

Opinion No. 57-269

October 21, 1957

BY: OPINION OF FRED M. STANDLEY, Attorney General Robert F. Pyatt, Assistant Attorney General

TO: Mrs. Audrey Immel, Director, Division of Vital Statistics, Department of Public Health, Santa Fe, New Mexico

QUESTION

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1. Did Laws 1957, Ch. 16 Sec. 1, remove the certified copies fees (as provided by Sec. 12-4-3, N.M.S.A., 1953 Comp., 1957 Supp.) from a special fund and transfer them to the general fund?
2. Did Laws 1957, Ch. 16, Sec. 1, remove the Director's authority to charge fees for search, when no certified copies of birth or death certificates were issued?

CONCLUSIONS

1. Yes.
2. Yes.

OPINION

ANALYSIS

The governing provision in the compilation, Section 12-4-3, N.M.S.A., 1953 Comp., 1957 Supp., provides:

"Certified copies of birth and death certificates shall be made only from the original, supplemental or new certificates, and not from copies thereof. For issuing a certified copy of an original, supplemental or new certificate of birth or death, the state director of public health shall be entitled to and shall receive from the person to whom the certified copy is issued, the sum of one dollar (\$ 1.00). Fees received for the certification of birth and death certificates shall be paid by him to the state treasurer not later than the day following the receipt thereof."

Prior to the 1957 amendment, the applicable provision was Laws 1955, Ch. 195, Sec.2, which in part read:

"Certified copies of birth and death certificates or verification of the facts appearing thereon shall be made only from the original, supplemental or new certificates, and not from copies thereof. For issuing a certified copy or a verification of an original, Supplemental or new certificate of birth or death, the state director of public health shall be entitled to and shall receive from the person to whom the certified copy or verification is issued, the sum of one dollar (\$ 1.00), except that where search of the records reveals that no certificate is on file the person requesting the certified copy or verification shall be so notified and the sum of one dollar (\$ 1.00) shall be charged for such search and notification. Fees received for the certification or the verification of birth and death certificates shall be accounted for in a special fund by the state director of public health, and the proceeds thereof shall be paid by him to the state treasurer at the end of each month, to be credited to the state department of public health."

Insofar as your request is concerned, we believe the action taken by the Legislature in 1957 accomplished two results, which are: 1. Elimination of the fees for search; and, 2. Elimination of the special fund provisions, thus calling for crediting of the fees for issuing certified copies of birth or death certificates to the general fund; which leads to affirmative answers to each question.