

N.D.A.G. Letter to Kinsey (Aug. 13, 1985)

August 13, 1985

Mr. Robert W. Kinsey
Divide County State's Attorney
110 North Main Street
Crosby, ND 58730

Dear Mr. Kinsey:

Thank you for your letter of August 1, 1985, requesting counsel as to whether Divide County may expend federal revenue sharing funds for some six separate purposes described in your letter.

As you state, N.D.C.C. §21-06-11 allows political subdivisions to expend federal revenue sharing moneys for any purpose for which general or special fund moneys of that political subdivision may be expended regardless of whether a tax levy has been made or is required for such purposes. This section specifically indicates that counties are included within the term "political subdivision." Therefore, it is clear that a county may expend federal revenue sharing funds for any purpose for which it may expend its regular or special funds.

Of the six purposes listed in your letter, we are only able to locate authorization for the expenditure of general or special funds for an ambulance service. This authority is found in N.D.C.C. §23-12-08. The other five purposes do not appear to be appropriate purposes for which funds of a county may be expended. Thus, they would not appear to be eligible for federal revenue sharing funds.

We would also add that the prohibition contained in N.D. Const. Art. X §18, continues to apply to actions taken by political subdivisions in the expenditure of revenue sharing funds. This particular constitutional section prohibits counties and other political subdivisions from making donations to or in aid of any individual, association, or corporation except for the reasonable support of the poor. This particular constitutional prohibition would appear to be directly applicable to three of the intended purposes listed in your letter involving private entities. This constitutional section would also answer your last question concerning limitations upon a county upon making charitable and civic donations to various entities.

Sincerely,

Nicholas J. Spaeth

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