

**OPINION
67-91**

July 25, 1967 (OPINION)

Mr. Lloyd H. Nygaard, Assistant Commissioner

Board of Higher Education

RE: Higher education - Revenue bonds - Security for public funds

This is in reply to your letter of July 19, 1967, relative to Section 15-55-08 of the North Dakota Century Code. You state the following facts and questions:

"This section is a part of the law authorizing the sale of revenue bonds for the construction of revenue producing buildings such as dormitories, student centers and dining facilities.

"The State Board of Higher Education is interested in your interpretation of this section. Two questions of particular concern are:

1. Do banks, savings and loan associations, state boards and other investing agencies have authority to invest in revenue bonds issued under the authority of this chapter?
2. May such revenue bonds be used as security for public funds deposited with the above agencies?"

Section 15-55-08 of the North Dakota Century Code provides:

"WHO MAY INVEST IN BONDS. Any bank, trust or insurance company organized under the laws of this state may invest its capital and surplus in bonds issued under the provisions of this chapter. Any state board, bureau, institution or industry having the power to invest public funds or the funds of such board, bureau, institution or industry, may invest said funds in bonds issued pursuant to this chapter in the same manner and under the same restrictions as are provided by law for other investments. The officers having charge of any sinking fund of any county, city, town, township or school district thereof may invest the sinking fund of such county, city, town, township or school district in bonds issued under the provisions thereof. Such bonds shall also be approved as collateral security for the deposit of any public funds and for the investment of trust funds."

The above cited provision is specific in its terms and leaves no room for interpretation. It permits banks, or trust or insurance companies organized under the laws of this state to invest in bonds issued under the provisions of Chapter 15-55. It also permits any state board, etc., having the power to invest public funds to invest in bonds issued under the provisions of Chapter 15-55. Section 15-55-08 also permits any county, city, town, township or school district to invest their sinking funds in such bonds.

The last sentence of Section 15-55-08 is also specific. It permits

the bonds issued under the provisions of Chapter 15-55 to be used as collateral for security for the deposit of any public funds and for the investment of trust funds. This would include the pledge of security required of depositories of public funds as specified in Chapter 21-04 of the North Dakota Century Code. Although the general investments eligible as pledge of security for deposit of public funds are found in Section 21-04-09 of the North Dakota Century Code, Section 15-55-08 also makes the revenue bonds issued by the State Board of Higher Education under the provisions of Chapter 15-55 eligible as a pledge of security for the deposit of public funds.

In direct response to your questions:

1. It is our opinion that banks, trust or insurance companies organized under the laws of this state, state boards, agencies, etc., and the officers in charge of any county, city, town, township, or school district sinking fund may invest in revenue producing bonds issued by the State Board of Higher Education under the provisions of Chapter 15-55 of the North Dakota Century Code.
2. It is our further opinion that revenue bonds issued by the State Board of Higher Education under the provisions of Chapter 15-55 of the North Dakota Century Code may be used as security for public funds deposited with the above agencies.

HELGI JOHANNESON

Attorney General