

TAXATION AND REVENUE: Section 55, Title 23; Federal aid will not be extended to states who change the registration fees, licenses, gasoline taxes, etc., after June 18, 1934. If state does make changes in license fees, etc. will receive only one-third of the amount that state would be entitled to.

1.21  
January 16, 1935.



Hon. William Barton,  
Representative - Montgomery Co.,  
House of Representatives,  
Jefferson City, Missouri.

Dear Sir:

On this day you have in person submitted the following question to this department and requested our opinion on same:

"Under the Hayden-Cartwright Act a Federal Act, relating to roads and highways, will a reduction in automobile license fees by an Act of the General Assembly give the Federal Government the right to reduce the Federal appropriations to Missouri for highway purposes to one-third of the amount the Federal Government might give, or will the reduction of fees cut the amount of Federal grant to the amount of reduction of license fees?"

In 1921 the Congress of the United States passed Section 12 of Title 23 pertaining to the submission of project statements, approval, and setting aside share of Federal aid. In 1928 under Title 23, Highways, Section 12, the following amendment was made:

\*\*\*And provided further, that in the case of any State containing unappropriated public lands and nontaxable Indian lands, individual and tribal, exceeding 5 per centum of the total area of all lands in the State in which the population, as shown by the latest available Federal census, does not exceed ten per square mile of area, the Secretary of Agriculture, upon request from the State highway department of

such State, may increase the share payable by the United States to any percentage up to and including the whole cost on projects on the primary system of Federal-aid highways and on projects on the secondary system when the latter is a continuation of a route on the primary system or directly connects with a route on the primary system of an adjoining State, but such State shall allocate and expend during the same fiscal year upon some other project or projects on the Federal-aid system, under the direction of the Secretary of Agriculture, the amount it would have been required to expend upon such project."

In 1930, Section 12a was enacted, said section being as follows:

"The limitation of payments which the Secretary of Agriculture may make is increased to \$25,000 per mile, exclusive of the cost of bridges of more than twenty feet clear span: Provided, That the Federal participation shall be limited to \$15,000 per mile until the original certified seven per cent system of such State shall have been surfaced: Provided further, That any such increase above \$15,000 per mile shall be certified by the Director of the Bureau of Public Roads and the Secretary of Agriculture as securing actual extension of the highway system or economy in its construction: Provided further, That the limitation of payments herein provided shall apply to the public-land States, except that the same is hereby increased in proportion to the increased percentage of Federal aid authorized by section 12 of this title. The provisions of this section relating to the limitation of payments per mile which the Secretary of Agriculture may make shall apply to all funds heretofore appropriated and available for payment to the States on April 4, 1930, and to all sums hereafter appropriated for carrying out the provisions of section 12 of this title. (July 11, 1916, c. 241, sec. 6, 39 Stat. 355, as amended Nov. 9, 1921, c. 119, sec. 6, 42 Stat. 213; Apr. 4, 1930, c. 105, Sec. 3, 46 Stat. 141)."

Section 55, Title 23, Highways, was enacted June 18, 1934 and is as follows:

"Since it is unfair and unjust to tax motor-vehicle transportation unless the proceeds of such taxation are applied to the construction, improvement, or maintenance of highways, after June 30, 1935, Federal aid for highway construction shall be extended only to those States that use at least the amounts now provided by law for such purposes in each State from State Motor vehicle registration fees, licenses, gasoline taxes, and other special taxes on motor-vehicle owners and operators of all kinds for the construction, improvement, and maintenance of highways and administrative expenses in connection therewith, including the retirement of bonds for the payment of which such revenues have been pledged, and for no other purposes, under such regulations as the Secretary of Agriculture shall promulgate from time to time: Provided, That in no case shall the provisions of this section operate to deprive any State of more than one-third of the amount to which that State would be entitled under any apportionment hereafter made, for the fiscal year for which the apportionment is made."

The Extra Session of the 57th General Assembly of Missouri in 1933-34 (Sec. 7761, p. 99) enacted a law reducing the license fees on motor vehicles, same being approved by the Governor on January 6, 1934.

#### CONCLUSION

Referring to Section 55, Title 23, supra, we find the clause "After June 30, 1935, Federal aid for highway construction shall be extended only to those states that use at least the amounts now provided by law for such purposes in each state from state motor vehicle registration fees, licenses, gasoline taxes, etc." We interpret that section of the Federal statute to mean that Federal aid will not be extended to those states who change the registration fees, licenses, gasoline taxes, etc. after the effective date of the Act, to-wit, June 18, 1934, and if the language of the statute is to be read literally, any state which

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does decrease the license fees, gasoline taxes, etc. would only receive such aid as contained in the proviso therein, to-wit, one-third of the amount which that state would be entitled to under any apportionment hereafter made for the fiscal year for which the apportionment is made.

Respectfully submitted,

OLLIVER W. NOLEN,  
Assistant Attorney General.

APPROVED:

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ROY McKITTRICK,  
Attorney General.

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