

2023 HOUSE EDUCATION

HB 1185

2023 HOUSE STANDING COMMITTEE MINUTES

Education Committee
Coteau AB Room, State Capitol

HB 1185
1/17/2023

Relating to grants from the coal development trust fund for school construction projects affected by unanticipated construction inflation

Chairman Heinert opened the hearing at 9:00 AM.

Members present: Chairman Heinert, Vice Chairman Schreiber-Beck, Representatives Conmy, Dyk, Hager, Heilman, Hoverson, Jonas, Longmuir, Marschall, Murphy, Novak, and Timmons.

Members absent: Representatives Hauck

Discussion Topics:

- Construction bid inflation
- Grant request
- Qualification timeframe
- Property taxes
- Constitution compliance

Representative Scott Louser- Bill Sponsor, introduced bill

Mark Vollmer, Superintendent, Minot Public School District #1 and #160- #13843

Dr. Aimee Copas, Executive Director, ND CEL- #13764, #13763

Michael McNeff, Superintendent of Schools, Rugby Public School District- #13437

Mike Bitz, Superintendent, Mandan Public School District- #13666

Alexis Baxley, Executive Director, ND School Boards Association- spoke in support

Jeff Simon, Executive Director, Western Dakota Energy Association- spoke in support

Joseph Heringer, ND Commissioner of University and School Lands- #13551

Additional written testimony:

Travis Zabloutney, District 5 Chairman Minot, ND- #13754

Chairman Heinert closed the hearing at 10:10 AM.

Kathleen Davis, Committee Clerk
By Bev Monroe

2023 HOUSE STANDING COMMITTEE MINUTES

Education Committee
Coteau AB Room, State Capitol

HB 1185
1/17/2023

Relating to grants from the coal development trust fund for school construction projects affected by unanticipated construction inflation

Chairman Heinert opened the hearing at 3:25 PM.

Members present: Chairman Heinert, Vice Chairman Schreiber-Beck, Representatives Conmy, Dyk, Hager, Heilman, Hoverson, Jonas, Longmuir, Marschall, Murphy, Novak, and Timmons.

Members absent: Representatives Hauck

Discussion Topics:

- Committee Work

Rep. Schreiber-Beck explained proposed amendment: to remove any aspect of a grant; increase the amount of the loan up to \$5 million; decrease the interest rate to not exceed 1.5%; on line 11 the timeline for a loan made on this section will extend to 2026.

Rep. Schreiber-Beck moved the amendment. Seconded by **Rep. Longmuir**.

Further discussion on bill and proposed amendment. Chairman Heinert requests that legal staff create official amendment and that final vote on bill will take place in a future hearing.

Voice Vote- motion carries.

Rep. Hager moves to add an emergency clause to the bill on page 3 after line 6. Seconded by **Rep. Longmuir**.

Voice Vote- motion carries.

Bill will be held until amendments are in written format.

Chairman Heinert closed the hearing at 3:38 PM.

Kathleen Davis, Committee Clerk
By Bev Monroe

2023 HOUSE STANDING COMMITTEE MINUTES

Education Committee
Coteau AB Room, State Capitol

HB 1185
1/24/2023

Relating to grants from the coal development trust fund for school construction projects affected by unanticipated construction inflation

Chairman Heinert opened the hearing at 4:26 PM.

Members present: Chairman Heinert, Vice Chairman Schreiber-Beck, Representatives Conmy, Dyk, Hager, Heilman, Hoverson, Jonas, Longmuir, Marschall, Murphy, Novak, and Timmons, Hauck.

Discussion Topics:

- Possible amendment

Chairman Heinert: This bill is waiting for amendments. Tabled.
Closed the hearing at 4:27 PM.

Kathleen Davis, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Education Committee
Coteau AB Room, State Capitol

HB 1185
2/6/2023

Relating to grants from the coal development trust fund for school construction projects affected by unanticipated construction inflation

9:10 AM Chairman Heinert opened the meeting.

Members present: Chairman Heinert, Vice Chairman Schreiber-Beck, Representatives Conmy, Dyk, Hager, Hauck, Heilman, Hoverson, Jonas, Longmuir, Marschall, Murphy, Novak, and Timmons.

Discussion Topics:

- Amendment
- Date change
- Loan allowance
- DPI review
- Dollar maximum
- Cost of labor and construction

Chairman Heinert spoke in favor of HB 1185.

9:20 AM Chairman Heinert closed the meeting.

Kathleen Davis, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Education Committee
Coteau AB Room, State Capitol

HB 1185
2/6/2023

Relating to grants from the coal development trust fund for school construction projects affected by unanticipated construction inflation

11:02 AM Chairman Heinert opened the meeting.

Members present: Chairman Heinert, Vice Chairman Schreiber-Beck, Representatives Conmy, Dyk, Hager, Hauck, Heilman, Hoverson, Jonas, Longmuir, Marschall, Murphy, Novak, and Timmons.

Discussion Topics:

- Amendment

Rep Schreiber Beck moved to amend HB 1185 with 23.0567.01001 #21142, #21144

Seconded by Rep Longmuir. Voice vote. Motion carried.

11:08 AM Chairman Heinert closed the meeting.

Kathleen Davis, Committee Clerk

24 2-6-23

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1185

Page 1, line 2, replace "grants" with "loans"

Page 1, line 3, after "inflation" insert "; to provide an expiration date; and to declare an emergency"

Page 1, line 11, remove "or grants"

Page 1, line 12, remove "or grant"

Page 1, line 14, remove "unanticipated construction inflation."

Page 1, line 21, remove "or grant"

Page 2, line 1, remove "or grant"

Page 2, line 2, remove "or grant"

Page 2, line 11, replace "grant" with "loan"

Page 2, line 11, after "section" insert "which includes additional expenses due to unanticipated construction inflation"

Page 2, line 12, remove "voter-"

Page 2, line 13, replace "approved bond issue passed" with "construction project bid"

Page 2, line 13, replace "July" with "January 1,"

Page 2, line 13, replace "January 2023" with "June 30, 2024"

Page 2, line 13, remove the second "and"

Page 2, line 15, after "dollars" insert "; and

(3) The interest rate on the loan may not exceed one and one-half percent per year"

Page 3, after line 6, insert:

"SECTION 2. EXPIRATION DATE. This Act is effective through June 30, 2024, and after that date is ineffective.

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

Re-number accordingly

2023 HOUSE STANDING COMMITTEE MINUTES

Education Committee
Coteau AB Room, State Capitol

HB 1185
2/6/2023

Relating to grants from the coal development trust fund for school construction projects affected by unanticipated construction inflation

3:27 PM Chairman Heinert opened the meeting.

Members present: Chairman Heinert, Vice Chairman Schreiber-Beck, Representatives Conmy, Dyk, Hager, Hauck, Heilman, Hoverson, Jonas, Longmuir, Marschall, Murphy, Novak, and Timmons.

Discussion Topics:

- Committee Work

Representative Murphy Moved a Do Pass as amended, with emergency clause added to it and refer to appropriations.

Representative Dyk seconded.

Roll Call Vote:

Representatives	Vote
Representative Pat D. Heinert	Y
Representative Cynthia Schreiber-Beck	Y
Representative Liz Conmy	Y
Representative Scott Dyk	Y
Representative LaurieBeth Hager	Y
Representative Dori Hauck	Y
Representative Matt Heilman	Y
Representative Jeff A. Hoverson	Y
Representative Jim Jonas	Y
Representative Donald W. Longmuir	Y
Representative Andrew Marschall	Y
Representative Eric James Murphy	Y
Representative Anna S. Novak	Y
Representative Kelby Timmons	Y

Motion carried 14-0-0.

Representative Timmons carrier.

3:31 PM Chairman Heinert closed the meeting.

Kathleen Davis, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1185: Education Committee (Rep. Heinert, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1185 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "grants" with "loans"

Page 1, line 3, after "inflation" insert "; to provide an expiration date; and to declare an emergency"

Page 1, line 11, remove "or grants"

Page 1, line 12, remove "or grant"

Page 1, line 14, remove "unanticipated construction inflation."

Page 1, line 21, remove "or grant"

Page 2, line 1, remove "or grant"

Page 2, line 2, remove "or grant"

Page 2, line 11, replace "grant" with "loan"

Page 2, line 11, after "section" insert "which includes additional expenses due to unanticipated construction inflation"

Page 2, line 12, remove "voter-"

Page 2, line 13, replace "approved bond issue passed" with "construction project bid"

Page 2, line 13, replace "July" with "January 1."

Page 2, line 13, replace "January 2023" with "June 30, 2024"

Page 2, line 13, remove the second "and"

Page 2, line 15, after "dollars" insert "; and"

(3) The interest rate on the loan may not exceed one and one-half percent per year"

Page 3, after line 6, insert:

SECTION 2. EXPIRATION DATE. This Act is effective through June 30, 2024, and after that date is ineffective.

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

Renumber accordingly

2023 SENATE EDUCATION

HB 1185

2023 SENATE STANDING COMMITTEE MINUTES

Education Committee
Room JW216, State Capitol

HB 1185
3/6/2023

Relating to loans from the coal development trust fund for school construction projects affected by unanticipated construction inflation; provide an expiration date; declare an emergency.

2:20 PM Chair Elkin opened the hearing. Present: Chair Elkin, Vice Chair Beard, Sen Axtman, Sen Conley, Sen Lemm, and Sen Wobbema.

Discussion Topics:

- Building costs
- Class A schools
- Property tax relief

Rep Scott Louser, Dist 5, bill sponsor, testified in support #22307.

Mark Vollmer, Minot and Air Base schools, provided information with no written testimony.

Mark Bitz, Supt Mandan Public, testified in support #22064.

Dr Aimee Copa, Dir Council Education Leaders, testified in support #22099.

Sen Schaible, testified opposed with no written testimony.

Joseph Heringer, Commissioner of Land Trusts, testified neutral #22178.

Rep Louser answered questions of Chair Elkin.

Mark Vollmer clarified some questions.

2:50 PM Chair Elkin closed the hearing.

Pam Dever, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Education Committee
Room JW216, State Capitol

HB 1185
3/7/2023

Relating to loans from the coal development trust fund for school construction projects affected by unanticipated construction
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10:52 AM Chair Elkin opened committee work. Present: Chair Elkin, Vice Chair Beard, Sen Axtman, Sen Conley, Sen Lemm, and Sen Wobbema.

Discussion Topics:

- Bill review
- Committee action

Sen Conley moved a DO NOT PASS.

Sen Axtman seconded the motion.

Senators	Vote
Senator Jay Elkin	Y
Senator Todd Beard	Y
Senator Michelle Axtman	Y
Senator Cole Conley	N
Senator Randy D. Lemm	Y
Senator Michael A. Wobbema	Y

VOTE: YES – 5 NO – 1 Absent – 0

Motion PASSED

Sen Beard will carry the bill.

11:55 AM Chair Elkin adjourned the meeting.

Pam Dever, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1185, as engrossed: Education Committee (Sen. Elkin, Chairman) recommends **DO NOT PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1185 was placed on the Fourteenth order on the calendar. This bill does not affect workforce development.

TESTIMONY

HB 1185

1 HB 1185

2 Testimony in Support

3

4 Chairman Heinert and members of the House Education Committee. For the record my name is
5 Dr. Michael McNeff – I serve as the superintendent of schools in Rugby, ND. I come to you today
6 to provide some feedback on HB 1185, a bill related to construction inflation for voter-approved
7 school construction projects.

8

9 First, I would like to provide some background as to why I support HB 1185. The community of
10 Rugby approved a \$7,870,000 referendum to improve Ely Elementary in Rugby, ND in December
11 2021. Ely Elementary was built in 1965 and is an aging facility that currently serves approximately
12 300 students and 50 faculty and support staff. The project includes updates to our safety and
13 security, classroom and learning environments, building systems, and support spaces. The project
14 was widely supported within our community and received a 79% approval vote on December 1,
15 2021. The project cost has ballooned over the past twelve months since our first construction
16 estimate back in September of 2021 due to inflation. Last September, the project was estimated to
17 cost approximately \$9 million. After our final bid opening on December 20, 2022, the project will
18 now cost \$11.3 million. This project means a big deal to our citizens in Rugby, and it addresses
19 many concerns that will improve the learning environment for students.

20

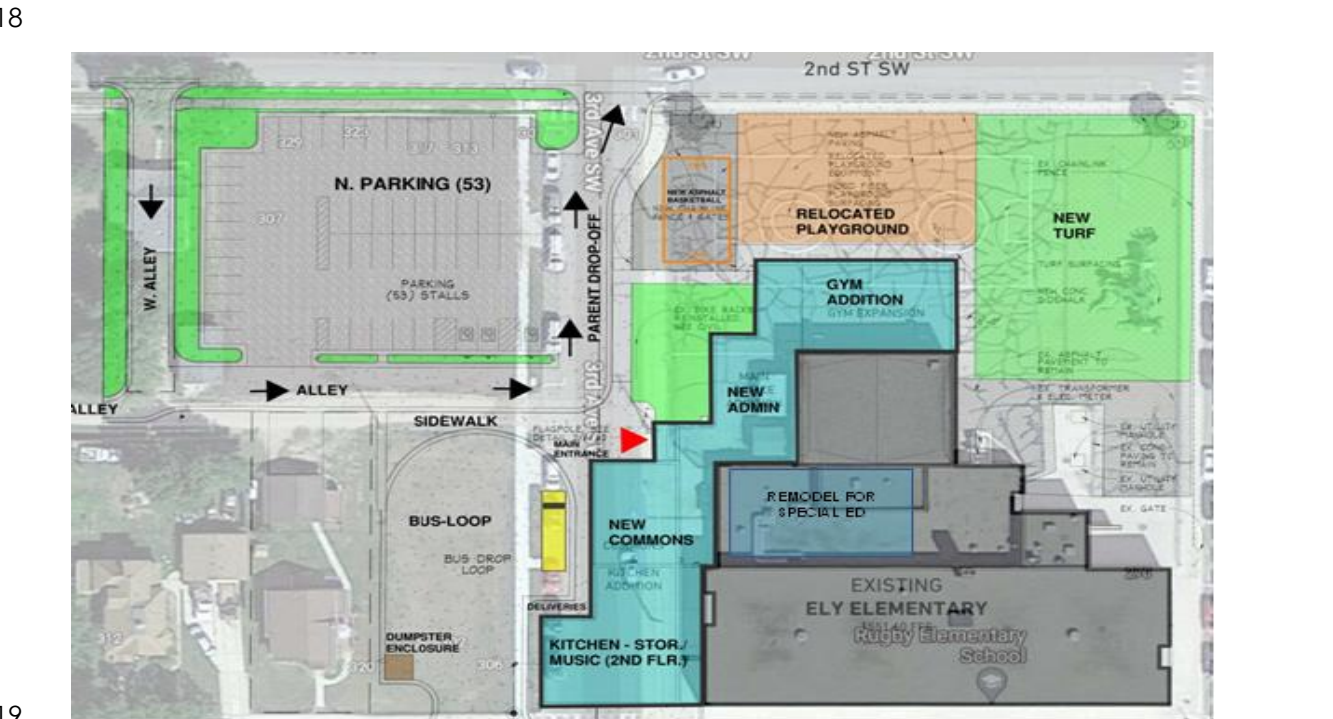
21 The school district has allocated \$9,274,000 in funding to the building project. This number
22 includes \$1,300,000 of ESSER funding (one-time federal funding), \$7,870,000 of referendum
23 funding (passed on 12/1/21), and we recently received a food service grant of \$104,000 to pay for
24 part of the kitchen equipment. This represents a funding gap of approximately \$2 million. The
25 Rugby Public School Board began researching solutions to overcome the funding gap. We
26 promised the Rugby community during the referendum campaign to keep the mill levy the same
27 (we were able to do this due to some retired sinking and interest debt) and the Board is committed
28 to that.

29

30 The Rugby Public School Foundation was established on September 20, 2022, by the Rugby
31 Citizens Committee to begin the process of fundraising \$1.4 million to keep the Ely Elementary

1 building project whole. The capital campaign has been somewhat successful over the past four
2 months, but it is well short of meeting the funding gap mentioned above. The School Board is now
3 seeking a \$1.5 million loan out of the general fund to keep the project whole. This loan is
4 problematic for the district and will likely take 20 years to pay off and will negatively impact our
5 general fund. Our district is at the cap of available levying authority and has an overall mill levy
6 of 112.50 mills. We have 60 for the required General Fund Levy, 10 in the Board Discretionary
7 Levy, 12 in the Miscellaneous Levy, 3 in the Special Reserve Levy, 5 for the Building Fund, 22
8 for the Sinking and Interest Levy, and .50 for Special Assessments Levy. Our ending fund balance
9 is at 12%.

10
11 The capital campaign and loan seem to be our only solutions to keep this project whole.
12 Unfortunately, for our community, we passed a referendum during one of the most challenging
13 times to update our facility to better support our learners. HB 1185 provides an opportunity for
14 school districts that had a voter-approved construction project occur during a time that has seen
15 record inflationary increases in construction. I've included the overall design below to help the
16 committee to understand the scope of work that will occur at Ely Elementary. I would be happy to
17 answer any questions from the committee.



19
20 Please issue a DO PASS on HB 1185.



**TESTIMONY OF JOSEPH A. HERINGER
COMMISSIONER
North Dakota Department of Trust Lands**

House Bill No. 1185

**House Education Committee
January 17, 2023**

Chairman Heinert and members of the House Education Committee, I am Joseph Heringer, North Dakota Commissioner of University and School Lands. I am here to testify in opposition to House Bill No. 1185 due to its unconstitutionality.

The Board of University and School Lands (Board), as established by the North Dakota Constitution, is charged with overseeing the management of state trust lands and mineral rights and investing the revenue generated therefrom to grow as a source of long-term income for the state. The Board is comprised of the Governor, Secretary of State, Attorney General, State Treasurer, and Superintendent of Public Instruction. The Department of Trust Lands (Department) is the administrative arm of the Board, serving under the direction and authority of the Board.

The Board is also responsible for managing various trust funds established by the North Dakota Constitution and/or statute. One such fund is the Coal Development Trust Fund (Fund) which is established by Section 21 of Article X of the North Dakota Constitution and implemented by N.D.C.C. ch. 57-62. The Fund receives 15 percent of North Dakota's coal severance tax. It is held in trust and administered by the Board for loans to coal development impacted counties, cities, and school districts as provided by N.D.C.C. § 57-62-03, and for school construction loans under N.D.C.C. ch. 15.1-36. Any balance not loaned out is invested according to the policies of the Board. The income earned by the Fund is transferred to the general fund each year. The

Fund balance as of June 30, 2022, was \$78,865,673, with loan balances of \$27,190,349 for school construction and \$9,007,400 for energy impact.

While HB 1185 may be well intentioned and for legitimate financial needs, under a plain reading of Section 21 of Article X of the North Dakota Constitution, it is unconstitutional. The full text of Section 21 is below with the relevant terms underlined and bolded:

Section 21. Not less than fifteen percent of the tax imposed for severing coal shall be placed into a permanent trust fund in the state treasury to be held in trust and administered by the board of university and school lands, which shall have full authority to invest said trust funds as provided by law, and may **loan** moneys from the fund to political subdivisions as provided by law. The interest earned on the moneys in said trust fund shall be used first to replace uncollectable **loans** made from the fund, and the balance shall be credited to the general fund of the state. Up to fifty percent of the taxes collected and deposited in the permanent trust fund during a biennium may be appropriated by the legislative assembly for lignite research, development, and marketing as provided by law. An additional twenty percent of the taxes collected and deposited in the permanent trust fund during a biennium may be appropriated by the legislative assembly for clean coal demonstration projects approved by the industrial commission.

N.D. Const. art. X, § 21 (emphasis added).

As you see, Section 21 only authorizes loan programs, not grants. The only other distributions allowed from the Fund are for the specific purposes of lignite research, development, and marketing and clean coal demonstration projects approved by the Industrial Commission.

I do not believe the Board/Department could implement the grant program intended by HB 1185 as doing so would be a distribution from the Fund that is not authorized by the North Dakota Constitution.

Thank you for your time and consideration, I look forward to answering any questions you may have.

1 HB1185 – Relating to School Construction Projects and Inflation

2 Mandan Public Schools – Mike Bitz, Superintendent

3 Good morning Chairman Heinert and members of the House
4 Education Committee. For the record, my name is Mike Bitz. I
5 am fortunate to serve as the superintendent for Mandan Public
6 Schools. I am here today in support of HB1185. I will be brief.

7 I don't often look to the government to solve problems, but HB
8 1185 is needed legislation

9 In April of 2021, 78% of Mandan School District voters approved
10 an \$84,000,000 bond issue to build a new elementary school and
11 a new high school. MPS was also planning to spend roughly
12 \$10M in federal ESSER dollars to cover the \$94M estimated cost.
13 When the project was bid in the summer of 2022 inflation had
14 driven the project costs up to \$114,000,000. This is over a 20%
15 increase over our pre-bid estimates.

16 MPS is working hard to close this \$20M gap created by inflation
17 without having to go back to our taxpayers. We received an
18 \$8.5M CTE grant. We believe we will be able to raise \$3M from

1 community partnerships, we hope to sell surrounding property for
2 another \$4M. We have some existing authority in our building
3 fund, but this legislation would help us ensure that we don't need
4 to raise taxes for our residents beyond the \$99 in taxes for each
5 \$100,000 in property that we had told our taxpayers in our
6 information sessions prior to the referendum.

7 I urge you to vote YES on HB1185 and I would be happy to
8 answer any questions you may have.

9

MEMO

To: House Education Committee
From: Travis Zabloutney District 5 Chairman Minot, ND
CC:
Date: 1/9/23
Re: HB1185

COMMENTS:

Please vote no on HB1185. I am not opposed to a new high school in Minot so long as the school system can afford both its operating budget and can take full responsibility for the construction costs of the new high school. I can attest from attending multiple Minot Public School Board budget hearing meetings, that the School Board and administration of Minot Public Schools were entirely aware of the operating financial position that the Minot Public School District was in prior to deciding to put the new school to a vote. They were projecting a \$4 million dollar deficit and already operating with a maxxed out mil levy without yet having to include additional operating expenses for a new high school. I understand these are two different issues (operating budget and building bond) however from the ability to raise additional revenue they overlap. Unanticipated cost overrun due to any reason is not a valid argument for a bail out. It is called poor management. Anyone with their eyes open could see inflation was coming long before this project was estimated and sent to the voters, There should have been adequate contingency included in the budget and bond request. In my opinion the Minot Public School board was in a hurry to rush this to the voters and failed miserably in their budgeting process and bond request. The Minot Public School Board knows that taxpayers in Minot are weary and will not support additional spending. They should now lie in the bed they created (take responsibility and figure it out) and not look to the rest of the state for a bail out.

23.0567.01000

Sixty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1185

Introduced by

Representatives Louser, D. Anderson, Fisher, Koppelman, Nelson, Toman

Senators Burckhard, Sorvaag

Requested Amendment pg 2 Line 13

1 A BILL for an Act to amend and reenact section 15.1-36-02 of the North Dakota Century Code,
2 relating to grants from the coal development trust fund for school construction projects affected
3 by unanticipated construction inflation.

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

5 **SECTION 1. AMENDMENT.** Section 15.1-36-02 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **15.1-36-02. Coal development trust fund - Board of university and school lands -**
8 **School construction projects - Unanticipated construction projects and emergency**
9 **repairs - Loans.**

- 10 1. Up to sixty million dollars from the coal development trust fund is available to the
11 board of university and school lands for loans or grants under this section.
- 12 2. To be eligible for a loan or grant under this section, the school district must
13 demonstrate a need based on an unanticipated construction project, an unanticipated
14 replacement project, unanticipated construction inflation, or an emergency repair, and
15 the board of a school district shall:
 - 16 a. Obtain the approval of the superintendent of public instruction for the construction
17 project under section 15.1-36-01; and
 - 18 b. Submit to the superintendent of public instruction an application containing all
19 information deemed necessary by the superintendent, including potential
20 alternative sources or methods of financing the construction project.
- 21 3. The superintendent of public instruction shall consider each loan or grant application in
22 the order ~~the~~ the application received approval under section 15.1-36-01.

- 1 4. If the superintendent of public instruction approves the loan or grant, the board of
2 university and school lands shall issue a loan or grant from the coal development trust
3 fund.
- 4 a. For a loan made under this section:
- 5 a. (1) The minimum loan amount is two hundred fifty thousand dollars and the
6 maximum loan amount for which a school district may qualify is two million
7 dollars;
- 8 b. (2) The term of the loan is twenty years, unless the board of the school district
9 requests a shorter term in the written loan application; and
- 10 c. (3) The interest rate of the loan may not exceed two percent per year.
- 11 b. For a grant made under this section:
- 12 (1) The unanticipated construction inflation must have occurred for a voter-
13 approved bond issue ~~passed~~ construction project bid after ~~July~~ January 2021
14 and before January 2023; and
- 15 (2) The maximum grant amount for which a school district may qualify is five
16 million dollars.
- 17 5. a. If a school district seeking a loan under this section received an allocation of the
18 oil and gas gross production tax during the previous fiscal year in accordance
19 with chapter 57-51, the board of the district shall provide to the board of
20 university and school lands, and to the state treasurer, its evidence of
21 indebtedness indicating ~~that~~ the loan originated under this section.
- 22 b. If the evidence of indebtedness is payable solely from the school district's
23 allocation of the oil and gas gross production tax in accordance with section
24 57-51-15, the loan does not constitute a general obligation of the school district
25 and may not be considered a debt of the district.
- 26 c. If a loan made to a school district is payable solely from the district's allocation of
27 the oil and gas gross production tax in accordance with section 57-51-15, the
28 terms of the loan must require ~~that~~ the state treasurer withhold the dollar amount
29 or percentage specified in the loan agreement, from each of the district's oil and
30 gas gross production tax allocations, in order to repay the principal and interest of
31 the evidence of indebtedness. The state treasurer shall deposit the amount
 withheld into the fund from which the loan originated.

- 1 d. Any evidence of indebtedness executed by the board of a school district under
2 this subsection is a negotiable instrument and not subject to taxation by the state
3 or any political subdivision of the state.
- 4 6. For purposes of this section, a "construction project" means the purchase, lease,
5 erection, or improvement of any structure or facility by a school board, provided the
6 acquisition or activity is within a school board's authority.



1 HB 1185

2 Testimony in support

3 Chairman Heinert and members of the House Education committee, my name is Dr.
4 Aimee Copas and I am the Executive Director for the North Dakota Council of
5 Educational Leaders representing school leaders across North Dakota.

6 I come to you today in support for HB 1185. This bill expands the availability of the coal
7 development trust fund for school construction projects to support our schools and
8 property taxpayers who have voter approved projects recently that have been subjected
9 to the immense inflationary impact resulting from a myriad of circumstances, most
10 recently federal decisions that have impacted our economy. Sadly, because of that, we
11 have communities and taxpayers in North Dakota that are paying the price. School
12 leaders in these communities have adjusted and made cuts to original plans and still 16-
13 25% inflationary hits have made an incredibly difficult reality in many of our
14 communities.

15 This bill would provide much need relief. Relief in the form of low interest loans and
16 grants is one of the easiest ways to provide property tax relief in our communities that
17 need it the most – those growing communities that are in a position where they must
18 build. The dollars put into efforts as this bill outlines as well as others you will hear
19 regarding loan interest rate buydown for school construction loans is an incredibly
20 responsible way to provide property tax relief. It is not an expenditure of general fund
21 or legacy fund dollars it is an INVESTMENT. All the dollars appropriated into this effort
22 will be repaid. We encourage support for this concept and your school leaders who are

*NDCEL is the strongest unifying voice representing and supporting administrators and educational leaders in pursuit of quality education
for all students in North Dakota.*

Executive Director: Aimee Copas-----Government Lead and Special Projects: Kevin Hoherz



- 1 strongly in support of conservative investments into communities to keep taxes lower
- 2 encourage you to consider these points as you make decisions on this bill.

NDCEL is the strongest unifying voice representing and supporting administrators and educational leaders in pursuit of quality education for all students in North Dakota.

Executive Director: Aimee Copas-----Government Lead and Special Projects: Kevin Hoherz

House Education Committee**Rep. Heinert, Chair****January 17, 2023****HB 1185**

Chairman Heinert and members of the House Education Committee, my name is Mark Vollmer. I proudly serve as Superintendent of Minot Public School District #1 and Minot Air Force Base #160. I stand in front of you today to offer our support for HB 1185, a bill to amend and reenact section 15.1-36-02 of the North Dakota Century Code, relating to grants from the coal development trust fund for construction purposes affected by unanticipated construction inflation.

On December 7, 2021, Minot Public School District #1 successfully passed a bond issue to convert a local call center into a comprehensive 9-12 high school, to retrofit Magic City to serve as a comprehensive 9-12 high school, and to transition Central Campus to serve as the district's 3rd in-town middle school. This vote also included the addition of a 50-meter pool and outdoor athletic complex. The issue passed with nearly 85% of voters offering support for the project.

This vote - a vote to support secondary education in Minot was the first successful middle school/high school expansion since 1969. A project that has been 52 years in the making.

From schematic design to the development of construction drawings, the district worked closely with our construction team to design a project that would meet the needs of our district, and specifically, a project that would fall well within our construction budget.

As bids came in, the district worked to adjust our sails, and looked for cost-savings in every aspect of our construction projects. In late October, the district opened bid packet 3. It was evident that the rampant inflation had taken its toll on our local project. The district and construction management entered into a 58-day value engineering process, seeking reductions in our scope of work, requesting bids for scopes of work that had no bidders, and negotiating with construction companies. The district was able to cut nearly 5.5 million dollars from the budget.

Such drastic cuts come at a long-term cost to the taxpayer. The original roof top air handlers on the existing structure will be reused rather than replaced – these units are near the end of service, and simply put, we are kicking that can down the road. Many bathroom surfaces will not be tiled, and we have removed amenities such as a commercial kitchen in the FACS department. Many science prep areas and storage areas have also been eliminated. Lighting systems have been modified, and the district has decided not to advance plans for a large data center in the building.

The voters of Minot, Mandan, West Fargo, and Rugby voted to approve an expansion of their individual districts. These districts are now being hampered by Washington based, tax and spend inflation that is crippling our local economy. This rampant inflation has spread like a fast-growing cancer, and has altered the original plans set forth by these communities.

The school districts you will hear from today have worked diligently to seek cost-savings while maintaining the integrity of these voter-approved projects. HB 1185 allows our school district to finalize these projects, to deliver on the promise made to our voters, and to support our students as our communities so desire.

It is grossly unfair that school districts, and taxpayers therein, are caught in an unprecedented, 20% inflation cycle that is crippling the construction economy throughout the United States.

HB 1185 allows the State of North Dakota to step up where our federal government has failed. HB 1185 allows these school districts the opportunity to complete these voter-approved projects. HB 1185, providing a grant from the coal development trust fund, rather than a loan, can balance the construction budgets of school districts that are caught in the cross-fire of staggering inflation.

Thank you for allowing me to share our story. I offer my support of HB 1185 and will stand for any questions you may have.

23.0567.01001

Sixty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1185

Introduced by

Representatives Louser, D. Anderson, Fisher, Koppelman, Nelson, Toman
Senators Burckhard, Sorvaag

1 A BILL for an Act to amend and reenact section 15.1-36-02 of the North Dakota Century Code,
2 relating to ~~grants~~loans from the coal development trust fund for school construction projects
3 affected by unanticipated construction inflation; to provide an expiration date; and to declare an
4 emergency.

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

6 **SECTION 1. AMENDMENT.** Section 15.1-36-02 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **15.1-36-02. Coal development trust fund - Board of university and school lands -**
9 **School construction projects - Unanticipated construction projects and emergency**
10 **repairs - Loans.**

- 11 1. Up to sixty million dollars from the coal development trust fund is available to the
12 board of university and school lands for loans ~~or grants~~ under this section.
- 13 2. To be eligible for a loan ~~or grant~~ under this section, the school district must
14 demonstrate a need based on an unanticipated construction project, an unanticipated
15 replacement project, ~~unanticipated construction inflation,~~ or an emergency repair, and
16 the board of a school district shall:
 - 17 a. Obtain the approval of the superintendent of public instruction for the construction
18 project under section 15.1-36-01; and
 - 19 b. Submit to the superintendent of public instruction an application containing all
20 information deemed necessary by the superintendent, including potential
21 alternative sources or methods of financing the construction project.
- 22 3. The superintendent of public instruction shall consider each loan ~~or grant~~ application in
23 the order ~~the application~~ received approval under section 15.1-36-01.

- 1 4. If the superintendent of public instruction approves the loan ~~or grant~~, the board of
2 university and school lands shall issue a loan ~~or grant~~ from the coal development trust
3 fund.
- 4 a. For a loan made under this section:
- 5 a. (1) The minimum loan amount is two hundred fifty thousand dollars and the
6 maximum loan amount for which a school district may qualify is two million
7 dollars;
- 8 b. (2) The term of the loan is twenty years, unless the board of the school district
9 requests a shorter term in the written loan application; and
- 10 c. (3) The interest rate of the loan may not exceed two percent per year.
- 11 b. For a grant loan made under this section which includes additional expenses due
12 to unanticipated construction inflation:
- 13 (1) The unanticipated construction inflation must have occurred for a voter-
14 approved bond issue passed construction project bid after July January 1,
15 2021 and before January 2023 June 30, 2025; and
- 16 (2) The maximum grant amount for which a school district may qualify is five
17 million dollars; and
- 18 (3) The interest rate on the loan may not exceed one and one-half percent per
19 year.
- 20 5. a. If a school district seeking a loan under this section received an allocation of the
21 oil and gas gross production tax during the previous fiscal year in accordance
22 with chapter 57-51, the board of the district shall provide to the board of
23 university and school lands, and to the state treasurer, its evidence of
24 indebtedness indicating that the loan originated under this section.
- 25 b. If the evidence of indebtedness is payable solely from the school district's
26 allocation of the oil and gas gross production tax in accordance with section
27 57-51-15, the loan does not constitute a general obligation of the school district
28 and may not be considered a debt of the district.
- 29 c. If a loan made to a school district is payable solely from the district's allocation of
30 the oil and gas gross production tax in accordance with section 57-51-15, the
31 terms of the loan must require that the state treasurer withhold the dollar amount

1 or percentage specified in the loan agreement, from each of the district's oil and
2 gas gross production tax allocations, in order to repay the principal and interest of
3 the evidence of indebtedness. The state treasurer shall deposit the amount
4 withheld into the fund from which the loan originated.

5 d. Any evidence of indebtedness executed by the board of a school district under
6 this subsection is a negotiable instrument and not subject to taxation by the state
7 or any political subdivision of the state.

8 6. For purposes of this section, a "construction project" means the purchase, lease,
9 erection, or improvement of any structure or facility by a school board, provided the
10 acquisition or activity is within a school board's authority.

11 **SECTION 2. EXPIRATION DATE.** This Act is effective through June 30, 2025, and after that
12 date is ineffective.

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

23.0567.01002
Title.02000

Prepared by the Legislative Council staff for
Representative Heinert
February 6, 2023

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1185

Page 1, line 2, replace "grants" with "loans"

Page 1, line 3, after "inflation" insert "; to provide an expiration date; and to declare an emergency"

Page 1, line 11, remove "or grants"

Page 1, line 12, remove "or grant"

Page 1, line 14, remove "unanticipated construction inflation."

Page 1, line 21, remove "or grant"

Page 2, line 1, remove "or grant"

Page 2, line 2, remove "or grant"

Page 2, line 11, replace "grant" with "loan"

Page 2, line 11, after "section" insert "which includes additional expenses due to unanticipated construction inflation"

Page 2, line 12, remove "voter-"

Page 2, line 13, replace "approved bond issue passed" with "construction project bid"

Page 2, line 13, replace "July" with "January 1,"

Page 2, line 13, replace "January 2023" with "June 30, 2024"

Page 2, line 13, remove the second "and"

Page 2, line 15, after "dollars" insert "; and

(3) The interest rate on the loan may not exceed one and one-half percent per year"

Page 3, after line 6, insert:

"SECTION 2. EXPIRATION DATE. This Act is effective through June 30, 2024, and after that date is ineffective.

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

Renumber accordingly

1 HB1185 – Relating to School Construction Projects and Inflation

2 Mandan Public Schools – Mike Bitz, Superintendent

3 Good morning Chairman Elkin and members of the Senate
4 Education Committee. For the record, my name is Mike Bitz. I
5 am fortunate to serve as the superintendent for Mandan Public
6 Schools. I am here today in support of HB1185. I will be brief.

7 I don't often look to the government to solve problems, but HB
8 1185 is needed legislation

9 In April of 2021, 78% of Mandan School District voters approved
10 an \$84,000,000 bond issue to build a new elementary school and
11 a new high school. MPS was also planning to spend roughly
12 \$10M in federal ESSER dollars to cover the \$94M estimated cost.
13 When the project was bid in the summer of 2022 inflation had
14 driven the project costs up to \$114,000,000. This is over a 20%
15 increase over our pre-bid estimates.

16 MPS is working hard to close this \$20M gap created by inflation
17 without having to go back to our taxpayers. We received an
18 \$8.5M CTE grant. We believe we will be able to raise \$3M from

1 community partnerships, we hope to sell surrounding property for
2 another \$4M. We have some existing authority in our building
3 fund, but this legislation would help us ensure that we don't need
4 to raise taxes for our residents beyond the \$99 in taxes for each
5 \$100,000 in property that we had told our taxpayers in our
6 information sessions prior to the referendum.

7 I urge you to vote YES on HB1185 and I would be happy to
8 answer any questions you may have.

9

10



1 HB 1185

2 Testimony in support

3 Chairman Elkin and members of the Senate Education committee, I am here
4 representing the North Dakota Council of Educational Leaders representing school
5 leaders across North Dakota.

6 I come to you today in support for HB 1185. In this interim – we are seeking even
7 temporary aid to intense inflation pressure. This bill expands the availability of the coal
8 development trust fund for school construction projects to support our schools and
9 property taxpayers who have voter approved projects recently that have been subjected
10 to the immense inflationary impact resulting from a myriad of circumstances, most
11 recently federal decisions that have impacted our economy. Sadly, because of that, we
12 have communities and taxpayers in North Dakota that are paying the price. School
13 leaders in these communities have adjusted and made cuts to original plans and still 16-
14 25% inflationary hits have made an incredibly difficult reality in many of our
15 communities.

16 This bill would provide much need relief. For every \$10M in school construction loans,
17 every 1% in loan percentage relief results in \$100,000 in property tax relief per year in
18 interest savings. In a 10-year loan – that is \$1,000,000 in interest savings for taxpayers
19 every 10 years. This is every real property tax savings. Relief that our growing
20 communities desperately need. Relief in the form of low interest loans is one of the
21 easiest ways to provide property tax relief in our communities that need it the most –
22 those growing communities that are in a position where they must build. The dollars
23 put into efforts as this bill outlines as well as others you will hear regarding loan interest

*NDCEL is the strongest unifying voice representing and supporting administrators and educational leaders in pursuit of quality education
for all students in North Dakota.*

Executive Director: Aimee Copas-----Government Lead and Special Projects: Kevin Hoherz



1 rate buydown for school construction loans is an incredibly responsible way to provide
2 property tax relief. It is not an expenditure of general fund or legacy fund dollars it is an
3 INVESTMENT. All the dollars appropriated into this effort will be repaid. We encourage
4 support for this concept and your school leaders who are strongly in support of
5 conservative investments into communities to keep taxes lower encourage you to
6 consider these points as you make decisions on this bill.

*NDCEL is the strongest unifying voice representing and supporting administrators and educational leaders in pursuit of quality education
for all students in North Dakota.*

Executive Director: Aimee Copas-----Government Lead and Special Projects: Kevin Hoherz



**TESTIMONY OF JOSEPH A. HERINGER
COMMISSIONER
North Dakota Department of Trust Lands**

House Bill No. 1185

**Senate Education Committee
March 6, 2023**

Chairman Elkin and members of the Senate Education Committee, I am Joseph Heringer, North Dakota Commissioner of University and School Lands. I am here to provide informational testimony regarding House Bill No. 1185 and suggest a few clarification amendments.

The Board of University and School Lands (Board), as established by the North Dakota Constitution, is charged with overseeing the management of state trust lands and mineral rights and investing the revenue generated therefrom to grow as a source of long-term income for the state. The Board is comprised of the Governor, Secretary of State, Attorney General, State Treasurer, and Superintendent of Public Instruction. The Department of Trust Lands (Department) is the administrative arm of the Board, serving under the direction and authority of the Board.

The Board is also responsible for managing various trust funds established by the North Dakota Constitution and/or statute. One such fund is the Coal Development Trust Fund (Fund) which is established by Section 21 of Article X of the North Dakota Constitution and implemented by N.D.C.C. ch. 57-62. The Fund receives 15 percent of North Dakota's coal severance tax. It is held in trust and administered by the Board for loans to coal development impacted counties, cities, and school districts as provided by N.D.C.C. § 57-62-03, and for unanticipated school construction loans under N.D.C.C. ch. 15.1-36. Any balance not loaned out is invested according

to the policies of the Board. Excess income earned by the Fund is transferred to the general fund each year, which has totaled approximately \$875,000 the past several years.

The Fund balance as of June 30, 2022, was \$70.4 million and the statute allows up to \$60 million to be used for unanticipated school construction loans. With current outstanding school construction loans of \$27 million, there is approximately \$33 million remaining for such loans. Additionally, there is approximately \$9 million outstanding in energy impact loans through a different program under N.D.C.C. ch. 57-62.

The Department does not have an opinion on expanding the school construction loan program as envisioned by this bill, but would like to propose the following clarifying amendments:

1. Page 2, Line 12 – replace “grant” with “loan”

The House removed all references to grants from the original version due to the North Dakota Constitution only allowing loans from the Fund. It appears this reference was inadvertently overlooked.

2. Page 2, Lines 10-15 – add a subparagraph as follows:

“The term of the loan is twenty years, unless the board of the school district requests a shorter term in the written loan application;

This clarifies that the loan term is the same for an unanticipated school construction inflation loan as it is for school construction loans under the original program.

Thank you for your time and consideration, I would be happy to answer any questions you may have.

23.0567.02001
Title.

Prepared by the Legislative Council staff for
Representative Louser
March 6, 2023

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1185

Page 1, line 1, replace "section" with "sections"

Page 1, line 1, after "15.1-36-02" insert "and 15.1-36-04"

Page 1, line 3, after "inflation" insert "and evidences of indebtedness"

Page 2, line 12, replace "grant" with "loan"

Page 2, line 13, remove "and"

Page 2, line 15, after "year" insert ":

- (4) 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
- (5) The school district may pledge revenues derived from its general fund levy authority or other sources of revenue authorized by law"

Page 3, after line 6, insert:

"SECTION 2. AMENDMENT. Section 15.1-36-04 of the North Dakota Century Code is amended and reenacted as follows:

15.1-36-04. Evidences of indebtedness.

The board of a school district may issue and sell evidences of indebtedness under ~~chapter~~ chapters 21-02 and 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 21-03 constitute a general obligation of the school district."

Renumber accordingly