

OPINION
56-95

April 4, 1956 (OPINION)

PUBLIC WELFARE BOARD

RE: Records - Availability to Congressional Investigators

This is in reply to your letter of March 28, 1956, in which you state that a United States Senate Committee, headed by Senator Kefauver of Tennessee, will arrive in Bismarck early in April for the purpose of taking testimony with reference to the matter of exorbitant interest rates and service charges in connection with small short-time loans. You have also been advised that this committee, of which Senator Langer of our state is a member, may ask for records of the Public Welfare Board for the purpose of giving information which will assist them in making this investigation.

An opinion has been requested as to the application of section 50-0912 of the 1953 Supplement which provides as follows:

"RECORDS: STATE AGENCY TO MAKE RULES GOVERNING; USE OF BY OTHER AGENCIES LIMITED. The rulemaking power of the state agency shall include the power to establish and enforce reasonable rules and regulations governing the custody, use and preservation of the records, papers, files and communications of the state and county agencies. Such rules and regulations shall provide that upon the personal written request of any elected public official the state or county welfare board shall open for his inspection the records of the names, addresses and amounts of assistance, except that foster home cases involving unmarried mothers shall not be so open for such inspection. Such information shall not be used for any political or commercial purpose or made public in any manner. The use of such records, papers, files and communications by any other agency, department or government official to which they may be furnished shall be limited to the purposes for which they are furnished. Such office or official shall make adequate regulations or orders, consistent with the rules and regulations of the state agency, for the custody and use of such documents in its possession."

Specific questions arise as to whether or not "elected public officials" refers to elected public officials anywhere in the United States and whether or not the Public Welfare Board is limited to making available such records only to such elected public officials, in person.

Under chapter 1-02 of the N.D.R.C. of 1943 rules of interpretation are set forth in section 1-0202 and 1-0205 which read as follows:

"1-0202. WORDS TO BE UNDERSTOOD IN THEIR ORDINARY SENSE. Words used in any statute are to be understood in their ordinary sense, unless a contrary intention plainly appears, but any words explained in this code are to be understood as

thus explained."

"1-0205. CONSTRUCTION OF UNAMBIGUOUS STATUTE. When the wording of a statute is clear and free of all ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit."

The words "any elected public official" are clear and free of all ambiguity, and when understood in their ordinary sense cannot be limited to elected public officials of North Dakota. Senator Langer, of course, is an elected public official of North Dakota and is authorized to inspect Public Welfare Board records pursuant to section 50-0912 and it is our opinion that Senator Kefauver is likewise authorized to inspect such records as an elected public official.

Section 50-0912 provides that upon the personal written request of any elected public official the state or county welfare board shall open for his inspection certain records.

Again in construing this provision, we believe it to be clear and free of all ambiguity. The request must be made in writing by the elected public official. The records shall then be open for his inspection. We are of the opinion that the Public Welfare Board is authorized only to open such records to elected public officials and cannot open such records to employees of elected public officials.

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