

**OPINION
72-86**

February 3, 1972 (OPINION)

The Honorable Ben Meier

Secretary of State

RE: Corporations - Profit - Amendment of Articles

This is in response to your letter in which you state the following:

We herewith request your opinion on the following question:

May a corporation organized for profit under N.D.C.C. Chapter 10-19 become a nonprofit corporation through amendment of its original articles of incorporation.

In considering this question special attention should be given to sections 10-19-01, 02-03 and 58.

"It is our thought that such an amendment is prohibited by section 10-19-58 because by its nature a nonprofit corporation could not have been created under chapter 10-19 (Business Corporation Act) and thus cannot stand as a later amendment."

After having examined the provisions of chapter 10-24, Nonprofit Corporation Act, and chapter 10-19, The Business Corporation Act, we come to the conclusion that your interpretation of the laws pertaining to the question is correct.

One major factor which influenced our decision is that nonprofit corporations are not authorized to have share of stock, nor may such nonprofit corporation issue stocks. Section 10-25-26 also prohibits the payment of any dividends to the members, directors or officers. In this respect the nonprofit corporation and profit corporation are incompatible.

It is therefore our opinion that a profit corporation organized under the provisions of chapter 10-19 may not convert to a nonprofit corporation by merely amending its original Articles of Incorporation.

HELGI JOHANNESON

Attorney General