

**N.D.A.G. Letter to Meier (Oct. 20, 1986)**

October 20, 1986

Honorable Ben Meier  
Secretary of State  
State Capitol  
Bismarck, ND 58505

Dear Secretary Meier:

Thank you for your letter of October 7, 1986, concerning a request made to the Emergency Commission by the Board of Higher Education. As I understand the request, the Board of Higher Education wishes to utilize moneys previously appropriated to the Williston Experiment Station (1985 N.D. Sess. Laws 41, § 4) for the purchase of a specified tract of land other than that specified within the appropriation bill.

North Dakota law, as found at N.D.C.C. §54-16-03, prohibits any state officer, board, commission, or others having the control or management of any public institution of the state from using an amount appropriated for any specific purpose for any other purpose without first having secured from the Emergency Commission an appropriate order authorizing such action. In addition, N.D.C.C. § 54-16-12 authorizes the Emergency Commission to approve the acquisition of property by the Board of Higher Education upon the showing of the following facts:

1. The property is needed for expansion in the foreseeable future;
2. The property in all probability will not again be offered for sale at a similar price in the foreseeable future; and
3. The Legislative Assembly has not previously rejected a similar request, and the time during which such purchase must be consummated does not permit the obtaining of a legislative appropriation.

Either of these two particular statutes constitutes sufficient ground by which the Board of Higher Education may be granted the authority to use the moneys appropriated in 1985 Sess. Laws 41, § 4 for the purchase of a tract of land other than that specified within this appropriation bill.

Therefore, it is my opinion that the Emergency Commission does possess the needed legal authority to approve the request of the Board of Higher Education involving the Williston Experiment Station and 1985 N.D. Sess. Laws 41.

Sincerely,

Nicholas J. Spaeth

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cc: Bud Walsh, OMB  
Rick Johnson