

## HOUSE BILL NO. HB0202

School buildings-major & routine maintenance-3.

Sponsored by: Select School Facilities Committee

A BILL

for

1 AN ACT relating to school buildings; modifying the routine  
 2 maintenance adjustment to the cost-based school funding  
 3 model by phasing down excess capacity to align with the  
 4 school adequacy standards and facility design guidelines  
 5 established by the school facilities commission;  
 6 accordingly modifying the major maintenance program;  
 7 adjusting major maintenance square footage computations to  
 8 reflect building age and to exclude specified leased space;  
 9 modifying computations for closed buildings; modifying  
 10 major maintenance payment computations; clarifying major  
 11 maintenance reporting and expenditure requirements as  
 12 specified; and providing for an effective date.

13

14 *Be It Enacted by the Legislature of the State of Wyoming:*

15

16 **Section 1.** W.S. 21-3-110(a)(x), 21-13-326(a)(intro),  
 17 (i), (ii), (v) and (viii), 21-15-109(a)(ii), (iv), (viii),

1 (c) (i), (iii), (iv) through (vi), (vii) (A), (viii) and (e)  
2 and 21-15-116(a) by creating new paragraphs (v) and (vi)  
3 and by renumbering (v) as (vii) are amended to read:

4

5 **21-3-110. Duties of boards of trustees.**

6

7 (a) The board of trustees in each school district  
8 shall:

9

10 (x) Subject to review by the school facilities  
11 commission under W.S. 21-15-115 for any project involving  
12 state capital construction assistance, fix the site of each  
13 school building and facility considering the needs of the  
14 people of each portion of the district. If the district  
15 enters into an agreement to lease buildings and facilities  
16 owned by the district and the buildings and facilities are  
17 included within the statewide database maintained by the  
18 school facilities commission under W.S. 21-15-114(a) (vi),  
19 the district shall, except as provided under W.S.  
20 21-15-109(c) (i) (B), ensure the lease agreement requires  
21 sufficient payment from the lessee to cover expenses  
22 necessary to adequately maintain the facility or building  
23 in accordance with statewide adequacy standards prescribed  
24 by the commission. Except as provided under W.S.

1 21-15-109(c)(i)(B), if the district enters into an  
2 agreement to lease buildings and facilities under which the  
3 district is the lessee and the building is to be used for  
4 the provision of the required educational program within  
5 the district, the lease agreement shall require the lessor  
6 to adequately maintain the buildings and facilities in  
7 accordance with standards prescribed by the commission;

8  
9 **21-13-326. Routine maintenance; adjustment to**  
10 **foundation program formula.**

11  
12 (a) The adjustment for routine maintenance under W.S.  
13 21-13-309(n)(vi), following reduction of the operations and  
14 maintenance component contained ~~within each school level~~  
15 within the prototypical school model, as prescribed by the  
16 education resource block grant model, shall be computed for  
17 each district on a dollar per average daily membership  
18 basis under the block grant model, subject to the  
19 following:

20  
21 (i) Actual gross square feet of school buildings  
22 and facilities within each district shall be separated into  
23 education and noneducation categories, ~~with including any~~  
24 square footage leased by the district but excluding the

1 square footage of any building or facility not used for  
2 delivering the required educational program within the  
3 district ~~purposes excluded~~ and the square footage of any  
4 building or facility closed and not operational as provided  
5 under W.S. 21-15-105(c)(iv);  
6

7 (ii) For purposes of computations for the  
8 adjustment to the block grant model under this section,  
9 actual square footage of education space shall be reported  
10 and computed for each district. by school level. The gross  
11 square footage of education space for each school level  
12 district shall be subject to the computations prescribed  
13 under paragraphs (a)(iv) through ~~(vi)~~ (v) of this section.  
14 The standard education space capacity for each school level  
15 district shall be the gross square footage prescribed by  
16 the statewide building adequacy standards promulgated under  
17 W.S. ~~21-15-107~~ 21-15-115;  
18

19 (v) ~~For school years 2002-2003 through 2006-~~  
20 ~~2007, education space capacity greater than one hundred~~  
21 ~~twenty-five percent (125%) of the standard space level and~~  
22 ~~up to two hundred percent (200%) of the standard space~~  
23 ~~level, shall in accordance with the block grant model,~~  
24 ~~receive a decrease in the base dollar amount per square~~

1 ~~foot for the square footage exceeding the one hundred~~  
2 ~~twenty-five percent (125%) level.~~ Educational space in  
3 excess of ~~two hundred percent (200%)~~ the following  
4 specified maximum percentages of the standard space level  
5 shall not be included in computations under this section. ~~;~~

6  
7 (A) For school years 2004-2005 and 2005-  
8 2006, one hundred thirty-five percent (135%) of the  
9 standard space level;

10  
11 (B) For school years 2006-2007 through  
12 2008-2009, one hundred twenty-five percent (125%) of the  
13 standard space level;

14  
15 (C) For school year 2009-2010 and each  
16 school year thereafter, one hundred fifteen percent (115%)  
17 of the standard space level.

18  
19 (viii) The base dollar amount per square foot  
20 for routine maintenance shall be two dollars and forty-four  
21 cents (\$2.44), subject to paragraphs (a) (iv), ~~through (v)~~  
22 and (vii) of this section.

23

1           **21-15-109. Major building and facility repair and**  
2 **replacement payments; computation; square footage**  
3 **allowance; use of payment funds; accounting and reporting**  
4 **requirements.**

5  
6           (a) As used in this act:

7  
8           (ii) "Educational building" means a school  
9 building or facility primarily used for providing the  
10 educational programs offered by a district in compliance  
11 with law which is owned by the district, ~~or leased by the~~  
12 ~~district,~~ including a school building or facility owned by  
13 the district and used for operating a charter school  
14 established under W.S. 21-3-301 through 21-3-314;

15  
16           (iv) "Office building" means a school building  
17 or facility primarily used in connection with or for the  
18 purpose of district administrative functions, the major  
19 purpose or use of which is not dedicated to the provision  
20 of educational programs offered by the district in  
21 accordance with law. "Office building" shall include  
22 maintenance facilities and storage buildings in which  
23 supplies are stored; ~~personnel are employed or school~~  
24 ~~buses are stored, maintained and serviced;~~

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

(viii) "Warehouse building" means a school building or facility primarily used for storage of equipment, materials and other district property and supplies, including facilities ~~constructed solely to store~~ in which school buses are stored, maintained or serviced.

(c) To compute the major building and facility repair and replacement payment for each district, the commission shall:

(i) Annually on or before September 1, ~~and subject to subsection (d) of this section,~~ determine the total number of gross square feet of school buildings and facilities within the district according to guidelines prescribed by rule and regulation of the commission, ~~;~~ subject to the following:

(A) The gross square footage of any school building or facility within the district which is not used for ~~district~~ purposes of delivering the required educational program shall not be included within the district's total gross square footage computed under this section; ~~;~~

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

(B) The gross square footage of any school building or facility leased by a district shall not be included within the district's total gross square footage computed under this section, unless the lease agreement is by or with any nonprofit or governmental agency providing educational programs which have been approved by the department of education, the department of health or another state or educational credentialing agency and the leased space is incorporated into the district's facility plans required under W.S. 21-15-116(a)(vi) and is approved by the commission;

(C) The district's total gross square footage shall be adjusted for the age of its buildings and facilities. The commission shall by rule and regulation for buildings and facilities constructed after June 30, 2004, adjust total district gross square footage by excluding or reducing the gross square footage of newly constructed buildings and facilities whereby at the seventh school year immediately following the school year in which the building or facility is constructed, one hundred percent (100%) of the gross square footage of the newly constructed building or facility is included within the



1 total district square footage computation under this  
2 section;

3

4 (D) ~~In addition,~~ No gross square footage  
5 created by any district enhancement shall be included  
6 within the district's gross square footage computed under  
7 this section unless the enhancement or any portion thereof  
8 is determined to be included within the state adequacy  
9 standards pursuant to this act. ~~.~~

10

11 (iii) The total amount of gross square footage  
12 determined for educational buildings under subparagraph  
13 (c)(ii)(C) of this section shall be adjusted by excluding  
14 from computations under this section the square footage for  
15 those educational buildings closed and not operational as  
16 provided for under paragraph (c)(iv) of this section and  
17 any amount including the gross square footage of portable  
18 buildings, which exceeds ~~two hundred percent (200%) of~~  
19 capacity levels specified by this paragraph which are above  
20 the statewide minimum gross square footage criteria as  
21 prescribed by the statewide building and facility adequacy  
22 standards promulgated under W.S. 21-15-115(a). For purposes  
23 of this section, per student gross square footage criteria  
24 prescribed by the statewide building adequacy standards

1 shall be based upon an average daily membership (ADM)  
2 computed as defined under W.S. 21-13-101(a)(i) for the  
3 prior school year, with the district's kindergarten ADM  
4 divided by two (2). For purposes of computations under  
5 this section, the allowable capacity in educational  
6 building gross square footage for each district including  
7 portable buildings, shall be as follows:

8  
9 (A) For school years 2004-2005 and 2005-  
10 2006, up to one hundred thirty-five percent (135%) of the  
11 per student gross square footage criteria prescribed by  
12 statewide adequacy standards;

13  
14 (B) For school years 2006-2007 through  
15 2008-2009, up to one hundred twenty-five percent (125%) of  
16 the prescribed per student gross square footage criteria;

17  
18 (C) For school year 2009-2010 and each  
19 school year thereafter, up to one hundred fifteen percent  
20 (115%) of the prescribed per student gross square footage  
21 criteria.

22  
23 (iv) The square footage of any district  
24 ~~educational~~-building or facility which is closed and not

1 operational, is not being replaced under a district's  
2 facility plan approved by the commission under W.S.  
3 21-15-116, is not determined surplus by the commission and  
4 is specified as a closed building within the district's  
5 facility plan as a cost efficient means to address future  
6 district building needs, shall be ~~decreased by fifty~~  
7 ~~percent (50%) for the first three (3) school years~~  
8 ~~commencing with the school year in which the building is~~  
9 ~~closed. Thereafter, the square footage shall be eliminated~~  
10 ~~entirely from computations under this section. Computations~~  
11 ~~under this paragraph shall not include the square footage~~  
12 ~~of any portable building. Any reduction made pursuant to~~  
13 segregated from the square footage of other district  
14 buildings and facilities and multiplied by the replacement  
15 value determined by the commission under paragraph (c)(v)  
16 of this section for the appropriate building category. The  
17 resulting amount shall then be multiplied by an exterior  
18 closure factor established by the commission based upon the  
19 most current edition of the Whitestone Building Maintenance  
20 and Repair Cost Reference Index and added to the total  
21 amount determined for the district under paragraph  
22 (c)(viii) of this section. This paragraph shall not apply  
23 to any school year during which the building or facility is  
24 reopened and becomes operational for purposes of ~~providing~~

1 delivering the required educational program within the  
2 district;~~educational programs;~~

3  
4 (v) Multiply the adjusted square footage amount  
5 for each district's educational buildings determined under  
6 paragraph (c)(iii) of this section,~~the allowable square~~  
7 ~~footage of the district's closed educational buildings~~  
8 ~~determined under paragraph (c)(iv) of this section~~ and the  
9 amount determined under paragraph (c)(ii) of this section  
10 for all remaining building categories of that district,  
11 times a replacement value cost factor established for each  
12 building category by the commission.~~For school facilities~~  
13 ~~constructed on or before June 30, 1996, the replacement~~  
14 ~~value cost factor shall be~~ based upon the median estimate  
15 in the most current edition of the R. S. Means construction  
16 cost index, as modified to reflect current Wyoming  
17 construction costs determined by the department of  
18 administration and information, division of economic  
19 analysis;~~For school facilities constructed on or after~~  
20 ~~July 1, 1996, the replacement value cost factor shall be~~  
21 ~~determined by the commission on a square footage basis~~  
22 ~~using the school district's total actual expenditures for~~  
23 ~~materials and labor to construct the facility. For the~~  
24 ~~purposes of this section, school facilities are deemed to~~

1 ~~be constructed on the date that work on the project is~~  
2 ~~substantially complete and the facilities are suitable to~~  
3 ~~be used for the purpose intended;~~

4  
5 (vi) Multiply the amount computed under  
6 paragraph (c)(v) of this section for the adjusted square  
7 footage of the district's educational buildings, ~~including~~  
8 ~~any allowable square footage of closed educational~~  
9 ~~buildings,~~ times two and one-half percent (2.5%) for school  
10 year 2001-2002, three percent (3%) for school year 2002-  
11 2003, and by two percent (2%) for school year 2003-2004 and  
12 each school year thereafter;

13  
14 (vii) Multiply the sum of the amounts obtained  
15 under paragraph (c)(v) of this section for the building  
16 categories identified under subparagraphs (c)(ii)(A) and  
17 (D) of this section times two and one-half percent (2.5%)  
18 for school year 2001-2002, three percent (3%) for school  
19 year 2002-2003, and by two percent (2%) for school year  
20 2003-2004 and each school year thereafter, adjusted as  
21 follows:

22  
23 (A) Determine the proportion that the sum  
24 of the square footage for these building categories within

1 the district bears to the educational building square  
2 footage computed under subparagraph (c)(ii)(C) of this  
3 section, as adjusted pursuant to ~~paragraphs~~ paragraph  
4 (c)(iii) ~~and (iv)~~ of this section, excluding any square  
5 footage included under paragraph (c)(iv) of this section;

6

7 (viii) Total the amounts computed under  
8 paragraphs (c) (iv), (vi) and (vii) of this section.

9

10 (e) Amounts distributed under subsection (b) of this  
11 section shall be deposited by the recipient district into a  
12 separate account, the balance of which may accumulate from  
13 year-to-year. Expenditures from the separate account,  
14 including any interest earnings on the account, shall be  
15 restricted to expenses incurred for major building and  
16 facility repair and replacement as defined in subsection  
17 (a) of this section and as prescribed by rule and  
18 regulation of the commission, and shall be in accordance  
19 with the district's facility plan approved by the  
20 commission under W.S. 21-15-116. ~~Any interest earned on the~~  
21 ~~account is exempt from and shall not be reported as a local~~  
22 ~~district revenue under W.S. 21-13-310(a)(xi).~~ The  
23 district's facility plan shall clearly specify proposed  
24 major maintenance expenditures for addressing district

1 major building and facility repair and replacement needs  
2 over the next five (5) years on a building-by-building  
3 basis, updated annually for the applicable reporting  
4 period, which shall be aligned to the statewide adequacy  
5 standards and prioritized based upon the impact of the  
6 building or facility on the district's ability to deliver  
7 the required educational program. The district shall  
8 include plans for maintaining any district building or  
9 facility which is under a lease agreement, specifying lease  
10 revenues available to the district for maintenance of  
11 facilities to the level required by statewide adequacy  
12 standards. No expenditures shall be made from the separate  
13 account unless the repair or replacement of the building or  
14 facility systems for which the expenditure is to be made is  
15 clearly specified within the district's facility plan or  
16 otherwise approved by the commission. In a manner and form  
17 required by commission rule and regulation, each district  
18 shall annually report to the commission on the expenditures  
19 made from the separate account during the applicable  
20 reporting period, separating account expenditures on a  
21 building-by-building basis. ~~In addition, the annual report~~  
22 ~~shall include the district's five (5) year plan for~~  
23 ~~addressing district major building and facility repair and~~  
24 ~~replacement needs, updated for the applicable reporting~~

1 ~~period. The report shall be in a manner and form required~~  
2 ~~by rule and regulation of the commission.~~ The commission  
3 shall annually review account expenditures and shall report  
4 expenditures to the select committee on school facilities  
5 established under W.S. 28-11-301. The commission shall  
6 compile reported building-by-building expenditure  
7 information for each district and the district five (5)  
8 year plan and include this information in ~~his~~its annual  
9 report to the select committee pursuant to W.S. 21-15-121.

10  
11 **21-15-116. School district facility plans; filing**  
12 **with commission; commission review; judicial review.**

13  
14 (a) Each school district shall, in accordance with  
15 rules and regulations of the commission, and with the  
16 assistance of professional facility planning expertise and  
17 a representative of the commission, develop long range  
18 comprehensive school building and facility plans for the  
19 district which address district wide building and facility  
20 needs over a five (5) year period. The plan shall be in a  
21 form and format specified by rule and regulation of the  
22 commission and shall identify building and facility needs  
23 in accordance with the statewide adequacy standards,  
24 actions to remediate building and facility inadequacies



1 including construction, renovation and major building and  
2 facility repair and replacement expenditures, and any local  
3 enhancements to buildings and facilities beyond statewide  
4 adequacy standards. The plans shall include a response to  
5 each building and facility inadequacy identified by the  
6 needs assessment on a building-by-building, space-by-space  
7 basis. The plan shall also review and to the extent  
8 practical, identify nonconstruction alternatives to  
9 building and facility inadequacies such as building  
10 closure, modification of school boundaries, modification of  
11 school grade configurations and similar approaches.  
12 Demolition or use, lease or other methods of disposition of  
13 commission determined surplus buildings and facilities  
14 shall be incorporated as part of the district plan,  
15 including identified alternative methods of building  
16 disposition and proposed allocation of costs incurred or  
17 revenues resulting from disposition or demolition. In  
18 addition, district facility plans shall include:

19

20 (v) A plan for addressing district major  
21 building and facility repair and replacement needs over the  
22 next five (5) years as required under W.S. 21-15-109(e);

23

