

SENATE FILE NO. SF0022

School facilities-amendments.

Sponsored by: Select Committee on School Facilities

A BILL

for

1 AN ACT relating to school capital construction; expanding
 2 allowable district major maintenance expenditures;
 3 clarifying and modifying school facilities planning,
 4 prioritization and remediation process including
 5 elimination of minor capital outlay classification, and
 6 accordingly modifying and expanding school facilities
 7 commission powers and duties; clarifying commission
 8 reporting process; repealing emergency contingency account;
 9 eliminating superfluous and fully executed provisions; and
 10 providing for an effective date.

11

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

13

14 **Section 1.** W.S. 21-3-110(a)(xxvii), 21-15-109(e),
 15 21-15-111(a)(v), 21-15-114(a)(i), (iii), (viii)(intro),
 16 (C)(I), (G), (xi)(intro), (xii) and (xiii),
 17 21-15-116(a)(intro), (vii), (d)(intro), (ii) and (e),

1 21-15-117(a)(intro), (iii) and (b)(intro),
2 21-15-118(a)(intro), (ii)(intro), (b) and (c), 21-15-120(b)
3 and 21-15-121(a)(intro), (i) through (iv) and (viii) are
4 amended to read:

5

6 **21-3-110. Duties of boards of trustees.**

7

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

10

11 (xxvii) ~~Develop and update long range~~
12 ~~comprehensive school building and~~ Cooperate with the school
13 facilities commission in developing facility plans for the
14 district addressing district-wide building and facility
15 needs in accordance with W.S. 21-15-116, ~~and submit the~~
16 ~~plan to the school facilities commission as required under~~
17 ~~W.S. 21-15-116~~ and ~~by~~ rule and regulation of the
18 commission; ~~The plan shall not include the abandonment or~~
19 ~~demolition of any school or school facility unless there~~
20 ~~has first been a public hearing on the issue;~~

21

22 **21-15-109. Major building and facility repair and**
23 **replacement payments; computation; square footage**

1 **allowance; use of payment funds; accounting and reporting**
2 **requirements.**

3

4 (e) Amounts distributed under subsection (b) of this
5 section shall be deposited by the recipient district into a
6 separate account, the balance of which may accumulate from
7 year-to-year. Except as specified under subsection (f) of
8 this section, expenditures from the separate account,
9 including any interest earnings on the account, shall be
10 restricted to expenses incurred for major building and
11 facility repair and replacement as defined in subsection
12 (a) of this section ~~and or~~ as prescribed by rule and
13 regulation of the commission otherwise in conformance with
14 and satisfying the requirements of this act, and shall be
15 in accordance with the district's facility plan approved by
16 the commission under W.S. 21-15-116. Account expenditures
17 may include the expenses of district personnel performing
18 work described under paragraph (a)(iii) of this section if
19 approved by the commission and if documented within the
20 district's facility plan. The district's facility plan
21 shall clearly specify proposed major maintenance
22 expenditures for addressing district major building and
23 facility repair and replacement needs on a building-by-
24 building basis, updated for the applicable reporting

1 period, which shall be aligned to the statewide adequacy
2 standards and prioritized based upon the impact of the
3 building or facility on the district's ability to deliver
4 the required educational program. The district shall
5 include plans for maintaining any district building or
6 facility which is under a lease agreement, specifying lease
7 revenues available to the district for maintenance of
8 facilities to the level required by statewide adequacy
9 standards. No expenditures shall be made from the separate
10 account unless the repair or replacement of the building or
11 facility systems for which the expenditure is to be made is
12 clearly specified within the district's facility plan or
13 otherwise approved by the commission. In a manner and form
14 required by commission rule and regulation, each district
15 shall annually report to the commission on the expenditures
16 made from the separate account during the applicable
17 reporting period, separating account expenditures on a
18 building-by-building basis. The commission shall annually
19 review account expenditures and shall report expenditures
20 to the select committee on school facilities established
21 under W.S. 28-11-301. The commission shall compile reported
22 building-by-building expenditure information for each
23 district and the district facility plan and include this
24 information in its annual report to the select committee

1 pursuant to W.S. 21-15-121. If any district expends funds
2 within the separate account for purposes not authorized by
3 this subsection or by rule and regulation of the
4 commission, the payments for that district shall be reduced
5 by the amount of the unauthorized expenditure in the school
6 year following the year in which the expenditure was
7 discovered by the commission or the school year in which
8 notification was provided by the commission, whichever
9 first occurs.

10

11 **21-15-111. Definitions.**

12

13 (a) As used in this act:

14

15 (v) "Remedy" or "remediation" means a course of
16 action addressing identified building and facility
17 ~~inadequacies pursuant to~~ needs in accordance with statewide
18 adequacy standards developed under this act, consisting of
19 building or facility construction, replacement, renovation,
20 repair or any combination thereof;

21

22 **21-15-114. Powers and duties; school facilities**
23 **office created; director.**

24

1 (a) The school facilities commission shall:

2

3 (i) Act in consultation with ~~the local~~ school
4 ~~boards~~ districts who may utilize local advisory committees
5 on school building and facility needs, as appropriate, and
6 shall consult with ~~the district's architect~~ architects and
7 other professional advisors;

8

9 (iii) Adopt policies, guidelines and standards
10 for school district facility plans required ~~of each~~
11 ~~district~~ under W.S. 21-15-116 and review and certify a plan
12 for each ~~district's plan~~ district as required under this
13 act;

14

15 (viii) Enter into or approve construction or
16 renovation project agreements, as appropriate, ~~with school~~
17 ~~districts~~. The agreement shall:

18

19 (C) Provide for review and approval of
20 project changes and change orders provided that:

21

22 (I) The agreement may specify
23 parameters identifying the circumstances under which

1 changes and change orders may be approved; ~~by the district~~
2 ~~with further approval by the commission;~~

3

4 (G) Provide that the agreement shall expire
5 upon completion of the project or projects; ~~and~~

6

7 (xi) Establish a process under which prototypes
8 are developed for remedies addressing building and facility
9 ~~inadequacies~~ needs identified under this act through
10 building and facility replacement. Prototypes shall be
11 assembled based upon:

12

13 (xii) Develop criteria and procedures for the
14 site analysis of remedies responding to identified building
15 and facility ~~inadequacies~~ needs by building and facility
16 replacement. Site analysis shall include a comprehensive
17 review and evaluation of site soil conditions, traffic
18 patterns, utilities and site topography;

19

20 (xiii) ~~Review and approve any proposed~~ Provide
21 for the purchase and acquisition of sites for any project
22 within the approved district facility plan if state funds
23 are to be expended for the purchase and acquisition; ~~The~~
24 ~~commission may reimburse the district for the cost of any~~

1 ~~option to purchase entered into in good faith before~~
2 ~~obtaining state approval;~~

3

4 **21-15-116. School district facility plans; commission**
5 **development, review and approval; plan criteria;**
6 **administrative review.**

7

8 (a) ~~Each school district shall,~~ In accordance with
9 rules and regulations of the commission, ~~and with the~~
10 ~~assistance of professional facility planning expertise and~~
11 ~~a representative of the commission, develop~~ long range
12 comprehensive school building and facility plans for ~~the~~
13 each school district shall be developed by the commission
14 in consultation with the applicable district, which address
15 district wide building and facility needs. The facility
16 plan ~~shall be in a form and format specified by rule and~~
17 ~~regulation of the commission and~~ shall identify building
18 and facility needs in accordance with the statewide
19 adequacy standards, actions to remediate building and
20 facility ~~inadequacies~~ needs including construction,
21 renovation and major building and facility repair and
22 replacement expenditures, and any local enhancements to
23 buildings and facilities beyond statewide adequacy
24 standards. The facility plan shall include a response to

1 each building and facility ~~inadequacy~~need identified on a
2 building-by-building, space-by-space basis. The plan shall
3 also review and to the extent practical, identify
4 nonconstruction alternatives to building and facility
5 ~~inadequacies~~needs such as building closure, modification
6 of school boundaries, modification of school grade
7 configurations and similar approaches. Demolition or use,
8 lease or other methods of disposition of commission
9 determined surplus buildings and facilities shall be
10 incorporated as part of the district plan, including the
11 disposition of any existing land owned by the district. The
12 plan shall not include the abandonment or demolition of any
13 school facility or building unless there has first been a
14 public hearing on the issue. The plan shall also specify
15 identified alternative methods of building disposition,
16 proposed allocation of costs incurred or revenues resulting
17 from disposition and allocation of disposition revenues to
18 offset any costs paid by the commission. In addition,
19 district facility plans shall include:

20

21 (vii) Other information required by the
22 commission to evaluate ~~the~~each district's plan.

23

1 (d) ~~Upon receipt,~~ The commission shall ~~review each~~
2 ~~submitted district facility plan. Commission review shall~~
3 ensure ~~the~~ each plan:

4
5 (ii) Reduces building and facility ~~inadequacies~~
6 needs in the most efficient and cost effective manner;

7
8 (e) ~~Within ninety (90) days after receipt of a~~
9 ~~district facility plan, and based upon its review pursuant~~
10 ~~to subsection (d) of this section, the commission shall~~
11 ~~approve, modify or reject the plan and notify the district~~
12 ~~of its action. The commission may modify proposed remedies~~
13 ~~or projects to best reflect commission priorities~~
14 ~~established under W.S. 21-15-117. If a plan, remedy or~~
15 ~~project is modified, the commission shall provide the~~
16 ~~district opportunity for hearing before the commission on~~
17 ~~the plan, remedy or project modification. If a plan, remedy~~
18 ~~or project is rejected, notice of the plan, remedy or~~
19 ~~project rejection shall include reasons for rejection and~~
20 ~~recommendations for making the plan, remedy or project~~
21 ~~acceptable. Upon rejection, a district may resubmit a~~
22 ~~modified facilities plan or modified remedy or project~~
23 ~~within sixty (60) days after receipt of notice under this~~
24 ~~subsection. The commission shall for any district failing~~

1 ~~to resubmit a modified facilities plan or modified remedy~~
2 ~~or project, or if a resubmitted district plan, remedy or~~
3 ~~project is not acceptable, modify the district plan, remedy~~
4 ~~or project in accordance with its review under subsection~~
5 ~~(d) of this section and use this modified plan, remedy or~~
6 ~~project in addressing building and facility needs for the~~
7 ~~district in accordance with this act.~~ Any school district
8 aggrieved by a decision ~~by~~ of the commission under this
9 ~~subsection is subject to the contested case provisions of~~
10 act may seek review in accordance with the Wyoming
11 Administrative Procedure Act.

12

13 **21-15-117. Evaluation of school buildings and**
14 **facilities; remediation schedule; needs prioritization;**
15 **combining facilities.**

16

17 (a) Through the identification of school building and
18 facility conditions and needs provided by the assessment
19 conducted and maintained under W.S. 21-15-115, and a
20 comparison of the identified conditions and needs with the
21 established statewide building adequacy standards and the
22 district facility plans ~~submitted~~ developed under W.S.
23 21-15-116, the commission shall ~~annually~~ in coordination
24 and cooperation with the districts, evaluate the adequacy

1 of school buildings and facilities within local school
2 districts, and based upon this evaluation, establish a
3 schedule for building and facility remediation. Remediation
4 shall bring all buildings and facilities to conditions such
5 that over time, only routine maintenance is required to
6 maintain building adequacy. The schedule shall identify and
7 prioritize building and facility remedies on a statewide
8 basis, based upon the following:

9
10 (iii) Analysis of student enrollment changes, as
11 based upon commission approved enrollment projection
12 methodology, to determine the need for changes in building
13 capacities over time for compliance with statewide adequacy
14 standards. Analysis under this paragraph shall prioritize
15 remediation for those buildings requiring additional space
16 to comply with statewide adequacy standards; ~~within the~~
17 ~~next two (2) years for elementary schools, and within the~~
18 ~~next three (3) years for middle and high schools;~~

19
20 (b) The commission shall for each building and
21 facility remedy scheduled under subsection (a) of this
22 section, determine the most cost effective method of
23 remediation of building and facility ~~inadequacies~~ needs to
24 ensure compliance with the statewide adequacy standards.

1 For any scheduled remedy for which major building and
2 facility repair and replacement payments under W.S.
3 21-15-109 are not sufficient to remedy the scheduled need,
4 as determined by the commission, the commission shall
5 determine if the remedy requires ~~minor~~ capital outlay. ~~or~~
6 ~~major capital outlay in accordance with the following.~~

7

8 **21-15-118. Building and facility construction and**
9 **renovation projects.**

10

11 (a) Upon determination by the commission following
12 review under W.S. 21-15-117, and appropriation by the
13 legislature in accordance with W.S. 21-15-119, the
14 commission shall proceed with projects ~~authorized and~~
15 ~~approved by the legislature~~ as follows:

16

17 (ii) If a ~~major~~ capital outlay remedy:

18

19 (b) If required, the commission shall ~~assist the~~
20 ~~local school district to~~ provide for temporary space for
21 any scheduled building remedy by means of portable
22 buildings creating capacity or by other means available to
23 the commission.

24

1 (c) The projects shall be managed and all necessary
2 contracts related to the projects shall proceed in
3 accordance with commission rules and regulations
4 promulgated and adopted pursuant to W.S. ~~21-15-114(a)(xiv)~~
5 21-15-114(a)(xv).

6
7 **21-15-120. Emergency facility needs.**

8
9 (b) Upon a finding that an emergency exists under
10 subsection (a) of this section, the commission shall in
11 accordance with rules and regulations promulgated by the
12 commission under this subsection, ~~make expenditures from~~
13 ~~the emergency contingency account~~ and to the extent funds
14 are available within the school capital construction
15 account ~~for emergency funding. Expenditures from the~~
16 ~~contingency account pursuant to this subsection shall be~~
17 ~~limited to the acquisition or use of~~ or otherwise made
18 available by the legislature, acquire facilities, ~~the~~
19 ~~acquisition of~~ and equipment, undertake facility repairs,
20 fund additional operating expenses incurred in providing
21 temporary measures and other responses to the emergency
22 situation including necessary investigative and qualified
23 contract assistance expenses incurred by the commission, as
24 necessary to enable the district to provide educational

1 programs required by law on a temporary basis until
2 permanent action can be taken to address building adequacy.

3

4 **21-15-121. Annual school building status report to**
5 **select committee on school facilities.**

6

7 (a) Not later than December 31 of each year, the
8 commission shall submit a report to the select committee on
9 school facilities on progress being made under the school
10 capital facilities system established under ~~law~~ this act.

11 The report shall ~~list~~ include:

12

13 (i) ~~Buildings and facilities identified as~~
14 ~~inadequate under this act for the preceding year~~ Building
15 and facility needs determined under W.S. 21-15-115,
16 identifying progress made in the year reported;

17

18 (ii) Building and facility needs addressed under
19 this act or otherwise by districts ~~during that same year~~
20 including any building or facility which is closed or
21 otherwise removed from operation during that year, and
22 relating this paragraph to progress made in building and
23 facility condition under paragraph (i) of this subsection;

24

1 (iii) ~~Any~~ Use of major building and facility
2 repair and replacement funds which have addressed buildings
3 and facilities identified ~~as inadequate for that year under~~
4 W.S. 21-15-115, including the impact of expenditures of
5 these funds, as quantified pursuant to the statewide needs
6 assessment rating scores undertaken in accordance with W.S.
7 21-15-115, on building condition as reported under
8 paragraph (i) of this subsection and on the capacity,
9 ~~condition~~, educational suitability and technology readiness
10 of ~~inadequate~~ these buildings and facilities;

11

12 (iv) Amounts of funds expended to address ~~these~~
13 building and facility needs for the period of time
14 addressed in the report together with historical amounts;

15

16 (viii) Any expenditures for emergency ~~funding~~
17 facility needs under W.S. 21-15-120.

18

19 **Section 2.** W.S. 21-15-111(a)(vii),
20 21-15-114(a)(viii)(C)(II) and (F), 21-15-116(b) and (c),
21 21-15-117(b)(i) and (ii), 21-15-118(a)(i) and
22 21-15-121(a)(vi) and (vii) are repealed.

23

1 **Section 3.** This act is effective July 1, 2008.

2

3

(END)