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April 18, 1935.

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Grain Inspection & Weighing Dep't.,  
State of Missouri,  
317-326 Board of Trade Bldg.,  
Kansas City, Missouri.

Attention: Chief Clerk

Gentlemen:

This department is in receipt of your letter of March 26 requesting an opinion as to the following state of facts:

"We have been trying for some time to get cheap insurance to cover the employees of this Department. We have found a group insurance which seems to meet these requirements so that all may be covered in case of death.

However, this group insurance requires the employer to sign an agreement to pay any premium in excess of .60 per month per person (providing average age is over 35 years) as per example:

Age	<u>Total Premium</u>	<u>Employee's Payment</u>	<u>Employer's Share</u>
36	.59	.60	.00
37	.61	.60	.01
38	.63	.60	.03
39	.65	.60	.05
40	.67	.60	.07

Could we form a mutual association of the employees of the Grain Department with J.B. Hopper, Commissioner, as our employer as president of the Association?"

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The plan you have in mind is one that we should like to assist in developing. To our mind, there is no reason why it cannot be carried to completion, provided, the State of Missouri is not involved in any manner. In any form of group insurance it is necessary that there be an "employer" and an "employee". This relationship is fundamental. While it might be workable for Mr. Hopper to be the "employer" in the group insurance plan, it would not be possible for the Commissioner as such to be the "employer" in view of Section 47, Article IV of the Constitution of the State of Missouri, which provides:

"The General Assembly shall have no power to authorize any county, city, town or township, or other political corporation or subdivision of the State now existing, or that may be hereafter established, to lend its credit, or to grant public money or thing of value in aid of or to any individual, association or corporation whatsoever, or to become a stockholder in such corporation, association, or company; \* \* \* \*"

It was the obvious purpose of the framers of the Constitution of 1875 to prevent counties, cities, towns, townships and all other political corporations or subdivisions of the state from venturing upon the uncertain seas of business activities and to confine their operations to matters concerning strictly public service.

The case of School District v. Twin Falls County Mutual Fire Insurance Company, 164 Pac. 1174 denied recovery on a policy issued by a mutual fire insurance company to a school district. The Constitution of the State of Idaho contains substantially the same provisions as the provisions in the Constitution of Missouri above set out. The Court, at page 1174 of the opinion, said:

"In the case of Atkinson v. Board of Commissioners, 18 Idaho, 282, 108 Pac. 1046, 28 L.R.A. (N.S.) 412, this court, speaking of sections 2 and 4 of Article VIII of the Constitution, said:

'Section 2 prohibits the state in any manner ever becoming interested with any individual, association,

or corporation in any business enterprise, and it likewise prohibits the state in any manner loaning its credit to the aid of such an enterprise or becoming a stockholder therein; \* \* \* \* "

CONCLUSION

In view of the foregoing, our suggestion to you is that, for the purpose of acquiring group insurance from some company authorized to do group insurance business in the State of Missouri, you form an association of your employees and institute that entity as the "employer", for the purpose of complying with the requirements of insurance companies with reference to group insurance, with the members of said entity assuming the position of the "employees". This form of organization is now in effect, we are informed, in the State Highway Department.

Respectfully submitted,

JOHN W. HOFFMAN, Jr.,  
Assistant Attorney General.

APPROVED:

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ROY McKITTRICK,  
Attorney General.

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