

Opinion No. 33-605

June 2, 1933

BY: E. K. NEUMANN, Attorney General

TO: State Corporation Commission, Santa Fe, New Mexico. Attention: J. D. Lamb, Chairman Motor Transportation Department.

{*54} Your letter of June 2nd relative to your appropriation for the enforcement of the new motor vehicle law, House Bill 140, has been received and you desire advice as to the source from which your funds will be derived for the enforcement of said House Bill 140, from June 10th to July 1st.

Before answering your inquiry, it is perhaps advisable to review briefly all the facts, and the reason for the question will be more clearly revealed.

{*55} The present Motor Carrier Act enacted in 1929, created the "State Corporation Commission Motor Vehicle Fund" which we usually call the 12 1/2 % Fund. The moneys covered into this fund were for the enforcement of the Act, and any surplus at the end of any fiscal year were to be transferred to the State Road Fund.

In 1931, the legislature appropriated certain sums from this fund for the Motor Transportation Department, this, of course, being for the enforcement of the Act, and the appropriation being for the twentieth and twenty-first fiscal years.

Now we are confronted with House Bill 140, the new Motor Carriers Act which becomes effective on June 10th, and which supercedes the 1929 law.

This new law creates what we may term a 50% fund for the enforcement of this law, and expenditures from said fund are not to exceed \$ 25,000.00 and are subject to approval by the State Board of Finance.

The 1933 appropriation act makes an appropriation for the twenty-second and twenty-third fiscal years from this fund, of \$ 11,409 for the enforcement of the law, and we have previously held that your expenditures are limited to the amount set out in the appropriation bill. Hence we have this situation: The old 1929 law goes out of existence on June 10th, which is the effective date of the new law. The old appropriation of necessity dies with the old law on said date. The new appropriation act is limited to the twenty-second and twenty-third fiscal years by its terms.

The new fiscal year begins on July 1st, and we therefore have a period of time from June 10th to July 1st for which no specific statutory provision is made for expenditures for the enforcement of the new law.

Under these conditions, we believe that none of the old appropriation for the 1929 law can be used after June 10th, (as the 1929 law is after that date no longer in effect) except to pay bills incurred in the enforcement of the 1929 law, and prior to June 10th. These should be paid from the old appropriation.

After June 10th up to July 1st, upon the assumption that the provision in the new law creates an appropriation, all expenditures toward the enforcement of the new law should be paid from the new 50% fund, subject to approval by the State Board of Finance. After July 1st, all expenditures for such enforcement should be paid from such 50% fund as limited by the new appropriation act.

The foregoing perhaps requires a matter of segregation, but this is a bookkeeping problem, and with which we are not concerned.

By: FRANK H. PATTON,

Asst. Attorney General