

**OPINION  
45-64**

August 3, 1945           (OPINION)

CERTIFICATES OF INDEBTEDNESS

RE: Issuance

Your letter of August 1 addressed to the Attorney General has been received and contents of same have been noted.

You state that the statute governing the issuance of certificates of indebtedness has been changed somewhat - that is, that the law as now found in the North Dakota Revised Code of 1943 differs from Chapter 247 of the Session Laws of 1933.

We cannot agree with you that there is any material change.

The only change in section 21-0202 from section 2079b1 as it appears in chapter 247 of the 1933 Session Laws is merely that the word "uncollected" has been substituted for the word "delinquent", and the word "uncollected" would be the proper word since there could be no delinquent taxes during the year that the taxes are levied, but there can be uncollected taxes during that year.

With reference to section 21-0203, there is no material difference between that and the second paragraph of section 2079b1 appearing in chapter 247, Session Laws of 1933. You will note that the only difference is that the word "uncollected" has been substituted for the word "delinquent" in line 3. Otherwise the statutes are practically the same, and the substitution of the word "uncollected" for "delinquent" does not in any way change the meaning or sense of same.

You will note too that both the 1933 statute and the statute as it now appears provides that a tax shall be deemed to have been levied when it has been voted by the tax levying board and certified to by the county auditor.

It should be observed in this connection that when levies are made by the governing authorities of the municipalities, whether they be townships or school districts, the levies are made in specific amounts, and if such amounts are within the levy limitations, the rate will be fixed by the county auditor upon the evaluation as made by the board of equalization.

If the tax levied by a municipality is greater than the levy limitation, it will, of course, be reduced.

We cannot see that the procedure to be followed by municipalities in issuing certificates of indebtedness under the 1943 code is different from the procedure under the law as it existed prior to the adoption of the revised code.

NELS G. JOHNSON

Attorney General