

Opinion No. 48-5141

March 22, 1948

BY: C. C. McCULLOH, Attorney General

TO: Hon. Clyde Tingley, Chairman, New Mexico State Fair, P. O. Box 1693, Albuquerque, New Mexico.

{*141} We are in receipt of your letter of March 16, 1948 together with {*142} copy of opinion written by Rodey, Dickason & Sloan under date of March 15th.

You asked for our opinion as to whether the State Fair Commission has power to borrow \$ 50,000 from a private lending agency to be secured by a pledge or contract to use the annual profits to retire the indebtedness.

Section 48-2114 of the 1941 Compilation provides, in part, as follows:

"The New Mexico state fair shall have power:

(e) To borrow money and issue bonds and to provide for the payment of the same and for the rights of the holders thereof;

(f) To perform all acts and do all things necessary or convenient to carry out the powers herein granted, to obtain loans or grants or both from any federal agency, and to accomplish the purposes of this act and secure the benefits of the Recovery Act."

If these sections stood alone, some question might exist as to whether the Commission had authority to borrow money otherwise than by issuing bonds. However, Section 48-2117 of the 1941 Compilation resolves any doubt. This section, in part, is as follows:

"No money derived from the sale of the bonds **or otherwise borrowed** by such institution under the provisions of this act shall be required to be paid into the state treasury. * * *"

This section clearly indicates that the Legislature, in enacting Chapter 69 of the Laws of 1935, considered that it had given the State Fair Commission power to borrow money otherwise than by the issuance of the bonds.

In view of the foregoing, it is my opinion that the New Mexico State Fair may borrow money from a private lending agency without issuing bonds.

Further, I concur in the opinion of Rodey, Dickason & Sloan, dated March 15, 1948, and addressed to the First National Bank in Albuquerque.

By ROBERT W. WARD,

Asst. Atty. General