

Opinion No. 31-100

March 26, 1931

BY: Frank H. Patton, Assistant Attorney General

TO: Mr. W. C. Davidson, State Highway Engineer, Santa Fe, New Mexico. Attention Mr. Haralson.

{*54} This office is in receipt of your letter of March 26 in which you refer to the appropriation in the General Appropriations Act as passed by the tenth Legislature, to the State Highway Commission for the purpose of paying a judgment in favor of the First National Bank of Santa Fe, on account of a claim of the McElrath Construction Company against the State Highway Department.

This provision specifies the purpose for which the appropriation is made and provides that such claim in the sum of \$ 5,092.50 is to be paid out of the State Road Fund.

The Act complies with the Constitutional provision which provides in Section 30 Article 4 of the State Constitution that every law making an appropriation must distinctly specify the sum appropriated and the object to which it is to be applied.

The appropriation is made from the State Road Fund which was created by Statute in 1909 by virtue of Section 8 Chapter 42 of the laws of that year.

Subsequent Legislatures have made various provisions for the levying of a tax for the State Road {*55} Fund and have also provided at various times that portions of the proceeds derived from motor vehicles fees and gasoline taxes are to be covered into the said State Road Fund.

It is within the discretion and the power of the Legislature to make such provisions as is deemed wise, necessary or expedient regarding the disposition of the funds over which it has jurisdiction.

In as much as it is our opinion that the Legislature does have authority to legislate regarding the State Road Fund, it is obvious that it has authority to appropriate a portion of the State Road Fund for a certain specified purpose.

So long as the Act does not conflict with some other provision of either the Statutes or the Constitution, such an appropriation is valid.

In view of the foregoing, it is therefore the opinion of this office that payment may be made by the State Highway Commission from the State Road Fund to the First National Bank of Santa Fe, New Mexico, of the amount provided in the General Appropriations Act and that same would be a legal and proper transaction.