

HOUSE BILL NO. 1222

Introduced by

Representatives Novak, D. Anderson, Frelich, Hagert, Heinert, Porter, M. Ruby, Lefor

Senators Hogue, Luick, Meyer

1 A BILL for an Act to amend and reenact sections 15.1-09-33, 15.1-09-33.5, and 15.1-19-03.1 of
2 the North Dakota Century Code, relating to a requirement for public school students to recite
3 the pledge of allegiance each morning and immunity for liability stemming from the recitation of
4 the pledge of allegiance.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Section 15.1-09-33 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **15.1-09-33. School board - Powers.**

9 The board of a school district may:

- 10 1. Establish a system of free public schools for all children of legal school age residing
11 within the district.
- 12 2. Organize, establish, operate, and maintain elementary, middle, and high schools.
- 13 3. Have custody and control of all school district property and, in the case of the board of
14 education of the city of Fargo, have custody and control of all public school property
15 within the boundaries of the Fargo public school district and to manage and control all
16 school matters.
- 17 4. Acquire real property and construct school buildings and other facilities.
- 18 5. Relocate or discontinue schools and liquidate the assets of the district as required by
19 law; provided no site may be acquired or building constructed, or no school may be
20 organized, established, operated, maintained, discontinued, or changed in location
21 without the approval of the state board of public school education if outside the
22 boundary of the district.
- 23 6. Purchase, sell, exchange, and improve real property.
- 24 7. Lease real property for a maximum of one year except in the case of:

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- 1 a. A career and technical education facility constructed in whole or in part with
- 2 financing acquired under chapter 40-57, which may be leased for up to twenty
- 3 years; or
- 4 b. A lease for the installation of a wireless telecommunications facility, which may be
- 5 leased for up to twenty years.
- 6 8. Subject to chapter 32-15, exercise the power of eminent domain to acquire real
- 7 property for school purposes.
- 8 9. Purchase, sell, exchange, improve, and lease for up to one year equipment, furniture,
- 9 supplies, and textbooks.
- 10 10. Recruit or contract with others to recruit homes and facilities which provide boarding
- 11 care for special education students.
- 12 11. Provide dormitories for the boarding care of special education students.
- 13 12. Insure school district property.
- 14 13. Independently or jointly with other school districts, purchase telecommunications
- 15 equipment or lease a telecommunications system or network.
- 16 14. Provide for the education of students by another school district.
- 17 15. Contract with federal officials for the education of students in a federal school.
- 18 16. Prescribe courses of study in addition to those prescribed by the superintendent of
- 19 public instruction or by law.
- 20 17. Adopt rules regarding the instruction of students, including their admission, transfer,
- 21 organization, grading, and government.
- 22 18. Join the North Dakota high school activities association and pay membership fees.
- 23 19. Adopt alternative curricula for high school seniors who require fewer than four
- 24 academic units.
- 25 20. Contract with, employ, and compensate school district personnel.
- 26 21. Contract with and provide reimbursement for the provision of teaching services by an
- 27 individual certified as an instructor in the areas of North Dakota American Indian
- 28 languages and culture by the education standards and practices board.
- 29 22. a. Suspend school district personnel;
- 30 b. Delegate to the superintendent of the district the authority to suspend school
- 31 district personnel, except as provided for in section 15.1-15-10; or

- 1 c. In the case of a district that does not employ a superintendent, delegate to the
2 individual charged with administering the district the authority to suspend school
3 district personnel, except as provided for in section 15.1-15-10.
- 4 23. Dismiss school district personnel.
- 5 24. Participate in group insurance plans and pay all or part of the insurance premiums.
- 6 25. Contract for the services of a district superintendent, provided that the contract, which
7 may be renewed, does not exceed a period of three years.
- 8 26. Contract for the services of a principal.
- 9 27. Employ an individual to serve as the school district business manager or contract with
10 any person to perform the duties assigned to a school district business manager by
11 law.
- 12 28. Dismiss a school district business manager for cause without prior notice.
- 13 29. Dismiss a school district business manager without cause with thirty days' written
14 notice.
- 15 30. Defray the necessary and contingent expenses of the board.
- 16 31. Levy a tax upon property in the district for school purposes, as permitted in
17 accordance with chapter 57-15.
- 18 32. Amend and certify budgets and tax levies, as provided in title 57.
- 19 33. Pay dues allowing for the board to hold membership in city, county, state, and national
20 organizations and associations.
- 21 34. Designate, at its annual meeting, a newspaper of general circulation as the official
22 newspaper of the district.
- 23 35. Authorize schools within the district to display the ten commandments with a display of
24 other historical documents in the school and in a classroom.
- 25 ~~36. Authorize schools within the district to permit students to recite the pledge of~~
26 ~~allegiance.~~

27 **SECTION 2. AMENDMENT.** Section 15.1-09-33.5 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **15.1-09-33.5. School board - Immunity from liability.**

30 The superintendent of public instruction, school districts, schools, school boards and
31 individual school board members, governing boards and individual governing board members,

1 administrators, principals, teachers, and any other school district employed personnel are
2 immune from any liability for damages resulting from a school's decision to display the
3 ten commandments or ~~permit students to recite the pledge of allegiance~~ under section
4 15.1-09-33 or require the recitation of the pledge of allegiance under section 15.1-19-03.1.

5 **SECTION 3. AMENDMENT.** Section 15.1-19-03.1 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **15.1-19-03.1. Recitation of prayer - Period of silence - Pledge of allegiance.**

- 8 1. A student may voluntarily pray aloud or participate in religious speech at any time
9 before, during, or after the schoolday to the same extent a student may voluntarily
10 speak or participate in secular speech.
- 11 2. A student of a public or nonpublic school may not be prohibited from voluntarily
12 participating in any student-initiated prayer at an activity held on the premises of a
13 public or nonpublic school.
- 14 3. A school board, school administrator, or teacher may not impose any restriction on the
15 time, place, manner, or location of any student-initiated religious speech or prayer
16 which exceeds the restriction imposed on students' secular speech.
- 17 4. A school board may, by resolution, allow a classroom teacher to impose up to one
18 minute of silence for meditation, reflection, or prayer at the beginning of each
19 schoolday.
- 20 5. ~~A school board may authorize the voluntary recitation of~~ student of a public school shall
21 recite the pledge of allegiance by a teacher or one or more students at the beginning
22 of each schoolday. A student may not be required to recite must be informed by written
23 notice published in the student handbook, or similar publication, that the student may
24 be excused from reciting the pledge of allegiance, stand during the recitation of the
25 pledge of allegiance, or salute the American flag upon written request by the student's
26 parent or legal guardian. During the pledge of allegiance, any unexcused student shall
27 show full respect to the flag by standing at attention with the right hand over the heart
28 and, for males, removing any headdress, except when the headdress is worn for
29 religious purposes.