

Opinion No. 55-6310

November 7, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. D. M. Smith, Jr., State Comptroller, Santa Fe, New Mexico

You state that pursuant to our Opinion No. 6249, dated August 9, 1955, the State Treasurer is distributing to Catron County and to Los Alamos County, under Chapter 277, Laws of 1955, 10% of motor vehicle fees, although there are no incorporated municipalities within these counties. You ask whether it is proper to distribute funds to these counties to be held in suspense until such time as a municipality might be incorporated therein, or whether the share so paid to those counties should be distributed to the remainder of the counties in the State.

The pertinent portion of Chapter 277, Laws of 1955, provides as follows:

"Ten percent thereof shall be paid to the county treasurers of the several counties in the State and shall be paid to the respective county treasurers in the proportion that the total amount of registration fees paid for motor vehicles in each county bears to the total amount of registration fees paid for motor vehicles in the entire state. The respective county treasurers, upon receipt of the foregoing amounts, shall forthwith pay said amounts to incorporated municipalities, whether incorporated under general or special laws within the county. Payments to qualified municipalities shall be in the proportion that the total assessed valuation of a qualified municipality bears to the total assessed valuation of all the qualified municipalities within the county. Assessed valuation shall be determined by the assessed valuations of the fiscal year last completed. Amounts paid to municipalities under the provisions of this paragraph shall be used for the construction, maintenance and repair of streets within the municipality and for payment of paving assessments against Federal, state, county and municipally owned property."

It is clear that it was the intent of the Legislature that 10% of all motor vehicle fees received by the State be made available to incorporated municipalities within the State. To distribute funds to counties having no incorporated municipalities, in our opinion, is violative of this intent, and, since such moneys cannot be spent, is a useless gesture.

It is our opinion that the two counties without incorporated municipalities should be excluded from the distribution, and the funds which would go to them be properly distributed among the remaining counties of the State.

By Paul L. Billhymer

Assistant Attorney General