

**OPINION
57-176**

October 25, 1957 (OPINION)

SCHOOL DISTRICTS

RE: Transfer of Funds - General

This is in reply to your request for an opinion of this office in regard to payment of a part of a school district's bonded indebtedness out of the general fund of a school district.

You inform us that the holders of general obligation bonds of the school district are willing to accept prepayment of a part of the debt evidenced by the bond issue. One \$1,000.00 bond is presently delinquent because sufficient funds have not come into the Bond Sinking Fund to make the payments. You request an opinion of this office in regard to the legality of a transfer of funds from the general fund to the sinking fund in these circumstances.

Section 21-0342 of the North Dakota Revised Code of 1943 lists several sources of the sinking fund for the payment of municipal bonds, but does not include among such sources excess funds available in the general fund. Section 21-0315 of the 1953 Supplement to the North Dakota Revised Code of 1943 authorizes a direct tax to pay matured bonds and interest thereon. There is no other statutory provision we find directly applicable to the situation you outline at the present time.

Section 57-1513 of the North Dakota Revised Code of 1943 generally limits school district tax levies to the amount necessary to be raised for the purpose of meeting the appropriations included in the school budget of the current fiscal year and the sum necessary to be provided as an interim fund, together with a tax sufficient in amount to pay the interest on the bonded debt of the district and to provide a sinking fund to pay and discharge the principal thereof at maturity. Thus, as you point out, the money that was levied was levied for a specific purpose.

The only specific authority for the transfer of general fund moneys to the sinking fund is section 15-4410 of the North Dakota Revised Code of 1943, which authorizes such transfer "At the time of preparing the annual budget for the ensuing fiscal years, and as a preliminary to the making of such budget * * * * and limits the amount of such transfer to the amount of money, or any part thereof, by which the balance in the general fund exceed the amount which would be required for the general reserve fund for the ensuing fiscal year * * * *."

In view of the specific terms of section 15-4410, limiting both time and amount of such transfers made thereunder and in view of the provisions of section 57-1513 limiting the amount of general fund taxes levied, it is our opinion that such a transfer can be made only in the amount and at the time specified in section 15-4410.

LESLIE R. BURGUM

Attorney General