

Opinion No. 56-6488

July 11, 1956

BY: RICHARD H. ROBINSON, Attorney General

TO: State Corporation Commission, State Capitol Building, Santa Fe, New Mexico.
Attention: John Block, Jr., Chairman

You recently addressed an inquiry to this office concerning an interpretation of Chapter 276, Laws 1955, and Chapter 287, Laws 1955, which is the General Appropriations Act of New Mexico, wherein Section 1 thereof contains a specific appropriation for your Department.

Chapter 276, Laws 1955, is a radical departure from the previous method of enforcement and collection by the Motor Transportation Department, State Corporation Commission. Section 9 thereof provides in part as follows:

"All fees, fines and penalties collected by the commission as herein provided and remitted to the state treasurer and covered into the State Corporation Commission Transportation fund shall be used for the administration of this act and shall not revert to the general fund or any other fund of the State of New Mexico."

In Section 19, Chapter 287, Laws 1955, there is provided the following:

"If any items included in this General Appropriations Act are appropriated in special acts of the Twenty-Second Legislature, the appropriations in said special acts of the Twenty - Second Legislature shall apply and such appropriations in this General Appropriations Act, whether of the same amounts, or larger or smaller amounts, shall be null and void."

By reason of the radical departure provided in Chapter 276, it is our belief that Section 9 thereof constitutes a specific appropriation for that biennium of all of the fees in that department, thus falling in the purview of Chapter 287.

We must state specifically, however, that this is not a continuing appropriation, and any monies in the future, and for any biennium other than 1955-56, must be specifically appropriated by the Legislature at each session.

Therefore, it is the opinion of this office, subject to the budgetary approval of the State Board of Finance, that all fees, fines and penalties provided in Chapter 276 may be budgeted for the use of the Motor Transportation Department, State Corporation Commission, for the biennium 1955-56 and the specific appropriation contained in Section 1, Chapter 287, is not effective but Chapter 276, Section 9 should be substituted therefor.

By: Fred M. Standley

Assistant Attorney General