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SENATE BILL 31

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

Timothy M. Keller

AN ACT

RELATING TO THE STATE FAIR COMMISSION; CLARIFYING THAT THE NEW MEXICO STATE FAIR IS A STATE AGENCY; CREATING THE STATE FAIR ENTERPRISE FUND; CLARIFYING AND ESTABLISHING DUTIES OF THE STATE FAIR COMMISSION; ESTABLISHING AN ADMINISTRATIVE AND EXECUTIVE OFFICER; ELIMINATING INDEPENDENT BONDING AUTHORITY; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1.** Section 16-6-1 NMSA 1978 (being Laws 1913, Chapter 46, Section 2, as amended) is amended to read:

"16-6-1. STATE FAIR COMMISSION--MEMBERS--  
APPOINTMENT--NUMBER--QUALIFICATION--TERMS--OATH [~~BOND~~].--

A. The governor shall appoint, with the advice and consent of the senate, a "state fair commission", consisting of seven members, for terms of five years each; provided that the

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1 first appointments shall be made of two commissioners for one-  
2 year terms, two for two-year terms, one for a three-year term,  
3 one for a four-year term and one for a five-year term.

4 Thereafter, commissioners shall be appointed to staggered terms  
5 of five years each. Appointments shall be made in such manner  
6 that the terms of no more than two commissioners expire each  
7 year. Appointments to vacancies shall be for the unexpired  
8 terms. All state fair commissioners shall be bona fide  
9 residents of the state. No [~~less~~] fewer than two commissioners  
10 shall be engaged in the business of livestock raising, and no  
11 [~~less~~] fewer than two commissioners shall be engaged in  
12 agricultural vocations and pursuits other than livestock  
13 raising.

14 B. Before entering upon the duties of [~~his office~~]  
15 commissioner, each state fair commissioner shall take and  
16 subscribe an oath [~~that he will~~] to faithfully and impartially  
17 discharge the duties of [~~his~~] the office, which oath shall be  
18 filed in the office of the secretary of state. [~~Each~~  
19 ~~commissioner shall furnish a good and sufficient surety bond as~~  
20 ~~provided in the Surety Bond Act.~~]

21 C. No member of the commission shall be removed  
22 during the term for which [~~he~~] the commissioner is appointed,  
23 except for cause, following notice and an opportunity for a  
24 hearing, unless the notice and hearing are, in writing,  
25 expressly waived."

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1           SECTION 2. Section 16-6-3 NMSA 1978 (being Laws 1913,  
2 Chapter 46, Section 3, as amended) is amended to read:

3           "16-6-3. DISQUALIFICATION OF COMMISSIONERS--ORGANIZATION  
4 OF COMMISSION--SECRETARY AND TREASURER.--

5           A. If any state fair commissioner changes [~~his~~]  
6 residence to [~~any~~] a place outside the state, [~~such~~] the change  
7 of residence shall operate ipso facto to vacate the office [~~he~~]  
8 that the commissioner holds.

9           B. The secretary and treasurer shall qualify by  
10 furnishing the state fair commission with a good and sufficient  
11 bond pursuant to the Surety Bond Act, conditioned for the  
12 faithful performance of [~~his~~] duties as secretary and treasurer  
13 and that [~~he~~] the secretary and treasurer will faithfully  
14 account for and pay over to the person entitled thereto all  
15 money that comes [~~into his hands as such officer~~] under the  
16 control of the secretary and treasurer. The secretary and  
17 treasurer shall hold office for a period of one year and until  
18 [~~his~~] a successor is elected and qualified."

19           SECTION 3. Section 16-6-3.1 NMSA 1978 (being Laws 1994,  
20 Chapter 143, Section 6) is amended to read:

21           "16-6-3.1. BUDGET REVIEW REQUIREMENTS.--

22           A. Beginning with [~~the eighty-third~~] fiscal year  
23 1995, the [~~state fair commission is required to~~] executive  
24 director shall submit to the department of finance and  
25 administration for review a monthly budget status report, a

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1 list of all checks issued and all supporting documentation for  
2 each expenditure.

3 B. The executive director shall, at least twice a  
4 year, report to the department of finance and administration  
5 and the legislative finance committee on the general operations  
6 and performance of the state fair."

7 SECTION 4. Section 16-6-4 NMSA 1978 (being Laws 1913,  
8 Chapter 46, Section 4, as amended) is amended to read:

9 "16-6-4. POWERS AND DUTIES OF COMMISSION--ANNUAL FAIR--  
10 EXHIBITS--PREMIUMS.--

11 A. The state fair commission shall have power and  
12 authority to hold annually on suitable grounds a state fair at  
13 which shall be exhibited livestock, poultry, vegetables,  
14 fruits, grains, grasses and other farm products, minerals, ores  
15 and other mining exhibits, mining machinery and farm implements  
16 and all other things [~~which~~] that the commissioners or a  
17 majority thereof deem consonant with the purposes of a state  
18 fair for the purposes of advancing the agricultural,  
19 horticultural and stock raising, mining, mechanical and  
20 industrial pursuits of the state and shall have the care of its  
21 property and be entrusted with [~~the entire direction of~~] its  
22 business and its financial affairs consistent with the  
23 provisions of [~~Sections 16-6-15 and 16-6-16 NMSA 1978~~] Chapter  
24 16, Article 6 NMSA 1978.

25 B. The commission, among other duties, shall

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1 prepare, adopt, publish and enforce all necessary rules for the  
2 management of the New Mexico state fair, its meetings and  
3 exhibitions and for the guidance of its officers, employees and  
4 exhibitors. The commission shall appoint, with the advice and  
5 consent of the senate, an executive director for the state fair  
6 for one four-year term. Officers and employees of the state  
7 fair shall be covered by and subject to the provisions of the  
8 Personnel Act, unless the position is expressly permitted to be  
9 exempt by the Personnel Act.

10 C. The commission [~~shall determine the duties,~~  
11 ~~compensation and tenure of office of all of its officers and~~  
12 ~~employees and may remove from office or discharge any person~~  
13 ~~appointed or employed by it at will and~~] shall have the power  
14 to appoint all necessary fairgrounds police to keep order on  
15 the grounds and in the buildings of the state fair. The  
16 fairgrounds police so appointed shall be vested with the same  
17 authority for such purposes as peace officers.

18 D. The commission shall [~~have the power~~] prepare,  
19 adopt, publish and enforce all necessary rules to charge  
20 entrance fees and admissions and lease stalls, stand and  
21 restaurant sites, give prizes and premiums, arrange  
22 entertainments and [~~do all things which by~~] establish internal  
23 policies that the commission may [~~be considered~~] consider  
24 proper for the conduct of the state fair not otherwise  
25 prohibited by law.

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1           E. The commission shall prohibit the sale or  
2 consumption of alcoholic beverages on the grounds of the state  
3 fair except in controlled access areas within the licensed  
4 premises. The commission or its designees shall meet with the  
5 director of the alcohol and gaming division of the [~~department~~  
6 ~~of~~] regulation and licensing department and other parties in  
7 interest to designate the controlled access areas on which the  
8 sale and consumption of alcoholic beverages may be permitted.  
9 As used in this subsection, "alcoholic beverages" means  
10 distilled or rectified spirits, potable alcohol, brandy,  
11 whiskey, rum, gin and aromatic bitters bearing the federal  
12 internal revenue strip stamps or any similar alcoholic  
13 beverage, including blended or fermented beverages, dilutions  
14 or mixtures of one or more of the foregoing containing more  
15 than one-half of one percent alcohol, but excluding medicinal  
16 bitters."

17           **SECTION 5.** Section 16-6-5 NMSA 1978 (being Laws 1977,  
18 Chapter 245, Section 18, as amended) is amended to read:

19           "16-6-5. STATE FAIR COMMISSION ADMINISTRATIVELY ATTACHED  
20 TO [~~TOURISM~~] CULTURAL AFFAIRS DEPARTMENT.--The state fair  
21 commission is administratively attached, as defined in the  
22 Executive Reorganization Act, to the [~~tourism~~] cultural affairs  
23 department."

24           **SECTION 6.** Section 16-6-6 NMSA 1978 (being Laws 1913,  
25 Chapter 46, Section 5, as amended) is amended to read:

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1 "16-6-6. [~~ANNUAL~~] MEETING OF COMMISSION--BUSINESS--  
2 ELECTION--REPORT TO GOVERNOR.--[~~SEC. 5.~~]

3 A. The state fair commission shall hold annual  
4 meetings on the first Monday in January of each year, at which  
5 meeting the [~~chairman~~] chair and the secretary and treasurer  
6 shall be selected and such other business shall be transacted  
7 as the interests of [~~said~~] the state fair [~~shall~~] require. On  
8 the first Monday in January in each year after [~~said~~] the fair  
9 is held, the [~~state fair~~] commission shall prepare and transmit  
10 to the governor [~~of the state~~] a full financial statement,  
11 signed by each member of the commission, showing all funds  
12 received and disbursed and all assets and liabilities, being a  
13 full and detailed account of its transactions and containing  
14 such statistics and information as may be of value to the  
15 various industries of the state.

16 B. The commission shall hold quarterly meetings and  
17 additional meetings as deemed necessary by the chair.

18 C. The commission shall provide an opportunity for  
19 public comment at meetings of the commission. Meetings of the  
20 commission shall be subject to the provisions of the Open  
21 Meetings Act."

22 SECTION 7. Section 16-6-7 NMSA 1978 (being Laws 1913,  
23 Chapter 46, Section 6, as amended) is amended to read:

24 "16-6-7. ANNUAL APPROPRIATION [~~OF \$5,000 PROVIDED~~  
25 ~~CITIZENS CONTRIBUTE EQUAL AMOUNT~~].--[~~SEC. 6.~~] For the purpose

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1 of carrying out the provisions of [~~this~~] Chapter 16, Article 6  
2 NMSA 1978, the sum of five thousand [~~(\$5,000.00)~~] dollars  
3 (\$5,000) is appropriated annually to the state fair enterprise  
4 fund; provided that the sum of five thousand dollars (\$5,000)  
5 herein appropriated shall be paid only upon condition that the  
6 citizens of Albuquerque shall annually raise, contribute and  
7 cause to be made available to the [~~commission herein created~~]  
8 state fair enterprise fund a like sum of five thousand dollars  
9 (\$5,000)."

10 SECTION 8. Section 16-6-13 NMSA 1978 (being Laws 1935,  
11 Chapter 69, Section 1) is amended to read:

12 "16-6-13. DEFINITIONS.-- [~~The following terms, wherever~~]  
13 As used or referred to in [~~this act, shall have the following~~  
14 ~~meaning unless a different meaning clearly appears from the~~  
15 ~~context~~] Sections 16-6-13 through 16-6-15 and 16-6-22 NMSA  
16 1978:

17 [~~(a) The term "bonds" shall mean any bonds of the~~  
18 ~~New Mexico state fair issued pursuant to this Act;~~

19 [~~(b) The term~~] A. "project" [~~shall mean and~~  
20 ~~include~~] means buildings, structures, improvements and  
21 equipment of every kind, nature and description [~~which~~] that  
22 may be required by or convenient for the purpose of the New  
23 Mexico state fair, including, without limiting the generality  
24 of the foregoing, administration, exhibition, recreation or  
25 parts thereof or additions thereto; heat, light or systems or

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1 parts thereof or extensions thereto; greenhouses, farm  
2 exhibition building, stock pens, stable, grounds or parts  
3 thereof or additions thereto; or any one or more than one or  
4 all of the foregoing or any combination thereof; or such other  
5 buildings, pens, stalls or improvements as the state fair  
6 commission [~~shall~~], by a majority of the members, [~~deem~~] deems  
7 necessary to carry out the provisions of [~~this act and of~~  
8 ~~Chapter 46, Laws of 1913 (Sections 127-101 to 127-112 of the~~  
9 ~~New Mexico Statutes Annotated, 1929 Compilation), and all~~  
10 ~~amendments thereof]~~ Chapter 16, Article 6 NMSA 1978;

11 [~~(c) The term~~] B. "to acquire" [~~shall include~~]  
12 means to purchase, [~~to~~] erect, [~~to~~] build, [~~to~~] construct, [~~to~~]  
13 reconstruct, [~~to~~] repair, [~~to~~] replace, [~~to~~] extend, [~~to~~]  
14 better, [~~to~~] equip, [~~to~~] develop, [~~to~~] improve [~~and to~~] or  
15 embellish a project;

16 [~~(d) The term~~] C. "Recovery Act" [~~shall mean~~]  
17 means the act of the congress of the United States of America,  
18 approved June 16, 1933, entitled: "An Act to encourage  
19 national industrial recovery, to foster fair competition, and  
20 to provide for the construction of certain useful public works  
21 and for other purposes" and acts amendatory thereof and acts  
22 supplemental thereto and revisions thereof and any further acts  
23 of the congress of the United States to encourage public works  
24 or to reduce unemployment and providing for the making of loans  
25 or grants or both;

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1           ~~[(e) The term]~~ D. "federal agency" ~~[shall mean]~~  
2 means the United States of America, the president of the United  
3 States of America, the federal emergency administrator of  
4 public works or such other agency ~~[or agencies]~~ as may have  
5 been designated or may be designated or created to make loans  
6 or grants or both pursuant to the Recovery Act; and

7           ~~[(f) The term]~~ E. "commission" ~~[shall mean]~~ means  
8 the state fair commission as appointed by the governor under  
9 ~~[Chapter 46 of the laws of 1913]~~ Section 16-6-1 NMSA 1978."

10           SECTION 9. Section 16-6-14 NMSA 1978 (being Laws 1935,  
11 Chapter 69, Section 2) is amended to read:

12           "16-6-14. CREATING NEW MEXICO STATE FAIR ~~[A SEPARATE AND~~  
13 ~~INDEPENDENT LEGAL ENTITY]~~.--The New Mexico state fair is  
14 ~~[hereby constituted and confirmed a body politic and corporate~~  
15 ~~and separate and confirmed as a governmental instrumentality]~~ a  
16 state agency for the purpose of carrying out the provisions of  
17 Chapter ~~[46, Laws of 1913 (Sections 127-101 to 127-112 of the~~  
18 ~~New Mexico Statutes Annotated, 1929 Compilation), and all~~  
19 ~~amendments thereto, and the provisions of this act]~~ 16, Article  
20 6 NMSA 1978. A corporate purpose of the New Mexico state fair,  
21 in addition to any other purposes, ~~[thereof, shall be]~~ is to  
22 acquire any project. The powers of the ~~[said]~~ New Mexico state  
23 fair delegated to it by ~~[this act and the act of Chapter 46,~~  
24 ~~Laws of 1913, and all amendments thereto]~~ that article shall be  
25 vested in and exercised by the executive director or a majority

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1 of the members of the commission, and a majority of all the  
2 members of [~~such~~] the commission shall be a quorum for the  
3 transaction of any business authorized by [~~this act~~] that  
4 article, but a lesser number may adjourn and compel the  
5 attendance of absent members."

6 SECTION 10. Section 16-6-15 NMSA 1978 (being Laws 1935,  
7 Chapter 69, Section 3, as amended) is amended to read:

8 "16-6-15. ADDITIONAL POWERS.--In addition to the powers  
9 [~~which~~] that it may now have, the New Mexico state fair shall  
10 have power to:

11 A. acquire, by purchase or gift [~~or the exercise of~~  
12 ~~the right of eminent domain~~], and hold and dispose of real or  
13 personal property or rights or interests therein except as  
14 limited by Section 13-6-2.1 NMSA 1978, which provisions  
15 requiring state board of finance approval of certain actions  
16 are applicable to the state fair [~~The right of eminent domain~~  
17 ~~shall be exercised in the same manner as is provided for the~~  
18 ~~exercise of such power by the state or any county, municipality~~  
19 ~~or school district~~];

20 B. build, construct, improve, repair or maintain  
21 buildings, structures, improvements, grounds and equipment  
22 [~~which~~] that may be required by or convenient for the purpose  
23 of operating a state fair;

24 [~~D.~~] C. acquire any project and to own, operate and  
25 maintain such project;

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1           ~~[E.]~~ D. accept grants of money, materials or  
2 property of any kind from a federal agency upon such terms and  
3 conditions as the federal agency may impose; and

4           ~~[F. borrow money and issue bonds and provide for~~  
5 ~~the payment of the same and for the rights of the holders~~  
6 ~~thereof, provided that the commission shall not issue bonds,~~  
7 ~~negotiate loans or renegotiate loans without the prior approval~~  
8 ~~of the state board of finance; and~~

9           ~~G.]~~ E. perform all acts ~~[and do all things]~~  
10 necessary or convenient to carry out the powers granted in  
11 ~~[this]~~ Chapter 16, Article 6 NMSA 1978, or heretofore granted,  
12 to obtain loans or grants or both from any federal agency and  
13 to accomplish the purposes of ~~[this]~~ that article and secure  
14 the benefits of the Recovery Act."

15           SECTION 11. A new section of Chapter 16, Article 6 NMSA  
16 1978 is enacted to read:

17           "[NEW MATERIAL] EXECUTIVE DIRECTOR--POWERS AND DUTIES.--  
18 The administrative and executive officer of the New Mexico  
19 state fair is the "executive director". Consistent with the  
20 rules and policies of the state fair commission, the executive  
21 director:

22           A. shall be responsible for the administration of  
23 the operation of the New Mexico state fair in accordance with  
24 all appropriate statutes and rules;

25           B. shall develop exhibits and programs consonant

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1 with the purposes of a state fair for the purposes of advancing  
2 the agricultural, horticultural, stock raising, mining,  
3 mechanical and industrial pursuits of the state;

4 C. shall employ such professional staff and other  
5 employees as are necessary to the operation of the New Mexico  
6 state fair in accordance with the provisions of the Personnel  
7 Act;

8 D. may solicit and receive funds or property of any  
9 nature for the development of the New Mexico state fair, its  
10 exhibits and its programs;

11 E. may enter into contracts with a value of ten  
12 thousand dollars (\$10,000) or less to carry out the power of  
13 the New Mexico state fair;

14 F. subject to the provisions of Section 16-6-4 NMSA  
15 1978, shall impose and collect admission fees and rents, fix  
16 and maintain appropriate fees, rentals and other charges of  
17 stalls, rentals of pens, rentals of space for concessions,  
18 automobile parking fees, rental of stables and rental of other  
19 buildings or stalls, but in no case shall any fee be charged  
20 for exhibits of agricultural, dairy, horticultural, culinary,  
21 apiary and handwork products of the state, unless the same be  
22 for sale, which fees and charges shall be uniform to all those  
23 similarly situated, and conduct retail sales as are normal for  
24 the operation of a state fair;

25 G. may publish such journals, books, reports and

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1 other materials as are appropriate to the operation of a state  
2 fair;

3 H. shall provide quarterly financial, operational  
4 and performance reports and analysis to the state fair  
5 commission; and

6 I. shall perform other appropriate duties as may be  
7 delegated by the state fair commission or as may be provided by  
8 law."

9 SECTION 12. A new section of Chapter 16, Article 6 NMSA  
10 1978 is enacted to read:

11 "[NEW MATERIAL] STATE FAIR ENTERPRISE FUND--PURPOSE--  
12 ADMINISTRATION.--The "state fair enterprise fund" is created in  
13 the state treasury. The fund consists of appropriations,  
14 gifts, grants, donations, bequests, proceeds from the sale of  
15 publications produced by the New Mexico state fair, fees,  
16 rentals, other charges, income and revenue collected by the New  
17 Mexico state fair and public or private funds applied for and  
18 received by the New Mexico state fair to carry out its purpose,  
19 programs, duties or services. Interest earned on money in the  
20 fund shall be credited to the fund. Money in the fund at the  
21 end of a fiscal year shall not revert to the general fund or  
22 any other fund. The New Mexico state fair shall administer the  
23 fund, and money in the fund is appropriated to the New Mexico  
24 state fair to carry out its purpose, programs, duties or  
25 services. Disbursements from the fund shall be made by warrant

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1 of the secretary of finance and administration pursuant to  
2 vouchers signed by the secretary and treasurer of the state  
3 fair commission or their authorized representative."

4 SECTION 13. TEMPORARY PROVISION--TRANSFER OF MONEY OF THE  
5 NEW MEXICO STATE FAIR.--All money of the New Mexico state fair  
6 in a separate bank account or accounts in such bank or banks or  
7 trust company or trust companies as may be designated by the  
8 state fair commission and all deposits of such money shall be  
9 transferred and deposited into the state fair enterprise fund.

10 SECTION 14. REPEAL.--Sections 16-6-2, 16-6-9 and 16-6-16  
11 through 16-6-21 NMSA 1978 (being Laws 1913, Chapter 46,  
12 Sections 14 and 8 and Laws 1935, Chapter 69, Sections 4 through  
13 9, as amended) are repealed.

14 SECTION 15. EFFECTIVE DATE.--The effective date of the  
15 provisions of this act is July 1, 2013.