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November 11, 2002

Jay Holmquist, General Manager
Nebraska Rural Electric Association
P.O. Box 82048
Lincoln, NE 68501

Re: Investment Authority of Public Power Districts

Dear Jay:

You have asked whether public power districts are authorized to invest in bonds issued by certain higher education authorities of various states which provide financing for student loans.

The authority for public power districts to invest is found in *Neb. Rev. Stat.* §§ 77-2353.01 and 77-2341.

Neb. Rev. Stat. §77-2353.01 provides in part:

“In addition to other authorized investments, public power districts are authorized to invest and reinvest in: (1) Direct obligations of or obligations guaranteed by the United States of America...”

(Emphasis added.)

Because of the language in § 77-2353.01 which provides “[i]n addition to other authorized investments,” a public power district is also authorized to invest pursuant to *Neb. Rev. Stat.* § 77-2341, which provides in part:

“(1) Whenever any county, city, village, or other governmental subdivision, other than a school district, of the State of Nebraska has accumulated a surplus of any fund in excess of its current needs... the governing body of such county, city, village, or other governmental subdivision may invest any such surplus in excess of current needs... in any securities in which the state investment officer is

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authorized to invest pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act and as provided in the authorized investment guidelines of the Nebraska Investment Council in effect on the date the investment is made. The state investment officer shall upon request furnish a copy of current authorized investment guidelines of the Nebraska Investment Council.”

(Emphasis added.)

Attached hereto is the “Nebraska Investment Council Policy for Political Subdivisions” adopted December 14, 1995, and also a list of the Nebraska Investment Council authorized investments amended as of June 5, 1991, which was reaffirmed on February 7, 1996. To my knowledge, these are in current use by the Nebraska Investment Council.

The Offering Memorandum and Prospectuses which you have provided me are for the sale of higher education bonds for student loan obligations. This type of investment is not authorized by *Neb. Rev. Stat. § 77-2353.01*. In addition, it is not on the list of authorized investments of the Nebraska Investment Council. If these investments were direct obligations of, or an obligation guaranteed as to payment of both principal and interest by the U.S. Government, they would be authorized, but they are not such obligations.

Very truly yours,

CROSBY GUENZEL LLP

By


Steven G. Seglin

SGS:rrk

Enclosures

Healey & Wieland

L A W F I R M

Friday, March 26, 1993

**NEBRASKA RURAL ELECTRIC ASSOCIATION
800 S. 13th Street
P. O. Box 82048
Lincoln, Ne. 68501**

Attention: Rex Carpenter

Dear Rex:

Per request I have studied material as to proposed power district investments in U.S. Government securities funds; and I have discussed the operation of the funds with Mr. Patterson of Vanover Boehm, Inc., investment advisers.

Based on the material supplied and representations made, and without passing on the prudence of the investment, I believe that as of the present date, such fund investment would be within the legal powers of public power districts.

As indicated in prior opinions, it appears power district funds may be invested not only in the obligations listed in § 77-2353.01 but also (because of § 77-2431) in any securities in which the State Investment Officer, under guidelines of the Nebraska Investment Council, may invest.

The most recent listing of permissible investments for the State Investment Officer, approved by the Nebraska Investment Council, allows a wide range of investments in addition to those authorized by the statute particularly dealing with public power districts. As previously indicated I do not see that the statutes conflict so I believe power district funds can also be invested in

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David M. Geier • Robert F. Bartle • Christopher I. Hansen • K. Kristen Newcomb**

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those investments approved by the Nebraska Investment Council.

Such authorized investments now include any direct obligation of or obligation guaranteed as to both principal and interest by, the U. S. Government; and in addition to a number of others, securities of certain U. S. Government sponsored enterprises. From the brochures and material furnished and the representations made to me by Mr. Patterson, the fund investments proposed will be confined to the types of investments specifically authorized. Since the listing of investments approved by the Nebraska Investment Council also states "Investment, without percentage limitation, may be made in investment trusts and/or companies investing in U. S. Government, government agency, and money market securities", I believe the proposed investments would be permitted by law.

I would suggest that a written commitment be obtained from the investing organization to confine investments to those investments approved by the Nebraska Investment Council.

Of course, I do not pass on the wisdom of any particular manner of investment, but only on its legality.

Very truly yours,

Patrick W. Healey

Healey & Wieland

L A W F I R M

Wednesday, September 9, 1992

NEBRASKA RURAL ELECTRIC ASSOCIATION
800 S. 13th Street, P. O. Box 82048
Lincoln, Ne. 68501

Attention: Jay Holmquist

Re: Power District Fund Investments

Dear Jay:

I indicated in my July 20, 1992 letter to you that I felt that the Union Bank trust document with some amendments would constitute a legal power district fund investment.

I have now been furnished by the Bank's attorney with the enclosed Special Investment Directions which would constitute if executed by the District and the Bank an amendment of the trust limiting the student loan investments which could be made by the Bank with trust funds.

I believe the signing of such an amendment would allow the trust in question to qualify as a legal power district fund investment.

If you have further questions let me know.

Very truly yours,

Patrick W. Healey

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PUBLIC POWER DISTRICT SPECIAL INVESTMENT DIRECTIONS

_____ , a public power district in the State of Nebraska ("Owner") and Union Bank and Trust Company, as trustee ("Trustee") agree as follows:

1. With respect to investments made by the Trustee pursuant to the Short-Term Federal Investment Trust Custody and Managing Agency Agreement ("Trust Agreement") dated _____, 1992, the Owner directs the Trustee not to invest the trust assets in obligations of the Student Loan Marketing Association.

2. The Trustee's investment in student loans shall be limited to those student loans which are fully guaranteed or reinsured as to principal and interest by the federal government under the Higher Education Act of 1965, as amended.

3. Unless modified as stated above, all terms and obligations set forth in the Trust Agreement shall remain in full force and effect.

DATED this _____ day of _____, 1992.

(Name of Owner)

BY: _____

TITLE: _____

Accepted:

Union Bank and Trust Company, Trustee

BY: _____

TITLE: _____