

**OPINION
49-168**

December 1, 1949 (OPINION)

SCHOOLS

RE: Reorganization

The letter of Gertrude Quam, county superintendent of Cavalier County, of date November 28, 1949, asking this question: "Must the bonded indebtedness of the district involved be paid by those individual districts themselves or may such indebtedness be spread over the entire reorganized area?", which you transmitted to this office, has been referred to my desk.

The statute, chapter 15-53 of the 1947 Supplement to N.D.R.C. 1943, does not specifically answer the question. Sections 15-5312 and 15-5313 merely provide for an adjustment between the districts and parts of districts included within the reorganized district of all assets and obligations.

Where a district having outstanding bonded indebtedness is included in the new district, it still remains liable for its contract debt and the tax levy made at the time the bonds were issued to provide a sinking fund for the payment of the principal and interest is not affected in any manner by the reorganization. This levy continues until the bonds are retired. However, if this district brings into the new district assets, as, for instance, a school house built with the proceeds of the bonds, it should receive credit for such assets in the adjustment. And if it is contributing more to the new district than the rest of the new district, the new district should, on the adjustment, be required to assume and pay to the bonded district such an amount as would compensate the bonded district for its contribution to the assets of the new district. If this payment is made in cash, this payment could be added to the sinking fund to assist in the retirement of the bonds.

It is our opinion that the bonded district will remain primarily liable for the payment of the bonds, and that the sinking fund levy should remain intact and be the primary fund for the retirement of the bonds.

WALLACE E. WARNER

Attorney General