

STATE SCHOOL FACILITIES CONSTRUCTION APPROVAL

This memorandum provides information regarding the role of the Department of Public Instruction in the planning and approval of school facilities and projects in the state compared to processes involved in the planning and approval of facilities and projects in Wyoming.

NORTH DAKOTA

The Department of Public Instruction's role related to school construction is governed by North Dakota Century Code Section 15.1-36-01--School Construction ([Appendix](#)). The department is required to approve, for any project estimated to cost more than \$100,000, the construction, purchase, repair, improvement, modernization, or renovation of any public school building or facility. Projects are approved based on educational need, capacity to pay, and in the case of new construction or renovation affecting 50 percent or more of an existing structure's square footage, a demonstration that circumstances within the district will likely result in enrollment that is stable or increasing. An application signed by the district business manager and school board chairperson is required prior to beginning the project. The district must include a copy of board minutes approving the project and for projects exceeding \$250,000, a facility plan or an update to an existing facility plan is required.

Beyond providing guidance and answering questions, the department does not participate in the actual local planning of the project. This is the responsibility of the local school district. Projects must meet all state and local fire, electrical, plumbing, and construction codes along with meeting all Americans with Disabilities Act (ADA) requirements. Projects over \$100,000 must follow bidding requirements and have architectural or engineering plans.

The department approved 28 school construction projects totaling \$151 million during calendar year 2011. Of the \$151 million, \$63 million relates to school construction projects in Minot due to the 2011 flood. Through September 12, 2012, the department has approved 29 projects totaling \$49 million for calendar year 2012.

Financing of construction projects is also a local responsibility and the department does not provide finance guidance or legal counsel nor does the department approve financing plans beyond requiring districts to demonstrate they have a plan for financing.

Some districts request a state construction loan which requires an application to the department to determine eligibility. Construction loan requirements are provided for in Section 15.1-36-02. For construction loans, the department establishes eligibility, determines need, and sets the loan discount and participation rates based on recommendations

and guidance provided by the Bank of North Dakota. Recommendations are made to the Board of University and School Lands, and the actual loan is serviced by the Bank of North Dakota. The Board of University and School Lands may use up to \$50 million of funds available in the coal development trust fund for school construction loans. To be eligible, a project must total at least \$1 million and have a useful life of at least 30 years.

In August 2012 outstanding school construction loans totaled \$25.4 million and school construction loan commitments totaled \$13.5 million for a total of \$38.9 million in loans and commitments leaving uncommitted estimated funds available for school construction loans under the program of \$11.1 million.

WYOMING

The Wyoming School Facilities Commission was established in 2002. The commission oversees school facilities in Wyoming, including planning, finance, construction, and maintenance. The commission consists of the state Superintendent of Public Instruction and six persons with specified expertise appointed by the Governor and the Superintendent. The statutory goal of the commission is to bring all buildings and facilities to a condition such that over time, only routine maintenance is required. The executive director, who is selected by the commission and subject to senate confirmation, oversees a staff of 18 authorized full-time equivalent positions, known as the School Facilities Department.

The School Facilities Department is responsible for evaluating the adequacy of school buildings and facilities across Wyoming's 48 school districts. An approved district facility plan is required in order to receive state assistance. The School Facilities Department prioritizes needs in a systemic way. Facility needs are categorized for remedy and prioritization by:

- Capacity - Insufficient classroom space given the number of students in a school district.
- School facility condition - Identification of considerable deferred maintenance on major building systems and components in school buildings.
- Nontraditional issues - Facility issues that do not meet the existing metrics of capacity and condition, including federal education requirements (IDEA), other demonstrated health and safety issues, ancillary and auxiliary buildings, demolition of vacant buildings, excess square footage, and other education suitability factors.

Upon confirmation of facility need, the School Facilities Department is responsible for determining the most cost-effective and educationally appropriate remedies and scheduling building and facility needs

remediation. Construction contracts involving state funds are approved by the Wyoming School Facilities Commission staff and the district. State approval is also required to purchase a site for a project that receives state funds. School districts may build above the standards set by the School Facilities Department or add enhancements not considered part of the standards, such as a swimming pool; however, funding for the additional space or the enhancements is the responsibility of the school district. Maintenance funding is provided to the school districts based on a formula. School districts may use up to 10 percent of the maintenance funding provided by the state on these enhancements only if other identified maintenance needs have been met.

When considering possible remedies for identified facility needs, the School Facilities Department and the school districts consider individual school and district-wide factors, including the building condition scores of all of the buildings in the district, site and educational suitability factors, health and safety issues, and local preferences and values. The School Facilities Department presents remedies believed to be the most cost-effective and educationally appropriate to the Wyoming School Facilities Commission. Approved projects are included in the commission's budget request developed in

conjunction with the Wyoming Select Committee on School Facilities for approval by the legislature.

The Wyoming Select Committee on School Facilities, composed of five senators and five representatives provides legislative oversight. The committee reviews Wyoming School Facilities Commission proposals addressing statewide building and facility needs and recommends any necessary legislation. The committee also reviews the Wyoming School Facilities Commission's proposed rules and regulations.

The Wyoming Legislature meets each year and in 2012, approved the School Facilities Department budget for the 2013-14 biennium (fiscal years 2013 and 2014). Budget information published by Wyoming's Department of Administration and Information indicates the 2013-14 biennium appropriation for the School Facilities Department totaled \$581.8 million, including \$101 million for major maintenance, \$40 million for projects, and \$427.7 million for capital construction. The source of funding is mineral royalties from the lease of state land and from coal lease bonuses. The Wyoming School Facilities Commission is also authorized to issue \$100 million in general revenue bonds supported by this revenue.

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