

Opinion No. 15-1441

February 22, 1915

BY: FRANK W. CLANCY, Attorney General

TO: Mr. E. A. Mossman, State College, New Mexico.

Officers of educational institutions may contract indebtedness not in excess of the appropriations made.

OPINION

{*30} When writing to you last, I had mislaid your second letter with regard to the prohibition in the law against incurring a deficit, in which you say that the entire appropriation is not always available prior to the end of the school year, and you ask whether bills can be contracted prior to June 30 for the unexpended balances which would be due from the state at that time.

There can be no practical difficulty about this as you will see by reference to the statutes which you will find in Section 3693a of the Compiled Laws of 1897 and Chapter 69 of the Laws of 1912. The earlier statute makes it unlawful for any officer of any territorial institution to incur or contract any indebtedness in the name of such institution or in the name of the territory in excess of the sum appropriated for the support of such institution for the fiscal year. You will readily see that under this provision debts may be contracted if not in excess of the sum appropriated for the fiscal year, and the fiscal year runs until the end of November.

The act of 1912 makes it unlawful for any officer of any of the educational institutions of the state to contract any indebtedness in behalf of such institutions or ostensibly against the state on account of such institutions in excess of the appropriations made for the maintenance and support thereof. There are other provisions in the act concerning other public officers, but you will see that this really goes no farther than the earlier statute and merely requires that officers should keep within the limit of the appropriations made. As the appropriations are not all paid at one time it is obvious that indebtedness may properly be incurred if it does not exceed the amount of money which has been given by the legislature.