

**OPINION
64-18**

August 31, 1964 (OPINION)

Mr. Arnold O. Goplen, Director

State Department of Health

RE: Atomic Energy - Regulation of Atomic Materials

In your letter to this office dated August 21, 1964, you stated as follows:

"Through the 1959 amendments to the Atomic Energy Act of 1954, the Atomic Energy Commission is authorized to transfer to the states, the regulation of the use of certain atomic energy materials. This transfer, under the terms of the Federal Act, is accomplished by an agreement between the Governor of the State and the Atomic Energy Commission."

You then pose the following hypothetical situations and ask for an opinion from this office answering the questions contained therein.

"Assuming that the state of North Dakota would desire to accept greater responsibility of regulation in the use of radioactive materials and would desire to enter into an agreement with the Atomic Energy Commission as provided in the 1959 amendments to the Atomic Energy Act of 1954, the following legal questions arise:

1. Do existing North Dakota laws give the governor the authority to enter into such proposed agreement with the Atomic Energy Commission?
2. Is the enactment of new enabling legislation necessary before the state of North Dakota can consummate a legal and valid agreement?
3. Does the state of North Dakota under existing laws have authority, through the State Department of Health, to license or regulate atomic energy materials or their use?"

It is the opinion of this office that:

1. Existing North Dakota laws do not give the governor the authority to enter into such a proposed agreement with the Atomic Energy Commission.
2. The enactment of new enabling legislation would be necessary before the state of North Dakota could consummate a legal and valid agreement.
3. The state of North Dakota does not, under existing laws, have authority, through the State Department of Health, to license or regulate atomic energy materials or their use.

HELGI JOHANNESON

Attorney General