

Opinion No. 33-650

September 16, 1933

BY: E. K. NEUMANN, Attorney General

TO: Hon. Henry G. Coors, President, Regents University of New Mexico, Albuquerque, New Mexico.

{*77} Your letter of September 7th, 1933 asks for an opinion of this office as to the authority of your board, in behalf of the University, to borrow from the Government, under the Public Works Act, the sum of several thousand dollars for the purpose of constructing needed buildings on the Campus of the University.

You have, in my opinion, no power to borrow money for any purpose, except in case such power is specifically given and then only within the limits fixed by such authorization.

The courts of this state have repeatedly held that no department or political subdivision of this state can mortgage any property to secure a loan. Of course, the permanent fund cannot be obligated or touched to repay any loan and neither can the income thereof, except as that income is currently appropriated by a legislative act or unless such current income is permitted to be pledged by a valid act of the legislature.

Sections 130-913 to 130-925, 1929 Code, inclusively, permits the regents of the University to borrow money for certain building purposes and to pledge sufficient of their income from permanent funds to repay such sums borrowed and to issue bonds therefor. These provisions seem sufficient for your needs in the present instance, provided, however, that the limitation of the amount of bonds that can be issued as contained in Section 130-924 does not work as a bar.

If said limitation does operate as a bar, it is my opinion that legislative action is necessary to provide authority to borrow under the Public Works Act.