

Opinion No. 55-6324

November 21, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. Jack Love, Assistant District Attorney, Fifth Judicial District, Roswell, New Mexico

You have asked the opinion of this office on the question of whether or not the Eastern New Mexico State Fair at Roswell may mortgage the existing physical plant and grounds and borrow money for the purpose of erecting additional buildings.

This organization is created by §§ 45-20-22 and 45-20-23, N.M.S.A., 1953. Nowhere in the two statutes can be found the power, express or implied, which would authorize the borrowing of money or the mortgaging of property. In the absence of such express or implied power, it is our opinion that this organization cannot legally mortgage or borrow money.

This office is aware of the good purposes which the Eastern New Mexico State Fair serves, and it is suggested that legislation be secured to assure the continued expansion of this fair. In securing such legislation, it should be kept in mind that the fair is located on common school lands (See Laws of 1949, Chapter 144) leased by the City of Roswell, New Mexico. Therefore, the provisions of the Enabling Act, the State Constitution and existing statutes regulating the use of such lands should be considered.

We are sorry that we are unable to give you an answer other than the above.

By Santiago E. Campos

Assistant Attorney General