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RQ-0082-48

July 6, 1999

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Opinion Committee

ATTN: Ms. Elizabeth Robinson
Opinions Committee
Office of the Attorney General
State of Texas
P.O. Box 12548
Austin, Texas 78711-2548

FILE # ML-40896-99
I.D. # 40896

Dear Ms. Robinson:

I am seeking the opinion of the Attorney General's office with regard to the ability of the legislature to fund endowments that benefit the state but are organized and held by out-of-state entities.

I have enclosed some literature describing an endowment program run by the National Geographic Society for the funding of geography education throughout Texas. The endowment program is offered to each state by the Society, with the agreement that once the state has come up with \$500,000 the Society will match those funds to bring the state's endowment to \$1 million. However, in order for the funds to be matched by the Society, all state-contributed monies must be deposited into the Society's state endowment account in Washington, D.C.

I seek your opinion at this time because there has been some confusion and concern as to this exact scenario and about the funds that were requested in 1995 for this "matching" endowment through the National Geographic Society's Texas Fund for Geography Education. Below is a brief history of the 1995 appropriation request and the actions that followed, as I understand them.:

During the 74th Session, Dr. Dick Boehm, a Geography professor at South West Texas State University (SWTSU), worked with Senator Ken Armbrister to request funds for the National Geographic Society's Texas Fund for Geography Education. The legislature appropriated \$200,000 for the 1996-97 biennium, with the understanding that when the Texas fund reached \$500,000 the Society would provide matching dollars. Rather than making the appropriation directly to the Society, the funds were sent to SWTSU along with another large sum of money for various other geography programs.*

Unfortunately, the funds were never transferred to the Society, and were therefore never matched. Once the funds arrived in SWTSU's account, their financial team was apparently informed that they were not to transfer state funds to an out of state endowment account. And so, to this day, the money remains at SWTSU, unmatched,

76TH LEGISLATURE
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in a private endowment. (To date, two state programs have been awarded with funds from the money in the SWTSU endowment, a detailed description is attached.)

I am not sure who informed SWTSU that the money could not be transferred to the National Geographic Society, as the original request was made to the House Appropriations and Senate Finance Committees, but your staff was unable to locate any previous opinions from the Attorney General on such matters.

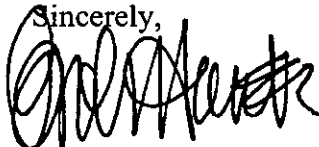
I am extremely interested in finding out the official state policy and opinion on this situation, as it seems to me that, in the past, Texas has contributed to several national endowments that benefit the state.

My questions, again, are as follows:

- 1) Whether a transaction of state funds to a reputable out-of-state endowment that will ultimately benefit the state is both an allowable and appropriate action of the legislature.
- 2) If so, would it be appropriate for SWTSU to transfer the funds allocated in 1995 to the National Geographic Society's Texas Fund for Geography Education.

I appreciate your time and consideration of this opinion request.

Sincerely,



Bob Hunter
BH: jrd

Enclosures

*P.S.: To avoid any confusion, I want to inform you that there is another program organized through SWTSU to which the National Geographic Society provides matching funds. This is called the "Texas Alliance for Geography Education". It is not an endowment, rather it is an ongoing program that funds the continued education of geography teachers and professors in Texas. For the last several bienniums, the state has appropriated \$50,000/year to SWTSU and the Society has matched those funds, sending them directly to the University. The funds have gone to SWTSU because the chairman of the Texas Alliance committee, which administers the funding of all programs, is also Dr. Dick Boehm. This program and the way it is administered is not in question.