

**Opinion No. 65-06**

January 22, 1965

**BY:** OPINION OF BOSTON E. WITT, Attorney General

**TO:** Harold S. Bibo, State Personnel Director, Santa Fe, New Mexico

**QUESTION**

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Does the 20% contribution by the State for Group Insurance provided for in Section 5-4-12, N.M.S.A., 1953 Compilation, apply only to the approved master plan of group insurance?

CONCLUSION

Yes.

**OPINION**

{\*11} ANALYSIS

Section 5-4-12, N.M.S.A., 1953 {\*12} Compilation provides as follows:

"All state departments and institutions and all political subdivisions 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 subdivisions; provided that the contributions of the state of New Mexico or any of its departments or the political subdivisions of the state shall not exceed twenty per centum (20%) of the cost of such insurance."

The intent of the Legislature in passing this section must provide the answer to your question. It seems obvious from a reading of this section that the legislature intended that employees of the State as well as employees of a subdivision be provided group or other forms of insurance and in so providing allow the state to provide up to 20% of the cost of such insurance.

It is equally obvious to this office that by enacting this section the legislature did not intend that the State contribute indiscriminately to any type of plan or type of insurance the employee might desire, be it inexpensive or extremely expensive. The decision as to what type of insurance will be made available to employees on a contributing basis must be left to the governing authority of the subdivision or of the state to prevent discrimination among employees. For example, a member of the master plan of insurance could have a cheaper plan of insurance and the State thereby would pay a

smaller amount in contribution than it would if another employee chose a more expensive plan costing a great deal more money thus requiring a larger dollar amount of contribution by the state.

We are certainly not prepared to proclaim such a plan of discrimination among employees as the intention of the legislature in enacting Section 5-4-12, supra.

In conclusion, therefore, it is our opinion that the 20% contribution provided for in Section 5-4-12, applies only to those plans of group insurance or other types of insurance approved by the governing authority of the respective subdivisions and of this state.