

Opinion No. 59-11

February 13, 1959

BY: FRANK B. ZINN, Attorney General

TO: Mr. A. E. Hunt State Finance Director P. O. Box 1359 Santa Fe, New Mexico.
Attention: Ernest W. Bain, Chief Local Government Division

County commissioners have authority to purchase an automobile with recreation fund money if they deem it necessary for operation of the recreation program. It should be used exclusively for that purpose.

OPINION

{*16} This is written in reply to your recent request for an opinion on the following question:

"May the Board of County Commissioners of Bernalillo County authorize the purchase of an auto to be used in the administration of the Recreation Program of Bernalillo County and may the auto be paid for from Recreation Fund money?"

It is my opinion that the Board of County Commissioners may authorize the purchase of an automobile to be used in the administration of the recreation program of Bernalillo County and that the automobile may be paid for from recreation fund money.

The controlling provisions of law governing the expenditure of juvenile recreation funds are compiled as Section 72-14-14, N.M.S.A., 1953 Compilation, Pocket Supplement. This statute provides, in addition to other matters, that a portion of the revenues realized from cigarette taxes will be paid over to the State Treasurer, who shall in turn place or cover this money into the known as the "County and Municipality Recreational Fund," which fund is for use for juvenile recreational facilities and salaries of instructors and other employees necessary to the operation of such juvenile facilities . . ." The third paragraph of the statute provides more fully that:

"The funds so distributed to the counties and municipalities of this state shall be used exclusively for recreational facilities and salaries of instructors and other employees necessary to the operation of such juvenile facilities . . ."

And finally, by the last paragraph of Section 72-14-14 further insight is had to the legislative intent. Here it is provided that:

"Any municipal officer who approves any expenditure or expends such funds for any purpose other than **operation** and construction of recreational facilities and salaries of instructors and other employees necessary to the operation of facilities, . . . shall be guilty of misdemeanor . . ." (Emphasis supplied).

In view of the allowance or inclusion of operating costs as an item of expenditure permitted from the recreation fund, it is my opinion that the purchase of an automobile and also allowing for its necessary operating and maintenance expenses is authorized by the law discussed, should an automobile be deemed by the county commission to be necessary to the proper administration of a countywide recreational program. It is my further opinion, however, that an automobile purchased with recreation fund money may be used only in connection with the county recreation program.

Hilton A. Dickson, Jr.

Assistant Attorney General