

## Opinion No. 56-6388

February 9, 1956

**BY:** RICHARD H. ROBINSON, Attorney General

**TO:** Mr. L. D. Wilson, Chief Highway Engineer, State Highway Department, Santa Fe, New Mexico

In your letter of January 20, 1956, you request our opinion as to the extent of your authority over State motor vehicles. This authority is covered in § 64-25-5, N.M.S.A., 1953 Comp., which reads as follows:

"§ 64-25-5. Supervision and custody of state vehicles by state highway engineer. -- The state highway engineer, in addition to his other duties by law prescribed, shall have the care, control (,) supervision and custody of all motor vehicles which are the property of the state, or which are for the public use of any officers, agencies, employees and departments of the state; excepting that he shall have no right or authority to buy, sell or dispose of said motor vehicles; the right of purchase and sale thereof remains as is otherwise provided by law."

You first ask whether under this statute you have authority to require all state-owned vehicles to be brought to a motor pool, or motor pools, appropriately located. We believe that the statute unquestionably gives you this right. As you point out, any such motor pool must be appropriately located so as to permit the use of the vehicles by the departments owning them.

You next ask whether you have the authority to permit the use of a vehicle purchased from the appropriation of one department by another department.

We do not believe that the above cited statute gives you the authority to authorize such use without the permission of the department from whose funds the car was purchased and for whose primary use it is intended. However, if such department enters into an agreement with you covering such action and such agreement is approved by the Board of Finance, under the provisions of § 6-1-8, N.M.S.A., 1953 Comp., p. s., then in accordance with such agreement and pursuant to whatever stipulations may be contained therein you may permit the use of a vehicle belonging to one department by another department.

The question of title to various state-owned vehicles vesting in the motor pool is also raised. We find absolutely no statutory authority for such a proposal and are of the opinion that it cannot be accomplished absent such authority. Indeed, § 64-25-5, supra, appears to expressly prohibit such action.

You state that a plan to bring all state vehicles to a motor pool for service and maintenance, together with custody and supervision, has been suggested. You state

that under this plan the pool will obtain all fuel and lubricants and will charge the agencies either for their use or for transportation generally. You state that departments or agencies which are furnished vehicles for use by other departments will be reimbursed under this plan.

It is impossible for us to say without much more detailed information whether such a plan would be permissible under the present statutory provisions. It may well be that the result can be accomplished in a legal manner but that certain methods of procedure would be prohibited. We suggest as to this phase of the operation that the matter be worked out by conference between your office and this office.

By Walter R. Kegel

Assistant Attorney General