

Opinion No. 45-4783

August 31, 1945

BY: C. C. McCULLOH, Attorney General

TO: Mr. C. J. Boyd Executive Director of New Mexico Aeronautics Commission Santa Fe, New Mexico

{*129} We have your letter of August 30, 1945 wherein you request an opinion of this office concerning whether or not state gasoline tax money derived from the use of such gas by airplanes, which has not been claimed for refund, may be set aside in a special fund for the development of aeronautics.

Our gasoline tax law was for the sole purpose of obtaining money for highway purposes and there is no provision in this statute which allows money to be diverted to any other use than highway use. As you will recall, this situation was clearly presented to the Legislature and an act was submitted to the last Legislature wherein a gasoline tax could be collected from use of gasoline for the development of airports. This act was not passed and, therefore, there is no statute in the State of New Mexico which authorizes any gasoline tax collected from gasoline sold for use in airplanes to be diverted to other purposes than the original purpose of the state gas tax act, which was solely for the use of highways.

In connection with the above opinion, see Sections 68-1214 and 68-1229 of the 1941 Compilation.

By HARRY L. BIGBEE,

Asst. Atty. General