

Opinion No. 19-2307

June 21, 1919

BY: N. D. MEYER, Assistant Attorney General,

TO: Mr. Chas. U. Strong, State Treasurer, Sante Fe, New. Mexico.

Department of Health May Use Funds for Social Hygiene in Co-operation With Federal Government

OPINION

Referring to your oral request for advice from this office as to whether or not the legislature has made an appropriation to meet government co-operation under the Chamberlain-Kahn Act, also known as the Social Hygiene Act, and which appears as section 9188 1/2 F United States Compiled Statutes, Compact Edition 1918, we beg to state that upon investigation we fail to find any act of the legislature passed since the enactment by congress of the Social Hygiene Act appropriating or setting aside any money to meet federal government aid under said act.

However, we note that under Committee Substitute for House Bill No. 118, which is an act concerning the public health, section 35 appropriates \$ 20,000 to be covered into the "Department of Health Current Fund," the money to be drawn on the warrant of the State Auditor supported by the vouchers of the State Board of Health or the Commissioner of Health, and to be used for the purposes specified in said act; and Sub-Division B of section 36 of the same act makes this provision:

"Contingent and traveling expenses necessarily incurred in the administration of the Public Health and the Commissioner of Health, **including cost of co-operation with the Federal Government** and cost of printing, equipment and supplies."

It is my opinion that if the State Board of Health wishes to set aside a certain amount of money to co-operate with the Federal government under the Social Hygiene Act they may do so, and it would be legal, for the federal government is not concerned with the source from which this appropriation comes but with the fact that the money shall be appropriated and actually in the Chamberlain-Kahn fund, the State Treasurer making a certificate to that effect.

If the State Board of Health fails to set aside this money, then there would be no alternative action for you to take. You would simply inform the Interdepartmental Social Hygiene Board that no appropriation has been made.

I am returning to you herewith the papers relative to this matter, which were left in our office a few days ago.