

**Opinion No. 69-149**

December 23, 1969

**BY:** OPINION OF JAMES A. MALONEY, Attorney General James C. Compton, Jr.,  
Assistant Attorney General

**TO:** Mr. Edward P. Moya, Chief, Local Government Division, Department of Finance &  
Administration, Legislative-Executive Building, Santa Fe, New Mexico 87501

**QUESTIONS**

May moneys be legally transferred from the road fund to other funds within the county operating budget at the time of budget preparation or during the course of the fiscal year?

**CONCLUSION**

No.

**OPINION**

{\*238} ANALYSIS

Section 55-3-11, N.M.S.A., 1953 Compilation, provides in part:

"It shall be unlawful to transfer any moneys from the county road and bridge fund to any other fund."

In interpreting the predecessor of this statute, which was Section 58-310, N.M.S.A., 1941 Compilation, this office concluded that the disposition of any surplus in a county road fund other than as provided by statute is a matter for the legislature and it alone can authorize a different use from what is permitted under the statute. Opinion of the Attorney General No. 5500, issued February 21, 1952. The wording of the present statute is identical with that in the 1941 Compilation. No matter how laudable the purpose for which county road funds might be utilized by transfer, the employment of such funds for use other than county road and bridge purposes is absolutely prohibited by law. Therefore, moneys may not be legally transferred from the county road fund to other funds within the county operating budget.