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SENATE BILL 4

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Timothy M. Keller and Luciano "Lucky" Varela

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 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~~] the secretary's and treasurer's
16 hands as [~~such~~] that officer. The secretary and treasurer
17 shall hold office for a period of one year and until [~~his~~] a
18 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 on
5 the general operations and performance of the state fair."

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

8 "16-6-4. POWERS AND DUTIES OF COMMISSION--ANNUAL FAIR--
9 EXHIBITS--PREMIUMS.--

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

24 B. The state fair commission, among other duties,
25 shall prepare, adopt, publish and enforce all necessary rules

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

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

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

25 E. The commission shall prohibit the sale or

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

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

18 "16-6-5. STATE FAIR COMMISSION ADMINISTRATIVELY ATTACHED
19 TO [~~TOURISM~~] CULTURAL AFFAIRS DEPARTMENT.--The state fair
20 commission is administratively attached, as defined in the
21 Executive Reorganization Act, to the [~~tourism~~] cultural affairs
22 department."

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

25 "16-6-6. [~~ANNUAL~~] MEETING OF COMMISSION--BUSINESS--

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1 ELECTION--REPORT TO GOVERNOR.--[~~SEC. 5.~~]

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

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

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

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, 2012.