

N.D.A.G. Letter to Collins (Sep. 1, 1987)

September 1, 1987

Ms. Jet Collins
Administrative Assistant
Credit Review Board
State Capitol
Bismarck, ND 58505

Dear Ms. Collins:

Thank you for your letter of August 7, 1987, concerning Senate Bill 2477. Senate Bill 2477 was passed by the 1987 Legislative Assembly to address the situation of distressed farmers and businesses and to authorize a means of providing legal and tax assistance to them.

Section 2 of that bill provided an appropriation. Section 2 stated as follows:

Section 2. Appropriation. There is hereby appropriated out of any moneys in the homequarter 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.

1987 N.D. Sess. Laws ch. 132, 2.

The provisions of Senate Bill 2477 are codified in N.D.C.C. §§ 6-09.10-08.1 through 6-09.10-08.6. Those sections make it clear that the Commissioner of Agriculture and the Credit Review Board are equally responsible for the administration and supervision of the legal and tax assistance to be provided (by means of contracting with third parties) pursuant to those sections.

It is my understanding that since the negotiating aspect of the Credit Review Board, as originally established by the provisions of N.D.C.C. ch. 6-09.10, has been consolidated with the Commissioner of Agriculture's farm credit counseling program, the appropriation for the farm credit counseling program has been made to the Commissioner of Agriculture, the Office of Management and Budget decided to designate a special line item in the Agriculture Department's budget. It is this line item from which moneys will be spent in contracting to provide the actual legal and tax assistance pursuant to N.D.C.C. ch. 6-09.10.

It is also my understanding that the transfer of money was to occur on an "as needed"

basis, according to agreement between the Commissioner and the Board. The Commissioner and the Board have equal say in the actual expenditures to be made of the moneys (\$200,000) from the home-quarter purchase fund. However, the actual legal authority to transfer the money from the fund to the line item in the Agriculture Department's budget rests with the Credit Review Board.

It should be noted that the \$200,000 accumulates interest for the home-quarter purchase fund as long as it remains in that fund in the Bank of North Dakota. If the money were transferred, in total, to the special line item in the Agriculture Department budget, that interest would accumulate to the general fund. It would not be of benefit to either the Agriculture Department or the Credit Review Board to have the transfer made in total at this time.

In any case, as a practical matter, since both the board and the Commissioner must agree on how the money is to be spent, and this necessarily relates to the timing of the spending, it seems more appropriate for the money to be held in the home-quarter purchase fund at the Bank of North Dakota and transferred into the special line item in the Agriculture Department's budget on an "as needed" basis when the Board and the Commissioner agree how it is to be spent.

In conclusion, if anyone has the sole authority to transfer moneys out of the home-quarter purchase fund in regard to use for implementing N.D.C.C. §§ 6-09.10-08.1 through 6-09.10-08.6, it would be the Credit Review Board. However, I believe that the assistance program is better served by cooperation between the Commissioner and the Board.

Sincerely,

Nicholas J. Spaeth

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