

Opinion No. 54-6015

September 9, 1954

BY: RICHARD H. ROBINSON, Attorney General

TO: Rodey, Dickason, Sloan, Mims & Akin Attorneys for the University of New Mexico
First National Bank Building Albuquerque, New Mexico. Attention: Mr. Jackson G. Akin

{*478} We are in receipt of yours of July 23, 1954, together with enclosures which are returned herewith, wherein you request an opinion concerning the revision of group insurance plan of the University of New Mexico by appropriate endorsement to existing group insurance policies.

The specific question is whether or not the University can revise its existing group insurance policies without being in violation of Chapter 188, Laws of 1941, which is as follows:

"Section 1. All State Departments and institutions and all political sub-divisions of the State of New Mexico are hereby authorized to cooperate in providing group or other forms of insurance for the benefit of eligible employees of the respective departments, institutions and sub-divisions; provided that the contributions of the State of New Mexico or any of its departments or the political sub-divisions of the State shall not exceed twenty per centum (20%) of the cost of such insurance.

"Section 2. That said departments and institutions and all political sub-divisions of the State shall be authorized to deduct from said employees' salaries, who may elect to be covered by group or other insurance under this Act, for the {*479} payment of premiums on said policies of insurance.

"Section 3. All acts and parts of acts in conflict herewith, are hereby repealed. Provided that the provisions of this act shall not affect any contract of group insurance now maintained or in force; nor shall the provisions of this act repeal, alter, or amend any special statute authorizing the carrying of such insurance by the State of New Mexico or any of its departments or the political sub-divisions of the State."

From the documents you have enclosed for our consideration, it is apparent that the proposed revised plan is a great deal different than the plan now in force. In fact the changes are quite numerous, leaving only the parties, the eligibility and some standard insurance clauses the same. In view of this, it is the opinion of this office that a new contract of insurance is proposed. It therefore follows that the University cannot contribute more than 20% of the premium on group policies for its employees without being in violation of above cited statute. This is compatible with the intention of the legislature as we view the problem.

There is the further problem concerning whether or not the 20% limitation applies to gross or net premium paid by the University. It is our opinion that so long as the net payment made by the University does not exceed 20% of the cost of insurance, as provided in Section 1, Chapter 188, Laws of 1941, no violation of this statute will occur.

By: Jack A. Smith

Assist. Attorney General