

## Opinion No. 37-1560

March 17, 1937

**BY:** FRANK H. PATTON, Attorney General

**TO:** Honorable Clyde Tingley Governor of New Mexico Santa Fe, New Mexico

{\*62} This is to acknowledge receipt of your letter of March 15 in which you inquire as to the constitutionality of House Bills 166 and 186.

House Bill 166 appropriates \$ 25,000.00 to the New Mexico State Fair. It is our opinion that this act is constitutional and does not offend either Section 31, Article IV of the Constitution providing that no appropriation shall be made for charitable, or other benevolent purposes to any person, corporation, association, institution or community, not under absolute control of the state; or Section 14, Article IX of the Constitution, providing that neither the state, county, school district or municipality shall directly or indirectly lend or pledge its credit, or make any donation to or in aid of any person, association or public or private corporation, or in aid of any private enterprise. We predicate this conclusion upon the language of the court in the case of Harrington vs. Atteberry, 21 N.M. 52, 153 Pac. 1050, in which we think the court clearly indicated that appropriations could be made for a State Fair provided the same was under the control of, or was an instrumentality of the state. The New Mexico State Fair is authorized by Chapter 127 of the New Mexico Statutes Annotated, 1929 Compilation, and we find further statutory enactment relative to this Fair in Chapter 69 of the Laws of 1935. We think it is clearly an instrumentality of, and is under the control of the state.

House Bill 186 contains five sections. Section 1 appropriates \$ 5,000.00 to the Eastern New Mexico State Fair in Chaves County. Section 3 appropriates \$ 5,000.00 to the Indian Inter-Tribal Ceremonial at Gallup. Section 5 appropriates \$ 1,000.00 to the 111th Cavalry Horse Show Association at Las Vegas. The savings clause is found in Section 4. The title of the act details the appropriations in the order that they appear in the act. Here we find an act appropriating money to three different types of institutions or associations which are {\*63} not related, and we are of the opinion that it offends the provisions of Section 16 of Article IV of the Constitution providing that the subject of every bill shall be clearly expressed in its title, and no bill embracing more than one subject shall be passed except general appropriation bills and bills for the codification or revision of the laws. This constitutional provision has been construed many times by the Supreme Court of this state, and its purpose and object has been discussed at length in such cases. In the case of State vs. Armstrong, 31 N.M. 220, 243 Pac. 333, the court in discussing this provision quoted with approval the case of People vs. Mahaney, 13 Mich. 481, where it was held that the object of a similar constitutional provision in Michigan was to prevent the practice of bringing together in one bill subjects of a diverse nature and having no necessary connection. In other words, its object was to prevent omnibus bills. We are of the opinion that House Bill 186 clearly falls within that category, as there is no necessary connection between the Eastern New Mexico State

Fair, which is designed for the exhibition of agricultural and horticultural products, and the Indian Inter-Tribal Ceremonial, Incorporated, which is in the nature of a fiesta or celebration; nor is there any necessary connection between either of the institutions above set out and the 111th Cavalry Horse Show Association. Such being the case, we are of the opinion that the entire act is unconstitutional and, therefore, we deem it unnecessary to pass upon the question of whether the appropriations to the Indian Inter-Tribal Ceremonial, Incorporated, and the 111th Cavalry Horse Show Association are invalid as contravening Section 31 of Article IV and Section 14 of Article IX of the New Mexico Constitution.

By: RICHARD E. MANSON,

Asst. Atty. Gen.