**Opinion No. 46-4848**

February 2, 1946

**BY:** C. C. McCULLOH, Attorney General

**TO:** Mr. R. H. Grissom Educational Budget Auditor State Capitol Santa Fe, New Mexico

*{*182}* In your letter, dated January 28, 1946, you inquire whether a Board of Education can pay a premium for the redemption of school bonds where the bonds are not optional and have not matured. You state that it would save the school district money over a period of years and that funds are available in the Interest and Sinking Fund with which to pay the amount asked by the bondholders.

These bonds, I understand, were issued July 1, 1928 and would come under the provisions of Sec. 55-720 of the 1941 Compilation.

There seems to be no prohibition against paying a premium for the redemption of school bonds under our statutes. A Board of Education could enter into a contract to purchase its own bonds at a premium, under its general powers of contracting, and it is possible that the same result could be achieved by the Board, acting through the County Treasurer and County Board of Finance, whereby the bonds of the district could be purchased with the district funds as an investment under *{*183}* the provisions of Sec. 7-207 of the 1941 Compilation. Such a purchase, as a practical matter, would amount to payment of the bonds. (See 174 Ga. 536, 163 S. E. 485.)

It is suggested that the State Comptroller be advised of any purchase of bonds, before maturity, at a premium, in order that he can ascertain whether the premium to be paid is less than the total amount of interest that would be due and payable by the date of maturity of the bonds.

If an overall saving can be effected, it would seem to be a matter of good business judgment to proceed with the purchase.