

**OPINION  
45-151**

November 1, 1945            (OPINION)

INSURANCE

RE: Public Buildings Outside Incorporated Cities and Villages

This office is in receipt of your letter of October 30, 1945, in which you inquire whether there is any state law in North Dakota forbidding a school board from insuring a school building against fire in a mutual fire insurance company. You say in your letter that the school building in question is located outside of the corporate limits of the city.

Section 26-2404 of the North Dakota Revised Code of 1943 provides:

"The public buildings and fixtures and permanent contents therein belonging to the state, the various state industries, and the political subdivisions of the state, shall be insured under the provisions of this chapter. No officer or agent of the state or of any political subdivision thereof, and no person having charge of any public buildings belonging to the state, any state industry, or any political subdivision of the state, shall pay out any public moneys or funds on account of any insurance against loss by fire, lightning, inherent explosion, windstorm, cyclone, tornado and hail, explosion, riot attending a strike, aircraft, smoke, and vehicles, or contract in any manner for, or incur any indebtedness against, the state or any political subdivision thereof on account of any such insurance upon any of the buildings or fixtures and permanent contents therein belonging to the state or any political subdivision thereof, except in the manner provided in this chapter."

Section 26-2406 of the Revised Code reads as follows:

"The provisions of this chapter shall not apply to the property of any township or school district located outside of the incorporated limits of a city or village, unless the clerk of the township or school district, at the direction of the board of township supervisors or the school board, as the case may be, shall file with the commissioner a written application for such insurance and a request that such township or school district come under the provisions of this chapter. To be effective, such applications must be approved in writing by the commissioner."

In view of the provisions of section 26-2406, it is my opinion that the school house referred to in your letter may be insured with a mutual fire insurance company.

NELS G. JOHNSON

Attorney General