

N.D.A.G. Letter to Christensen (May 23, 1991)

May 23, 1991

Mr. Lee Christensen, Chairman
State Board of Higher Education
State Capitol
600 East Boulevard Avenue
Bismarck, ND 58505

Dear Mr. Christensen:

I am writing in response to your inquiry regarding the legality of the State Board of Higher Education entering into a lease-purchase agreement with the NDSU Development Foundation for the construction of a new home for the president of NDSU.

As is reflected in the Board's motion, the Board intended that this project be reviewed by me before moving ahead with the project. In accordance with the Board's intentions, I have reviewed the legality of entering into a lease-purchase agreement for the construction of a new home for the president of NDSU.

I have concluded that the State Board of Higher Education's approval of the lease-purchase agreement for the construction of a new home for the president at NDSU is probably not in accordance with N.D. Const. art. X, § 12. This constitutional provision allows the disbursement of public moneys only pursuant to appropriation first made by the Legislature. This project attempts to do indirectly what would require legislative appropriation to do directly.

Sincerely,

Nicholas J. Spaeth