

Opinion No. 6116-0A

March 2, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: Hon. Gordon Melody, State Senator, Santa Fe, New Mexico

Reference is made to our Opinion No. 6116, dated February 24, 1955, addressed to Senator Calvin Horn, relative to House Bill No. 45 as printed.

I am now informed that the percentage going to the road tax by amendment has been reduced from 45 to 37 1/2% and that the 7 1/2% has been added to the amount going to counties from motor vehicle fees. In the Opinion above mentioned, the conclusion was reached that the transfer of 30% from the road fund to the counties would probably diminish the fund and result in an impairment of the contract of debenture holders. However, under the language in *Streit vs. Lujan*, 35 NM 672, a transfer of only 7 1/2% from the State Road Fund to the counties would not, on its face, appear to be a sufficient amount to constitute an irrevocable impairment of the fund pledged for the payment of highway debentures.

It is, therefore, our opinion that in view of the House amendments to House Bill No. 45 that such transfer would not affect the ability of the State Road Fund to provide for and pay interest and principal of highway debentures now outstanding as the same mature.

By C. C. McCulloh

Assistant Attorney General