

HOUSE BILL NO. HB0308

Modernizing and balancing Wyoming's school funding streams.

Sponsored by: Representative(s) Harshman, Freeman,
Obermueller, Paxton and Sommers and Senator(s)
Kost, Schuler and Wasserburger

A BILL

for

1 AN ACT relating to school finance; modifying provisions of
2 the state's public school funding system; providing funding
3 for school related accounts, school operations and school
4 capital construction by amending provisions regarding state
5 lands mineral royalties, federal mineral royalties, severance
6 taxes, spending policies and interfund loan authority;
7 authorizing Medicaid reimbursement as specified; amending
8 reimbursement provisions for special education and
9 transportation services within the education resource block
10 grant model; repealing conflicting provisions; requiring
11 rulemaking; requiring reports; providing applicability; and
12 providing for an effective date.

13

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

15

1 **Section 1.** W.S. 9-1-417(b), 9-4-305(b), 9-4-719(h)(v)
2 through (vii), 21-13-316(a), 21-13-320(b)(intro), (f),
3 (g)(intro), (ii), (iii)(intro), (v)(A), (B), by creating a
4 new paragraph (vi), (h)(ii) and (m), 21-13-321(b), (d) and by
5 creating a new subsection (h), 39-14-801(e)(i) and by
6 creating a new paragraph (xi) and 42-4-103(a) by creating a
7 new paragraph (xxxii) are amended to read:

8

9 **9-1-417. Interfund loans; repayment; maximum amount;**
10 **interest.**

11

12 (b) To the extent the legislature provides for
13 interfund loans or borrowing authority from one (1) agency,
14 account or fund to another, the interfund loan or borrowing
15 shall come out of the legislative stabilization reserve
16 account to be credited to the borrowing agency, account or
17 fund, except ~~for interfund loans made under~~ as authorized by
18 W.S. 21-13-316. The interest charged on each interfund loan
19 or borrowing from the legislative stabilization reserve
20 account shall be the interest rate earned on pooled fund
21 investments for the fiscal year immediately preceding the
22 effective date of the interfund loan.

23

1 **9-4-305. Disposition of state land revenue.**

2

3 (b) Proceeds from the sale of state lands, mineral
4 royalties and any money designated by the Wyoming
5 constitution or Wyoming statutes as collected shall be
6 transmitted to the state treasurer and credited to the proper
7 accounts within the permanent land fund., ~~except as provided~~
8 As authorized by article 7, section 2 of the Wyoming
9 constitution, thirty-three and one-third percent (33 1/3%) of
10 the mineral royalties received from the lease of any school
11 lands ~~but not to exceed eight million dollars (\$8,000,000.00)~~
12 ~~during any one (1) year except as provided in this section~~
13 ~~for fiscal years 2019 and 2020,~~ shall be deposited into the
14 public school capital construction account. ~~For fiscal years~~
15 ~~2019 and 2020, up to the amount allowed by article 7, section~~
16 ~~2 of the Wyoming constitution shall be deposited into the~~
17 ~~public school capital construction account under this~~
18 ~~section.~~—To the extent constitutionally permissible and
19 notwithstanding any other provision of law, at the end of
20 every fiscal year, the state treasurer shall transfer to the
21 corpus of each account within the permanent land fund, except
22 the common school account, from the income earned on the
23 corresponding account within the permanent land fund, to the

1 extent available, an amount as provided by this subsection.
2 In determining the amount to be withheld, the state treasurer
3 shall calculate the fiscal year beginning balance and ignore
4 any appropriations made from the account within that fiscal
5 year. For the fiscal year 2000, he shall transfer an amount
6 equal to five percent (5%) of the inflation rate for the
7 previous twelve (12) month period as determined by the
8 department of administration and information multiplied by
9 the beginning balance of each permanent land fund account,
10 except the common school account. At the end of each
11 succeeding fiscal year, the state treasurer shall increase
12 the amount to be multiplied by that year's inflation rate by
13 five percent (5%) until such time as the multiplier reaches
14 one hundred percent (100%) of the inflation rate, and then
15 multiply that amount by the beginning balance of each
16 permanent land fund account, except the common school
17 account.

18

19 **9-4-719. Investment earnings spending policy permanent**
20 **funds.**

21

1 (h) The annual spending policy for the common school
2 account within the permanent land fund is as follows for each
3 fiscal year (FY):

4
5 (v) FY ~~2018, 2019 and~~ 2020 and each fiscal year
6 through 2027 - an amount equal to five percent (5%) of the
7 previous five (5) year average market value of the account,
8 calculated from the first day of the fiscal year;

9
10 (vi) FY ~~2021-2028~~ - an amount equal to four and
11 three-fourths percent (4.75%) of the previous five (5) year
12 average market value of the account, calculated from the first
13 day of the fiscal year;

14
15 (vii) FY ~~2022-2029~~ and each fiscal year thereafter
16 - an amount equal to four and one-half percent (4.5%) of the
17 previous five (5) year average market value of the account,
18 calculated from the first day of the fiscal year.

19
20 **21-13-316. Interfund borrowing.**

21
22 (a) The state treasurer may utilize interfund loans
23 ~~from the common school account within the permanent land fund~~

1 to the school foundation program account to ~~enable~~ ensure
2 statutory payments ~~to be~~ are made when dedicated revenues are
3 not yet received. Interfund loans under this subsection may
4 be made from the legislative stabilization reserve account
5 or, to the extent insufficient funds exist in the legislative
6 stabilization reserve account, the common school account
7 within the permanent land fund. Interfund loans under this
8 subsection shall not be limited by the maximum amount
9 specified in W.S. 9-1-417(a). Any interfund loans executed
10 pursuant to this section shall be repaid in whole or in part
11 periodically as soon as school foundation program account
12 revenues permit.

13

14 **21-13-320. Student transportation; amount within**
15 **school foundation program formula for transportation**
16 **maintenance and operations expenditures and school bus**
17 **purchases; district reporting requirements.**

18

19 (b) There shall be an amount computed for each school
20 district equal to ~~the assigned percentage of~~ the base price
21 amount for bus purchase and lease payment expenditures made
22 by the district during the previous school year pursuant to
23 subsection (g) of this section, ~~one hundred percent (100%) of~~

1 ~~the amount actually expended by the district during the~~
2 ~~previous school year under subsection (c) of this section~~ and
3 for:

4
5 (f) The department of education shall adopt necessary
6 rules and regulations to implement and enforce state
7 standards established under this section and to administer
8 this section. District expenditures computed under subsection
9 (b) of this section shall not include expenditures for
10 employee contributions to the Wyoming retirement system
11 exceeding five and fifty-seven hundredths percent (5.57%) of
12 any member employee's salary. In addition, the department
13 shall, in accordance with procedures prescribed by department
14 rule and regulation, establish a base price for each school
15 bus type or other student transportation vehicle type for the
16 applicable fiscal period that complies with minimum state
17 standards for vehicle specifications and equipment. The
18 department shall also establish a process including
19 competitive bidding which guarantees the acquisition of
20 school buses and other student transportation vehicles
21 approved for reimbursement and complying with state minimum
22 standards and district fleet size restrictions at the
23 established base price for the applicable fiscal year. ~~In~~

1 ~~addition and for purposes of reimbursement under subsection~~
2 ~~(g) of this section, the department shall in consultation~~
3 ~~with the pupil transportation committee, establish a minimum,~~
4 ~~average and optimal replacement schedule for each school bus~~
5 ~~type or other student transportation vehicle type~~ Department
6 rules shall establish appropriate restrictions on how and
7 under which conditions a school district may procure a school
8 bus or other student transportation vehicle, either through
9 purchase or lease, to ensure that the procurement method used
10 is the most cost effective. School districts shall notify the
11 department of school bus and other student transportation
12 vehicle needs and requirements for the appropriate fiscal
13 year in the manner and within the times prescribed by
14 department rule and regulation, and shall report
15 expenditures, purchases and lease arrangements for the
16 applicable reporting period, including vehicles replaced by
17 purchases and leases, as required by department rule and
18 regulation. The department shall annually review and conduct
19 audits as necessary of information submitted under this
20 section. As authorized under W.S. 21-13-307(b), the
21 department may correct the information reported by districts
22 under this section as necessary to fairly and accurately
23 reflect the data type, classification and format required to

1 administer this section in accordance with law and department
2 rules and regulations.

3

4 (g) In addition to subsection (b) of this section and
5 for ~~buses purchased or leased on or after July 1, 2002,~~
6 purchases and leases conducted in a manner consistent with
7 department rules, the transportation adjustment for each
8 district under this section shall include an amount computed
9 under this subsection for the purchase or lease of school
10 buses and other vehicles used primarily for the
11 transportation of students to and from school and to and from
12 school activities. Computations of amounts reimbursed under
13 this subsection shall be based upon the base price established
14 by the department under subsection (f) of this section for
15 the student transportation vehicle type. Amounts included
16 within the adjustment under this subsection shall be subject
17 to the following:

18

19 (ii) The number of buses and other student
20 transportation vehicles comprising a district's fleet shall
21 comply with fleet size standards established by rule of the
22 department, ~~in accordance with paragraph (c)(ii) of this~~
23 ~~section, unless otherwise waived by the department for the~~

1 ~~provision of safe and efficient student transportation~~
2 ~~services~~ which shall be established to ensure safe and
3 efficient student transportation;

4
5 (iii) In consultation with the pupil
6 transportation committee, the department shall by rule
7 establish a replacement schedule ~~established by the~~
8 ~~department under subsection (f) of this section for the bus~~
9 ~~or other student transportation vehicle being replaced by the~~
10 ~~authorized purchase or lease shall be assigned the following~~
11 ~~percentages for purposes of computing the adjustment amount~~
12 ~~under paragraph (g)(v) of this section:~~ for buses and other
13 student transportation vehicles. The replacement schedule
14 shall establish replacement cycles for mileage and age not
15 less than the applicable national averages for replacement of
16 school buses and other student transportation vehicles;

17
18 (v) The adjustment for the purchase or lease of
19 buses and other student transportation vehicles authorized
20 under this subsection shall be equal to:

21
22 (A) One-fifth (1/5) of the base price
23 established under subsection (f) of this section for each

1 purchased school bus or other purchased student
2 transportation vehicle for which reimbursement is authorized
3 and which is made by the district during the preceding five
4 (5) years; ~~multiplied by the percentage assigned to the bus
5 or other vehicle being replaced by the purchase as provided
6 under paragraph (g)(iii) of this section. For purposes of
7 this subparagraph, any purchase made during the period
8 beginning April 1, 2002, and ending June 30, 2002, shall not
9 be included;~~

10
11 (B) The base price established under
12 subsection (f) of this section for lease payments for each
13 school bus or other student transportation vehicle for which
14 reimbursement is authorized and which is made by the district
15 during the prior school year, ~~multiplied by the percentage
16 assigned to the bus or other vehicle being replaced by the
17 leased vehicle as provided by paragraph (g)(iii) of this
18 section,~~ plus the annual interest charges imposed under the
19 lease arrangement. ~~For purposes of this subparagraph, any
20 lease arrangement entered into during the period commencing
21 April 1, 2002, and ending June 30, 2002, shall not be
22 included.~~

23

1 (vi) Amounts included within the adjustment for
2 purchases or leases that are fully or partially paid for or
3 rebated under the Diesel Emissions Reduction Act, 42 U.S.C.
4 § 16131 et seq., or other similar program, shall be made in
5 accordance with department rule and regulation.

6
7 (h) As used in this section:

8
9 (ii) "Pupil transportation committee" means an
10 advisory committee comprised of school district business
11 managers, student transportation program managers and
12 employees, district superintendents and other district
13 personnel organized by the state department of education to
14 assist the department in developing and maintaining state
15 standards for vehicle specifications and equipment, vehicle
16 fleet regulations and vehicle replacement schedules.
17 ~~including the establishment of minimum, average and optimal~~
18 ~~replacement schedules, as required under this section.~~

19
20 (m) No district shall purchase or lease a school bus ~~on~~
21 ~~or after March 15, 2017~~ unless it first applies-demonstrates
22 to the department and the department determines that ~~an~~
23 ~~emergency exists necessitating the purchase or lease of the~~

1 ~~bus, except that, beginning July 1, 2018, a district may~~ the
2 school district has in good faith attempted to purchase or
3 lease a bus that will be fully or partially paid for or
4 rebated under the Diesel Emissions Reduction Act, 42 U.S.C.
5 16131 et seq., or other similar program. ~~as confirmed by a~~
6 ~~letter of assurance from the state or federal government. No~~
7 ~~district shall enter into a new lease for a school bus on or~~
8 ~~after July 1, 2018.~~

9
10 **21-13-321. Special education; amount within foundation**
11 **program formula for special education programs and services;**
12 **district reporting requirements.**

13
14 (b) The amount provided for special education within
15 the education resource block grant model pursuant to W.S.
16 21-13-309(m)(v)(E)(II) shall be equal to one hundred percent
17 (100%) of the amount actually expended by the district during
18 the previous school year for special education programs and
19 services. ~~The statewide total amount reimbursed under this~~
20 ~~section in school year 2019-2020 or 2020-2021 shall not exceed~~
21 ~~the statewide total amount reimbursed under this section in~~
22 ~~school year 2018-2019, notwithstanding any additional~~

1 ~~appropriation for that purpose by the legislature~~ less costs
2 actually covered under subsection (h) of this section.

3
4 (d) The department of education shall adopt necessary
5 rules and regulations to implement and administer this
6 section. Districts shall report special education program
7 expenditures for the applicable reporting period as required
8 by department rule and regulation. District expenditures
9 computed under subsection (b) of this section shall not
10 include expenditures for employee contributions to the
11 Wyoming retirement system exceeding five and fifty-seven
12 hundredths percent (5.57%) of any member employee's salary.
13 The department shall annually review and report to the joint
14 education interim committee regarding services provided to
15 special education students by school districts, including
16 programs and services covered under subsection (h) of this
17 section. The report shall evaluate the extent to which
18 services are being appropriately provided and whether
19 expenditures for services are reasonable in light of charges
20 by providers of similar services in Wyoming. In addition, the
21 department shall when necessary, conduct audits of
22 information submitted by districts under this section and
23 may, in accordance with W.S. 21-13-307(b), correct the

1 information reported by districts as necessary to fairly and
2 accurately reflect the data type, classification and format
3 required to administer this section in accordance with law
4 and department rule and regulation.

5
6 (h) Before reporting special education programs and
7 services expenditures to the department of education under
8 this section, districts shall bill the department of health
9 for costs of services specified under W.S.
10 42-4-103(a)(xxxii). Districts shall be subject to the
11 requirements of this subsection for special education
12 programs and services provided in the 2020-2021 school year
13 and each school year thereafter.

14
15 **39-14-801. Severance tax distributions; distribution**
16 **account created; formula.**

17
18 (e) Deposits into the account created by subsection (a)
19 of this section shall be distributed as follows, subject to
20 subsections (b) through (d) and (f) of this section:

21
22 (i) To the general fund, ~~sixty two and twenty six~~
23 ~~hundredths percent (62.26%)~~ thirty percent (30%);

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2

3

4

5

42-4-103. Authorized services and supplies; reporting.

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7

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(a) Services and supplies authorized for medical assistance under this chapter include:

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(xxxii) All services authorized under federal law which may be provided in a school based setting to eligible students, including services delivered pursuant to an individualized education plan or individualized family service plan for speech and language therapy, physical therapy, nursing, occupational therapy, mental health interventions and services provided by a school psychologist. The department of health shall provide monthly reports to the department of education itemizing the total amount expended during the previous month for programs and services provided under this paragraph.

1 **Section 2.** W.S. 9-4-601(d)(intro) and (k)(intro), as
2 amended and created by 2018 Wyoming Session Laws, Chapter
3 134, Section 316, is continued and amended to read:

4

5 **9-4-601. Distribution and use; funds, accounts, cities**
6 **and towns benefited; exception for bonus payments.**

7

8 (d) ~~Except as provided in subsection (k) of this~~
9 ~~section,~~ Any revenue received under subsection (a) of this
10 section in excess of two hundred million dollars
11 (\$200,000,000.00) but not to exceed five hundred million
12 dollars (\$500,000,000.00) shall be distributed as follows:

13

14 (k) ~~For the period beginning March 15, 2018,~~ Any
15 revenue received under subsection (a) of this section in
16 excess of five hundred million dollars (\$500,000,000.00)
17 shall be distributed as follows:

18

19 **Section 3.** W.S. 21-13-320(c), (g)(iii)(A) through (C),
20 (iv), (j) and (k) is repealed.

21

22 **Section 4.** 2018 Wyoming Session Laws, Chapter 137,
23 Section 6 is repealed.

1

2 **Section 5.**

3

4 (a) On or before July 1, 2019, the department of
5 education shall promulgate necessary rules to implement W.S.
6 21-13-320, as amended by this act. This subsection is
7 effective immediately.

8

9 (b) Amendments made to W.S. 21-13-320, as contained in
10 this act, shall apply prospectively. School district
11 purchases and leases of school buses and other student
12 transportation vehicles made or entered into before July 1,
13 2019 shall be governed by W.S. 21-13-320 as it existed at the
14 time the school district purchased or leased the applicable
15 school bus or other student transportation vehicle.

16

17 **Section 6.**

18

19 (a) The director of the department of health, with the
20 consent of the governor, shall negotiate with the United
21 States department of health and human services regarding
22 necessary amendments to the state Medicaid plan, or any
23 necessary waiver under 42 U.S.C. § 1315, to provide the

1 services specified under W.S. 42-4-103(a)(xxxii), as created
2 by this act. Any state Medicaid plan amendments or waiver
3 under this subsection shall be effective July 1, 2020. This
4 subsection is effective immediately.

5

6 (b) Not later than October 1, 2019, the department of
7 education and the department of health shall report to the
8 joint education interim committee and the joint labor, health
9 and social services interim committee on the planned
10 implementation of services specified under W.S.
11 42-4-103(a)(xxxii) and billed by school districts under W.S.
12 21-13-321(h).

13

14 (c) The department of health and the department of
15 education shall include an exception budget request for the
16 2021-2022 biennium to implement the services specified under
17 W.S. 42-4-103(a)(xxxii) and billed by school districts under
18 W.S. 21-13-321(h). The exception budget request shall
19 include state and federal funds sufficient to pay for these
20 services using the assumption that the state Medicaid plan
21 will contain authority for school districts to bill the state
22 for special education services under the state's Medicaid
23 plan for the 2021-2022 biennium.

