

ENROLLED ACT NO. 119, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2009 GENERAL SESSION

AN ACT relating to school facilities; restricting allowable expenditures of major maintenance payments; modifying budget process forwarding school building projects recommended by the school facilities commission as specified; requiring an audit and imposing reporting requirements; providing an appropriation; and providing for effective dates.

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

Section 1. W.S. 9-2-1013(d)(i), 21-15-109(e), 21-15-119(a)(intro), (i) and by creating a new subsection (c), 21-15-121(a)(intro) and 28-11-301(b) by creating a new paragraph (ii) and by renumbering (ii) and (iii) as (iii) and (iv) and amending and renumbering (iv) as (v) and renumbering (v) as (vi), (c)(iii), by creating a new paragraph (iv) and by creating a new subsection (d) are amended to read:

9-2-1013. State budget; distribution of copies to legislators; copies and reports of authorizations.

(d) In addition to the items contained in subsection (a) of this section and notwithstanding any other recommendations made by the governor, the state budget shall also include the governor's recommendations for appropriations for the ensuing two (2) years, or if a supplemental budget request, the remainder of the budget period, subject to the following:

(i) The state budget shall include the governor's recommendations for a total appropriation from the school foundation program account and based upon recommendations of the ~~school facilities commission~~ select school facilities committee under W.S. ~~21-15-119~~ 28-11-301,

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a total appropriation for school capital construction purposes for both fiscal years;

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

(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 ~~or as prescribed by rule and regulation of the commission 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

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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 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.

21-15-119. Commission budget and funding recommendations.

(a) Notwithstanding W.S. 9-2-1012, the commission shall annually, not later than ~~November 1, and after review by and in conjunction with the select committee on school facilities~~ September 1, prepare and submit a recommended budget for projects and school capital construction financing to the governor, through the budget division of

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the department of administration and information and to the select committee on school facilities. The commission shall include with its recommended budget to the select committee the comprehensive assessment specified in W.S. 21-15-115(b), the prioritized list of projects specified in W.S. 21-15-117 including the amounts allocated to each project and the annual building status report specified under W.S. 21-15-121. The recommended budget submitted by the commission shall include:

(i) The ~~amount of funding~~ estimated costs and proposed funding amounts for all projects determined under W.S. 21-15-117 and 21-15-118 and proposed for that budget period, together with estimated expenditures for major building and facility repair and replacement program payments under W.S. 21-15-109 for the same budget period;

(c) Budgets submitted by the commission under subsection (a) of this section and recommended by the select committee under W.S. 28-11-301 shall be attached to specified projects for the applicable budget period, which projects shall be referred to as planning and design phase projects and construction phase projects. With the approval of the governor, the commission may transfer up to fifteen percent (15%) of the total funds appropriated between project phases. Any modification of appropriation expenditures between project phases shall be reported to the select committee in accordance with W.S. 28-11-301(c)(iv). Additionally, the commission may for any budget period specify amounts within its budget which are recommended to cover inflation, unanticipated costs, off-site infrastructure costs and other such contingency or special project costs provided the additional costs are reported and approved in accordance with W.S. 28-11-301(c)(iv). Amounts appropriated by the legislature shall not be construed to be an entitlement or guaranteed

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amount and shall be expended by the commission in accordance with facility guidelines to ensure adequate, efficient and cost effective school buildings and facilities as required by W.S. 21-15-114(a)(vii).

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

(a) Not later than ~~December 31~~September 1 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 this act. The report shall be incorporated into the proposed budget submitted to the select committee under W.S. 21-15-119 and shall include:

28-11-301. Appointment of members; powers and duties; related duties of school facilities commission.

(b) The select committee shall:

(ii) Meet at least quarterly;

~~(ii)~~(iii) Monitor the assessment of statewide school facility needs, prioritization of these needs and remediation of identified needs, as undertaken by the school facilities commission pursuant to law;

~~(iii)~~(iv) Develop knowledge and expertise among its members regarding issues pertaining to school facilities and commission programs and procedures to maintain statewide facility adequacy;

~~(iv)~~(v) Review commission proposals Not later than November 1 of each year, prepare and submit budget recommendations based upon information reported by the

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commission under W.S. 21-15-119 and 21-15-121, addressing statewide building and facility needs and—provide recommendations—to the joint appropriations committee and the governor. Based upon reports submitted under W.S. 21-15-119 and 21-15-121, the select committee may report recommendations to the legislature including any necessary implementing legislation;

~~(v)~~(vi) Review commission proposals for rules and regulations and provide recommendations to the commission concerning the proposed regulations.

(c) The school facilities commission shall:

(iii) Provide information to the select committee upon request to assist the select committee in monitoring progress under paragraph ~~(b)(ii)~~—(b)(iii) of this section— and in reviewing budget recommendations under paragraph (b)(v) of this section;

(iv) Using accepted accounting standards, account for all funds appropriated by the legislature for each fiscal period and not less than four (4) times during each fiscal year, report expenditures of appropriated amounts and separately identify and report any expenditures which are modified from those amounts specified within the proposed budget submitted to the select committee under W.S. 21-15-119. Any such modification of expenditures of legislative appropriations shall be executed only upon the express approval and authorization of the commission, shall be within the sole authority of the commission and shall not be delegated by the commission.

(d) The select committee may review the budgets prepared by the school facilities commission for each separate project contained within the total budget request

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submitted under W.S. 21-15-119 and may request additional documentation associated with the development of the project for inclusion within the budget request.

Section 2.

(a) The school facilities commission shall obtain an independent audit of all projects and processes included in the prioritization of building and facility needs and the scheduling of building and facility remediation pursuant to W.S. 21-15-117. On or before September 1, 2009, the audit findings shall be reported to the select school facilities committee and shall:

(i) Provide an accounting of the total costs of each project in its entirety, for all projects scheduled for remediation or otherwise receiving funds from the school capital construction account during the two (2) most recent fiscal years, identifying all project cost subcategories and the derivation of project cost components, reviewing the budgeting, allocation and obligation of funding each project component and identifying resulting balances between allocations and projected costs;

(ii) Examine the prioritization and remediation process used by the commission, clearly describing the linkage between prioritization under W.S. 21-15-117, school district facility plan approval under W.S. 21-15-116 and the budget recommendation forwarded under W.S. 21-15-118;

(iii) Review commission establishment and application of facility guidelines in forwarding project remedies, including the application of cost per square foot guidelines and the linkage to statewide adequacy standards set by the commission under W.S. 21-15-115;

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(iv) Examine processes granting exceptions or deviations from established project facility and other cost-related guidelines;

(v) Review procedures for identifying local enhancements to commission approved projects and the management practices employed for and accounting of enhancement costs;

(vi) Provide recommendations for necessary improvement of processes examined and reviewed under this section;

(vii) Based upon audit findings, recommend an ongoing accounting, review and reporting process for use by the commission in reporting to the select school facilities committee, the joint appropriations committee, the governor and the legislature.

Section 3. One hundred ninety thousand dollars (\$190,000.00) is appropriated from the school capital construction account created under W.S. 21-15-111(a)(i) to the school facilities commission to obtain and carry out the independent audit required under section 2 of this act. This appropriation is effective for the period commencing on the effective date of this section and ending June 30, 2010.

Section 4.

(a) Except as provided under subsection (b) of this section, this act is effective July 1, 2009.

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(b) Notwithstanding subsection (a) of this section, sections 2 and 3 of this act are effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk