

**OPINION  
51-85**

May 23, 1951           (OPINION)

INSURANCE

RE: Purchase by Grafton State School

The Attorney General's office is in receipt of a letter from an insurance agency inquiring whether or not the Grafton State School can buy an automobile policy from an assessable company, or a company which also requires a membership.

Section 26-1411 N.D.R.C. 1943, provides:

Any public or private corporation, board, or association in this state or elsewhere may make applications and enter into agreements for, and hold, policies in, any mutual insurance company organized under the provisions of this chapter. Any officer, stockholder, trustee, or legal representative of any such corporation, board, association or the representative of an estate may be recognized as acting for or on its behalf for the purpose of such membership but shall not be liable personally upon such contract of insurance by reason of his acting in such representative capacity. The right of any corporation organized under the laws of this state to participate as a member of any such mutual insurance company is hereby declared to be incidental to the purpose for which such corporation is organized and granted as fully as the rights and powers expressly conferred upon it."

This is taken from the law relative to incorporation mutual insurance companies doing business in automobile insurance among other kinds.

You are advised that if such a mutual insurance company has a surplus which is not less in amount than the capital stock required of domestic stock companies transacting the same kind of insurance which, incidentally, is \$250,000, then such a company may issue a non-assessable policy. Otherwise not having the required surplus their policies are assessable and your institution and the Board of Administration should understand that in such case there may be a contingent liability.

ELMO T. CHRISTIANSON

Attorney General