

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

11

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

19

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

1 constitutes a quorum for the transaction of commission
2 business.

3

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

11

12 **21-15-114. Powers and duties; school facilities**
13 **office created; director.**

14

15 (a) The school facilities commission shall:

16

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

20

21 (ii) Adopt policies, guidelines and standards
22 for school district facility plans required of each
23 district under W.S. 21-15-116 and review and certify each
24 district's plan as required under this act;

1

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

7

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

14

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

19

20 (vi) Develop policies and criteria for use in
21 determining renovation, replacement or discontinuation of
22 inadequate buildings and facilities based upon statewide
23 adequacy standards and other requirements necessary to

1 ensure adequate, efficient and cost effective school
2 buildings and facilities;

3

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

20

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

1 determine whether and how any local enhancements should be
2 incorporated into the statewide adequacy standards;

3

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

17

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

23

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

4

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

7

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

11

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

19

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

22

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 the identification of local enhancements to
11 buildings and facilities during this review and evaluation
12 period, and based upon criteria and procedures developed by
13 the commission, a determination as to whether and how any
14 local enhancements should be incorporated into the
15 statewide standards. Findings and recommendations pursuant
16 to this subsection shall be reported to the select
17 committee on school facilities before the next convening
18 date of the legislative session immediately following
19 completion of the review and evaluation, and shall
20 specifically address any need to expand the needs
21 assessment or to conduct a reassessment of building and
22 facility adequacy.

23

1 (d) The commission shall not hinder or curtail the
2 right of a school district to undertake local enhancements
3 to buildings and facilities which are in excess of state
4 building adequacy standards, as permitted by law.

5

6 **21-15-116. School district facility plans; filing**
7 **with commission; commission review; judicial review.**

8

9 (a) Each school district shall, in accordance with
10 rules and regulations of the commission, and with the
11 assistance of professional facility planning expertise and
12 a representative of the commission, develop long range
13 comprehensive school building and facility plans for the
14 district which address district wide building and facility
15 needs over a five (5) year period. The plan shall be in a
16 form and format specified by rule and regulation of the
17 commission and shall identify building and facility needs
18 in accordance with the statewide adequacy standards,
19 actions to remediate building and facility inadequacies
20 including construction, renovation and major building and
21 facility repair and replacement expenditures, and any local
22 enhancements to buildings and facilities beyond statewide
23 adequacy standards. The plans shall include a response to
24 each building and facility inadequacy identified by the

1 needs assessment on a building-by-building, space-by-space
2 basis. The plan shall also review and to the extent
3 practical, identify nonconstruction alternatives to
4 building and facility inadequacies such as building
5 closure, modification of school boundaries, modification of
6 school grade configurations and similar approaches.
7 Demolition or use, lease or other methods of disposition of
8 commission determined surplus buildings and facilities
9 shall be incorporated as part of the district plan,
10 including identified alternative methods of building
11 disposition and proposed allocation of costs incurred or
12 revenues resulting from disposition or demolition. In
13 addition, district facility plans shall include:

14

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

19

20 (ii) A description of proposed new schools or
21 additions and remediations to existing schools necessary to
22 meet building adequacy standards, including:

23

1 (A) The grade levels and the total number
2 of pupils that the proposed school or school addition or
3 remediation is intended to serve;

4

5 (B) The year in which it is necessary to
6 commence operations of the proposed new school or school
7 addition;

8

9 (C) The timeline for the planning and
10 construction of the new school or school addition or
11 remediation.

12

13 (iii) Projections for new land required for new
14 schools including land purchase, acquisition and site
15 analysis;

16

17 (iv) Appropriate cost estimates;

18

19 (v) Other information required by the commission
20 to evaluate the district's plan.

21

22 (b) In accordance with a schedule established by the
23 commission but not later than July 1, 2003, district
24 facility plans required under this section shall be

1 submitted to the commission. Districts shall update
2 facility plans by July 1 of each year thereafter except
3 during any year in which a comprehensive plan review and
4 redevelopment is completed as provided under subsection (c)
5 of this section. Plans and plan updates shall be in a form
6 and subject to guidelines prescribed by commission rule and
7 regulation.

8

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

20

21 (d) Upon receipt, the commission shall review each
22 submitted district facility plan. Commission review shall
23 ensure the plan:

24

1 (i) Complies with state adequacy standards;

2

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

5

6 (iii) Considers nonconstruction alternatives;

7

8 (iv) Provides facilities capable of supporting
9 the provision of the statewide educational program required
10 by law of public schools.

11

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

1 plan within sixty (60) days after receipt of notice under
2 this subsection. The commission shall for any district
3 failing to resubmit a modified facilities plan or if a
4 resubmitted district plan is not acceptable, modify the
5 district plan in accordance with its review under
6 subsection (d) of this section and use this plan in
7 addressing building and facility needs for the district in
8 accordance with this act. A decision by the commission
9 under this subsection is a final administrative
10 determination subject to judicial review under the Wyoming
11 Administrative Procedure Act.

12

13 **21-15-117. Annual evaluation of school buildings and**
14 **facilities; remediation schedule; needs prioritization;**
15 **combining facilities.**

16

17 (a) Through the identification of school building and
18 facility conditions and needs provided by the assessment
19 conducted and maintained under W.S. 21-15-115, and a
20 comparison of the identified conditions and needs with the
21 established statewide building adequacy standards and the
22 district facility plans submitted under W.S. 21-15-116, the
23 commission shall annually evaluate the adequacy of school
24 buildings and facilities within local school districts, and

1 based upon this evaluation, establish a schedule for
2 building and facility remediation. Remediation shall bring
3 all buildings and facilities to conditions such that over
4 time, only routine maintenance is required to maintain
5 building adequacy. The schedule shall identify and
6 prioritize building and facility remedies on a statewide
7 basis, based upon the following:

8

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

15

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

21

22 (iii) Analysis of student enrollment changes, as
23 based upon commission approved enrollment projection
24 methodology, to determine the need for changes in building

1 capacities over time for compliance with statewide adequacy
2 standards. Analysis under this paragraph shall prioritize
3 remediation for those buildings requiring additional space
4 to comply with statewide adequacy standards within the next
5 two (2) years for elementary schools, and within the next
6 three (3) years for middle and high schools;

7

8 (iv) Priority shall be given to educational
9 buildings and to conditions in those buildings which impede
10 the delivery of the prescribed statewide educational
11 program;

12

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

15

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

1 remedy requires minor capital outlay or major capital
2 outlay in accordance with the following:

3

4 (i) "Minor capital outlay" involves a total
5 project or remedy expenditure of less than two hundred
6 thousand dollars (\$200,000.00), excluding major building
7 and facility repair and replacement expenditures under W.S.
8 21-15-109;

9

10 (ii) "Major capital outlay" involves a total
11 project or remedy expenditure of two hundred thousand
12 dollars (\$200,000.00) or more, excluding major building and
13 facility repair and replacement expenditures under W.S.
14 21-15-109.

15

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

22

23 **21-15-118. Building and facility construction and**
24 **renovation projects.**

1

2 (a) Upon determination by the commission following
3 review under W.S. 21-15-117, and appropriation by the
4 legislature in accordance with W.S. 21-15-119, the
5 commission shall proceed with projects authorized and
6 approved by the legislature as follows:

7

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

11

12 (ii) If a major capital outlay remedy:

13

14 (A) With the assistance of the involved
15 school district, develop the necessary schematic design
16 documents;

17

18 (B) Conduct a value engineering analysis of
19 the project;

20

21 (C) Perform an energy efficiency assessment
22 of the project;

23

1 (D) Conduct a safety and security
2 assessment of the project;

3

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

8

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

13

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

18

19 **21-15-119. Commission budget and funding**
20 **recommendations.**

21

22 (a) Notwithstanding W.S. 9-2-1012, the commission
23 shall annually, not later than November 1, and after review
24 by and in conjunction with the select committee on school

1 facilities, prepare and submit a recommended budget for
2 projects and school capital construction financing to the
3 governor, through the budget division of the department of
4 administration and information. The recommended budget
5 submitted by the commission shall include:

6

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

12

13 (ii) Financing alternatives for funding the
14 recommended budget, which uses any combination of the
15 following financing alternatives:

16

17 (A) Direct payment from the school capital
18 construction account;

19

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

22

23 (C) Capital leasing under W.S. 21-15-112.

24 Any payments for capital leasing shall be made from the

1 school capital construction account subject to W.S.
2 21-15-112. For the purpose of this section, capital leasing
3 includes payments sufficient for the exercise of a purchase
4 option under the lease.

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

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

24

1 **21-15-120. Emergency contingency account;**
2 **expenditures restricted.**

3

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

12

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

1 expenses incurred by the commission, to enable the district
2 to provide educational programs required by law on a
3 temporary basis until permanent action can be taken to
4 address building adequacy.

5

6 **21-15-121. Annual school building status report to**
7 **select committee on school facilities.**

8

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

14

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

17

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

22

23 (iii) Any use of major building and facility
24 repair and replacement funds which have addressed buildings

1 and facilities identified as inadequate for that year,
2 including the impact of expenditures of these funds, as
3 quantified pursuant to the statewide needs assessment
4 rating scores undertaken in accordance with W.S. 21-15-115,
5 on the capacity, condition, educational suitability and
6 technology readiness of inadequate buildings and
7 facilities;

8

9 (iv) Amounts of funds expended to address these
10 building and facility needs;

11

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

16

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

21

22 (vii) A cross referencing of additional building
23 and facilities identified as inadequate under paragraph
24 (a)(vi) of this section and district responses to the

1 inadequacies as provided with the district facility plans
2 submitted under W.S. 21-15-116;

3

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

6

7

ARTICLE 3

8

SELECT COMMITTEE ON SCHOOL FACILITIES

9

10 **28-11-301. Appointment of members; powers and duties;**
11 **related duties of school facilities commission.**

12

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

19

20 (b) The select committee shall:

21

22 (i) Select from among its members a chairman and
23 vice-chairman;

24

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

5

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

10

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

16

17 (c) The school facilities commission shall:

18

19 (i) Provide the select committee with notice of
20 all commission meetings;

21

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

1

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

6

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

15

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

18

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

1 supplemental budget request, the remainder of the budget
2 period, subject to the following:

3

4 (i) The state budget shall include the
5 governor's recommendations for a total appropriation from
6 the school foundation program account and based upon
7 recommendations of the school facilities commission under
8 W.S. 21-15-119, a total appropriation for school capital
9 construction purposes for both fiscal years;

10

11 **9-2-1704. Reorganization plan; structure; time frame.**

12

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

22

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

1

2

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

3

4

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

5

6

7

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

10

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18

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

19

20

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

21

22

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

23

24

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, on behalf of the
24 commission, shall initiate the establishment of guidelines

1 and criteria to be used by school districts for the
2 development of long range comprehensive school building and
3 facility plans pursuant to W.S. 21-15-116. In addition,
4 the state superintendent shall establish a mechanism and
5 criteria for the distribution of state assistance to
6 districts for use in the development of district facility
7 plans in accordance with W.S. 21-15-116. As soon as
8 reasonably possible, the state superintendent shall
9 transfer guidelines and criteria developed under this
10 subsection to the commission and shall continue to assist
11 the commission with district facility planning efforts as
12 necessary. Distribution of state assistance under this
13 subsection shall be made by the state superintendent on
14 behalf of the commission until such time as the commission
15 is capable of carrying out this responsibility.

16

17 (e) The state superintendent of public instruction
18 and the department of education shall cooperate with and
19 assist the commission in carrying out this section. The
20 state superintendent shall also continue to address
21 emergencies as defined under W.S. 21-15-120, as created
22 under section 1 of this act, and authorize expenditures
23 from the emergency contingency account, until such time as
24 transfer to the commission is feasible. In addition, the

1 state superintendent shall ensure the affected school
2 districts cooperate with and assist the commission as
3 necessary to implement this section.

4

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

13

14 (g) In addition to subsection (f) of this section,
15 all records and other information pertaining to the major
16 building and facility repair and replacement program
17 established under W.S. 21-15-109 and 21-15-110 prior to the
18 effective date of this act, together with all powers and
19 duties related to the administration and operation of this
20 program, shall be transferred from the state superintendent
21 to the commission.

22

23 (h) All rules and regulations promulgated by the
24 state superintendent pertaining to the needs assessment

1 specified under subsection (f) of this section, the major
2 buildings and facilities repair and replacement program
3 specified under subsection (g) of this section and the
4 school capital construction system in effect prior to the
5 effective date of this act including statewide building
6 adequacy standards, shall remain in effect unaltered as
7 rules and regulations of the commission until amended or
8 repealed by the commission.

9

10 (j) Any unencumbered and unexpended amount within the
11 emergency contingency account established under W.S.
12 21-15-111(q) as of July 1, 2002, shall be transferred to
13 the school capital construction account.

14

15 **Section 5.** (Appropriations.)

16

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

20

21 (i) One hundred thousand dollars (\$100,000.00)
22 to the legislative service office to obtain the services of
23 independent professional expertise to undertake the review
24 and analysis of those projects contained within the 2002

1 budget recommendations of the state superintendent and to
2 develop project documents to the extent required under
3 section 4(b) of this act. In addition, the amounts
4 appropriated under this paragraph shall be used to cover
5 additional expenses incurred for committee meetings and
6 interim activity created under section 4(b) of this act;

7

8 (ii) Six hundred fifty thousand dollars
9 (\$650,000.00) to the governor to fund necessary expenses
10 incurred by the school facilities commission in conducting
11 the required review and analysis of those projects
12 resulting from the school construction needs identified
13 under section 4(c) of this act and in acquiring necessary
14 consulting expertise required to implement section 4(c) of
15 this act. Amounts appropriated under this paragraph may
16 also be expended for expenses incurred by the state
17 superintendent of public instruction in conducting project
18 review and analysis required under section 4(c) of this
19 act.

20

21 (b) In addition to subsection (a) of this section,
22 one million nine hundred thousand dollars (\$1,900,000.00)
23 is appropriated from the school capital construction
24 account to the governor to fund initial expenses of the

1 establishment and operation of the commission through the
2 fiscal period ending June 30, 2003, including necessary
3 consulting expertise, staff expenses and assistance to
4 school districts for the development of district facility
5 plans in accordance with section 4(d) of this act. The
6 commission shall on or before December 31, 2002, report
7 expenditures of amounts appropriated under this subsection
8 to the joint appropriations committee.

9

10 (c) Five hundred thousand dollars (\$500,000.00) is
11 appropriated from the school capital construction account
12 to the emergency contingency account established under W.S.
13 21-15-121 as created under section 1 of this act.

14

15 (d) Forty thousand dollars (\$40,000.00) is
16 appropriated from the general fund to the legislative
17 service office to fund interim work and meetings of the
18 select committee on school facilities established under
19 W.S. 28-11-301, as created by section 1 of this act. Funds
20 appropriated under this subsection shall be subject to
21 approval of the management council.

22

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

1

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

3

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

11

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

16

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

18

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

23

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

3

4

(END)