

ENROLLED ACT NO. 56, SENATE

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING  
2008 BUDGET SESSION

AN ACT relating to school capital construction; expanding allowable district major maintenance expenditures; authorizing commission payment of district lease agreements; clarifying and modifying school facilities planning, prioritization and remediation process including elimination of minor capital outlay classification, and accordingly modifying and expanding school facilities commission powers and duties; clarifying commission reporting process; repealing emergency contingency account; eliminating superfluous and fully executed provisions; and providing for an effective date.

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

**Section 1.** W.S. 21-3-110(a)(x) and (xxvii), 21-15-109(e), 21-15-111(a)(v), 21-15-114(a)(i), (iii), (viii)(intro), (C)(I), (G), (xi)(intro), (xii) and (xiii), 21-15-116(a)(intro), (vii), (d)(intro), (ii) and (e), 21-15-117(a)(intro), (iii) and (b)(intro), 21-15-118(a)(intro), (ii)(intro), (b) and (c), 21-15-120(b) and 21-15-121(a)(intro), (i) through (iv) and (viii) are amended to read:

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

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

(x) Subject to review by the school facilities commission under W.S. 21-15-115 for any project involving state capital construction assistance, fix the site of each school building and facility considering the needs of the people of each portion of the district. If the district enters into an agreement to lease buildings and facilities owned by the district and the buildings and facilities are

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included within the statewide database maintained by the school facilities commission under W.S. 21-15-114(a)(vi), the district shall, except as provided under W.S. 21-15-109(c)(i)(B), ensure the lease agreement requires sufficient payment from the lessee to cover expenses necessary to adequately maintain the facility or building in accordance with statewide adequacy standards prescribed by the commission. Except as provided under W.S. 21-15-109(c)(i)(B), if the district enters into an agreement to lease buildings and facilities under which the district is the lessee and the building is to be used for the provision of the required educational program within the district, the lease agreement shall require the lessor to adequately maintain the buildings and facilities in accordance with standards prescribed by the commission. † If approved by the commission, the district shall be reimbursed for the lease payment if the square footage of the leased facility is not included within the district's total square footage for purposes of major maintenance computations under W.S. 21-15-109, subject to the following:

(A) If the lease payment is for educational facilities used in the actual operation of a charter school, the commission shall pay the district an amount approved by the commission for the lease payment by the charter school if:

(I) The charter is approved by the district under W.S. 21-3-301 through 21-3-314;

(II) The commission determines no adequate educational facilities exist within the district for operation of the charter school;

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(III) The charter school has been approved and has successfully operated for a period of not less than three (3) years; and

(IV) The district pays the charter school the amount of the reimbursement received under this subparagraph.

(B) If the lease payment is for facilities leased to the district by a state institution which meets state adequacy standards prescribed by rule and regulation of the commission, the amount of the lease reimbursement paid by the commission shall not include the amount received by the institution from the state for major building and facility repair and replacement costs attributable to the facility, as computed by the construction management section within the general services division of the department of administration and information.

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

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

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(e) Amounts distributed under subsection (b) of this section shall be deposited by the recipient district into a separate account, the balance of which may accumulate from year-to-year. Except as specified under subsection (f) of this section, expenditures from the separate account, including any interest earnings on the account, shall be restricted to expenses incurred for major building and facility repair and replacement as defined in subsection (a) of this section ~~and or~~ otherwise in conformance with and satisfying the requirements of this act, and shall be in accordance with the district's facility plan approved by the commission under W.S. 21-15-116. Account expenditures may include the expenses of district personnel performing work described under paragraph (a)(iii) of this section if approved by the commission and if documented within the district's facility plan. The district's facility plan shall clearly specify proposed major maintenance expenditures for addressing district major building and facility repair and replacement needs on a building-by-building basis, updated for the applicable reporting period, which shall be aligned to the statewide adequacy standards and prioritized based upon the impact of the building or facility on the district's ability to deliver the required educational program. The district shall include plans for maintaining any district building or facility which is under a lease agreement, specifying lease revenues available to the district for maintenance of facilities to the level required by statewide adequacy standards. No expenditures shall be made from the separate account unless the repair or replacement of the building or facility systems for which the expenditure is to be made is clearly specified within the district's facility plan or otherwise approved by the commission. In a manner and form required by commission rule and regulation, each district shall annually report to the commission on the expenditures

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made from the separate account during the applicable reporting period, separating account expenditures on a building-by-building basis. The commission shall annually review account expenditures and shall report expenditures to the select committee on school facilities established under W.S. 28-11-301. The commission shall compile reported building-by-building expenditure information for each district and the district facility plan and include this information in its annual report to the select committee pursuant to W.S. 21-15-121. If any district expends funds within the separate account for purposes not authorized by this subsection or by rule and regulation of the commission, the payments for that district shall be reduced by the amount of the unauthorized expenditure in the school year following the year in which the expenditure was discovered by the commission or the school year in which notification was provided by the commission, whichever first occurs.

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

(a) As used in this act:

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

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

(a) The school facilities commission shall:

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

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

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

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

(I) The agreement may specify parameters identifying the circumstances under which changes and change orders may be approved; ~~by the district with further approval by the commission;~~

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

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

(xii) Develop criteria and procedures for the site analysis of remedies responding to identified building and facility ~~inadequacies~~ needs by building and facility

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replacement. Site analysis shall include a comprehensive review and evaluation of site soil conditions, traffic patterns, utilities and site topography;

(xiii) ~~Review and approve any proposed~~ Provide for the purchase and acquisition of sites for any project within the approved district facility plan if state funds are to be expended for the purchase and acquisition; ~~The commission may reimburse the district for the cost of any option to purchase entered into in good faith before obtaining state approval;~~

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

(a) ~~Each school district shall,~~ In accordance with rules and regulations of the commission, ~~and with the assistance of professional facility planning expertise and a representative of the commission,~~ develop long range comprehensive school building and facility plans for ~~the~~ each school district shall be developed by the commission in coordination with the applicable district, which address district wide building and facility needs. The facility plan ~~shall be in a form and format specified by rule and regulation of the commission and~~ shall identify building and facility needs in accordance with the statewide adequacy standards, actions to remediate building and facility ~~inadequacies~~ needs including construction, renovation and major building and facility repair and replacement expenditures, and any local enhancements to buildings and facilities beyond statewide adequacy standards. The facility plan shall include a response to each building and facility ~~inadequacy~~ need identified on a building-by-building, space-by-space basis. The plan shall also review and to the extent practical, identify

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nonconstruction alternatives to building and facility ~~inadequacies~~ needs such as building closure, modification of school boundaries, modification of school grade configurations and similar approaches. Demolition or use, lease or other methods of disposition of commission determined surplus buildings and facilities shall be incorporated as part of the district plan, including the disposition of any existing land owned by the district. The plan shall not include the abandonment or demolition of any school facility or building unless there has first been a public hearing on the issue. The plan shall also specify identified alternative methods of building disposition, proposed allocation of costs incurred or revenues resulting from disposition and allocation of disposition revenues to offset any costs paid by the commission. In addition, district facility plans shall include:

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

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

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

(e) ~~Within ninety (90) days after receipt of a district facility plan, and based upon its review pursuant to subsection (d) of this section, the commission shall approve, modify or reject the plan and notify the district of its action. The commission may modify proposed remedies or projects to best reflect commission priorities established under W.S. 21-15-117. If a plan, remedy or project is modified, the commission shall provide the district opportunity for hearing before the commission on~~



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~~the plan, remedy or project modification. If a plan, remedy or project is rejected, notice of the plan, remedy or project rejection shall include reasons for rejection and recommendations for making the plan, remedy or project acceptable. Upon rejection, a district may resubmit a modified facilities plan or modified remedy or project within sixty (60) days after receipt of notice under this subsection. The commission shall for any district failing to resubmit a modified facilities plan or modified remedy or project, or if a resubmitted district plan, remedy or project is not acceptable, modify the district plan, remedy or project in accordance with its review under subsection (d) of this section and use this modified plan, remedy or project in addressing building and facility needs for the district in accordance with this act.~~ Any school district aggrieved by a decision by of the commission under this subsection is subject to the contested case provisions of act may seek review in accordance with the Wyoming Administrative Procedure Act.

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

(a) Through the identification of school building and facility conditions and needs provided by the assessment conducted and maintained under W.S. 21-15-115, and a comparison of the identified conditions and needs with the established statewide building adequacy standards and the district facility plans ~~submitted~~ developed under W.S. 21-15-116, the commission shall ~~annually~~ in coordination and cooperation with the districts, evaluate the adequacy of school buildings and facilities within local school districts, and based upon this evaluation, establish a schedule for building and facility remediation. Remediation shall bring all buildings and facilities to conditions such

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that over time, only routine maintenance is required to maintain building adequacy. The schedule shall identify and prioritize building and facility remedies on a statewide basis, based upon the following:

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

(b) The commission shall for each building and facility remedy scheduled under subsection (a) of this section, determine the most cost effective method of remediation of building and facility ~~inadequacies~~ needs to ensure compliance with the statewide adequacy standards. For any scheduled remedy for which major building and facility repair and replacement payments under W.S. 21-15-109 are not sufficient to remedy the scheduled need, as determined by the commission, the commission shall determine if the remedy requires ~~minor~~ capital outlay; ~~or major capital outlay in accordance with the following:~~

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

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

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

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

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

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

(b) Upon a finding that an emergency exists under subsection (a) of this section, the commission shall in accordance with rules and regulations promulgated by the commission under this subsection, ~~make expenditures from the emergency contingency account and to the extent funds are available~~ within the school capital construction account ~~for emergency funding. Expenditures from the contingency account pursuant to this subsection shall be limited to the acquisition or use of~~ or otherwise made available by the legislature, acquire facilities, ~~the acquisition of~~ and equipment, undertake facility repairs, fund additional operating expenses incurred in providing temporary measures and other responses to the emergency situation including necessary investigative and qualified contract assistance expenses incurred by the commission, as necessary to enable the district to provide educational programs required by law on a temporary basis until permanent action can be taken to address building adequacy.

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

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

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

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

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

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

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

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

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

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the Senate.

\_\_\_\_\_  
Chief Clerk