

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO. [BILL NUMBER]

School finance-major maintenance formula.

Sponsored by: Select Committee on School Facilities

A BILL

for

1 AN ACT relating to school finance; modifying the formula
2 and payment structure for major maintenance funding for
3 public K-12 schools; revising the definition of major
4 maintenance; revising priorities for school district
5 facility plans and major maintenance plans and
6 expenditures; providing a transfer and an appropriation;
7 and providing for an effective date.

8

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

10

11 **Section 1.** W.S. 21-15-109(a)(iii), (b),
12 (c)(i)(intro), (v), (vi) and (vii)(intro), (e), (f) and by

1 creating a new subsections (g), 21-15-115(b)(i) and 21-15-
2 116(a)(intro) are amended to read:

3

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

8

9 (a) As used in this act:

10

11 (iii) "Major building and facility repair and
12 replacement" means the repair, ~~or~~ replacement or upgrade of
13 complete or major portions of school building and facility
14 systems at irregular intervals which is required to
15 continue the use of the building or facility at its
16 original capacity for its original intended or marginally
17 altered use and is typically accomplished by contractors
18 due to the personnel demand to accomplish the work in a
19 timely manner, the level of sophistication of the work or
20 the need for warranted work. The term includes the
21 following categories as hereafter defined:

22

1 (A) "Code compliance" means system
2 improvements or site improvements that are mandated in
3 writing by an authority having jurisdiction for the
4 continued use of a school building or facility;

5
6 (B) "Site improvements" means the repair,
7 replacement or upgrade of those components or equipment of
8 school district buildings and facilities that are not
9 system improvements, including: the repair, replacement or
10 upgrade of sidewalks; parking lots; athletic tracks;
11 playground features; outdoor security features;
12 landscaping; drainage systems; or similar components or
13 equipment;

14
15 (C) "System improvements" means the repair,
16 replacement or upgrade of components or equipment of school
17 district buildings, including: structural systems; fire
18 protection systems; indoor security features; electrical,
19 plumbing, heating, ventilation or air conditioning systems;
20 roofs; windows; information technology systems; or similar
21 components or equipment.

22

1 (b) To the extent funds are available, on July 1 of
2 each year, the state construction department shall, based
3 upon square footage computations computed ~~on September 1 of~~
4 from the prior school year, distribute seventy-five percent
5 (75%) of the estimated major building and facility repair
6 and replacement payments to each school district from the
7 school capital construction account. On or before September
8 30 of each year the department shall distribute the balance
9 of payments to each school district. If funds within the
10 account are not sufficient for payments ~~on July 1~~ of any
11 school year, the department shall ~~distribute payments from~~
12 ~~the account on or before September 30 and March 31 of that~~
13 ~~school year.~~ reduce all district payments by a uniform
14 percentage. The department shall also increase or reduce a
15 subsequent school district payment, as appropriate, in the
16 event a school district receives an excessive or deficient
17 distribution. Major building and facility repair and
18 replacement payments shall be computed in accordance with
19 subsection (c) of this section.

20

21 (c) To compute the major building and facility repair
22 and replacement payment for each district, the department
23 shall:

1

2 (i) ~~Annually on or before September 1,~~ Determine
3 the total number of gross square feet of school buildings
4 and facilities within the district from the prior school
5 year according to guidelines prescribed by rule and
6 regulation of the commission, subject to the following:

7

8 (v) Multiply the adjusted square footage amount
9 for each district's educational buildings determined under
10 paragraph (c)(iii) of this section and the amount
11 determined under paragraph (c)(ii) of this section for all
12 remaining building categories of that district, times a
13 replacement value cost factor established for each building
14 category by the department computed using data from August
15 1 of the prior school year based upon the median estimate
16 in the most current edition of ~~the R. S. Means~~ a nationally
17 recognized, quarterly published construction cost index
18 that provides cost indices for elementary schools, junior
19 high schools, high schools, offices and warehouses by city
20 or town, as modified to reflect current Wyoming
21 construction costs determined by the department of
22 administration and information, division of economic
23 analysis;

1

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

9

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

18

19 (e) Amounts distributed under subsection (b) of this
20 section shall be deposited by the recipient district into a
21 separate account, the balance of which may accumulate from
22 year-to-year. Except as specified under subsection (f) of
23 this section, expenditures from the separate account,

1 including any interest earnings on the account, shall be
2 restricted to expenses incurred for major building and
3 facility repair and replacement ~~as defined in subsection~~
4 ~~(a) of this section~~ and shall be in accordance with the
5 district's facility plan under W.S. 21-15-116.
6 Additionally, of the expenditures from the separate
7 account, school districts shall endeavor to annually apply
8 at least eighty-six percent (86%) to system improvements
9 and not more than six and one-half percent (6.5%) to site
10 improvements and code compliance. Account expenditures may
11 include the expenses of district personnel performing work
12 described under paragraph (a)(iii) of this section if
13 approved by the department and if documented within the
14 district's facility plan. The district's facility plan
15 shall clearly specify proposed major maintenance
16 expenditures for addressing district major building and
17 facility repair and replacement needs on a building-by-
18 building basis, updated for the applicable reporting
19 period, which shall be aligned to the statewide adequacy
20 standards and prioritized based first upon addressing
21 school building and facility component or system condition
22 scores of failure or poor as indicated by the assessment
23 conducted and maintained pursuant to W.S. 21-15-115(b)(i),

1 unless otherwise authorized, for good cause shown, by the
2 department in writing, and second 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 department. In a manner and form
14 required by commission rule and regulation, each district
15 shall annually report to the department 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 department shall annually
19 review account expenditures and shall report expenditures
20 to the commission and the select committee on school
21 facilities established under W.S. 28-11-301. The department
22 shall compile reported building-by-building expenditure
23 information for each district and the district facility

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

11

12 (f) Notwithstanding subsection (e) of this section, a
13 district may expend up to ~~ten percent (10%)~~ seven and one-
14 half percent (7.5%) of the amount distributed during any
15 school year under subsection (b) of this section for major
16 building and facility repair and replacement needs of the
17 district which are not specified in the district's facility
18 plan, including expenditures for maintenance of district
19 enhancements. Expenditures shall be made under this
20 subsection only after the district's building and facility
21 repair and replacement needs specified in its facility plan
22 have been addressed in accordance with subsection (e) of
23 this section and the department has approved the district's

1 proposed expenditures under this subsection. Amounts not
2 expended for purposes of this subsection during any school
3 year may be accumulated by a district and earmarked within
4 the separate account established under subsection (e) of
5 this section for expenditure under this subsection in
6 subsequent school years, provided the unexpended amount
7 during any school year to be accumulated does not exceed
8 ~~ten percent (10%)~~ seven and one-half percent (7.5%) of the
9 amount distributed to the district under subsection (b) of
10 this section for that school year. Each district shall
11 include expenditures under this subsection and any amounts
12 accumulated from year-to-year under this subsection within
13 the annual report required under subsection (e) of this
14 section. Nothing in this subsection shall prohibit or
15 limit the application of subparagraph (c)(i)(D) of this
16 section in computing a district's building and facility
17 gross square footage for purposes of determining payment
18 amounts under this section. If any school district exceeds
19 expenditure limitations prescribed by this subsection or
20 fails to comply with expenditure levels for facility
21 adequacy needs identified within its facility plan, the
22 payments for that district in the immediately succeeding
23 year shall be reduced by the department by the excess

1 expenditure amount including any excess expenditure of
2 amounts accumulated under this subsection.

3

4 (g) A school district shall provide written
5 explanation in its facility plan for failure to comply with
6 any applicable requirement under this section.

7

8 **21-15-115. Statewide standards for school building**
9 **and facility adequacy; adequacy assessment.**

10

11 (b) The department shall maintain the comprehensive
12 assessment of the adequacy of existing school buildings and
13 facilities and of future space requirements within the
14 state. Maintenance of the assessment shall include district
15 reporting of new construction and major building and
16 facility repair and replacement activities in accordance
17 with guidelines prescribed by rule and regulation of the
18 commission, the results of department on-site visitations
19 and inspections of buildings and facilities and needs
20 assessment data and verification of building and facility
21 ratings through periodic review. The assessment shall be
22 designed and maintained to provide timely and uniform
23 statewide data on all of the following:

1

2 (i) The condition of school buildings and
3 facilities, seismic ratings and structural integrity. Each
4 school building and facility component or system shall be
5 rated as excellent, good, fair, poor or failure;

6

7 **21-15-116. School district facility plans;**
8 **development, review and approval; plan criteria;**
9 **administrative review; collaborative committee process.**

10

11 (a) In accordance with rules and regulations of the
12 commission, long range comprehensive school building and
13 facility plans for each school district shall be developed
14 by the department in coordination with the applicable
15 district, which address district wide building and facility
16 needs. The facility plan shall identify building and
17 facility needs ~~in accordance~~ aligned with the statewide
18 adequacy standards, actions to remediate building and
19 facility needs including construction, renovation and major
20 building and facility repair and replacement expenditures,
21 and any local enhancements to buildings and facilities
22 beyond statewide adequacy standards. The facility plan
23 shall include a response to each school building and

1 facility need identified on a building-by-building, space-
 2 by-space basis. The plan shall also review, and to the
 3 extent practical, identify and prioritize nonconstruction
 4 alternatives on a district-wide basis to school building
 5 and facility 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 surplus buildings
 9 and facilities shall be incorporated as part of the
 10 district plan, including the disposition of any existing
 11 land owned by the district. The plan shall not include the
 12 abandonment or demolition of any school facility or
 13 building unless there has first been a public hearing on
 14 the issue. The plan shall also specify identified
 15 alternative methods of building disposition, proposed
 16 allocation of costs incurred or revenues resulting from
 17 disposition and allocation of disposition revenues to
 18 offset any costs paid by the department. In addition,
 19 district facility plans shall include:

20

21 **Section 2.** W.S. 21-15-109(c) (i) (C) is repealed.

22 *****

23 **STAFF COMMENT**

24

1 The repealed provision provides:

2

3 (c) To compute the major building and facility repair
4 and replacement payment for each district, the department
5 shall:

6

7 (i) Annually on or before September 1, determine
8 the total number of gross square feet of school buildings
9 and facilities within the district according to guidelines
10 prescribed by rule and regulation of the commission,
11 subject to the following:

12

13 (C) The district's total gross square
14 footage shall be adjusted for the age of its buildings and
15 facilities. The commission shall by rule and regulation
16 for buildings and facilities constructed after June 30,
17 2004, adjust total district gross square footage by
18 excluding or reducing the gross square footage of newly
19 constructed buildings and facilities whereby at the seventh
20 school year immediately following the school year in which
21 the building or facility is constructed, one hundred
22 percent (100%) of the gross square footage of the newly
23 constructed building or facility is included within the
24 total district square footage computation under this
25 section;

26 *****

27

28 **Section 3.** The provisions of this act that requires
29 the state construction department to increase or reduce a
30 subsequent school district major maintenance payment in the
31 event a school district receives an excessive or deficient
32 distribution shall not apply to major maintenance
33 distributions made to school districts prior to the
34 effective date of this act.

35

36 **Section 4.**

1

2 (a) On July 1, 2018, the state auditor shall transfer
3 thirty-six million four hundred thousand dollars
4 (\$36,400,000.00) from [an account to be determined] to the
5 school capital construction account.

6

7 (b) There is appropriated thirty-six million four
8 hundred thousand dollars (\$36,400,000.00) to the state
9 construction department from the school capital
10 construction account for purposes of making payments to
11 school districts as required under W.S. 21-15-109.
12 Notwithstanding any other provision of law, this
13 appropriation shall not be transferred or expended for any
14 other purpose and any unexpended, unobligated funds
15 remaining from this appropriation shall revert to [an
16 account to be determined] on June 30, 2020.

17

18 *****

19 **STAFF COMMENT**

20

21 **LSO staff has intentionally left blank the funding source**
22 **for this draft legislation. The language within subsection**
23 **(b) of this section has been amended to include standard**
24 **LSO language regarding appropriations.**

25 *****

26

1 **Section 5.** This act is effective July 1, 2018.

2

3

(END)