature is with reference to reciprocal agreements, leaving some discretion with the Commission to determine what would constitute a substantial reciprocity.

If, after further investigation of the facts involved here, the Commission finds that the State of Texas included its mileage taxes in an increased fee, then I believe there would exist a sufficient basis for the Commission to enter into a reciprocal agreement with the State of Texas whereby the State of New Mexico would waive mileage taxes if Texas would waive its license fee.

By WM. R. FEDERICI,

Asst. Atty. General