

Introduced by

Representative Rust

1 A BILL for an Act to amend and reenact section 15.1-36-01 of the North Dakota Century Code,  
2 relating to approval threshold for school district construction projects; to provide an effective  
3 date; and to declare an emergency.

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

5 **SECTION 1. AMENDMENT.** Section 15.1-36-01 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **15.1-36-01. (~~Effective through June 30, 2014~~) School construction projects - Approval.**

8 1. Notwithstanding the powers and duties of school boards provided by law, the  
9 superintendent of public instruction shall approve the construction, purchase, repair,  
10 improvement, modernization, or renovation of any public school building or facility  
11 before commencement of the project if the cost of the project, as estimated by the  
12 school board, is in excess of ~~forty~~ one hundred thousand dollars.

13 2. The superintendent of public instruction may not approve a project unless the school  
14 district proposing the project:

15 a. Demonstrates the need for the project and the educational utility of the project or  
16 demonstrates potential utilization of the project by a future reorganized school  
17 district; and

18 b. Demonstrates the capacity to pay for the project under rules adopted by the  
19 superintendent of public instruction pursuant to chapter 28-32.

20 3. a. If the superintendent of public instruction denies the project, the school board  
21 may appeal the superintendent's decision to the state board of public school  
22 education. In considering the appeal, the state board shall review:

23 (1) The need for the project;

24 (2) The educational utility of the project;

1 (3) The potential use of the project by a future reorganized school district;

2 (4) The capacity of the district to pay for the project; and

3 (5) Any other objective factors relative to the appeal.

4 b. The decision of the state board is final.

5 4. ~~This section does not apply to any construction, purchase, repair, improvement,~~  
6 ~~renovation, or modernization required as part of a plan of correction approved by the~~  
7 ~~state fire marshal under section 15.1-06-09 unless the cost of the improvements~~  
8 ~~exceeds seventy five thousand dollars.~~

9 5. This section is applicable to any construction, purchase, repair, improvement,  
10 renovation, or modernization, even if the school board pays for the project in whole or  
11 in part with moneys received on account of the leasing of lands acquired by the United  
12 States for flood control, navigation, and allied purposes in accordance with 33 U.S.C.  
13 701c-3 or in accordance with moneys received under the American Recovery and  
14 Reinvestment Act of 2009.

15 6-5. For purposes of this chapter, "facility" includes a public school parking lot, public  
16 school athletic complex, or any other improvement to real property owned by the  
17 school district.

18 ~~**(Effective after June 30, 2011) School construction projects – Approval.**~~

19 1. ~~Notwithstanding the powers and duties of school boards provided by law, the~~  
20 ~~superintendent of public instruction shall approve the construction, purchase, repair,~~  
21 ~~improvement, modernization, or renovation of any public school building or facility~~  
22 ~~before commencement of the project if the cost of the project, as estimated by the~~  
23 ~~school board, is in excess of twenty five thousand dollars.~~

24 2. ~~The superintendent of public instruction may not approve a project unless the school~~  
25 ~~district proposing the project:~~

26 a. ~~Demonstrates the need for the project, the educational utility of the project, and~~  
27 ~~the ability to sustain a stable or increasing student enrollment for a period of time~~  
28 ~~at least equal to the anticipated usable life of the project or demonstrates~~  
29 ~~potential utilization of the project by a future reorganized school district; and~~

30 b. ~~Demonstrates the capacity to pay for the project under rules adopted by the~~  
31 ~~superintendent of public instruction pursuant to chapter 28-32.~~

- 1           3.   a.   If the superintendent of public instruction denies the project, the school board-  
2                    may appeal the superintendent's decision to the state board of public school-  
3                    education. In considering the appeal, the state board shall review:  
4                    (1)   The need for the project;  
5                    (2)   The educational utility of the project;  
6                    (3)   The school district's ability to sustain a stable or increasing student  
7                    enrollment for a period of time at least equal to the anticipated usable life of  
8                    the project;  
9                    (4)   The potential use of the project by a future reorganized school district;  
10                   (5)   The capacity of the district to pay for the project; and  
11                   (6)   Any other objective factors relative to the appeal.

12           b.   The decision of the state board is final.

13           4.   This section does not apply to any construction, purchase, repair, improvement,  
14                   renovation, or modernization required as part of a plan of correction approved by the  
15                   state fire marshal under section 15.1-06-09 unless the cost of the improvements  
16                   exceeds seventy five thousand dollars.

17           5.   For purposes of this chapter, "facility" includes a public school parking lot, public  
18                   school athletic complex, or any other improvement to real property owned by the  
19                   school district.

20           **SECTION 2. EFFECTIVE DATE.** This Act becomes effective on July 1, 2011.

21           **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.