

Introduced by

**NORTH DAKOTA CENTURY CODE CHAPTER 15.1-36 -
SCHOOL CONSTRUCTION**

Chapter 15.1-36 of the North Dakota Century Code is created and enacted as follows:

15.1-36-01. School construction projects - Approval.

1. Notwithstanding the powers and duties of school boards provided by law, the superintendent of public instruction shall approve the construction, purchase, repair, improvement, modernization, or renovation of any school building or facility before commencement of the project if the cost of the project, as estimated by the school board, is in excess of twenty-five thousand dollars.
2. The superintendent of public instruction may not approve a project unless the school district proposing the project:
 - a. Demonstrates the need for the project, the educational utility of the project, and the ability to sustain a stable or increasing student enrollment for a period of time at least equal to the anticipated usable life of the project or demonstrates potential utilization of the project by a future reorganized school district; and
 - b. Demonstrates the capacity to pay for the project under rules adopted by the superintendent of public instruction pursuant to chapter 28-32 after receiving input from the state board of public school education.
3. If the superintendent of public instruction denies the project, the school board may appeal the superintendent's decision to the state board of public school education. The decision of the state board is final.
4. This section does not apply to any construction, purchase, repair, improvement, renovation, or modernization required as part of a plan of correction approved by the state fire marshal under section 15.1-06-09 unless the cost of the improvements exceeds seventy-five thousand dollars.

- 1 5. For purposes of this section, "facility" includes a parking lot, athletic complex, or
2 any other improvement to real property owned by the school district.

NOTE: Present Section 15-35-01.1.

3 **15.1-36-02. School construction projects - Loans.**

- 4 1. The board of university and school lands may authorize the use of moneys in the
5 coal development trust fund established pursuant to section 21 of article X of the
6 Constitution of North Dakota and subsection 1 of section 57-62-02 to provide
7 school construction loans, as described in this chapter. The outstanding principal
8 balance of loans under this chapter may not exceed forty million dollars. The
9 board may adopt policies and rules governing school construction loans.
- 10 2. In order to be eligible for a loan under this section, the board of a school district
11 shall:
- 12 a. Obtain the approval of the superintendent of public instruction for its
13 construction project under section 15.1-36-01; and
- 14 b. Submit to the superintendent of public instruction an application containing all
15 information deemed necessary by the superintendent, including potential
16 alternative sources or methods of financing the construction project.
- 17 3. The board of a school district may submit its loan application to the superintendent
18 of public instruction before or after receiving authorization of a bond issue in
19 accordance with chapter 21-03. If the vote to authorize a bond issue precedes the
20 application for a loan, the application must be acted upon by the superintendent
21 expeditiously but no later than one hundred eighty days from the date it is received
22 by the superintendent.
- 23 4. The superintendent of public instruction shall consider each loan application in the
24 order it received approval under section 15.1-36-01.
- 25 5. If the superintendent of public instruction approves the loan, the superintendent
26 may determine the loan amount. In determining the amount of a loan, the
27 superintendent shall take into account the cost of the construction project and the
28 fiscal capacity of the school district.
- 29 6. If the superintendent of public instruction approves the loan, the superintendent
30 may determine the interest rate to be paid. The interest rate on a loan under this

section may not exceed a rate of two percent below the net interest rate on comparable tax-exempt obligations as determined on the date the application is approved by the superintendent pursuant to section 15.1-36-01. The interest rate may not exceed six percent.

7. A school district may not receive a loan under this section unless the superintendent of public instruction determines that the district has an existing indebtedness equal to at least fifteen percent of its taxable valuation. In determining a school district's existing indebtedness, the superintendent shall include outstanding indebtedness authorized by an election under section 21-03-07 but not issued and indebtedness authorized to be paid with dedicated tax levies under subsection 7 of section 21-03-07 but not issued.
8. The superintendent of public instruction may adopt rules governing school construction loans.
9. For purposes of this section, a construction project means the purchase, lease, erection, or improvement of any structure or facility by a school board, provided the acquisition or activity is within a school board's authority and further provided that the acquisition or activity is estimated to cost in excess of fifty thousand dollars.

NOTE: Present Section 15-60-10. The rewrite of present Section 15-60-10 places the content of current subsection 3 in Section 15.1-36-03.

15.1-36-03. School construction project loans - Management by Bank of North

Dakota. If the superintendent of public instruction approves a loan application under section 15.1-36-02, the superintendent shall forward the application to the Bank of North Dakota. The Bank shall manage and service each school construction loan issued under this chapter and shall execute all necessary loan instruments. The Bank may charge loan recipients a fee for managing and servicing the loan. The Bank shall receive payments of principal and interest from the school districts and shall remit the payments of principal and interest to the board of university and school lands. The board shall use or deposit the payments in accordance with section 57-62-02 and section 21 of article X of the Constitution of North Dakota.

NOTE: Present Section 15-60-10(3). Subsections 1 and 2 of present Section 15-60-10 were placed in Section 15.1-36-02.

15.1-36-04. Evidences of indebtedness. The board of a school district may issue and sell evidences of indebtedness under chapter 21-03 to finance the construction or improvement

- 1 of a project approved under this chapter. The principal amount of the loan and the evidences of
2 indebtedness to repay the loan may not exceed the lesser of thirty percent of the school
3 district's taxable valuation or five million dollars. Evidences of indebtedness issued under this
4 chapter constitute a general obligation of the school district.

NOTE: Present Section 15-60-11.

5 **15.1-36-05. Construction of school building - Violations - Penalty.**

- 6 1. A person is guilty of an infraction if the person:
7 a. Draws plans or specifications for the construction of a public school in
8 violation of this chapter;
9 b. Superintends the construction of a public school in violation of this chapter;
10 c. Constructs a public school in violation of this chapter; or
11 d. Violates any other provision of this chapter.
12 2. A member of a school board is guilty of an infraction if the member concurred in a
13 violation of this chapter by the board.

NOTE: Present Sections 15-35-16 and 15-35-17. The rewrite of this section combines the content of present Sections 15-35-16 and 15-35-17. (A maximum fine of \$500 may be imposed for an infraction.)