

N.D.A.G. Letter to Korslien (Jan. 23, 1990)

January 23, 1990

Ms. Renae Korslien
North Dakota State Fair
P.O. Box 1796
Minot, ND 58702

Dear Ms. Korslien:

Thank you for your December 10, 1989, letter asking whether the State Fair Association may draw the moneys appropriated to it for the 1989-91 biennium and invest those moneys before they are required for expenditure by the State Fair.

The 1989 Legislative Assembly appropriated \$576,217, "or so much thereof as may be necessary" for capital improvements and premiums, to the State Fair Association from moneys in the general fund not otherwise appropriated. 1989 N.D. Sess. Laws ch. 42, § 1.

The State Fair has the rights and powers of a corporation except as limited by law. N.D.C.C. § 4-02.1-16. N.D.C.C. § 4-02.1-15 limits the State Fair's authority by requiring funds in the State Fair operating fund to be maintained in the state treasury. All income, fees, rents, interest, appropriated moneys, and any other moneys of the State Fair, from any source, must be placed in the fund. General fund moneys appropriated to the State Fair by the Legislative Assembly may only be transferred from the general fund to the State Fair operating fund by the State Treasurer "upon order of the office of management and budget." This transfer may only be made when "the balance in the State Fair operating fund falls so low as to require supplementation." N.D.C.C. § 4-02.1-15.

Moneys appropriated from the general fund to the State Fair for the 1989-91 biennium are not available to the State Fair until the Office of Management and Budget issues an order authorizing the State Treasurer to place the funds in the State Fair operating fund. At that time, moneys placed in the State Fair's operating fund are available for expenditure by the State Fair Association. However, funds may only be removed from the State Fair's operating fund and invested "in the Bank of North Dakota or a Minot area bank" fifteen days prior to the opening of the State Fair. Funds remaining after the closing of the fair must be transferred to the State Treasurer within sixty days after the fair closes. Thus, it is my opinion the State Fair Association may not withdraw moneys from the State Fair operating fund for investment except as provided in N.D.C.C. § 4-02.1-15.

I am enclosing copies of N.D.C.C. §§ 4-02.1-15 and 4-02.1-16 for your review. If you have further questions regarding this issue, please contact me again.

Sincerely,

Nicholas J. Spaeth

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Enclosure