

**OPINION
63-232**

December 26, 1963 (OPINION)

STATE DEPARTMENT OF HEALTH

RE: Federal Health Funds

This is in response to your letter in which you ask for a formal opinion whether or not the State Department of Health is an authorized and appropriate agency to receive allotments of funds under Public Law 88-156 entitled "Maternal and Child Health and Mental Retardation Planning Amendments of 1963" and Public Law 88-164 entitled "Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963", and to administer the program thereof.

The State Department of Health was created and exists now under the provisions of section 23-01-01 of the North Dakota Century Code and as such is a state agency. The State Department of Health consists of a health council, a state health officer, directors of divisions and other employees of the department.

The powers and duties of the health council are set forth in section 23-01-03 of the North Dakota Century Code. These duties include matters contained in Public Law 88-156 and Public Law 88-164. In addition to this, the health council is authorized to promulgate rules and regulations which have the full force and effect of law when properly approved, adopted and filed. The duties of the health officer are set forth in section 23-01-05 of the North Dakota Century Code. These duties complement the duties of the health council and in some instances are more specific.

Under section 23-01-07 of the North Dakota Century Code, the State Department of Health is authorized to establish divisions of health, including the division of maternal and child hygiene, which has been established. It may also establish other divisions as deemed necessary to carry out its duties and functions.

Under section 23-01-11 of the North Dakota Century Code, the State Department of Health may accept funds from the federal government for infancy and maternal hygiene, for other public health work and for the purpose of conducting a survey of existing medical hospital and related institutions, planning of needed hospital construction and for construction and maintenance of such medical hospitals and related institutions.

In reviewing the sections relating to the duties and authority of the divisions of the State Department of Health, we conclude that the State Department of Health has the legal authority to carry out the provisions of Section 1703 of Public Law 88-156 and Section 134 of Public Law 88-164.

It is our opinion that the State Department of Health is a state agency which is authorized by North Dakota statutes to receive allotments under Public Law 88-156 (1963) and Public Law 88-164

(1963), and that it is an appropriate agency authorized to administer the purposes of such acts. As such, it may be designated as an agency to receive allotments and to administer such program.

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