

**OPINION
58-84**

December 5, 1958 (OPINION)

EDUCATION

RE: General Provisions - Change in District Boundaries -
 Equalization of Indebtedness

We have received your letter of November 21, 1958, with reference to a school annexation problem.

The facts which gave rise to your problem are as follows:

A portion of Broadview School District of Griggs County was annexed to Willow Lake Special School District of Steele County. The board of arbitration determined that the share of the annexed area of cash assets was \$1361.64, which amount was transferred to the Willow Lake District. The board then determined that current year's tax levy in the annexed area should be 30.87 mills. The Willow Lake District is a high school district and levies 32 mills. We assume that the reason for this action was that the arbitration board gave tax credit to the annexed area for the cash transferred to the Willow Lake District and that the difference between 32 mills and 30.87 would raise in taxes \$1361.64 if 1.13 mills were spread against the total taxable valuation of property in the Willow Lake District as presently constituted. This we believe the board of arbitration had a right to do under section 15-4720 of the 1943 code.

As we view it, the board of arbitration has no right to set the mill levy to be spread, but can order credit given for cash assets by applying such cash assets to current year's taxes.

It seems to us that section 15-4721 of the 1943 code gives authority to a board of arbitration to levy taxes only in cases when there are debts and liabilities owing in payment of which the annexed area should share. This section we believe is intended to protect school districts when portions of the district are annexed to another district.

Therefore, we feel that the board of arbitration should have ordered credit given for the \$1361.64 cash assets of the annexed area on current year's taxes rather than ordered a certain mill levy spread. However, if the \$1361.64 is the amount 1.13 mills would raise in the Willow Lake District, then the result would be the same.

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Attorney General