

**CHAPTER 15.1-36**  
**SCHOOL CONSTRUCTION**

**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 public 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 one hundred fifty 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 and the educational utility of the project or demonstrates potential utilization of the project by a future reorganized school district;
  - b. (1) Demonstrates that the student population has been stable or has increased during the preceding five school years and is expected to be stable or to increase during the ensuing five school years; or  
(2) Demonstrates by clear and convincing evidence that, despite a declining student population, there are no feasible alternatives to the proposed project; and
  - c. Demonstrates the capacity to pay for the project under rules adopted by the superintendent of public instruction pursuant to chapter 28-32.
3. a. 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. In considering the appeal, the state board shall review:
  - (1) The need for the project;
  - (2) The educational utility of the project;
  - (3) The potential use of the project by a future reorganized school district;
  - (4) The capacity of the district to pay for the project; and
  - (5) Any other objective factors relative to the appeal.b. The decision of the state board is final.
4. This section is applicable to any construction, purchase, repair, improvement, renovation, or modernization.
5. For purposes of this chapter, "facility" includes a public school parking lot, public school athletic complex, or any other improvement to real property owned by the school district.

**15.1-36-02. Coal development trust fund - Board of university and school lands - School construction projects - Unanticipated construction projects and emergency repairs - Loans.**

1. Up to sixty million dollars from the coal development trust fund is available to the board of university and school lands for loans under this section.
2. To be eligible for a loan under this section, the school district must demonstrate a need based on an unanticipated construction project, an unanticipated replacement project, or an emergency repair, and the board of a school district shall:
  - a. Obtain the approval of the superintendent of public instruction for the construction project under section 15.1-36-01; and
  - b. Submit to the superintendent of public instruction an application containing all information deemed necessary by the superintendent, including potential alternative sources or methods of financing the construction project.
3. The superintendent of public instruction shall consider each loan application in the order it received approval under section 15.1-36-01.
4. If the superintendent of public instruction approves the loan, the board of university and school lands shall issue a loan from the coal development trust fund. For a loan made under this section:

- a. The minimum loan amount is two hundred fifty thousand dollars and the maximum loan amount for which a school district may qualify is two million dollars;
  - b. The term of the loan is twenty years, unless the board of the school district requests a shorter term in the written loan application; and
  - c. The interest rate of the loan may not exceed two percent per year.
- 5.
- a. If a school district seeking a loan under this section received an allocation of the oil and gas gross production tax during the previous fiscal year in accordance with chapter 57-51, the board of the district shall provide to the board of university and school lands, and to the state treasurer, its evidence of indebtedness indicating that the loan originated under this section.
  - b. If the evidence of indebtedness is payable solely from the school district's allocation of the oil and gas gross production tax in accordance with section 57-51-15, the loan does not constitute a general obligation of the school district and may not be considered a debt of the district.
  - c. If a loan made to a school district is payable solely from the district's allocation of the oil and gas gross production tax in accordance with section 57-51-15, the terms of the loan must require that the state treasurer withhold the dollar amount or percentage specified in the loan agreement, from each of the district's oil and gas gross production tax allocations, in order to repay the principal and interest of the evidence of indebtedness. The state treasurer shall deposit the amount withheld into the fund from which the loan originated.
  - d. Any evidence of indebtedness executed by the board of a school district under this subsection is a negotiable instrument and not subject to taxation by the state or any political subdivision of the state.
6. 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.

**15.1-36-02.1. School construction projects - Reorganized districts - Interest subsidy.**

Repealed by S.L. 2017, ch. 368, § 9.

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

Repealed by S.L. 2017, ch. 368, § 9.

**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 of a project approved under this chapter. The principal amount of the loan and the evidences of indebtedness to repay the loan may not exceed the loan amount for which the district is eligible under this chapter. Evidences of indebtedness issued under this chapter constitute a general obligation of the school district.

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

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

**15.1-36-06. School construction loans - Bank of North Dakota. (Repealed effective July 1, 2023)**

1. In addition to any construction loans made available under section 15.1-36-02, the Bank of North Dakota may provide up to two hundred fifty million dollars to eligible school districts for school construction loans until June 30, 2017. After June 30, 2017, no new loans may be provided under this section.
2. To be eligible for a loan under this section, the board of a school district shall:
  - a. Propose a new construction or remodeling project with a cost of at least one million dollars and an expected utilization of at least thirty years;
  - b. Obtain the approval of the superintendent of public instruction for the project under section 15.1-36-01;
  - c.
    - (1) Request from the tax commissioner a statement of the estimated tax increase, in mills and dollars, which would be applicable to a residential parcel of average true and full value within the county in which the school district is headquartered, if a loan under this section and any associated school construction bond issue were to be authorized in accordance with chapter 21-03;
    - (2) Request from the tax commissioner a statement of the estimated tax increase, in mills and dollars, which would be applicable to an acre of cropland and to an acre of noncropland, of average true and full value within the county in which the school district is headquartered, if a loan under this section and any associated school construction bond issue were to be authorized in accordance with chapter 21-03;
    - (3) Publish in the official newspaper of the district the information from the statements required by this subdivision with the notice of the election to authorize the school construction bond issuance in accordance with section 21-03-12; and
    - (4) Post on the school district's website the information from the statements preceding the date of the election to authorize the school construction bond issuance in accordance with chapter 21-03;
  - d. Receive authorization for a bond issue in accordance with chapter 21-03; and
  - e. Submit a completed application to the Bank of North Dakota.
3. With the advice and consent of the superintendent of public instruction, the Bank of North Dakota shall award the loans in accordance with a prioritization system that is based on a review of all applications filed during the twelve-month period preceding April first and gives consideration to:
  - a. Student occupancy and academic needs in the district;
  - b. The age of existing structures to be replaced or remodeled;
  - c. Building design proposals that are based on safety and vulnerability assessments;
  - d. Community support;
  - e. Cost; and
  - f. Any other criteria established in rule by the superintendent of public instruction, after consultation with an interim committee appointed by the legislative management.
4. The term of a loan under this section is twenty years, unless a shorter term is requested by the board of a school district in its application.
5. The interest rate on a loan under this section may not exceed two percent, until July 1, 2025. Thereafter, the interest rate on the remainder of a loan under this section:
  - a. May not exceed the Bank of North Dakota's base rate; or
  - b. May be a fixed rate.
6. If a school district's unobligated general fund balance on the preceding June thirtieth exceeds the limitation set forth under section 15.1-27-35.3, the loan amount to which that district is entitled under this section may not exceed eighty percent of the project's cost.

7. The maximum loan amount to which a school district is entitled under this section is twenty million dollars.

**15.1-36-07. School construction loans - Bank of North Dakota.**

Repealed by S.L. 2017, ch. 368, § 9.

**15.1-36-08. School construction assistance revolving loan fund - Bank of North Dakota - School construction projects - Continuing appropriation.**

1. The school construction assistance revolving loan fund is a special revolving loan fund administered by the Bank of North Dakota. The fund consists of all moneys appropriated or transferred to the fund by the legislative assembly, all interest or other earnings of the fund, and all repayments of loans made from the fund.
2. Moneys in the fund, interest upon the moneys in the fund, and payments to the fund of principal and interest are appropriated to the Bank of North Dakota on a continuing basis for the purpose of providing low-interest school construction loans and for paying administrative costs, in accordance with this section.
3. To be eligible for a loan under this section, the board of a school district shall:
  - a. Propose a new construction or remodeling project with a cost of at least one million dollars and an expected utilization of at least thirty years;
  - b. Obtain the approval of the superintendent of public instruction for the project under section 15.1-36-01;
  - c.
    - (1) Publish in the official newspaper of the district the information regarding the proposed estimated additional millage and the dollar increase per one thousand dollars of taxable valuation in accordance with section 21-03-13 along with the notice of the election to authorize the school construction bond issuance in accordance with section 21-03-12; and
    - (2) Post the information on the school district's website preceding the date of the election to authorize the school construction bond issuance in accordance with chapter 21-03;
  - d. Receive authorization for a bond issue in accordance with chapter 21-03; and
  - e. Submit a completed application to the Bank of North Dakota.
4. The superintendent of public instruction shall review loan applications based on a prioritization system that includes a review of all applications filed during the twelve-month period preceding April first and gives consideration to:
  - a. Student occupancy and academic needs in the district;
  - b. The age of existing structures to be replaced or remodeled;
  - c. Building design proposals that are based on safety and vulnerability assessments;
  - d. Community support;
  - e. Cost; and
  - f. Any other criteria established by the superintendent of public instruction, after consultation with an interim committee appointed by the legislative management.
5. If the superintendent of public instruction approves the loan, the Bank of North Dakota shall issue a loan from the school construction assistance revolving loan fund. For a loan made under this section:
  - a. The maximum loan amount for which a school district may qualify is ten million dollars. However, if a school district's unobligated general fund balance on the preceding June thirtieth exceeds the limitation under section 15.1-27-35.3, the loan amount under this section may not exceed eighty percent of the project's cost up to a maximum loan amount of eight million dollars;
  - b. The term of the loan is twenty years, unless the board of the school district requests a shorter term in the written loan application; and
  - c. The interest rate of the loan may not exceed two percent per year.
6. The Bank may adopt policies and establish guidelines to administer this loan program in accordance with this section. The Bank of North Dakota may use a portion of the interest paid on the outstanding loans as a servicing fee to pay for administration costs

which may not exceed one-half of one percent of the amount of the interest payment. The Bank of North Dakota shall deposit principal and interest payments made by school districts for loans under this section in the school construction assistance revolving loan fund. The Bank of North Dakota shall arrange for the conduct of an annual audit of the school construction assistance revolving loan fund, the cost of which must be paid from the fund and which must be conducted by an independent accounting firm.