

**OPINION**  
**62-168**

July 13, 1962            (OPINION)

MOTOR VEHICLE

RE: Registration Fees - Distribution to Counties

Your letter of July 10, 1962, has been received. You request an opinion from our office to clarify how distribution shall be accomplished of the funds mentioned in section 39-04-39(3) of the 1961 Pocket Supplement to the North Dakota Century Code.

Prior to July 1, 1961, this was the amount distributed to the counties as their share of the motor vehicle registration fees. The counties, under the new law, will continue to receive an amount similar to what they did under the old law. But since there has been an increase in motor vehicle registration fees and the total number of vehicles registered, the new law provides a somewhat complicated method of distribution so as the cities and villages will receive a substantial share of this increase. The counties will now receive quarterly distribution of an amount equal to, but not greater than, the amount received in the fiscal year ending June 30, 1960, which is the base period. The clarification has to do with the distribution of the excess, which is over and above the total amount distributed in the fiscal year ending June 30, 1960.

I understand that the excess is substantially over \$100,000, but we will use that figure for an example. Thus, if \$100,000 is the excess, section 39-04-39(3)(b)(1) says 35 percent or \$35,000 should be divided up among the counties in proportion to the number of motor vehicle registrations credited to each county. Thus, if the fees received from County X were 10 percent of the total fees in the state, County X would receive 10 percent of this excess that goes to the counties or \$3,500. This is the same method as the quarterly distribution. This is the county's share of the excess.

Section 39-04-39(3)(b)(2) of the North Dakota Century Code says the remaining balance of this excess or \$65,000 is to be distributed to the counties according to the total number of persons residing in incorporated cities and villages in their respective counties. Thus, if the total population of the incorporated towns and villages in County X was 10 percent of the total population of all the incorporated towns and villages in the state, County X would receive an additional \$6,500. Then, if all the incorporated towns and villages in County X have made application before June 30 of this year, this \$6,500 would be divided proportionately among them according to their total population.

It might be a good idea for you to send a distribution sheet to the counties which would show what towns were included in arriving at your conclusions and also the amount which would be due each town making application. This might well avoid considerable confusion at the time the funds are being distributed by the county treasurer.

Thus, if County X received \$6,500, and Town A in County X had a population equal to 10 percent of the total population of all the incorporated towns and villages in County X, Town A would receive \$650 upon proper application.

You might also avoid confusion by informing those counties which have towns whose boundaries are in different counties, how their share is computed. Thus, for example, if Wilton has made application to Burleigh County for their prospective share, the entire population of Wilton would be considered as part of Burleigh County's share. This might avoid confusion if McLean County attempted to do their own arithmetic to see if they received their fair share. I understand that these towns that lie in two different counties have made application to only one county for this year's share. It would appear that you might have them make dual applications next year, if this same law is in effect, and split their share according to the number of persons actually residing in each county. I understand that the federal census does provide the number of persons that live in each county when the municipality lies in two different counties. Such a method would appear to follow the letter of the law more closely, but it would appear also to create additional computations which would add to the confusion. However, this method would lead to a more equitable result if a town did not apply for its share.

The excess funds which are to be divided before August 1 of this year are those moneys which have accumulated since this law went into effect on July 1, 1961, up through June 30, 1962. Thus, in July of 1963 the excess funds which accumulated between July 1, 1962, and June 30, 1963, will be distributed.

LESLIE BURGUM

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