

LETTER OPINION
94-L-265

October 6, 1994

Honorable Sarah Vogel
Commissioner of Agriculture
600 East Boulevard Avenue
Bismarck, ND 58505-0200

Dear Commissioner Vogel:

Thank you for your September 8, 1994, letter asking whether the Credit Review Board's home quarter fund "and/or related funds" may be used to fund a training program for farmers and ranchers. This program, as you describe it in your letter, is a cooperative effort among the Credit Review Board, the Agricultural Mediation Service, the State Board for Vocational Education's Adult Farm Management Program, and North Dakota State University. Its purpose is to provide a means by which farmers and ranchers can fulfill a federal requirement that Farmers Home Administration borrowers acquire training to improve management of their farms and ranches. It is my opinion that the home quarter fund may not be used to pay the costs of the training program.

The Credit Review Board, if it is unable to mediate a settlement with regard to a farmer's debt, "may approve the purchase, refinancing, or redemption of the farmer's home-quarter." N.D.C.C. ? 6-09.10-05. If the Board does so approve, "it shall subsidize the interest rate paid by the farmer after credit has been obtained by the farmer from any governmental or private financial institution or agency." Id. The Board is allowed to subsidize the interest rate with the home quarter fund. N.D.C.C. ? 6-09.10-06(1). The Legislature has specifically stated how the fund is to be used: "All moneys transferred into the fund . . . are hereby appropriated for the purpose of providing subsidies in accordance with this chapter." Id. The subsidies in the chapter are those referred to above, that is, subsidies for interest rates on purchases of home quarters. The only other legislatively

Honorable Sarah Vogel
October 6, 1994
Page 2

authorized use of the fund is for the meal, lodging, and travel expenses of members of the Credit Review Board. N.D.C.C. ? 6-09.10-03.

"All public moneys . . . shall be paid out and disbursed only pursuant to appropriation first made by the legislature." N.D. Const. art. X, ? 12(1). See also N.D.C.C. ? 54-44.1-09 ("All expenditures of the state . . . of moneys drawn from the state treasury must be made under authority of biennial appropriations acts, which must be based upon a budget as provided by law, and no money may be drawn from the treasury, except by appropriation made by law as required by section 12 of article X of the Constitution of North Dakota"). A violation of state law occurs if state funds are used for a purpose other than that authorized. "No agency head may expend more money than the legislature has appropriated or use money appropriated for one purpose for another without having secured beforehand an order from the Emergency Commission authorizing such use of funds. N.D.C.C. ? 54-16-03." 1993 N.D. Op. Att'y Gen. 107 at 109. Because the Legislature has authorized use of the home quarter fund only for subsidizing the purchase of home quarters and to pay expenses of board members, it is my opinion that the training program under consideration cannot be funded by the home quarter fund.

Sincerely,

Heidi Heitkamp
ATTORNEY GENERAL

cmc/dmm