

N.D.A.G. Letter to Kirschenheiter (July 2, 1987)

July 2, 1987

Mr. Frank Kirschenheiter
Chairman
Credit Review Board
State Capitol
Bismarck, ND 58505

Dear Mr. Kirschenheiter:

Thank you for your letter of June 12, 1987, concerning Senate Bill 2477.

Senate Bill 2477 creates and enacts six new sections to Chapter 6-09.10 of the 1985 Supplement to the North Dakota Century Code. The bill provides legal and tax assistance programs for financially distressed farmers and small business persons through the Credit Review Board and the Commissioner of Agriculture. It provides an appropriation of \$200,000 out of the home-quarter purchase fund to accomplish its purposes.

One of the new sections created by Section 1 of the bill states, in part, as follows:

Payment for assistance. Any farmer or small business person who receives assistance under this Act is obligated to pay for the value of the services plus interest The credit review board may defer payment for a period of one to five years after services are rendered. Upon proof of financial hardship at the end of the deferral period, the board may waive payment of all or a part of the amount owed.

Section 2 of the bill states as follows:

SECTION 2. APPROPRIATION. There is hereby appropriated out of any moneys in the home-quarter purchase fund in the state treasury, not otherwise appropriated, the sum of \$200,000, or so much thereof as may be necessary, to the credit review board for the purpose of providing assistance to financially distressed farmers and small business persons as provided in this Act for the biennium beginning July 1, 1987, and ending June 30, 1989.

Senate Bill 2477 further implements N.D.C.C. ch. 6-09.10 which provides certain aid to farmers. It creates six new sections to that chapter. These sections are incorporated into N.D.C.C. ch. 6-09.10. Therefore, although the appropriation language in section 2 of Senate Bill 2477 and the six new sections do not deal with the matter of what is to be done with payments for assistance that may be made by farmers and small business persons as required in section 1 of the bill, N.D.C.C. § 6-09.10-06 does deal with it.

N.D.C.C. § 6-09.10-06 states, in part, as follows:

6-09.10-06. FUND--APPROPRIATION.

1. A revolving fund must be maintained at the bank of North Dakota for the subsidy of interest rates on home-quarter purchases, as provided in this chapter. All moneys transferred into the fund, interest upon money in the fund, and payments to the fund are hereby appropriated for the purpose of providing subsidies in accordance with this chapter.

The original appropriation for the home-quarter purchase fund (\$2,000,000) was appropriated to the fund for interest buydowns. See 1985 N.D. Sess. Laws ch. 137, 11. There was also an appropriation of \$50,000 to the Credit Review Board for administrative expenses. See 1985 N.D. Sess. Laws. ch. 137, 10. Because the \$2,000,000 was not spent during the 1985-87 biennium, the legislature decided to appropriate \$200,000 of the original \$2,000,000 for the purposes as set forth in Senate Bill 2477. The home-quarter purchase fund was reappropriated as part of the Agriculture Department's appropriation (Farm Credit Counseling). S.2523, 50th Leg., 1(11) (N.D. 1987).

Since the provisions of Senate Bill 2477 were made a part of chapter 6-09.10, the existing provisions of that chapter should apply to the new provisions. In other words, it is now one integrated chapter. N.D.C.C. § 6-09.10-06 specifically contemplates exactly the situation that arises under the new section that requires farmers and small business persons to make payments for assistance, if they are able to do so. Pursuant to N.D.C.C. § 6-09.10-06, any payments made by these farmers or small business persons should be considered payments to the home-quarter purchase fund, since that is where the \$200,000 appropriation originated. N.D.C.C. § 6-09.1-07 also contemplates specific repayments to the fund by those persons receiving interest subsidies. These payments go back to the home-quarter purchase fund and can then be used according to the existing statutes and rules for the purposes otherwise provided in Chapter 6-09.10, but not for legal and tax assistance pursuant to Senate Bill 2477, since the appropriation for that type of assistance was not of a revolving fund nature.

Sincerely,

Nicholas J. Spaeth

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