

**OPINION  
71-177**

September 9, 1971 (OPINION)

Mr. Walter R. Hjelle

State Highway Commissioner

RE: Highways - Revenues - Use

You have requested an Opinion as to your authority to expend up to \$18,000 of State Highway Funds for the conducting of a cooperative demonstration-research project which will cover a period of one year and involve an expenditure of \$60,000, and which will provide for shuttlebus services for children, elderly, the poor, the handicapped and others who may be isolated without means of transportation and who can show a necessity to be transported to a central hub of a trade area for medical attention, financial services or cultural and educational functions.

We have considered Section 24-03-19 and Section 24-04-01 and the case law that has developed under those sections with reference to Article 56 of the North Dakota Constitution.

The underlying provision of Article 56 is that revenue from gasoline and other motor fuel license and license fees shall be appropriated and used solely for construction, reconstruction, repair and maintenance of public highways.

While the proposal may be laudable and desirable, the projects involve the expenditure of \$18,000 from the State Highway funds. Such expenditure would not come within the provisions of Article 56.

It is therefore our opinion that the proposal does not come within the provisions of Article 56. Our decision in this matter rests solely on the provisions of Article 56 of the North Dakota Constitution.

HELGI JOHANNESON

Attorney General