

HOUSE BILL NO. HB0043

School capital construction.

Sponsored by: School Capital Construction Committee

A BILL

for

1 AN ACT relating to school capital construction;
2 establishing a school capital construction system in
3 response to the Supreme Court decision in State of Wyoming,
4 et al., v. Campbell County School District, et al., WY 19,
5 19 P.3d 518, (Wyo. 2001) (Campbell II), as specified;
6 establishing a state school facilities commission;
7 transferring specified programs; prescribing transitional
8 school building activities; providing appropriations; and
9 providing for effective dates.

10

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

12

13 **Section 1.** W.S. 21-15-113 through 21-15-121 and
14 28-11-301 are created to read:

15

1 **21-15-113. School facilities commission; membership;**
2 **conflict of interest; terms; chairman; meetings;**
3 **compensation.**

4
5 (a) The school facilities commission is established
6 to consist of seven (7) members comprised of the state
7 superintendent of public instruction and six (6) members
8 appointed by the governor, one (1) of whom shall be a
9 member of the state board of education. The remaining five
10 (5) appointed members shall have knowledge and experience
11 in the following areas, with each appointment representing
12 one (1) specified area of expertise:

13
14 (i) Building and facility engineering,
15 construction and operations;

16
17 (ii) Building design and specifications;

18
19 (iii) School facilities planning and management;

20
21 (iv) The state educational program for public
22 schools as required by law;

23

1 (v) Estimating, bidding and building
2 construction.

3

4 (b) Commission members appointed under subsection (a)
5 of this section shall not be a member of any school
6 district board of trustees or an employee of any
7 educational association or organization. In addition, not
8 more than one (1) commission member shall be an employee of
9 a school district. Commission members shall be subject to
10 W.S. 16-6-118 and shall not vote or otherwise participate
11 in any matter as prohibited under W.S. 16-6-118.

12

13 (c) Gubernatorial appointments shall be subject to
14 senate approval and shall serve a term of four (4) years
15 beginning March 1. Not more than four (4) of the appointed
16 members shall be of the same political party. The governor
17 shall fill any vacancy on the commission in accordance with
18 W.S. 28-12-101, and may remove any commissioner as provided
19 by W.S. 9-1-202.

20

21 (d) The governor shall designate a chairman from
22 commission appointments, who shall hold office for the
23 length of his term or until a successor is designated,
24 whichever first occurs. The commission shall meet not less

1 than quarterly and a majority of the voting membership
2 constitutes a quorum for the transaction of commission
3 business.

4

5 (e) Appointed commissioners shall receive one hundred
6 twenty-five dollars (\$125.00) per day as salary for
7 attendance at commission meetings and conducting official
8 commission business, and shall be reimbursed for travel and
9 other expenses incurred in the performance of their
10 official duties in the same manner and amount as state
11 employees.

12

13 **21-15-114. Powers and duties; school facilities**
14 **office created; director.**

15

16 (a) The school facilities commission shall:

17

18 (i) Adopt policies, guidelines and standards for
19 the comprehensive assessment of school buildings and
20 facilities required under W.S. 21-15-115;

21

22 (ii) Adopt policies, guidelines and standards
23 for school district facility plans required of each

1 district under W.S. 21-15-116 and review and certify each
2 district's plan as required under this act;

3

4 (iii) Establish a consistent, systematic
5 research approach for student enrollment projections used
6 by districts in developing district facility plans and
7 forecasting building and facility needs to comply with
8 statewide building adequacy standards;

9

10 (iv) Develop cost per square foot guidelines to
11 be used in estimating the cost of constructing, renovating
12 and otherwise remediating buildings and facilities to
13 comply with statewide adequacy standards, which shall
14 account for demonstrated differences among regions and
15 communities within the state;

16

17 (v) Establish a statewide school facilities
18 database comprised of building and facility specific
19 condition, suitability, accessibility, capacity, inventory
20 and site data;

21

22 (vi) Develop policies and criteria for use in
23 determining renovation, replacement or discontinuation of
24 inadequate buildings and facilities based upon statewide

1 adequacy standards and other requirements necessary to
2 ensure adequate, efficient and cost effective school
3 buildings and facilities;

4

5 (vii) Enter into construction or renovation
6 project agreements, as appropriate, with school districts
7 to select professionals for a project, review and approve
8 project plans and specifications, review and approve
9 project changes and change orders, establish payment
10 schedules involving state funds and take all other
11 necessary steps to ensure construction or renovation
12 project management and to review and approve the process
13 for approval of the completed project, with assurances that
14 the commission is not responsible nor liable for compliance
15 with construction or renovation project schedules or
16 completion dates. All contracts entered into under the
17 agreement shall be signed by a representative of the
18 district and commission staff. Agreements entered into
19 under this paragraph shall expire upon completion of the
20 project;

21

22 (viii) Establish criteria and procedures for the
23 identification and review of local enhancements to school
24 buildings and facilities which are in excess of state

1 building adequacy standards and develop criteria and
2 procedures to determine whether and how any local
3 enhancements should be incorporated into the statewide
4 adequacy standards;

5

6 (ix) Prescribe a process for the determination
7 of surplus buildings and facilities and a process for the
8 disposition or demolition of surplus buildings and
9 facilities, including allocation of resulting costs and
10 revenues. Disposition shall include options for use, lease,
11 sale and any other means of disposing of the surplus
12 building or facility. The costs and revenues incurred by
13 the disposition or demolition of the building or facility
14 shall be accounted for in each district's school facility
15 plan and considered in any building or facility remedy for
16 that district. Any revenues considered pursuant to W.S.
17 21-13-310(a)(xiv) or (xv) shall not be counted under this
18 paragraph;

19

20 (x) Establish a process under which prototypes
21 are developed for remedies addressing building and facility
22 inadequacies identified under this act through building and
23 facility replacement. Prototypes shall be assembled based
24 upon:

1

2 (A) Capacity requirements of the building
3 or facility and projected student populations to be
4 attending programs in the building or facility;

5

6 (B) Educational programs to be provided
7 within the building or facility;

8

9 (C) Accommodations to the proposed site on
10 which the building or facility is to be constructed,
11 including specific site requirements and limitations.

12

13 (xi) Develop criteria and procedures for the
14 purchase and acquisition of sites and for the site analysis
15 of remedies responding to identified building and facility
16 inadequacies by building and facility replacement. Site
17 analysis shall include a comprehensive review and
18 evaluation of site soil conditions, traffic patterns,
19 utilities and site topography;

20

21 (xii) Promulgate necessary rules and regulations
22 to administer and implement this act.

23

1 (b) The commission may contract with appropriate
2 expertise and professionals in administering this act and
3 performing duties imposed under this act.

4
5 (c) The commission shall select and employ a director
6 who shall have demonstrated competency in facilities
7 planning and construction. The director shall receive an
8 annual salary determined by the commission and may be
9 removed from office by the commission or the governor as
10 provided under W.S. 9-1-202(b). In addition to other powers
11 granted under this act, the director may hire necessary
12 staff as approved by legislative appropriation and shall
13 provide administrative support to the commission and carry
14 out this act under the direction of the commission.

15

16 **21-15-115. Statewide standards for school building**
17 **and facility adequacy; adequacy assessment.**

18

19 (a) The commission shall by rule and regulation
20 establish and maintain uniform statewide standards for the
21 adequacy of school buildings and facilities necessary for
22 providing educational programs prescribed by law for the
23 public schools. If a building owned by a district meets the
24 applicable standards under this subsection for use by the

1 district to educate students and was previously used for
2 the purpose of educating students, no municipal or county
3 zoning requirements shall be construed or applied so as to
4 prevent the district from using the building for the
5 purpose of educating students, or to require the district
6 to make any modification to the building as a condition of
7 using the building for the purpose of educating students.
8 The uniform standards shall at minimum include:

9

10 (i) Requirements for educating students in a
11 safe environment including all applicable building, health,
12 safety and environmental codes and standards required by
13 law for all public buildings;

14

15 (ii) Building site requirements;

16

17 (iii) Building performance standards and
18 guidelines including energy efficiency criteria;

19

20 (iv) Assurances for the special needs of
21 identified student populations including children with
22 disabilities;

23

1 (v) Guidelines for adequacy and functionality of
2 educational space for required educational programs;

3

4 (vi) Building capacity criteria aligned to the
5 prescribed state educational program, with consideration
6 given to utilization differences between school sizes;

7

8 (vii) Technological capacity criteria sufficient
9 to meet required educational program needs and the
10 requirements imposed under the state education technology
11 plan;

12

13 (viii) Building and facility accessibility.

14

15 (b) In addition to subsection (a) of this section,
16 the commission shall maintain the comprehensive assessment
17 of the adequacy of existing school buildings and facilities
18 and of future space requirements within the state, as
19 established and existing within the department of education
20 on July 1, 2002, and as updated thereafter until the date
21 of transfer to the commission. Maintenance of the
22 assessment shall include district reporting of new
23 construction and major building and facility repair and
24 replacement activities for the previous year in accordance

1 with guidelines prescribed by rule and regulation of the
2 commission, the results of commission on-site visitations
3 and inspections of buildings and facilities and needs
4 assessment data and verification of building and facility
5 ratings through periodic review as specified in this act.
6 The assessment shall be designed and maintained to provide
7 timely and uniform statewide data on all of the following:

8

9 (i) The condition of school buildings and
10 facilities, seismic ratings and structural integrity;

11

12 (ii) School building and facility longevity and
13 space requirements;

14

15 (iii) Student educational and safety
16 requirements;

17

18 (iv) The ability to accommodate educational
19 technology;

20

21 (v) Site requirements of school buildings and
22 facilities;

23

1 (vi) Inventory of exterior and interior building
2 and facility space.

3

4 (c) The commission shall not less than once every
5 four (4) years, review and evaluate the building and
6 facility adequacy standards established under subsection
7 (a) of this section and the assessment of building and
8 facility adequacy conducted under subsection (b) of this
9 section. Review and evaluation of the standards shall
10 include a review of local enhancements to buildings and
11 facilities during this review and evaluation period, and
12 based upon criteria and procedures developed by the
13 commission, a determination as to whether and how any local
14 enhancements should be incorporated into the statewide
15 standards. Findings and recommendations pursuant to this
16 subsection shall be reported to the select committee on
17 school facilities before the next convening date of the
18 legislative session immediately following completion of the
19 review and evaluation, and shall specifically address any
20 need to expand the needs assessment or to conduct a
21 reassessment of building and facility adequacy.

22

23 **21-15-116. School district facility plans; filing**
24 **with commission; commission review; judicial review.**

1

2 (a) Each school district shall, in accordance with
3 rules and regulations of the commission, and with the
4 assistance of professional facility planning expertise and
5 a representative of the commission, develop long range
6 comprehensive school building and facility plans for the
7 district which address district wide building and facility
8 needs over a five (5) year period. Professional facility
9 planning assistance acquired by a district under this
10 section shall not be eligible for design or construction
11 management contracts for projects identified in the
12 district plan. The plan shall be in a form and format
13 specified by rule and regulation of the commission and
14 shall identify building and facility needs in accordance
15 with the statewide adequacy standards, actions to remediate
16 building and facility inadequacies including construction,
17 renovation and major building and facility repair and
18 replacement expenditures, and any local enhancements to
19 buildings and facilities beyond statewide adequacy
20 standards. The plans shall include a response to each
21 building and facility inadequacy identified by the needs
22 assessment on a building-by-building, space-by-space basis.
23 The plan shall also review and to the extent practical,
24 identify nonconstruction alternatives to building and

1 facility inadequacies such as building closure,
2 modification of school boundaries, modification of school
3 grade configurations and similar approaches. Demolition or
4 use, lease or other methods of disposition of commission
5 determined surplus buildings and facilities shall be
6 incorporated as part of the district plan, including
7 identified alternative methods of building disposition and
8 proposed allocation of costs incurred or revenues resulting
9 from disposition or demolition. In addition, district
10 facility plans shall include:

11

12 (i) Student enrollment projections for the next
13 five (5) years using commission approved measures and
14 techniques, including a description of the methods used in
15 making projections;

16

17 (ii) A description of proposed new schools or
18 additions and remediations to existing schools necessary to
19 meet building adequacy standards, including:

20

21 (A) The grade levels and the total number
22 of pupils that the proposed school or school addition or
23 remediation is intended to serve;

24

1 (B) The year in which it is necessary to
2 commence operations of the proposed new school or school
3 addition;

4
5 (C) The timeline for the planning and
6 construction of the new school or school addition or
7 remediation.

8
9 (iii) Projections for new land required for new
10 schools including land purchase, acquisition and site
11 analysis;

12
13 (iv) Appropriate cost estimates;

14
15 (v) Other information required by the commission
16 to evaluate the district's plan.

17
18 (b) In accordance with a schedule established by the
19 commission but not later than July 1, 2003, district
20 facility plans required under this section shall be
21 submitted to the commission. Districts shall update
22 facility plans by July 1 of each year thereafter except
23 during any year in which a comprehensive plan review and
24 redevelopment is completed as provided under subsection (c)

1 of this section. Plans and plan updates shall be in a form
2 and subject to guidelines prescribed by commission rule and
3 regulation.

4

5 (c) In addition to subsection (b) of this section,
6 the commission shall require each district to provide for a
7 comprehensive review and redevelopment of the district
8 facility plan. The review shall be conducted every five (5)
9 years or on a schedule otherwise established for the
10 district by the commission. The commission shall subject to
11 legislative appropriation, provide payment to districts
12 from the school capital construction account for necessary
13 expenditures incurred by each district in developing and
14 reviewing district facility plans and otherwise complying
15 with this section.

16

17 (d) Upon receipt, the commission shall review each
18 submitted district facility plan. Commission review shall
19 ensure the plan:

20

21 (i) Complies with state adequacy standards;

22

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

1

2 (iii) Considers nonconstruction alternatives;

3

4 (iv) Provides facilities capable of supporting
5 the provision of the statewide educational program required
6 by law of public schools.

7

8 (e) Within sixty (60) but not more than ninety (90)
9 days after receipt of a district facility plan, and based
10 upon its review pursuant to subsection (d) of this section,
11 the commission shall approve, modify or reject the plan and
12 notify the district of its action. The commission may
13 modify proposed remedies or projects to best reflect
14 commission priorities established under W.S. 21-15-117. If
15 a plan is modified, the commission shall provide the
16 district opportunity for hearing before the commission on
17 the plan modification. If a plan is rejected, notice of the
18 plan rejection shall include reasons for rejection and
19 recommendations for making the plan acceptable. Upon plan
20 rejection, a district may resubmit a modified facilities
21 plan within sixty (60) days after receipt of notice under
22 this subsection. The commission shall for any district
23 failing to resubmit a modified facilities plan or if a
24 resubmitted district plan is not acceptable, modify the

1 district plan in accordance with its review under
2 subsection (d) of this section and use this plan in
3 addressing building and facility needs for the district in
4 accordance with this act. A decision by the commission
5 under this subsection is a final administrative
6 determination subject to judicial review under the Wyoming
7 Administrative Procedure Act.

8

9 **21-15-117. Annual evaluation of school buildings and**
10 **facilities; remediation schedule; needs prioritization;**
11 **combining facilities.**

12

13 (a) Through the identification of school building and
14 facility conditions and needs provided by the assessment
15 conducted and maintained under W.S. 21-15-115, and a
16 comparison of the identified conditions and needs with the
17 established statewide building adequacy standards and the
18 district facility plans submitted under W.S. 21-15-116, the
19 commission shall annually evaluate the adequacy of school
20 buildings and facilities within local school districts, and
21 based upon this evaluation, establish a schedule for
22 building and facility remediation. Remediation shall bring
23 all buildings and facilities to conditions such that over
24 time, only routine maintenance is required to maintain

1 building adequacy. The schedule shall identify and
2 prioritize building and facility remedies on a statewide
3 basis, based upon the following:

4

5 (i) Criteria for building capacity, building
6 condition, educational suitability and technology readiness
7 established by commission rule and regulation, reviewed
8 annually, based upon assessment results and findings,
9 broken down by educational and noneducational building
10 category;

11

12 (ii) Measures of building condition, educational
13 suitability and technology readiness, including computed
14 building capacity, as established by the commission, which
15 over time, bring statewide school buildings and facilities
16 to targeted minimum levels prescribed by the commission;

17

18 (iii) Analysis of student enrollment changes, as
19 based upon commission approved enrollment projection
20 methodology, to determine the need for changes in building
21 capacities over time for compliance with statewide adequacy
22 standards. Analysis under this paragraph shall prioritize
23 remediation for those buildings requiring additional space
24 to comply with statewide adequacy standards within the next

1 two (2) years for elementary schools, and within the next
2 three (3) years for middle and high schools;

3

4 (iv) Priority shall be given to educational
5 buildings and to conditions in those buildings which impede
6 the delivery of the prescribed statewide educational
7 program;

8

9 (v) A methodology and process for identifying
10 the most critical building and facility needs.

11

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

23

1 (i) "Minor capital outlay" involves a total
2 project or remedy expenditure of less than two hundred
3 thousand dollars (\$200,000.00), excluding major building
4 and facility repair and replacement expenditures under W.S.
5 21-15-109;

6
7 (ii) "Major capital outlay" involves a total
8 project or remedy expenditure of two hundred thousand
9 dollars (\$200,000.00) or more, excluding major building and
10 facility repair and replacement expenditures under W.S.
11 21-15-109.

12
13 (c) In determining the most cost effective method in
14 meeting capital construction needs, the commission may
15 recommend consolidating educational facilities within,
16 between or among school districts. The legislature shall
17 approve any consolidation of educational facilities between
18 two (2) or more school districts.

19

20 **21-15-118. Building and facility construction and**
21 **renovation projects.**

22

23 (a) Upon determination by the commission following
24 review under W.S. 21-15-117, and appropriation by the

1 legislature in accordance with W.S. 21-15-119, the
2 commission shall proceed with projects authorized and
3 approved by the legislature as follows:

4

5 (i) If a minor capital outlay remedy, initiate
6 directly or in cooperation with a school district,
7 necessary action to complete the remedy; or

8

9 (ii) If a major capital outlay remedy:

10

11 (A) With the assistance of the involved
12 school district, develop the necessary schematic design
13 documents;

14

15 (B) Conduct a value engineering analysis of
16 the project;

17

18 (C) Perform an energy efficiency assessment
19 of the project;

20

21 (D) Conduct a safety and security
22 assessment of the project;

23

1 (E) Waive any of the requirements under
2 subparagraphs (a)(ii)(B) through (D) of this section if
3 determined not necessary or if provided within any one (1)
4 of the other requirements specified under this paragraph.

5

6 (b) If required, the commission shall provide
7 temporary space for any scheduled building remedy by means
8 of portable buildings creating capacity or by other means
9 available to the commission.

10

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

15

16 **21-15-119. Commission budget and funding**
17 **recommendations.**

18

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

1 administration and information. The recommended budget
2 submitted by the commission shall include:

3

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

9

10 (ii) Financing alternatives for funding the
11 recommended budget, which uses any combination of the
12 following financing alternatives:

13

14 (A) Direct payment from the school capital
15 construction account;

16

17 (B) Proceeds from state revenue bonds
18 issued under W.S. 21-15-108;

19

20 (C) Capital leasing under W.S. 21-15-112.
21 Any payments for capital leasing shall be made from the
22 school capital construction account subject to W.S.
23 21-15-112. For the purpose of this section, capital leasing

1 includes payments sufficient for the exercise of a purchase
2 option under the lease.

3

4 (iii) In odd-numbered years, the commission's
5 recommendation on November 1 shall be for expenditures
6 during the two (2) succeeding fiscal years. The
7 recommendation for the second year shall be based on
8 estimates of expenditures and payments. In even-numbered
9 years, the commission's recommendation on November 1 shall
10 be for expenditures during the succeeding fiscal year. As
11 it determines to be necessary in any year, the commission's
12 recommendation on November 1 may contain a recommendation
13 for revised expenditures during the current fiscal year.

14

15 (b) The commission may enter into agreements under
16 which the commission may make payments on behalf of a
17 school district with respect to the district's lease of
18 school facilities under W.S. 21-15-112. The commission may
19 also enter into any agreement with a nonprofit corporation
20 or other entity necessary to ensure that a district can
21 lease facilities under W.S. 21-15-112.

22

23 **21-15-120. Emergency contingency account;**
24 **expenditures restricted.**

1

2 (a) The commission shall promulgate rules under which
3 an emergency shall be determined to exist with respect to
4 the adequacy of the school buildings and facilities of any
5 school district such that the ability of the district to
6 provide educational programs required by law is immediately
7 and substantially impacted and no reasonable alternative
8 exists to address it other than emergency funding under
9 this section.

10

11 (b) Upon a finding that an emergency exists under
12 subsection (a) of this section, the commission shall in
13 accordance with rules and regulations promulgated by the
14 commission under this subsection, make expenditures from
15 the emergency contingency account within the school capital
16 construction account for emergency funding. Expenditures
17 from the contingency account pursuant to this subsection
18 shall be limited to the acquisition or use of facilities,
19 the acquisition of equipment, facility repairs, additional
20 operating expenses incurred in providing temporary measures
21 and other responses to the emergency situation including
22 necessary investigative and qualified contract assistance
23 expenses incurred by the commission, to enable the district
24 to provide educational programs required by law on a

1 temporary basis until permanent action can be taken to
2 address building adequacy.

3

4 **21-15-121. Annual school building status report to**
5 **select committee on school facilities.**

6

7 (a) Not later than December 31 of each year, the
8 commission shall submit a report to the select committee on
9 school facilities on progress being made under the school
10 capital facilities system established under law. The report
11 shall list:

12

13 (i) Buildings and facilities identified as
14 inadequate under this act for the preceding year;

15

16 (ii) Building and facility needs addressed under
17 this act or otherwise by districts during that same year
18 including any building or facility which is closed or
19 otherwise removed from operation during that year;

20

21 (iii) Any use of major building and facility
22 repair and replacement funds which have addressed buildings
23 and facilities identified as inadequate for that year,
24 including the impact of expenditures of these funds, as

1 quantified pursuant to the statewide needs assessment
2 rating scores undertaken in accordance with W.S. 21-15-115,
3 on the capacity, condition, educational suitability and
4 technology readiness of inadequate buildings and
5 facilities;

6

7 (iv) Amounts of funds expended to address these
8 building and facility needs;

9

10 (v) The impact of expenditures on the building
11 and facility scores for condition, educational suitability
12 and technology readiness, including computed building
13 capacity;

14

15 (vi) Additional buildings and facilities
16 identified as inadequate under this section for the current
17 year and a comparison of these current year identified
18 needs with the needs addressed during the preceding year;

19

20 (vii) A cross referencing of additional building
21 and facilities identified as inadequate under paragraph
22 (a)(vi) of this section and district responses to the
23 inadequacies as provided with the district facility plans
24 submitted under W.S. 21-15-116;

1

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

4

5

ARTICLE 3

6

SELECT COMMITTEE ON SCHOOL FACILITIES

7

8 **28-11-301. Appointment of members; powers and duties;**
9 **related duties of school facilities commission.**

10

11 (a) Not later than March 15 following each general
12 session, the president of the senate shall appoint five (5)
13 members of the senate and the speaker of the house shall
14 appoint five (5) members of the house to a select committee
15 on school facilities. Not more than three (3) members from
16 each house shall be from the same political party.

17

18 (b) The select committee shall:

19

20 (i) Select from among its members a chairman and
21 vice-chairman;

22

23 (ii) Monitor the assessment of statewide school
24 facility needs, prioritization of these needs and

1 remediation of identified needs, as undertaken by the
2 school facilities commission pursuant to law;

3

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

8

9 (iv) Review commission proposals addressing
10 statewide building and facility needs and provide
11 recommendations to the joint appropriations committee and
12 the legislature including any necessary implementing
13 legislation.

14

15 (c) The school facilities commission shall:

16

17 (i) Provide the select committee with notice of
18 all commission meetings;

19

20 (ii) Provide the committee with commission
21 reports and studies pertaining to school building and
22 facility remediation projects;

23

1 (iii) Provide information to the select
2 committee upon request to assist the select committee in
3 monitoring progress under paragraph (b)(ii) of this
4 section.

5
6 **Section 2.** W.S. 9-2-1013(d)(i), 9-2-1704(d) by
7 creating a new paragraph (xv), 21-3-110(a)(x) and by
8 creating a new paragraph (xxiv), 21-3-111(a) by creating a
9 new paragraph (xx), 21-15-108(b), (c), (d)(iii), (vii),
10 (e), (f)(intro) and (g), 21-15-109(a)(intro), (b),
11 (c)(intro), (i), (iii), (v), (d)(intro), (i), (iv)(B) and
12 (e), 21-15-111(a) and 21-15-112(a)(intro) are amended to
13 read:

14

15 **9-2-1013. State budget; distribution of copies to**
16 **legislators; copies and reports of authorizations.**

17

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

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(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 under W.S. 21-15-119, a total appropriation for school capital construction purposes for both fiscal years;

9-2-1704. Reorganization plan; structure; time frame.

(d) The entities of state government specified in this subsection are designated as separate operating agencies, which are separate and distinct from the departments and offices specified in subsection (a) of this section because of their quasi-judicial responsibility or because of their unique, specialized function which precludes their inclusion in another department. This act does not otherwise apply to separate operating agencies. Separate operating agencies are as follows:

(xv) School facilities commission established under W.S. 21-15-113.

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

1

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

4

5 (x) Subject to review by the school facilities
6 commission under W.S. 21-15-115, fix the site of each
7 ~~schoolhouse~~ school building and facility considering the
8 needs of the people of each portion of the district;

9

10 (xxiv) Develop and annually update long range
11 comprehensive school building and facility plans for the
12 district addressing district-wide building and facility
13 needs over a five (5) year period in accordance with W.S.
14 21-15-116, and submit the plan to the school facilities
15 commission as required under W.S. 21-15-116 and by rule and
16 regulation of the commission.

17

18 **21-3-111. Powers of boards of trustees.**

19

20 (a) The board of trustees in each school district
21 within the state may:

22

1 ~~(xx) Enter into school building construction and~~
2 ~~renovation project agreements with the school facilities~~
3 ~~commission as authorized under W.S. 21-15-114(a)(vii).~~

4
5 **21-15-108. Revenue bonds for grants and loans;**
6 **refunding revenue bonds.**

7
8 (b) The ~~state loan and investment board~~ school
9 facilities commission may borrow money in a principal
10 amount not to exceed one hundred million dollars
11 (\$100,000,000.00) by the issuance from time to time of one
12 (1) or more series of revenue bonds. The ~~board~~ commission
13 may encumber revenues under subsection (a) of this section
14 for bonds in total amounts not to exceed one hundred
15 million dollars (\$100,000,000.00) issued for ~~state~~ school
16 capital construction projects and assistance as determined
17 by the commission and approved by the legislature under
18 W.S. ~~21-15-111~~ 21-15-119. ~~The state loan and investment~~
19 ~~board may issue these bonds only to provide funding for~~
20 ~~school capital construction projects in accordance with a~~
21 ~~budget recommendation submitted by the state superintendent~~
22 ~~under W.S. 21-15-111.~~ Any bonds issued under this section,
23 together with any interest accruing thereon and any prior
24 redemption premiums due in connection therewith, are

1 payable and collectible solely out of revenues authorized
2 under this section. The bondholders may not look to any
3 general or other fund for payment of the bonds except the
4 revenues pledged therefore. The bonds shall not constitute
5 an indebtedness or a debt within the meaning of any
6 constitutional or statutory provision or limitation. The
7 bonds shall not be considered or held to be general
8 obligations of the state but shall constitute its special
9 obligations and the ~~board~~commission shall not pledge the
10 state's full faith and credit for payment of the bonds.

11

12 (c) Bonds issued under this section shall be in a
13 form, issued in a manner, at, above or below par at a
14 discount not exceeding ten percent (10%) of the principal
15 amount of the bonds, at public or private sale, and issued
16 with recitals, terms, covenants, conditions and other
17 provisions not contrary to other applicable statutes, as
18 may be provided by the ~~board~~commission in a resolution
19 authorizing their issuance and in an indenture or other
20 appropriate proceedings.

21

22 (d) Any bonds issued under this section shall:

23

1 (iii) Mature at a time or serially at times in
2 regular numerical order at annual or other designated
3 intervals in amounts designated and fixed by the ~~board~~
4 commission, but not exceeding thirty (30) years from their
5 date;

6
7 (vii) Be additionally secured by a reserve fund
8 created from revenues deposited within the capital
9 construction account under W.S. 9-4-305(b) or from the
10 proceeds of the bonds, or both, in an amount determined by
11 the ~~state loan and investment board~~ commission but not to
12 exceed an amount equal to ten percent (10%) of the revenue
13 bonds outstanding.

14
15 (e) Before any contract is entered into by the ~~state~~
16 ~~loan and investment board~~ commission to retain the services
17 of a financial advisor or to sell the bonds to an
18 underwriter, whether by competitive or negotiated bid, a
19 full disclosure of the terms of the contract including fees
20 to be paid shall be submitted to the management council
21 through the legislative service office.

22
23 (f) The ~~board~~ commission may issue refunding revenue
24 bonds:

1

2 (g) Any refunding permitted by this subsection shall
3 be accomplished in the manner prescribed by W.S. 16-5-101
4 through 16-5-119, except any refunding revenue bonds
5 authorized by the ~~board~~commission under this subsection
6 shall not constitute an indebtedness or a debt within the
7 meaning of any constitutional or statutory provision or
8 limitation or be considered general obligations of the
9 state. The ~~board~~commission shall not pledge the state's
10 full faith and credit to the payment of the refunding
11 revenue bonds. The refunding revenue bonds shall constitute
12 special obligations of the state and may be payable only
13 from the sources authorized in this section for the payment
14 of the bonds refunded. The principal amount of any bonds
15 which have been refunded need not be taken into account in
16 computing compliance with the maximum amounts of bonds
17 authorized to be issued under this section.

18

19 **21-15-109. Major building and facility repair and**
20 **replacement payments; computation; square footage**
21 **allowance; use of payment funds; accounting and reporting**
22 **requirements.**

23

24 (a) As used in this ~~section~~act:

1

2 (b) On or before September 30 and March 31 of each
3 school year, the ~~department of education~~ school facilities
4 commission shall distribute major building and facility
5 repair and replacement payments to each school district
6 from the capital construction account. Major building and
7 facility repair and replacement payments shall be computed
8 in accordance with subsection (c) of this section.

9

10 (c) To compute the major building and facility repair
11 and replacement payment for each district, the ~~department~~
12 commission shall:

13

14 (i) Annually on or before September 1, and
15 subject to subsection (d) of this section, determine the
16 total number of gross square feet of school buildings and
17 facilities within the district according to guidelines
18 prescribed by rule and regulation of the ~~state~~
19 ~~superintendent~~ commission. The gross square footage of any
20 school building or facility within the district which is
21 not used for district purposes shall not be included within
22 the district's total gross square footage computed under
23 this section. In addition, no gross square footage created
24 by any district enhancement shall be included within the

1 district's gross square footage computed under this section
2 unless the enhancement or any portion thereof is determined
3 to be included within the state adequacy standards pursuant
4 to this act;
5

6 (iii) The total amount of gross square footage
7 determined for educational buildings under subparagraph
8 (c)(ii)(C) of this section shall be adjusted by excluding
9 from computations under this section the square footage for
10 those educational buildings closed and not operational as
11 provided for under paragraph (c)(iv) of this section and
12 any amount including the gross square footage of portable
13 buildings, which exceeds two hundred percent (200%) of the
14 statewide minimum gross square footage criteria as
15 prescribed by the statewide building and facility adequacy
16 standards promulgated under W.S. ~~21-15-107(a)~~ 21-15-115(a).

17 For purposes of this section, per student gross square
18 footage criteria prescribed by the statewide building
19 adequacy standards shall be based upon an average daily
20 membership (ADM) computed as defined under W.S.
21 21-13-101(a)(i) for the prior school year, with the
22 district's kindergarten ADM divided by two (2);
23

1 (v) Multiply the adjusted square footage amount
2 for each district's educational buildings determined under
3 paragraph (c)(iii) of this section, the allowable square
4 footage of the district's closed educational buildings
5 determined under paragraph (c)(iv) of this section and the
6 amount determined under paragraph (c)(ii) of this section
7 for all remaining building categories of that district,
8 times a replacement value cost factor established for each
9 building category by the ~~state superintendent~~ commission.
10 For school facilities constructed on or before June 30,
11 1996, the replacement value cost factor shall be based upon
12 the median estimate in the most current edition of the R.
13 S. Means construction cost index, as modified to reflect
14 current Wyoming construction costs determined by the
15 department of administration and information, division of
16 economic analysis. For school facilities constructed on or
17 after July 1, 1996, the replacement value cost factor shall
18 be determined by the ~~state superintendent~~ commission on a
19 square footage basis using the school district's total
20 actual expenditures for materials and labor to construct
21 the facility. For the purposes of this section, school
22 facilities are deemed to be constructed on the date that
23 work on the project is substantially complete and the

1 facilities are suitable to be used for the purpose
2 intended;

3
4 (d) ~~In computing payments under subsection (c) of~~
5 ~~this section for school year 1998-1999 only, the total~~
6 ~~gross square feet for school buildings and facilities~~
7 ~~within the district excluding administration and support~~
8 ~~buildings, shall not exceed the minimum gross square~~
9 ~~footage criteria prescribed by the statewide building and~~
10 ~~facility adequacy standards, except as provided in this~~
11 ~~subsection.~~ In annually computing the amount of gross
12 square footage under paragraph (c)(iii) of this section,
13 the amount of gross square footage in excess of two hundred
14 percent (200%) of the statewide minimum gross square
15 footage criteria as prescribed under W.S. ~~21-15-107(a)~~
16 21-15-115(a) shall be subject to the following:

17
18 (i) If the excess square footage remains open
19 and operational, the full amount of any such excess square
20 footage shall be included annually for three (3)
21 consecutive years. Thereafter, such excess shall not be
22 included under this subsection even if closed and not
23 operational, unless the district shows and the ~~state~~
24 ~~superintendent~~ commission finds that closing the excess

1 square footage and using other facilities costs more than
2 continuing to operate the excess;

3

4 (iv) No square footage of closed buildings
5 eliminated from computations in accordance with paragraph
6 (c)(iv) of this section shall be included as excess under
7 this section unless:

8

9 (B) The district demonstrates and the ~~state~~
10 ~~superintendent~~commission finds that opening the building,
11 and thereby creating excess square footage, costs no more
12 than using other facilities.

13

14 (e) Amounts distributed under subsection (b) of this
15 section shall be deposited by the recipient district into a
16 separate account, the balance of which may accumulate from
17 year-to-year. Expenditures from the separate account,
18 including any interest earnings on the account, shall be
19 restricted to expenses incurred for major building and
20 facility repair and replacement as defined in subsection
21 (a) of this section and as prescribed by rule and
22 regulation of the ~~state superintendent~~commission, and
23 shall be in accordance with the district's facility plan
24 approved by the commission under W.S. 21-15-116. Any

1 interest earned on the account is exempt from and shall not
2 be reported as a local district revenue under W.S.
3 21-13-310(a)(xi). Each district shall annually report to
4 the ~~state superintendent~~ commission on the expenditures
5 made from the separate account during the applicable
6 reporting period, separating account expenditures on a
7 building-by-building basis. In addition, the annual report
8 shall include the district's five (5) year plan for
9 addressing district major building and facility repair and
10 replacement needs, updated for the applicable reporting
11 period. The report shall be in a manner and form required
12 by rule and regulation of the ~~state superintendent~~
13 commission. The ~~state superintendent~~ commission shall
14 annually review account expenditures and shall report
15 expenditures to the ~~state loan and investment board~~ select
16 committee on school facilities established under W.S.
17 28-11-301. The ~~state superintendent~~ commission shall
18 compile reported building-by-building expenditure
19 information for each district and the district five (5)
20 year plan and include this information in his annual report
21 to the ~~legislature~~ select committee pursuant to W.S.
22 ~~21-15-107(j)~~ 21-15-121.

23

24 **21-15-111. Definitions.**

1

2 (a) As used in this act:

3

4 (i) "Capital construction account" or "~~public~~
5 school capital construction account" means the account
6 within the earmarked revenue fund into which revenues are
7 deposited pursuant to W.S. 9-4-305(b) and 9-4-601(a)(vii),
8 (b)(i) and (iv), into which the proceeds from any revenue
9 bonds are credited under W.S. 21-15-108, and into which and
10 in addition to any other funds appropriated to the account
11 for purposes of this act. Funds within the account shall be
12 expended only for purposes of and in the manner prescribed
13 by this act;

14

15 (ii) "Commission" means the school facilities
16 commission created by this act;

17

18 (iii) "Local enhancements to school buildings
19 and facilities" or "local enhancements" means any
20 renovation, construction, replacement, repair or other
21 improvement of or to any school building or facility
22 initiated by a school district which is designed to bring
23 the building or facility to a condition exceeding the
24 statewide building adequacy standards;

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~~(ii)~~ (iv) "Capital construction" and "capital construction" ~~"Project"~~ means replacement, renovation or new construction projects which increase the value of the school building or facility by improving the functioning of the building or facility or the capacity of the building or facility, or both, excluding major building and facility repair and replacement defined under W.S. 21-15-109(a)(iii) and routine maintenance and repair defined under W.S. 21-15-109(a)(vi);

(v) "Remedy" or "remediation" means a course of action addressing identified building and facility inadequacies pursuant to this act consisting of building or facility construction, replacement, renovation, repair or any combination thereof;

~~(iii)~~ (vi) "School buildings and facilities" mean the physical structures and the land upon which the structures are situated, which are primarily used in connection with or for the purpose of providing the educational programs offered by a school district in compliance with law, including both student-related and nonstudent-related buildings and facilities;

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~~(iv) "School district building advisory committee" means the committee organized by the school district board of trustees as required by the statewide adequacy standards established under W.S. 21-15-107(a), for purposes of developing and planning district school building and facility needs;~~

~~(v) (vii) "This act" means W.S. 21-15-105 through 21-15-112, 21-15-108, 21-15-109 and 21-15-111 through 21-15-121.~~

21-15-112. Leasing of capital assets.

(a) ~~The state superintendent of public instruction, solely for the purpose of ensuring adequate facilities are available to school districts, and~~ At the request of the school facilities commission, any school district, ~~may~~ shall lease any land, building, equipment or other capital asset from the nonprofit corporation approved by the state building commission pursuant to 1997 Wyoming session laws, chapter 94, section 3, as amended by 1998 Wyoming session laws, chapter 35, subject to the following conditions:

1 **Section 3.** W.S. 21-2-202(a)(xvii)(C), 21-15-107,
2 21-15-108(d)(vi), 21-15-110 and 21-15-111(b) through (q)
3 are repealed.

4

5 **Section 4.** (Transition.)

6

7 (a) The purpose of this section is to the extent
8 practicable, provide a transition process from the capital
9 construction system in effect prior to the effective date
10 of this act, to the capital construction system established
11 under this act.

12

13 (b) 2002 budget recommendations of the state
14 superintendent of public instruction for school capital
15 construction financing submitted under W.S. 21-15-111(m) on
16 or before November 1, 2001, shall be subject to independent
17 analysis and review required by the joint appropriations
18 committee and subsequent recommendation to the 2003
19 legislature. To the extent determined necessary by the
20 committee and funded under this act, independent analysis
21 and review shall consist of recommendations for the
22 remediation of identified building and facility
23 inadequacies, project value engineering analysis, energy
24 efficiency analysis and security review for each project

1 identified in the state superintendent's budget.
2 Recommendations of the joint appropriations committee shall
3 to the extent practicable, be made in consultation with the
4 school facilities commission established under this act.

5
6 (c) Statewide school construction needs established
7 by the state superintendent of public instruction under
8 W.S. 21-15-107(e) and reported under W.S. 21-15-107(g) on
9 October 17, 2001, shall be subject to review and analysis
10 by the school facilities commission in consultation with
11 the state superintendent. Review and analysis under this
12 subsection shall be based upon available information on the
13 identified building and facility inadequacies and to the
14 extent possible, upon information developed by the state
15 superintendent on behalf of the commission and in
16 cooperation with the school district in which the
17 inadequate building or facility is located. The state
18 superintendent on behalf of the commission and in
19 consultation with the affected school districts, shall
20 develop a cost effective method of remediating identified
21 building and facility inadequacies. Any method of
22 remediation proposed under this subsection shall reduce the
23 inadequacy in the most efficient and cost effective manner
24 by first exploring nonconstruction alternatives. In

1 addition, remediation shall determine if major building and
2 facility repair and replacement payments are sufficient to
3 remedy the identified inadequacy and if not, shall then
4 consider minor capital outlay or major capital outlay
5 remedies as defined under W.S. 21-15-117(b) as created
6 under section 1 of this act. The state superintendent shall
7 transfer the review and analysis of statewide construction
8 needs undertaken in accordance with this subsection to the
9 commission as soon as reasonably possible, and shall
10 continue to assist the commission with the development of
11 remediation proposals as necessary. In addition, the state
12 superintendent shall periodically report progress on the
13 review and analysis conducted pursuant to this subsection
14 to the select committee on school facilities established
15 under W.S. 28-11-301, as created by section 1 of this act.
16 On or before December 31, 2002, the commission shall report
17 remediation recommendations, together with necessary
18 funding, to the governor and the joint appropriations
19 committee. The governor on behalf of the commission may
20 contract with appropriate experts and professionals as
21 necessary to implement this subsection.

22

23 (d) The state superintendent of public instruction
24 and the department of education shall cooperate with and

1 assist the commission in carrying out this section. The
2 state superintendent shall also continue to address
3 emergencies as defined under W.S. 21-15-120, as created
4 under section 1 of this act, and authorize expenditures
5 from the emergency contingency account, until such time as
6 transfer to the commission is feasible. In addition, the
7 state superintendent shall ensure the affected school
8 districts cooperate with and assist the commission as
9 necessary to implement this section.

10

11 (e) The comprehensive assessment of statewide school
12 buildings and facilities maintained by the state
13 superintendent under W.S. 21-15-107(b) before the effective
14 date of this act, together with all official records and
15 other information related thereto and powers and duties
16 exercised thereunder, shall be transferred from the state
17 superintendent of public instruction to the school
18 facilities commission created by this act.

19

20 (f) In addition to subsection (e) of this section,
21 all records and other information pertaining to the major
22 building and facility repair and replacement program
23 established under W.S. 21-15-109 and 21-15-110 prior to the
24 effective date of this act, together with all powers and

1 duties related to the administration and operation of this
2 program, shall be transferred from the state superintendent
3 to the commission.

4

5 (g) All rules and regulations promulgated by the
6 state superintendent pertaining to the needs assessment
7 specified under subsection (e) of this section, the major
8 buildings and facilities repair and replacement program
9 specified under subsection (f) of this section and the
10 school capital construction system in effect prior to the
11 effective date of this act including statewide building
12 adequacy standards, shall remain in effect unaltered as
13 rules and regulations of the commission until amended or
14 repealed by the commission.

15

16 (h) Any unencumbered and unexpended amount within the
17 emergency contingency account established under W.S.
18 21-15-111(q) as of July 1, 2002, shall be transferred to
19 the school capital construction account.

20

21 **Section 5.** (Appropriations.)

22

1 (a) For purposes of the transition process specified
2 under section 4 of this act, the following amounts are
3 appropriated from the school capital construction account:
4

5 (i) One hundred thousand dollars (\$100,000.00)
6 to the legislative service office to obtain the services of
7 independent professional expertise to undertake the review
8 and analysis of those projects contained within the 2002
9 budget recommendations of the state superintendent and to
10 develop project documents to the extent required under
11 section 4(b) of this act. In addition, the amounts
12 appropriated under this paragraph shall be used to cover
13 additional expenses incurred for committee meetings and
14 interim activity created under section 4(b) of this act;
15

16 (ii) Six hundred fifty thousand dollars
17 (\$650,000.00) to the governor to fund necessary expenses
18 incurred by the school facilities commission in conducting
19 the required review and analysis of those projects
20 resulting from the school construction needs identified
21 under section 4(c) of this act and in acquiring necessary
22 consulting expertise required to implement section 4(c) of
23 this act. Amounts appropriated under this paragraph may
24 also be expended for expenses incurred by the state

1 superintendent of public instruction in conducting project
2 review and analysis required under section 4(c) of this
3 act.

4
5 (b) In addition to subsection (a) of this section,
6 one million nine hundred thousand dollars (\$1,900,000.00)
7 is appropriated from the school capital construction
8 account to the governor to fund initial expenses of the
9 establishment and operation of the commission through the
10 fiscal period ending June 30, 2003, including necessary
11 consulting expertise, staff expenses and assistance to
12 school districts for the development of district facility
13 plans in accordance with W.S. 21-15-116 as created by this
14 act. The commission shall on or before December 31, 2002,
15 report expenditures of amounts appropriated under this
16 subsection to the joint appropriations committee.

17
18 (c) Five hundred thousand dollars (\$500,000.00) is
19 appropriated from the school capital construction account
20 to the emergency contingency account established under W.S.
21 21-15-121 as created under section 1 of this act.

22
23 (d) Forty thousand dollars (\$40,000.00) is
24 appropriated from the general fund to the legislative

1 service office to fund interim work and meetings of the
2 select committee on school facilities established under
3 W.S. 28-11-301, as created by section 1 of this act. Funds
4 appropriated under this subsection shall be subject to
5 approval of the management council.

6

7 (e) No amounts appropriated under this section shall
8 lapse on July 1, 2003, pursuant to W.S. 9-4-207.

9

10 **Section 6.** (Initial Appointments.)

11

12 (a) Notwithstanding W.S. 21-15-113 as created under
13 section 1 of this act, the terms of initial appointments to
14 the school facilities commission shall commence upon
15 appointment, with three (3) of the six (6) initial
16 appointments appointed to a term of two (2) years and the
17 remaining initial appointments appointed to a term of four
18 (4) years.

19

20 (b) Notwithstanding W.S. 28-11-103, as created under
21 section 1 of this act, the terms of initial appointments to
22 the select committee on school facilities shall commence
23 upon appointment.

24

1 **Section 7.** (Effective Dates.)

2

3 (a) Sections 4, 5 and 6 of this act are effective
4 immediately upon completion of all acts necessary for a
5 bill to become law as provided by Article 4, Section 8 of
6 the Wyoming Constitution.

7

8 (b) Except as provided by subsection (a) of this
9 section, this act is effective July 1, 2002.

10

11

(END)