

**2011 HOUSE EDUCATION**

**HB 1066**

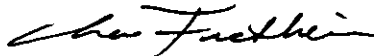
# 2011 HOUSE STANDING COMMITTEE MINUTES

House Education Committee  
Pioneer Room, State Capitol

HB 1066  
01/10/11  
12691

☐ Conference Committee

Committee Clerk Signature



## MINUTES:

**Chairman RaeAnn Kelsch:** We will open the hearing on HB 1066.

**Rep. David Rust:** *Sponsor.* I'm here to talk to you about HB 1066 that raises the dollar threshold for school boards when they want to do some renovations, remodeling, or construction. The current amount before you need DPI approval is 40,000 dollars. This bill would raise that amount to 100,000 dollars. I will briefly go over the bill. Page 1 line 7 eliminates the effective through June 30, 2011, and on page 2 line 18 it eliminates the effective after June 30, 2011. If this bill passes it would become effective on July 01, 2011. If the dollar threshold is raised to 100,000 dollars, then section 1 page 2, lines 5-8 is no longer needed because that applies to dollars spent between the amounts of 40,000 and 75,000 dollars. The next item is section 1 beginning on line 18 of page 2 and ending on page 3 with line 19. This section basically eliminates the provision in the law that approval for any projects by the superintendent of public instruction is based on the school district's ability to sustain a stable or increasing student enrollment for a period time at least equal to the anticipated usable life of the project. Very few school districts in the state meet that provision due to declining enrollments. As a result in the past some areas have been improved that probably shouldn't have been. Section 2 page 3 lines 26-27, this is basically a clean-up of conflicting sections of North Dakota Century Code. 15.01-36-02 states that school districts are entitled to receive a school construction loan up to 8,000,000 dollars and yet 15.01-36-04 states that the principle amount may not exceed the lesser of thirty percent for the school district's evaluation or 5,000,000 dollars. A section 3 page 4, lines 8-12 eliminates the 2,000 dollar limit without DPI approval. That limit has escaped scrutiny for many years and most people are not aware of the limit in the law. This bill provides for more local control because it raises the dollar limit before you need DPI approval. 100,000 dollars is currently the figure that requires you to get an architect and currently the same amount for bidding a project. I think school boards are in the best position to make decisions regarding the expenditures of school district dollars.

**Vice Chair Lisa Meier:** Why the emergency clause?

**Rep. David Rust:** I'm not particularly sure. The bill was drafted by Anita Thomas and she thought it was necessary to have it in there.

**Rep. Mark Sanford:** *Sponsor.* Is it because of the change of dates that you mentioned?

**Rep. David Rust:** I think so. I think it's because we are moving those effective dates.

**Rep. Mike Schatz:** The bidding process you talked about currently you have to have a 100,000 dollar project before it has to be let out on bids is that correct?

**Rep. David Rust:** Yes.

**Rep. Phillip Mueller:** On page 4 lines 11 and 12 you talk about the Board of Higher Education. Are these numbers the same for them?

**Rep. David Rust:** If you look at page 4, to begin with this bill stated that for all projects where the tax money exceeds 2,000 dollars must be submitted to DPI or the State Board of Higher Education for approval. We said this must meet the requirements of chapter 15-10.

**Chairman RaeAnn Kelsch:** Questions? Any other bill sponsors interested in making any comments?

**Rep. Mark Sanford:** I was told if you're going to say dido, don't say dido. \

**Chairman RaeAnn Kelsch:** Anyone appearing in support?

**Robert Marthaller – Department of Public Instruction:** Testimony attached.

**Chairman RaeAnn Kelsch:** Questions? The reason the language was put in there regarding what the population of the school is going to be is it is basically our word in the legislature of sustainability. We as legislators didn't want construction projects done where you spend a lot bunch of taxpayer dollars to expand a school district that wasn't going to be in existence in one to two years. We probably lowered the threshold down a little too much and it's probably more practical to go with the 100,000 dollars but just for the committee's information there was a good purpose for us when we put that language in.

**Robert Marthaller – Department of Public Instruction:** Certainly the sustainability part is there. I certainly agree that we don't want to spend state dollars in school districts where we know that school district will be dissolved. This gives us the authority to deny a school a new building.

**Rep. Phillip Mueller:** I don't know how you justify doing that with the language. Could you tell me more about that?

**Robert Marthaller – Department of Public Instruction:** I don't disagree with you in terms of that language not being there. I wouldn't disagree with saying it is no longer necessary. I still think the language gives that authority. Maybe we could look at language that particularly deals with new construction.

**Chairman RaeAnn Kelsch:** It seemed to me that when that language was put in there, it was put in there for justification. Is it something that you will need? Maybe for up to 100,000 dollars there doesn't need to be justification.

**Robert Marthaller – Department of Public Instruction:** I am ok with it the way it is. The only additional justification perhaps might be when it's a brand new building project.

**Chairman RaeAnn Kelsch:** If we added in a section that said for construction of a new building?

**Robert Marthaller – Department of Public Instruction:** I don't think that would be problematic.

**Rep. Mike Schatz:** As far as small school districts and local control, a small school district has its own money. Can you prevent them from spending their own money?

**Robert Marthaller – Department of Public Instruction:** Yes. We don't want to do that. I believe local school districts and taxpayers should make that decision.

**Rep. Mike Schatz:** It says in here modernization. Let's say you have a handicapped access situation that's going to cost 150,000 dollars. Are those things excluded from these types of things?

**Robert Marthaller – Department of Public Instruction:** They would not be excluded from school districts having to ask for approval. They certainly would always be approved.

**Rep. Dennis Johnson:** Is legislation like this going to play any part in what you're trying to do in Minnewaken with relocating schools? The six million dollar project.

**Robert Marthaller – Department of Public Instruction:** No.

**Chairman RaeAnn Kelsch:** Further questions? Support?

**Bev Nielson – School Board Association:** We are in favor of 1066. I do have a reaction to why there would be an emergency clause. The reason would be so projects could begin in the spring and early summer and not have the threshold issue push them into the later summer. Rep. Schatz had asked about the local money and of course all money is local money because the state doesn't pay for construction. I don't think we would have a problem with the concept of stability before granting funds for construction. I think the threshold should be raised from 40,000 to 100,000 dollars.

**Chairman RaeAnn Kelsch:** We could probably incorporate some of the language if you were doing it for a different structure.

**Rep. Brenda Heller:** Once the school board decides on a project and it's over 100,000 dollars how long does it take to get the paperwork?

**Robert Marthaller – Department of Public Instruction:** About roughly a week.

**Rep. David Rust:** How many projects have been refused?

**Robert Marthaller – Department of Public Instruction:** During my time I don't think any have been. With the supplemental grant provision, part of that was for additions. School districts could have more that twenty-five percent of the existing structure in terms of square footage and there were one or two of those where we had to deny the supplemental grant money. They project was approved they just had find the funding.

**Chairman RaeAnn Kelsch:** It may be worth it for you to look into that and find it for the committee because I believe there were those issues in the past.

**Robert Marthaller – Department of Public Instruction:** I'll see what I can find on that.

**Chairman RaeAnn Kelsch:** Further questions? Support?

**Dr. Douglas Johnson – Director NDCEL:** We are in support of HB 1066. I think raising the threshold to 100,000 dollars is a good thing along with the stabilization fund and placing parameters on the size.

**Chairman RaeAnn Kelsch:** Questions? Support? Opposition? We will close the hearing on HB 1066.

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Education Committee  
Pioneer Room, State Capitol

HB 1066  
01/19/11  
12772

☐ Conference Committee

Committee Clerk Signature



## MINUTES:

**Chairman RaeAnn Kelsch:** We will open on HB 1066.

**Rep. David Rust:** When this bill was brought to you, there appeared to be some problems with language that was still needed for this bill. The buzz word I believe is "sustainability." The old language said something to the effect of the school district's ability to sustain stable or increasing student enrollment for a period of time at least equal to the anticipated length of the project. Part of the reason that was removed was because for many school districts, they don't have a stable or an increasing enrollment. The following amendment was proposed and inserts a new section that deals with the size of the project. I move for adoption of the amendment.

**Rep. Mark Sanford:** Second.

**Chairman RaeAnn Kelsch:** Committee discussion? Does everyone understand the amendment?

**Rep. Mike Schatz:** The one issue I have with this whole bill is that if you are borrowing money for new construction and then the school is closed, the district could still owe money on the project they are no longer using for the school. The distinction is whether the district has the money and can spend it on the project now as compared to if they are borrowing money. I don't think this addresses that.

**Rep. David Rust:** As an individual I don't have a problem with the school boards making the decisions on how they spend money. I think within the legislative body that has been a concern. There have been cases where buildings were built only to have them vacated and tax payers still paying for them. I think people want assurance that taxpayers aren't going to be paying for something that isn't going to be used.

**Chairman RaeAnn Kelsch:** I think for me it provides a little more reassurance. I agree with Rep. David Rust that we can trust our school boards to make the right decisions, but the bottom line is that DPI actually makes the approval of disapproval of the project. They have been, in the past, fairly conservative and have denied projects.

**Rep. John Wall:** I'm wondering what constitutes the stable population. In our state very few schools have increasing populations so what is stable?

**Rep. David Rust:** I think it would be. Let us take for example Grand Forks. There was a time when a school had decreasing population. All of us know that school district is going to be around for a long time due to location. I think the same thing is true for a school that has several hundred children. If you have a K-8 with only 40 kids, that might raise some eyebrows.

**Chairman RaeAnn Kelsch:** I think that is correct. There are some school districts we know are going to be there. That is not to say they won't have declining enrollment. Because of their location however, they are going to have to stay a school.

**Rep. David Rust:** Especially in western ND we have cases like that.

**Rep. Phillip Mueller:** The amendment to this is going to be difficult for me. If we have small schools that are going to consolidate and sometimes the incentive to get that done is the school's construction. I don't like the idea and for some of those reasons and others I will have to oppose the amendment.

**Rep. Joe Heilman:** I have a question on the language of 50%. Is that standard?

**Rep. David Rust:** I don't believe it was a standard. It was a number we came up with so we could have a guideline.

**Chairman RaeAnn Kelsch:** During the last legislative session we said 25% for the stimulus dollars because we were concerned about some of the approval processes. But if we are going to be looking at some of the western schools, it is probably better applied there. We will do a roll call vote. Amendment passes.

*Roll call vote on amendment: 12 yeas, 1 nay, 2 absent.*

**Chairman RaeAnn Kelsch:** What are the wishes of the committee?

**Rep. Brenda Heller:** Motion to do pass as amended.

**Rep. Mark Sanford:** Second.

**Chairman RaeAnn Kelsch:** We will close on HB 1066.

**13 YEAS 1 NAY 1 ABSENT CARRIER: Rep. David Rust**

Y/R  
1/19/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1066

Page 1, line 17, overstrike "and"

Page 1, line 18, after "b." insert "In the case of new construction or a renovation affecting more than fifty percent of an existing structure's square footage, demonstrates that circumstances within the district are likely to result in a stable or increasing student population; and

c."

Renumber accordingly



Date: 1-18-11  
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1066

House EDUCATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt  
Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By REP. RUST Seconded By REP. SANFORD

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	X		Rep. Hanson		
Vice Chairman Meier	X		Rep. Hunsakor	X	
Rep. Heilman	X		Rep. Mock	X	
Rep. Heller	X		Rep. Mueller		X
Rep. Johnson	X				
Rep. Karls	X				
Rep. Rohr					
Rep. Rust	X				
Rep. Sanford	X				
Rep. Schatz	X				
Rep. Wall	X				

Total (Yes) 12 No 1

Absent 2 - REPS. ROHR, HANSON

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

ON THE AMENDMENT

Date: 1-18-11  
Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1066

House EDUCATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt  
Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By REP. HELLER Seconded By REP. SANFORD

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	X		Rep. Hanson		
Vice Chairman Meier	X		Rep. Hunsakor	X	
Rep. Heilman	X		Rep. Mock	X	
Rep. Heller	X		Rep. Mueller	X	
Rep. Johnson	X				
Rep. Karls	X				
Rep. Rohr	X				
Rep. Rust	X				
Rep. Sanford	X				
Rep. Schatz		X			
Rep. Wall	X				

Total (Yes) 13 No 1

Absent 1 - REP. HANSON

Floor Assignment REP. RUST

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1066:** Education Committee (Rep. R. Kelsch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). HB 1066 was placed on the Sixth order on the calendar.

Page 1, line 17, overstrike "and"

Page 1, line 18, after "b." insert "In the case of new construction or a renovation affecting more than fifty percent of an existing structure's square footage, demonstrates that circumstances within the district are likely to result in a stable or increasing student population; and

c."

Renumber accordingly

**2011 SENATE EDUCATION**

**HB 1066**

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Education Committee  
Missouri River Room, State Capitol

HB 1066  
March 15, 2011  
15424

☐ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Thresholds and criteria for school district construction projects.

## Minutes:

See "attached testimony."

**Chairman Freborg** opened the hearing on HB 1066; no fiscal note attached.

**Representative Rust, District 2** introduced the bill; it would raise the threshold for public school construction projects from \$40,000 to \$100,000. (#1 Testimony)

**Bob Marthaller, Assistant Superintendent, DPI** testified in favor of the bill (#2 Testimony). After June 30, 2011 the threshold drops from \$40,000 back to \$25,000. This bill will reduce paper burden; \$100,000 is an appropriate level. Lines 18-20 on page 1 still provides criterion for new construction projects where increasing or stable enrollment has to be considered before those projects are approved. Section 2 gets rid of conflicting language and removes the lesser of 30% of the school districts taxable valuation regarding the construction loan program that DPI administers. School districts are eligible for up to \$800,000 or 80%--whatever the lesser of the project down to 30% of the project or \$2.5 million.

**Senator Flakoll:** In anticipation of questions that might come to the committee, does this reduce or diminish building codes, etc.; still have that oversight and protection of the inspection, etc. **Bob Marthaller:** No, it does not do anything to override building code or local requirements.

**Senator Flakoll:** Do you know how many projects fall between the current threshold and \$100,000 proposed? **Bob Marthaller:** Can examine the records and provide the records; don't have it with right now but can get it to you. (#3 Attachment).

**Senator Schaible:** Section of lines 18-20 on the first page that was added; there is an appeal process that they go through. Would you explain how that appeal process works so if you have a small school that obviously the enrollment is declining—if they want to improve or build a site or something—how does that appeal process work? If they want to build a smaller or more efficient school, is that possible through the appeal process? **Bob Marthaller:** There is an appeal process; should the department not approve a project, the appeal process goes to the state board of public education. School districts would come in

and make their best case for their project and the final authority lies with the state board of public school education. **Senator Schaible:** Has this happened, how many? **Bob Marthaller:** He has been in the chair for about three years; they have not disproved any in that time, so no appeals. Suspect there probably have been but not aware of any in his 30 years in school districts.

**Bev Nielson, North Dakota School Boards Association:** Doesn't have anything to add, the previous speakers explained the bill well. They are in favor of the bill.

**Senator Flakoll:** The emergency clause is still in play here, correct? The House passed it by enough that . . . **Bev Nielson:** Yes

**Warren Larson, North Dakota Council of Educational Leaders** supports the bill as presented. Quick comments: \$40,000 doesn't pay for much anymore, so this will allow schools, boards, superintendents to do their work without the complications of all the detailed paperwork for those smaller projects.

No further testimony in favor; no opposition. Hearing closed.

**Senator Flakoll:** move a Do Pass to Engrossed HB 1066; second by **Senator Schaible**. **Senator Flakoll:** Seems reasonable; moved it up during conference committee last session and would note that higher ed threshold is at \$225,000 (if he remembers correctly). This seems like an important change with this bill.

Motion carried; 7-0-0; **Senator Schaible** will carry the bill.

Date: 3/15/11  
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1066

Senate Education Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Sen. Flakoll Seconded By Sen. Schaible

Senators	Yes	No	Senators	Yes	No
Chairman Layton Freborg	X		Senator Joan Heckaman	X	
Vice Chair Donald Schaible	X		Senator Richard Marcellais	X	
Senator Tim Flakoll	X				
Senator Gary A. Lee	X				
Senator Larry Luick	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen. Schaible

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1066, as engrossed: Education Committee (Sen. Freborg, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1066 was placed on the Fourteenth order on the calendar.**



2011 TESTIMONY

HB 1066

**TESTIMONY ON HB 1066**  
**HOUSE EDUCATION COMMITTEE**  
**January 10, 2011**  
**Robert V. Marthaller, Assistant Superintendent**  
**701-328-2267**  
**Department of Public Instruction**

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Madam Chairman and Members of the Committee:

My name is Bob Marthaller and I am an Assistant Superintendent for the Department of Public Instruction. I am here to speak in favor of HB 1066 and to provide information regarding thresholds and criteria for school construction projects.

The Section One amendment allows the existing effective language to become permanent and raises the threshold required for school district construction project approval from \$40,000 to \$100,000. The language currently in effect was put in place by the 61<sup>st</sup> Legislative Assembly in order to more effectively administer the Supplemental One-Time Grants provision of HB 1400. The advantage in leaving the language as it currently exists allows for flexibility to approve construction projects for districts that may not be increasing in student enrollment.

Increasing the construction approval threshold makes sense as construction project costs have increased incrementally over the years and even small projects may easily approach the \$100,000 threshold. Increasing the threshold puts the threshold in alignment with the bidding requirements found in 48-01.2-02 "Public Improvement

Bids and Contracts” (Addendum 1). Reducing the paperwork burden for local school districts provides an additional advantage to increasing the threshold.

The Section Two amendment relates to the School Construction Loan program and corrects 15.1-36-04 “Evidence of Indebtedness” which I believe became effective in 2001 and is in conflict with more recent statute found in 15.1-36-02 “School Construction Projects.” The conflicting language to be deleted in Section 15.1-36-04 sets limits of indebtedness for the school construction loan program at the lesser of thirty percent of the school district’s taxable valuation or \$5,000,000. The more recent law, 15.1-36-02, subsections four through six, (Addendum 2) sets loan limitations first based on the district’s imputed taxable valuation per student and then applies the lesser of a dollar value from \$8,000,000 to \$2,500,000 and from 80% to 30% of the actual project cost.

The final amendment is in Section Three and corrects obsolete language in 18-12-04 (Addendum 3) and aligns this section with 15.1-36-01. The existing language calls for projects of more than \$2,000 to be approved by the Department, an obvious inconsistency.

Madam Chairman and Members of the Committee, this concludes my testimony and I will attempt to answer any questions you may have.

## Addendum 1

### CHAPTER 48-01.2

#### PUBLIC IMPROVEMENT BIDS AND CONTRACTS

48-01.2-02. Plans and specifications for a public improvement contract. Except as otherwise provided in this chapter, if a contract for the construction of a public improvement is estimated to cost in excess of **one hundred thousand dollars**, the governing body shall procure plans, drawings, and specifications for the improvement from an architect or engineer. For a public building in use by or to be used by the North Dakota agricultural experiment station in connection with farm or agricultural research operations, the plans, drawings, and specifications, with the approval of the state board of higher education, may be prepared by an engineer in the regular employment of the agricultural experiment station. For a public building in use by or to be used by the department of transportation for the storage and housing of road materials or road machinery, equipment, and tools, the plans, drawings, and specifications may be prepared by an engineer employed by the department of transportation.

Addendum 2

CHAPTER 15.1-36

SCHOOL CONSTRUCTION

15.1-36-02. School construction projects - Loans.

4. If an eligible school district's imputed taxable valuation per student is less than eighty percent of the state average imputed valuation per student, the district is entitled to receive:

- a. A school construction loan equal to the lesser of eight million dollars or eighty percent of the actual project cost;
- b. An interest rate discount equal to at least fifty but not more than two hundred basis points below the prevailing tax-free bond rates; and
- c. A term of repayment that may extend up to twenty years.

5. If an eligible school district's imputed taxable valuation per student is equal to at least eighty percent but less than ninety percent of the state average imputed taxable valuation per student, the district is entitled to receive:

- a. A school construction loan equal to the lesser of seven million dollars or seventy percent of the actual project cost;
- b. An interest rate buydown equal to at least fifty but not more than two hundred basis points below the prevailing tax-free bond rates; and
- c. A term of repayment that may extend up to twenty years.

6. If an eligible school district's imputed taxable valuation per student is equal to at least ninety percent of the state average imputed taxable valuation per student, the district is entitled to receive:

- a. A school construction loan equal to the lesser of two million five hundred thousand dollars or thirty percent of the actual project cost;
- b. An interest rate discount equal to at least fifty but not more than two hundred basis points below the prevailing tax-free bond rates; and
- c. A term of repayment that may extend up to twenty years.

### Addendum 3

#### CHAPTER 18-12

#### FIRE PREVENTION CODE FOR SCHOOL BUILDINGS

18-12-04. Employment of registered architects and engineers. All plans and specifications for construction, except agricultural sheds and barns, the monetary worth of which is one hundred thousand dollars or more, must be prepared by and the construction administration and construction observation services supervised by architects or engineers registered in this state. The architect or engineer is legally responsible for designing the building in accordance with the provisions of this chapter of adequate strength so as to resist fire, and constructing the building in a workmanlike manner, according to the plans and specifications as approved. **All projects for which the tax money exceeds two thousand dollars** must be submitted to the department of public instruction or the state board of higher education for approval.

**Introduction of HB 1066**  
**Senate Education Committee**  
**03-15-2011**

Chairman Freborg, Vice-Chair Schaible, members of the Senate Education Committee:

HB 1066 amends sections of the NDCC relating to the thresholds and criteria for school district construction projects, provides an effective date, and declares an emergency measure.

**Background Information:**

NDCC 15.1-36-01 was changed by the 2007 Legislative Assembly to accommodate the use of stimulus dollars for building projects. Section 1 basically had one part dealing with this biennium and another part dealing with the time period after this biennium. The provisions of those two parts are similar except for the dollar limitations and a sustainability clause.

For your convenience, I will go through the sections affected by HB 1066 and then give the rationale for the bill.

**Section 1:**

**Page 1, Line 7** Eliminates "Effective through June 30, 2011" and **Page 2, Line 23** eliminates "Effective after June 30, 2011" as this bill, if passed into law, would become effective on July 1, 2011 according to **Section 4**. **Section 5** contains an "emergency measure" as well.

**Section 1: Page 1, Line 12**

contains the major reason for the bill. It raises the dollar threshold requiring DPI approval for renovations, construction, repair, etc. from \$40,000 to \$100,000.

**Section 1: Page 1, Lines 18 - 20**

Inserts a sustainability clause clarifying that the Superintendent of Public Instruction may not approve a project unless, "In the case of new construction or a renovation affecting more than fifty percent of an existing structure's square footage, [the school district] demonstrates that circumstances within the district are likely to result in a stable or increasing student population;

#1 HB1066

**Section 1: Page 2, Lines 10 - 13** would no longer be needed if the dollar threshold is raised to \$100,000 as this section applies to dollars spent between \$40,000 and \$75,000.

**Section 1: Beginning with Line 23 of Page 2 and ending with Page 3, Line 25**

this section basically eliminates the provision in law "Effective after June 30, 2011." As a side note, that portion of the law would have returned the threshold requiring DPI approval to \$25,000, not \$40,000. It also included a sustainability clause that is worded so strongly that very few school districts in the state meet the provisions of the law; so, many projects that have been approved by DPI probably shouldn't have been.

**Section 2: Page 3, beginning with Line 26**

Basically is a "clean up" of conflicting sections of NDCC 15.1-36.

In 15.1-36-02 school districts are "entitled to receive a school construction loan equal to" up to \$8 million for some school districts.

In 15.1-36-04 it states that the "principal amount of the loan and the evidences of indebtedness to repay the loan may not exceed the lesser of thirty percent of the school district's taxable valuation or \$5 million.

The new language simply states the "loan amount for which the district is eligible under this chapter."

**Section 3: Page 4, Lines 13 and 14**

eliminates the \$2,000 limit without DPI approval in NDCC 18-12-04. That limit has slipped by scrutiny for many years. Most are not aware that limit is even in the law; it's sort of been under the radar.

**The rationale for this bill:**

is that it provides for more "local control" by raising the dollar limit requiring DPI approval for renovation,

#1 HB1066



construction, repair, etc. from \$40,000 to \$100,000. (Note: \$100,000 is the dollar figure which requires an architect; it also is the dollar amount at which a school district must bid a project. It would be simpler to keep these three figures the same? In addition, this is needed as most projects exceed \$40,000. You can't remodel the kitchen in your home for \$40,000 let alone try to fix a portion of the roof on a school building.)

School boards are in the best position to make decisions regarding the expenditure of school district dollars. Right now a school district needs to get DPI approval if they spend over \$40,000. If the bill passed, they wouldn't need DPI approval until they spend over \$100,000.

In addition, this bill contains some "clean up" language to remove conflicting language and dollar amounts.

That concludes my testimony, I'd be happy to answer any question any of you may have.

#1 HB 1066

**TESTIMONY ON HB 1066  
SENATE EDUCATION COMMITTEE**

**March 15, 2011**

**Robert V. Marthaller, Assistant Superintendent**

**701-328-2267**

**Department of Public Instruction**

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Mr. Chairman and Members of the Committee:

My name is Bob Marthaller and I am an Assistant Superintendent for the Department of Public Instruction. I am here to speak in favor of engrossed HB 1066 and to provide information regarding thresholds and criteria for school construction projects.

Section One of HB 1066 allows the existing effective language to become permanent and raises the threshold required for school district construction project approval from \$40,000 to \$100,000. The language currently in effect (with a June 30, 2011 sunset) was put in place by the 61<sup>st</sup> Legislative Assembly in order to more effectively administer the Supplemental One-Time Grants provision of HB 1400.

The engrossed version of the bill (11.0197.02000) also includes an amendment (lines 18, 19, 20) to the original version of the bill that provides, for project approval, a requirement that for new construction and renovations affecting more than 50% of an existing structure's square footage that circumstances within a district demonstrate the likelihood that enrollment is increasing or is at least stable. This allows for sufficient

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flexibility to approve construction projects yet also establishes stable or increasing enrollment as a specific criterion for approval.

Increasing the construction approval threshold makes sense as construction project costs have increased incrementally over the years and even small projects may easily approach the \$100,000 threshold. Increasing the threshold puts the threshold in alignment with the bidding requirements found in 48-01.2 "Public Improvement Bids and Contracts."

Reducing the paperwork burden for local school districts provides an additional advantage to increasing the threshold.

The Section Two amendment relates to the School Construction Loan program and corrects 15.1-36-04 "Evidence of Indebtedness" which I believe became effective in 2001 and is in conflict with more recent statute found in 15.1-36-02 "School Construction Projects." The conflicting language to be deleted in Section 15.1-36-04 sets limits of indebtedness for the school construction loan program at the lesser of thirty percent of the school district's taxable valuation or \$5,000,000. The more recent law, 15.1-36-02, subsections four through six, (Addendum 1) sets loan limitations first based on the district's imputed taxable valuation per student and then applies the lesser of a dollar value from \$8,000,000 to \$2,500,000 and from 80% to 30% of the actual project cost.

The final amendment is in Section Three and corrects obsolete language in 18-12-04 (Addendum 2) and aligns this section with 15.1-36-01. The existing language

calls for projects of more than \$2,000 to be approved by the Department, an obvious inconsistency.

Mr. Chairman and Members of the Committee, this concludes my testimony and I will attempt to answer any questions you may have.

Addendum 1

CHAPTER 15.1-36  
SCHOOL CONSTRUCTION

15.1-36-02. School construction projects - Loans.

4. If an eligible school district's imputed taxable valuation per student is less than eighty percent of the state average imputed valuation per student, the district is entitled to receive:

- a. A school construction loan equal to the lesser of eight million dollars or eighty percent of the actual project cost;
- b. An interest rate discount equal to at least fifty but not more than two hundred basis points below the prevailing tax-free bond rates; and
- c. A term of repayment that may extend up to twenty years.

5. If an eligible school district's imputed taxable valuation per student is equal to at least eighty percent but less than ninety percent of the state average imputed taxable valuation per student, the district is entitled to receive:

- a. A school construction loan equal to the lesser of seven million dollars or seventy percent of the actual project cost;
- b. An interest rate buydown equal to at least fifty but not more than two hundred basis points below the prevailing tax-free bond rates; and
- c. A term of repayment that may extend up to twenty years.

6. If an eligible school district's imputed taxable valuation per student is equal to at least ninety percent of the state average imputed taxable valuation per student, the district is entitled to receive:

- a. A school construction loan equal to the lesser of two million five hundred thousand dollars or thirty percent of the actual project cost;
- b. An interest rate discount equal to at least fifty but not more than two hundred basis points below the prevailing tax-free bond rates; and
- c. A term of repayment that may extend up to twenty years.

Addendum 2

CHAPTER 18-12

FIRE PREVENTION CODE FOR SCHOOL BUILDINGS

18-12-04. Employment of registered architects and engineers. All plans and specifications for construction, except agricultural sheds and barns, the monetary worth of which is one hundred thousand dollars or more, must be prepared by and the construction administration and construction observation services supervised by architects or engineers registered in this state. The architect or engineer is legally responsible for designing the building in accordance with the provisions of this chapter of adequate strength so as to resist fire, and constructing the building in a workmanlike manner, according to the plans and specifications as approved. **All projects for which the tax money exceeds two thousand dollars** must be submitted to the department of public instruction or the state board of higher education for approval.

# SCHOOL CONSTRUCTION REQUESTS APPROVED

Date	District	Project	Amount
6/11/2010	Hebron	Installing and repairing the roof	\$71,700
6/11/2010	New Town	Remove asbestos from high school band room	\$63,000
6/2/2010	Devils Lake	Replace student lockers, classroom doors, renovate girls lockers at Central Middle School	\$382,730
6/2/2010	Devils Lake	Build an addition to Sweetwater Elementary School	\$4,200,000
5/27/2010	Midway	Update high school Science Lab	\$55,700
5/25/2010	Larimore	Roof repair	\$106,730
4/28/2010	Fargo	Upgrade mechanical & elec systems, window replacement, lighting replacements, remodeling lease space, upgrade air handling unit, replace HVAC system	\$3,306,110
4/28/2010	New Town	Refinish the roof on the elementary school building	\$58,940
4/28/2010	New Town	Purchase a replacement 2 bedroom housing unit for teachers	\$85,000
4/22/2010	Park River	Replace asphalt on parking lot	\$450,000
4/22/2010	Eliendale	Remodel and update high school & elementary buildings	\$5,000,000
4/22/2010	Lisbon	Capital improvements to the middle & elem schools, gym & lrng ctr	\$888,190
4/21/2010	Langdon	Replace windows and add insulation and siding	\$90,000
4/20/2010	Surrey	Replace/repair the parking lot asphalt	\$114,963
4/20/2010	New Town	Build a three bedroom housing unit for housing teachers	\$143,000
4/20/2010	New Town	Build a two bedroom housing unit for housing teachers	\$133,000
4/16/2010	Langdon	Installing metal span panels in the gymnasium walls	\$325,000
4/6/2010	New Town	Refinish the school roof on the elementary school building	\$87,500
3/19/2010	Beach	Construction a restroom, concession and storage unit on football/track field	\$62,259
3/5/2010	Valva	Constructing a new school building	\$9,115,000
2/24/2010	Stanley	Purchase a teacher housing unit	\$150,000
2/18/2010	Hazen	Facility renovation, replacing gym floor and bleachers	\$2,453,705
2/16/2010	New Town	Install a geothermal heating and cooling system	\$1,450,000
2/16/2010	New Town	Phase 1 of the asbestos abatement project	\$90,000
2/16/2010	New Town	Purchase a teacher housing unit	\$65,000
2/4/2010	Kenmare	Classroom renovation at the high school	\$1,549,950
1/26/2010	Kindred	Either new facility and remodeling, or remodeling Kindred school bldg	\$12 - \$13,000,000
1/22/2010	Rolette	Repair roof, replace carpet, office modernization	\$48,639
1/19/2010	Lewis & Clark	Replace gym floor, bleachers and sound field classrooms	\$122,224
1/19/2010	Lewis & Clark	Modernize the school buildings	\$183,660
1/13/2010	Kenmare	Replace boiler system	\$120,000
1/12/2010	Rugby	Modernize the school buildings	\$7,595,000
1/4/2010	Washburn	Replace carpet	\$78,000
12/21/2009	Kenmare	Replace windows at the elementary school	\$129,000
12/16/2009	LaMoure	Replace the roof on the elementary portion of school building	\$84,000
12/16/2009	Oberon	install a new heating system	\$130,000
12/2/2009	South Prairie	Addition of a kitchen and music room	\$728,724
12/2/2009	New 8	Purchase bus shop and administrative office building	\$750,400
12/2/2009	Northwood	Build an access road	\$72,000
12/2/2009	Underwood	Replace current boilers in elementary and high school buildings	\$130,000
12/2/2009	Underwood	Repair roofs on elementary and high school buildings	\$129,000
11/17/2009	South Heart	Replacing the roof in the gymnasium	\$134,008
10/29/2009	Underwood	Build a bus barn	\$125,000
10/29/2009	Carrington	Replace high school bleachers and gym floor	\$185,000
10/21/2009	Dickinson	Classroom and multipurpose addition to the Jefferson Elem School	\$1,666,377
10/21/2009	Dickinson	Miscellaneous updates and repairs throughout the district	\$733,356
10/21/2009	Richland	Locker room and weight room addition	\$285,500
10/14/2009	Minnewaukan	Reroof school	\$176,000
9/21/2009	Central Cass	Build bleachers at the baseball diamond	\$145,000
9/17/2009	Wing	Repair the school roof	\$80,000
9/10/2009	New Town	Build an addition onto the Elementary school	\$3,863,000
9/10/2009	New Town	Build a two bedroom housing unit	\$95,000
9/8/2009	Minot	Building addition and renovations	\$9,010,000
8/26/2009	New Town	Build a two bedroom housing unit	\$95,000
8/18/2009	May-Port CG	Replacing the fuel oil burner	\$93,350
8/18/2009	Langdon	Construction of restroom facilities at athletic complex	\$63,000
8/18/2009	Center-Stanton	Maintenance of present facility	\$185,049
8/18/2009	New Town	Remove and install new playground equipment	\$49,480
8/17/2009	New Town	Addition onto kitchen and dining in middle high school bldg.	\$1,750,000
8/13/2009	New Town	Replacing the marquee sign	\$40,000
8/13/2009	Flasher	Adding a fitness center & concessions center	\$174,576
8/13/2009	Kensal	Replacing gym floor	\$55,000
8/7/2009	Hazen	Replacing floor in parts of high school and elementary school	\$103,029
8/7/2009	Belfield	Replacing a portion of the high school roof	\$90,000
8/7/2009	Williston	Replacing roof on 3 school buildings	\$650,000
8/4/2009	New Town	Building a football field announcers stand	\$49,000
8/4/2009	New Town	Build a two bedroom unit	\$65,000

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Date	District	Project	Amount
7/31/2009	Dunseith	Replacing the coal furnace	\$274,000
7/30/2009	South Prairie	Updates to driveway and parking lot	\$139,500
7/30/2009	Griggs County	Roof repair, installing telephone and intercom system, upgrading elementary playground with cement slab	\$68,000
7/29/2009	Beach	Energy saving improvements	\$1,400,168
7/29/2009	Kidder County	6 add classrooms & restroom in Steele	\$937,500
7/23/2009	Gackle-Streeter	Replacing fuel oil boilers	\$99,829
7/20/2009	New Rockford-Sheyenne	Replacing vertical drainage pipes, and Phase 1 of the renovation plans	\$891,912
7/17/2009	Turtle Lake-Mercer	Replacing furnace	\$85,000
7/17/2009	Cavalier	Audio enhancement systems	\$20,430
7/17/2009	New Town	Installing playground equipment	\$145,000
7/17/2009	Mandan	Construction improvements, technology needs, library improvements	\$1,024,010
7/15/2009	Ellendale	Replacing elem windows, replacing shingles on high school gym	\$93,700
7/15/2019	New Town	Building a two bedrooms housing unit for teachers	\$49,500
7/15/2009	Grafton	Reroofing, prepping existing roof, paving parking lot, installing AC controls	\$907,711
7/6/2009	Beulah	Maintenance of present facility	\$162,600
7/2/2009	Oakes	Installing air conditioning in elementary bldg	\$100,000
7/2/2009	Hatton	Replacing asphalt roof and windows	\$40,080
7/2/2009	New Town	Repaving and sealing parking lot	\$80,000
7/2/2009	Belcourt	Adding onto Voc Center, renovating bus garage	\$250,000
6/26/2009	Oakes	Resurfacing the track	\$75,000
6/26/2009	Oakes	Entrance addition	\$75,000
6/24/2009	Warwick	Adding a new addition for early education	\$335,000
6/24/2009	Bismarck	Renovating the Myhre Elementary school	\$725,000
6/24/2009	Bowbells	Replacing windows	\$72,000
6/23/2009	Bottineau	Energy saving improvements	\$1,757,980
6/22/2009	Ray	Roofing project	\$71,204
6/22/2009	Milnor	Updating electrical - AC in classrooms	\$73,000
6/22/2009	New Town	Build a two bedroom unit	\$49,500
6/22/2009	Wyndmere	Remodeling science classroom	\$61,549
6/22/2009	Park River	Replacing windows in 1955 bldg	\$70,000
6/22/2009	Park River	Replacing bus barn	\$140,000
6/16/2009	United	Repairing roof and adding a wrestling addition	\$85,000
6/11/2009	New Town	Build a 2 bedroom housing unit for housing teachers	\$85,000
6/11/2009	New Town	Replacing lockers in high school	\$68,000
6/11/2009	New Rockford-Sheyenne	Replacing the steam condensate lines	\$55,000
6/10/2009	Wishek	Lighting & heating measures, replacing boiler, envelope air leakage	\$1,213,809
6/10/2009	Carrington	Building a new bus barn	\$70,000
6/10/2009	Thompson	Repaving prkg lot, redoing roofs & lockers, energy savings, bus purchase	\$354,061
6/9/2009	Richardton-Taylor	Energy saving improvements	\$645,620
6/9/2009	Kildeer	Replacing/upgrading teacher desks and storage cabinetry	\$94,350
6/9/2009	TGU	Replacing roof, installing new doors, brick and other repairs in Granville	\$1,471,592
6/9/2009	Velva	HVAC upgrades on Secondary classrooms	\$133,999
6/9/2009	Langdon	Refinishing locker room and bathroom flooring	\$45,000
6/9/2009	May-Port CG	Expanding parking lot & roof improvements/repairs	\$119,225
6/2/2009	Carrington	Re-roofing high school classrooms, commons area and kitchen	\$175,000
6/2/2009	Rugby	Repairing commons area roof & high school roof	\$45,713
6/2/2009	Washburn	Repairing a concrete drainage	\$83,020
6/2/2009	Washburn	Continuation of roof repair project	\$131,630
6/2/2009	Sawyer	Roof repair	\$52,269
6/2/2009	Finley-Sharon	Roof repair	\$15,000
6/1/2009	Harvey	Updating light fixtures, heating and cooling system, replacing air unit	\$635,818
6/1/2009	Hillsboro	Installing new boiler system	\$200,000
6/1/2009	Milnor	Updating facility	\$52,785
6/1/2009	South Heart	Energy saving improvements	\$575,032
6/1/2009	North Sargent	Replacing roofs	\$175,645
6/1/2009	Richland	Re-doing parking lot, renovating HS building	\$74,000
6/1/2009	Glenburn	Updating light fixtures	\$56,562
5/21/2009	New Town	Build a 2 bedroom housing unit for housing teachers	\$98,000
5/21/2009	Parshall	Emergency repair of elementary kitchen	\$90,000
5/20/2009	MLS	Replacing roof on MLS Mohall school building	\$97,596
5/20/2009	Fairmount	Redoing roof	\$104,288
5/15/2009	MLS	Replacing the heating and ventilation system	\$2,375,000
5/11/2009	Enderlin	Replacing gym, stage & old addition roofs	\$86,495
4/22/2009	West Fargo	Expansions, renovations to high school, Sheyenne Ctr, HVAC & Horace	\$65,000,000
4/1/2009	Valley City	Additional space & roof repair to Jefferson Elementary	\$1,150,000
3/23/2009	Sargent Central	Replacing sewer lines & other remodeling	\$3,995,000
3/13/2009	Bowman	Remodeling and an addition to the middle school facility	\$1,633,735



Date	District	Project	Amount
7/28/2009	Killdeer	Replacing bleachers in the gymnasium	\$96,588
10/14/2008	Manvel	Remodel bathrooms and repair heating system	\$33,000
9/15/2008	Enderlin Area	Replacing the gym floor	\$141,500
9/8/2008	Minnewaukan	Building a portable classroom and refinishing the gym floor	\$109,400
8/28/2008	Williston	Addition of Stony Creek Special Education building	\$43,864
8/26/2008	Larimore	Installing a new boiler system	\$640,000
7/25/2008	Bismarck	Building a new Career & Technical Education Center	\$14,385,000
7/25/2008	Bismarck	Building a new K-6 Elementary School	\$14,138,385
7/16/2008	New Town	Construction of 2 teacher duplexes	\$349,500
7/1/2008	Jamestown	Converting a parking lot into green space - Middle School	\$1,185,660
6/26/2008	Parshall	Construction of 2 teacher duplexes	\$350,000
6/23/2008	Hazen	Reroofing the Elementary school	\$96,500
6/16/2008	Park River	Replacing roof over commons area, replacing lights & some carpet, renovating girls restroom	\$57,516
6/11/2008	Jamestown	Upgrading electronics and components for elevator in Middle School	\$48,450
5/28/2008	Gackle-Streeter	Replacing gymnasium roof	\$49,000
4/25/2008	Mandan	Constructing a new 6th grade wing	\$2,500,000
4/14/2008	West Fargo	Addition of 5 classrooms onto the West Fargo Kindergarten Center	\$6,735,000
1/2/2008	Enderlin	Replacing synthetic floor with wooden floor	\$47,000
1/2/2008	MLS	Replacing gymnasium bleachers at MLS Mohall site	\$78,000
1/2/2008	Northwood	Constructing a new school building	\$14,500,000
12/13/2007	Fargo	Building a new high school	\$44,300,000
12/13/2007	Oakes	Building a new gym/stage	\$1,700,000
12/13/2007	Jamestown	Converting a parking lot into green space	\$628,500
11/5/2007	New Town	Addition to school bus barn	\$65,000
10/11/2007	Northern Cass	Addition of a gymnasium	\$2,085,000
10/3/2007	New Town	Remodeling high school science room	\$206,000
8/22/2007	Thompson	Addition to existing building	\$1,029,000
8/22/2007	Ashley	Re-roof school building	\$465,800
7/26/2007	Yellowstone	Replacing the roof	\$32,565
6/28/2007	South Prairie	Remodeling and new construction	\$3,458,000
6/20/2007	Center-Stanton	Replacing the roof on wrestling and boiler room	\$111,783
5/29/2007	Hebron	Installing a boiler alarm and other repairs	\$100,000
4/20/2007	Bismarck	Asbestos abatement, electrical imps. window replacements	\$5,365,000
3/2007	MLS	Replacing roof on HS classroom wing	\$85,000
7/2007	Bowman	Athletic complex restroom/concession bldg, sidewalk & concrete work	\$152,491
3/27/2007	Gackle-Streeter	Edtion of electric boiler	\$50 - \$60,000
3/8/2007	Larimore	Renovate elementary playground	\$101,205
3/5/2007	Devils Lake	Correct electrical issues	\$240,000
1/25/2007	Bottineau	Improving parking lot	\$218,000
12/21/2006	Killdeer	Repaving the parking lots	\$83,590
12/15/2006	Kenmare	Building a bus barn and storage	\$90,000
10/24/2006	Solen	Re-roof school building	\$220,000
9/14/2006	Stanley	Replacing roof & heating plant in HS, replacing lights and air quality	\$2,430,865
8/21/2006	South Heart	Installing a chair lift	\$32,602
8/15/2006	Fairview, MT	Window replacement	\$16,667
8/15/2006	Minot	Replace the Washington Elementary School building	\$8,000,000
8/14/2006	Carrington	1/3 of remodeling costs for 12/28/05 loan request	\$952,915
7/3/2006	Lidgerwood	Removing asbestos and replacement of boilers in boiler room	\$205,000
5/22/2006	Bismarck	Addition to Richholt Building	\$967,844
5/22/2006	Napoleon	Remodeling gym floor and replacing bleachers	\$146,287
5/10/2006	Washburn	Building a bus barn	\$91,000
4/28/2006	Northern Cass	Fitness Center Addition onto existing building	\$148,000
4/25/2006	McVile	Addition to the existing elementary school	\$1,012,254
4/7/2006	Bowman	New bleachers at Athletic Field	\$280,000
4/5/2006	New England	Replacing boiler	\$250,000
3/28/2006	Bowman	Bleachers, Gym Floor, furnace and Windows	\$299,769
3/28/2006	Casselton	Construction of permanent bleachers	\$258,000
2/7/2006	Belcourt	New Turtle Mountain High School	\$19,206,262

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