

**OPINION  
64-24**

April 6, 1964            (OPINION)

BOARD OF ADMINISTRATION

RE:   Gifts - Maintenance

This is in response to your letter in which you enclosed other correspondence relating to a proposition by private persons to raise money and donate same to put a chapel on the school grounds at Grafton, North Dakota. You then ask if this money is raised and a chapel is put on a school grounds will the Board of Administration have to accept the responsibility of maintaining this building. You further ask what status does the board have in accepting gifts such as this. Finally, you inquire if the board may give a ninety-nine year lease or easement without going through the Legislature.

Section 25-01-10 of the North Dakota Century Code authorizes the Board of Administration to accept gifts in the name of the State of North Dakota and hold them in trust for any institution mentioned in this chapter. This section further provides that any gifts or property coming into the hands of the Board of Administration shall be used for the specific purpose for which it was donated, devised, bequeathed, or given. If no terms are imposed upon a donor or gift the same shall be used for the general maintenance of the institution for the benefit for which they were made. The institution at Grafton is one of the institutions mentioned in chapter 25-01.

If money is raised to erect a chapel on the school grounds it would be the board's responsibility of maintaining such building. However, the board could impose certain conditions upon erecting the building, such as requiring the donor to contribute the necessary funds to maintain the building. It is, however, not necessary that the board place such a condition upon the acceptance of the gift. Likewise the donor may make the gift with conditions attached. If the donor makes the gift with conditions attached and same is accepted under those conditions, the board is legally obligated to comply with such conditions. The question of using a certain plot of ground for the specific purpose of erecting a chapel thereon is something which must be evaluated by the Board of Administration. In this respect, it is doubtful that the condition imposed by the donor would be such that the building would have to be erected on a certain specific location at an institution. Generally speaking though, where a building is accepted in the form of a gift and nothing further said except that the building is to be used for a certain purpose, it is our opinion that the recipient is responsible for maintaining such building.

As to the final question, it is also our opinion that the board has no authority to lease or grant an easement for a period of ninety-nine years on any state-owned property without first obtaining legislative authority.

HELGI JOHANNESON

Attorney General