

VOLUME 32

Opinion No. 14

**DEPARTMENT OF PUBLIC WELFARE; Power to participate in Federal Program — Sections 81-118, 71-205, 71-210 (g), Revised Codes of Montana, 1947—Article V, Section 35, Montana Constitution.**

**HELD:** The State Department of Public Welfare has the power to participate in programs initiated pursuant to section 204 of Public Law 90-248, cited as the "Social Security Amendments of 1967."

March 12, 1968

Mr. W. J. Fouse  
Administrator  
Department of Public Welfare  
Helena, Montana

Dear Mr. Fouse:

You have requested my opinion with regard to the following situation. Section 204 of Public Law 90-248, cited as the "Social Security Amendments of 1967", requires the State Department of Public Welfare to implement its provisions before July 1, 1969, or else face a possible loss of federal funds. The purpose of Section 204 is to provide individuals receiving aid to families with dependent children incentives, opportunities and necessary services so that the families of such individuals may be restored to independent and useful roles in their communities.

Pursuant to the provisions of this law, the State Department of Public Welfare is responsible for 20% in cash or kind for administration and other costs associated with implementing certain of its provisions. The State Employment Service will administer the programs required to be developed by the law. Specifically your question is whether the State Department of Public Welfare may transfer money to the State Employment Service for administration in light of Article V, Section 35 of the Montana Constitution.

This section of the Constitution provides as follows:

No appropriation shall be made for charitable, industrial, educational or benevolent purposes to any person, corporation or community not under the absolute control of the state, nor to any denominational or sectarian institution or association.

The State Employment Service is a division of the Unemployment Compensation Commission, which was created by Chapter 82, Laws of 1937, and is responsible to it. Section 87-118, Revised Codes of Montana, 1947. Such being the case, the transfer of any funds to the State Employment Service would not be contrary to the above quoted constitutional section.

In addition, it should be noted that the State Department of Public Welfare, by section 71-205, Revised Codes of Montana, 1947, is granted broad authority in the area of administering funds. This section states:

The state department of public welfare is hereby authorized and it shall be its duty to administer and supervise all federal funds allocated to the state and all state funds appropriated to the state department of public welfare, for the activities and purposes set forth under each part of this act. The state department of public welfare is also hereby authorized and it shall be its duty

to do all things necessary, in conformity with federal and state laws, for the proper fulfillment of the purposes set forth in this act.

Section 71-210 (g), Revised Codes of Montana, 1947, requires the department to:

Assist and co-operate with other state and federal departments, bureaus, agencies and institutions, when so requested, by performing services in conformity with the purposes of this act.

Therefore, it is my opinion that the State Department of Public Welfare may implement the provisions of section 204 of Public Law 90-248 and may transfer funds to the State Employment Service for this purpose.

Very truly yours,

FORREST H. ANDERSON  
Attorney General

FHA:JRB:vw