

ORIGINAL SENATE
FILE NO. SF0094

ENROLLED ACT NO. 34, SENATE

SIXTY-THIRD LEGISLATURE OF THE STATE OF WYOMING
2016 BUDGET SESSION

AN ACT relating to payments for educational services; requiring the department of education to pay for the education costs of children placed in psychiatric residential treatment facilities as specified; requiring certification from the department of education as specified; requiring notification by psychiatric residential treatment facilities and school districts; providing requirements for maintaining educational records; allowing districts that continue providing educational services to a student to retain the student in their ADM; requiring individualized learning plans; providing definitions; granting rulemaking authority; specifying payment; providing an appropriation; and providing for an effective date.

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

Section 1. W.S. 21-13-336 is created to read:

21-13-336. Education costs of children certified by the department of health for treatment in psychiatric residential treatment facilities.

(a) The department of education using federal or school foundation program account funds as appropriated by the legislature, or both, shall pay for the allowable education costs of children placed in psychiatric residential treatment facilities where a fee is charged and the department of health has determined the placement is medically necessary for purposes of benefit eligibility under W.S. 42-4-103(a)(xvi). This section shall not apply to children eligible for services under W.S. 21-13-315. No district shall receive funds, either directly or indirectly, from any facility receiving payment under this section for providing educational programs and services to

ORIGINAL SENATE
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2016 BUDGET SESSION

children placed and residing in the facility. No psychiatric residential treatment facility shall receive funds for educational services under this section unless certified by the department of health for purposes of providing medical services and approved by the department of education under the requirements of this section.

(b) Upon placement or admittance of a child in a psychiatric residential treatment facility, the facility shall notify the department of education and the student's resident school district in writing within seventy-two (72) hours of placement. Within seven (7) days of receiving notice, the resident school district shall notify the facility of the manner in which educational services shall be provided to the child. The district shall either:

(i) Request the facility provide the educational services to the student;

(ii) Deliver the educational services directly to the student; or

(iii) Contract with the school district in which the psychiatric residential treatment facility is located to provide educational services to the student.

(c) If a psychiatric residential treatment facility does not receive notification from the school district regarding educational services for the student as required by subsection (b) of this section, the facility shall provide educational services to the student provided the facility has an education program certified by the department of education pursuant to department rules and regulations.

ORIGINAL SENATE
FILE NO. SF0094

ENROLLED ACT NO. 34, SENATE

SIXTY-THIRD LEGISLATURE OF THE STATE OF WYOMING
2016 BUDGET SESSION

(d) A district that provides educational services directly to the student, or contracts with another district to provide the educational services, shall continue to count the student among its ADM. A district shall eliminate students from its ADM if the psychiatric residential treatment facility provides the educational services pursuant to this section.

(e) Educational programs provided by psychiatric residential treatment facilities shall be certified and approved by the department of education prior to the facility billing the department for any educational services provided under this section. A facility providing educational services under this section shall bill the department of education monthly for allowable education costs as defined by department rule and regulation pursuant to W.S. 21-13-315(b).

(f) If at any time the department of health determines the placement is no longer medically necessary for purposes of receiving benefits under W.S. 42-4-103(a)(xvi), the department of education shall discontinue payment for educational services provided by a psychiatric residential treatment facility.

(g) All psychiatric residential treatment facilities providing educational services shall comply with the provisions of the federal Family Education Rights and Privacy Act. Not later than ten (10) days after release of the student from the psychiatric residential treatment facility, all educational records shall be transferred via a secure method to the resident school district or the district in which the student enrolls upon release.

ORIGINAL SENATE
FILE NO. SF0094

ENROLLED ACT NO. 34, SENATE

SIXTY-THIRD LEGISLATURE OF THE STATE OF WYOMING
2016 BUDGET SESSION

(h) A school district or psychiatric residential treatment facility providing educational services to a student placed in a treatment facility shall create an individualized learning plan for the student, which:

(i) Is appropriate for the learning capabilities of the student and complies with all state and federal education requirements;

(ii) Monitors and measures the student's progress towards meeting defined educational benchmarks and accounts for any applicable assessment requirements;

(iii) Facilitates necessary instructional support for the student and notifies and assists the student if he is not performing satisfactorily or failing to achieve performance benchmarks established within the individualized learning plan;

(iv) Maintains the student's permanent education records, including his individualized learning plan, equivalent attendance as specified by the plan, assessment and other performance evaluation data, immunization and other information required by the state; and

(v) Verifies the individualized learning plan complies with and fulfills the state education program established by W.S. 21-9-101 and 21-9-102 and rules and regulations of the state board and that the plan otherwise meets educational program standards.

(j) The department of education shall adopt reasonable rules and regulations necessary for carrying out its duties under this section, including prescribing standards for educational programs of psychiatric

ORIGINAL SENATE
FILE NO. SF0094

ENROLLED ACT NO. 34, SENATE

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2016 BUDGET SESSION

residential treatment facilities and a certification and approval process for educational programs of facilities. Standards shall be subject to W.S. 21-9-101 and 21-9-102 and rules and regulations of the state board and shall be designed to fit the unique populations of students placed in psychiatric residential treatment facilities under this section.

(k) For purposes of this section "resident school district" means the district in which the child's custodial parent or guardian resides at the time of the child's placement in the psychiatric residential treatment facility.

Section 2. W.S. 21-4-402(b) is amended to read:

21-4-402. Instruction for hospitalized or homebound pupils.

(b) The board shall also offer homebound instruction for each pupil in the district who is hospitalized or placed in a state accredited or state certified treatment facility for more than one (1) week in a hospital or facility located in another Wyoming school district because of injury or illness. The board shall either provide instruction directly or contract with the school district in which the pupil is hospitalized or placed in a facility to provide this instruction. This subsection does not apply to pupils who:

(i) Are hospitalized or placed due to a mental, physical or psychological ~~handicap~~ disability and who are receiving educational services under W.S. 21-2-501; ~~or~~ or

ORIGINAL SENATE
FILE NO. SF0094

ENROLLED ACT NO. 34, SENATE

SIXTY-THIRD LEGISLATURE OF THE STATE OF WYOMING
2016 BUDGET SESSION

(ii) Have been placed in a psychiatric residential treatment facility who are receiving educational services pursuant to W.S. 21-13-315 or 21-13-336.

Section 3.

(a) From the appropriation of school foundation program account funds by 2016 Senate File 0001, Section 2, Section 205, Court Ordered Placements, the department of education may expend up to two million dollars (\$2,000,000.00) for the payment of allowable educational costs pursuant to W.S. 21-13-336. If the department of education determines at any point in the 2017-2018 fiscal biennium that this amount will be insufficient to pay all such allowable education costs, the department shall from that point forward reduce payments to all qualifying psychiatric residential treatment facilities for the allowable educational costs. The reductions shall be made pro rata based upon the amount of payments to each qualifying facility from the point of determining a shortfall exists.

(b) In preparing its 2019-2020 standard budget request, the department of education shall create a new unit to properly account for appropriations and expenditures related to the payment of allowable educational costs for students placed in psychiatric residential treatment centers pursuant to W.S. 21-13-336.

Section 4. There is appropriated ten thousand dollars (\$10,000.00) from the school foundation program account to the department of education. This appropriation shall be for the period beginning with the effective date of this act and ending June 30, 2018. This appropriation shall only

ORIGINAL SENATE
FILE NO. SF0094

ENROLLED ACT NO. 34, SENATE

SIXTY-THIRD LEGISLATURE OF THE STATE OF WYOMING
2016 BUDGET SESSION

be expended for the purpose of payment of mileage and per diem pursuant to W.S. 9-3-102 and 9-3-103 associated with the travel necessary to certify psychiatric residential treatment facilities as required under W.S. 21-13-336 as created by this act. Notwithstanding any other provision of law, this appropriation shall not be transferred or expended for any other purpose and any unexpended, unobligated funds remaining from this appropriation shall revert as provided by law on June 30, 2018. This appropriation shall not be included in the department of education's 2019-2020 standard biennial budget request.

Section 5. This act is effective July 1, 2016.

(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