

ENROLLED ACT NO. 27, SENATE

FIFTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2002 SPECIAL SESSION

AN ACT relating to school finance; modifying the education resource block grant model to achieve uniformity and equality and to address the supreme court decision in State of Wyoming, et al., v. Campbell County School District, et al., 2001 WY 19, 19 P.3d 518, (Wyo. 2001) (Campbell II)¹, as specified; implementing recalibration of cost based prototypical school models; modifying requirements for out-of-state tuition payments; transferring and modifying school finance audits; providing for additional studies; providing for appropriations and funds transfer; authorizing additional personnel; and providing for effective dates.

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

Section 1. W.S. 9-1-513 and 21-13-332 are created to read:

9-1-513. School finance audits and management studies.

(a) In addition to other duties prescribed under this article, the director of the department of audit shall establish a school finance section within the department to carry out duties prescribed by this section.

(b) The school finance section within the department established under subsection (a) of this section shall:

(i) Conduct periodic audits of each school district pertaining to data required to be submitted to the department of education under law and by rule and regulation of the state superintendent of public instruction for purposes of implementing and operating the "school finance system" as defined under W.S. 21-2-203(a).

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Audits under this paragraph shall include audits of systems supporting data collection and shall be performed on each school district at least once within each three (3) year period;

(ii) Conduct management studies of school districts including program evaluations and performance audits, on issues identified by the advisory committee to the division of data management and reporting of the department of education, as established under W.S. 21-2-203(d);

(iii) Conduct compliance and effectiveness and efficiency audits of the state department of education with respect to data used in the school finance system, implementation and computations under the school finance system and the allocation of funds to school districts through the school finance system;

(iv) Report findings and recommendations to the department of education resulting from audits and studies conducted on school districts pursuant to this subsection, including recommendations for remedies to identified problems and issues and including the identification and quantification of amounts involved in audit report and study findings;

(v) In addition to paragraph (b)(iv) of this section, provide a written report of each audit or study to the school district for which the audit or report was conducted;

(vi) Maintain a written report of each audit and study conducted under this section;

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(vii) Establish a process to ensure school districts and the department of education address and resolve any problems identified within audit and report findings and recommendations and establish the determination of the materiality levels for findings;

(viii) Provide an annual report to the legislature on audits and studies conducted by the department under this section and on district and department of education efforts to resolve identified problems within the audits and reports. Reports under this paragraph shall include written responses by the districts and the department of education submitted in accordance with subsection (c) of this section.

(c) School districts and the department of education shall provide access to all data and other information and shall cooperate with the school finance section as necessary to implement this section and to conduct audits and reports required under this section. In addition, each district shall within thirty (30) days following receipt of a copy of the audit or report, file a written response to each audit or report conducted on that district with the department. The state superintendent shall on behalf of the department of education and within thirty (30) days following receipt of a report or audit on the department, file a written response to the report with the department of audit.

(d) The director or his designee shall participate in the advisory committee to the division of data management and reporting of the department of education, as required under W.S. 21-2-203(d).

21-13-332. At-risk students; adjustment to foundation program formula.

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(a) The adjustment for at-risk students as provided under W.S. 21-13-309(n)(xi) shall be based upon the number of students within a district who are eligible for participation in the free or reduced price lunch under the national school lunch program established under 42 U.S.C. 1751 et seq. and in programs serving students with limited English proficiency as defined by rule and regulation of the state department. This section only applies to the determination of concentration levels of at-risk students for purposes of computing the adjustment prescribed under this section and shall not apply to any method or procedure implemented by districts to identify at-risk students for purposes of providing programs addressing student needs.

(b) The adjustment under this section shall be computed for each district that has a significant concentration level of at-risk students at any school within the district determined as follows:

(i) Subject to paragraph (b)(ii) of this section, a significant concentration level of at-risk students shall be any level above the statewide average concentration of at-risk students determined by dividing the number of free or reduced price eligible students and the number of students with limited English proficiency enrolled in all schools within the state for the 2001-2002 school year by the total state enrollment for school year 2001-2002;

(ii) A student shall be counted in the computation of the at-risk adjustment if during the applicable school year, that student is eligible to participate in the free or reduced price lunch program or in programs serving students with limited English proficiency. A student shall be counted only once for

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purposes of computing concentration levels under this section, even though that student may simultaneously be eligible to participate in the free or reduced price lunch program and in programs serving students with limited English proficiency;

(iii) For each school within a district and subject to paragraph (b)(ii) of this section, the student count component of the at-risk adjustment shall be computed by dividing the number of free or reduced price lunch eligible students and the number of students with limited English proficiency enrolled in the school during the previous school year by the total number of students enrolled in that school for that year;

(iv) If the student count component of the at-risk adjustment computed under paragraph (b)(iii) of this section for any school within a district is above the statewide average as determined under paragraph (b)(i) of this section, the proportionate percentage student count above the statewide average shall be multiplied by the corresponding factor weight assigned to that concentration level under the education resource block grant model. The factor weight for the highest concentration level of at-risk students in any school for any school year shall not exceed twenty-five percent (25%) of the statewide consolidated dollar per ADM amount for that school year as computed in accordance with the education resource block grant model;

(v) For purposes of this section, student enrollment for any school year shall be the student enrollment count for the school, district or state, as appropriate, taken during October of the applicable school year.

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Section 2. W.S. 21-2-203(d)(intro), 21-3-110(a) by creating a new paragraph (xxiv), 21-4-501(a) and (d), 21-13-101(a)(xiv), 21-13-309(m)(intro), (ii)(A)(intro), (B)(intro), (C)(intro), (n)(intro), (iii), (vii), by creating a new paragraph (xi), (o), (q)(intro), (r) and (s), 21-13-318(a)(intro), (f)(i) and by creating new subsections (g) and (h), 21-13-320(b)(intro) and (ii), 21-13-321(b)(ii)(intro), 21-13-323(a), (b)(intro) and by creating new subsections (c) and (d), 21-13-326, 21-13-328(a) and by creating a new subsection (e) and 28-8-107(b)(intro) are amended to read:

21-2-203. School district data collection; division established; duties and responsibilities specified.

(d) The state superintendent of public instruction shall establish an advisory committee to the division consisting of not less than seven (7) members. This advisory committee shall have representatives from among Wyoming school districts, other state agencies involved in the administration of the school finance system, shall include the director of the department of audit or his designee, and shall include at least one (1) representative from the independent auditor community within the state. The committee shall meet at least twice annually and at the call of the administrator of the division. The duties of the advisory committee are to:

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

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

(xxiv) Provide access to district records and other information by the department of audit as necessary to conduct audits and studies under W.S. 9-1-513 and

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otherwise cooperate with the department of audit when conducting audits and studies of the district pursuant to W.S. 9-1-513. The board shall also submit a written response to the department of audit on each audit and report conducted on the district in accordance with W.S. 9-1-513.

21-4-501. Payment of tuition for children resident in districts which maintain no high school; admission of children to high schools in other districts; state board approval for out-of-state placements; duties of admitting districts; tuition amount.

(a) Any district which does not maintain a high school shall pay tuition, in addition to transportation or maintenance, for any child resident therein who has successfully completed the course offered therein and desires to attend high school, at any public school within or subject to the approval of the state board of education, without the state, which the district board may designate in the best ~~interests~~-interest, welfare and convenience of the child. Application for attendance at a high school outside the state shall be filed by the nonunified district board with the state department of education. If the nonunified district provides evidence that the amount of tuition assessed by the out-of-state district for the out-of-state placement shall not exceed one hundred twenty-five percent (125%) of the actual per pupil cost as determined under subsection (c) of this section, state board approval shall be waived under this subsection.

(d) Subject to state board approval if an out-of-state placement as required under subsection (a) of this section, nonunified school districts shall be reimbursed from the school foundation program account for tuition paid under subsection (a) of this section as if the district's

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total foundation program amount for that year as computed under W.S. 21-13-309(p) was increased by the amount of the tuition paid during the preceding year.

21-13-101. Definitions.

(a) As used in this article:

(xiv) "Education resource block grant model" means the block grant model for Wyoming school finance as contained within ~~a the January 2002 cost of education study, dated April 1997, studies and the accompanying spreadsheet provided by the consultant performing the studies, all of which are~~ on file with the ~~legislative service office secretary of state;~~

21-13-309. Determination of amount to be included in foundation program for each district.

(m) In determining the amount to be included in the foundation program for each district, ~~for the 1999-2000 school year, for the 2000-2001 school year and for the 2001-2002 school year,~~ the state superintendent shall first compute for each district a district model amount per average daily membership (ADM) as follows:

(ii) Multiply the district's average daily membership (ADM) for each school level identified under paragraph (m)(i) of this section by the following amount for the appropriate prototypical school model level:

(A) Elementary school - kindergarten through grade five (5), ~~six thousand one hundred eighty-seven dollars (\$6,187.00);~~ six thousand two hundred thirty-eight dollars (\$6,238.00);

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(B) Middle school - grades six (6) through eight (8), ~~six thousand one hundred seventy-four dollars (\$6,174.00):~~ six thousand two hundred twenty-three dollars (\$6,223.00);

(C) High school - grades nine (9) through twelve (12), ~~six thousand four hundred five dollars (\$6,405.00):~~ six thousand four hundred fifty-four dollars (\$6,454.00).

(n) For each district, the district total amount per ADM computed under subsection (m) of this section shall be adjusted as follows to result in a revised amount per ADM for each district. Unless otherwise specified in this subsection, the adjustments under this subsection shall be determined as specified in the ~~cost of education study, dated April 1997, and the spreadsheet provided by the consultant performing the study related thereto, both of which are on file in the legislative service office~~ education resource block grant model:

(iii) The amount shall be adjusted for necessary small schools in each district subject to W.S. ~~21-13-319~~ 21-13-318. For the purpose of this paragraph, a "necessary small school" shall be as ~~defined in~~ determined under W.S. 21-13-318;

(vii) The amount shall be adjusted for the responsibility, education and experience level of administrators, the experience level of classified personnel and the seniority level of teachers in each district as provided in W.S. 21-13-323;

(xi) The amount shall be adjusted for at-risk students in each district as provided in W.S. 21-13-332.

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(o) The revised model amount per ADM for each district computed under subsection (n) of this section shall be further adjusted for the following. Unless otherwise specified in this subsection, the adjustments under this subsection shall be determined as specified in the ~~cost of education study, dated April 1997, and the spreadsheet provided by the consultant performing the study related thereto, both of which are on file in the legislative service office~~ education resource block grant model:

(i) To the extent specifically provided within the school foundation program budget as enacted by the legislature, the amount shall be adjusted to provide for the effects of inflation ~~for the 2001-2002 school year by increasing the amount computed under subsection (n) of this section by nine and forty four hundredths percent (9.44%)~~ beginning with school year 2003-2004 and adjusted on a cumulative basis each school year thereafter;

(ii) The amount, after the adjustment under paragraph (o)(i) of this subsection has been made, shall be further adjusted for regional cost of living differences. The adjustment for regional cost of living differences shall be based upon the Wyoming cost-of-living index, ~~with the medical component omitted and with the housing component included but modified by excluding the price for rental of shelter subcomponent,~~ as computed by the division of economic analysis, department of administration and information, ~~under rules promulgated by it with respect to the methodology under which the index shall be computed.~~ The version of the index used shall be the average of the six (6) consecutive semi-annual index reports completed by January 1 prior to the school year for which it is to be used.

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(q) Computations under ~~this section, W.S. 21-13-318 and 21-13-319 and 1997 Special Session Laws, Chapter 3, Section 306~~ the education resource block grant model, excluding computations under W.S. 21-13-323(c) and 21-13-332, shall be made on the average daily membership (ADM) computed by averaging the ADM counts completed at the end of the three (3) immediately preceding school years, except:

(r) The joint appropriations interim committee shall submit a recommendation to the legislature and governor, not later than November 1 of each year, ~~regarding whether an external cost adjustment should be made, and if so, the amount of the adjustment~~ on the external cost adjustment in accordance with paragraph (o) (i) of this section.

(s) For the purpose of all calculations required to be made under ~~this section~~ the education resource block grant model and W.S. 21-15-109, ~~including calculations required under statutes referenced in this section or otherwise applicable in making computations under this section~~ excluding calculations required under W.S. 21-13-323(c) and 21-13-332, the average daily membership for each district's kindergarten students shall be divided by two (2). ~~This includes calculations required to be made in this section in accordance with the cost of education study, dated April 1997, and the spreadsheet provided by the consultant performing the study related thereto, both of which are on file in the legislative service office.~~

21-13-318. Small schools; qualifications and limitations on necessity; adjustment to foundation program formula.

(a) For the purposes of this section: ~~and W.S. 21-13-319:~~

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(f) No school established on or after July 1, 1998, shall qualify as a necessary small school unless, upon application of the school district, the state superintendent finds that the school meets the criteria to be qualified as a necessary small school. The state superintendent shall promulgate rules regarding the form of applications and application procedures. To be qualified as a necessary small school, a school established on or after July 1, 1998, shall meet the following criteria:

(i) The school meets the criteria listed under ~~paragraphs (b) (i) through (iv) or (c) (i) through (iv)~~ subsection (g) of this section;

(g) A school is a necessary small school if it is qualified under subsection (f) of this section or if it meets the following qualifications:

(i) If an elementary school, the ADM for the prior school year is two hundred sixty-three (263) or less;

(ii) If a middle school, the ADM for the prior school year is two hundred ninety-nine (299) or less;

(iii) If a high school, the ADM for the prior school year is five hundred ninety-nine (599) or less.

(h) As provided by W.S. 21-13-309(n)(iii), there shall be an adjustment for necessary small schools qualifying under subsection (f) or (g) of this section. The adjustment shall be computed as prescribed by the education resource block grant model, which provides adjustments for teacher compensation, utility costs and student activities.

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21-13-320. Student transportation; adjustment to school foundation program formula for transportation maintenance and operations expenditures and school bus purchases; district reporting requirements.

(b) The amount computed under W.S. 21-13-309(m)(iii) for each district shall be reduced by the total statewide expenditure for transportation, including capital outlay for school buses, per ADM during the 1996-1997 school year. ~~Subject to subsection (c) of this section,~~ There shall be an addition to the amount computed under W.S. 21-13-309(p) for each school district equal to one hundred percent (100%) of the amount actually expended by the district during the previous school year under subsection (c) of this section and for:

(ii) The transportation of students to and from student activities authorized by department of education rules. For the purpose of this paragraph, student activities means ~~as defined in W.S. 21-13-319(b)(iv)(B)(I)~~ athletic and nonathletic activities sanctioned by the Wyoming high school activities association and school sponsored athletic and nonathletic activities in grades preceding high school which directly correspond to those high school activities sanctioned by the Wyoming high school activities association. No reimbursement shall be made for transportation expenses for student activities for expenses for transportation in excess of one hundred fifty (150) miles from the Wyoming border into another state.

21-13-321. Special education; adjustment to foundation program formula.

(b) The adjustment for special education pursuant to W.S. 21-13-309(n)(ii) shall be computed as follows:

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(ii) The adjustment shall be an addition to the amount computed under W.S. 21-13-309(p) equal to one hundred percent (100%) of the amount actually expended by the district during the previous school year for special education programs and services. ~~subject to the following computations by the state department:~~

21-13-323. Teacher seniority; administrator responsibility, education and experience; classified personnel experience; adjustment to foundation program formula.

(a) As used in this section: ~~7~~

(i) "Administrators" means central office staff and school principals employed by a school district, excluding district curriculum directors;

(ii) "Central office staff" means employees of a school district employed in each of the following employment categories:

(A) District superintendent;

(B) District assistant superintendent;

(C) Business manager;

(D) Personnel director.

(iii) "Classified personnel" means any person employed by a school district for which certification is not required as a condition of employment, and is employed in one (1) of the following employment classifications:

(A) Instructional aides;

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(B) Clerical and data entry personnel.

(iv) "School principal" means the principal for each school level employed by a school district, including each principal employed by the district for the same school level but at different buildings within the district, and including assistant principals, intern principals and department chairs employed by a district;

(v) "Teacher" means any person employed by a school district as part of its teaching or professional staff for whom certification is required as a condition of employment as a certified professional employee, including district curriculum directors but excluding certified and noncertified administrative staff.

(b) The adjustment for the seniority level of teachers pursuant to W.S. 21-13-309(n)(vii) shall be computed for each district by multiplying the total number of years of service of all teachers employed by the district during the prior school year by the statewide value for one (1) year of seniority, determined as specified in the ~~spreadsheets accompanying the February 1998 teacher seniority adjustment report provided by the consultant performing the cost of education study, which is on file with the legislative service office. The same computation shall be made for each of the preceding two (2) years and the average of the three (3) years shall be used in making the computation~~ education resource block grant model. The adjustment computation under this subsection shall be subject to the following:

(c) The adjustment for the responsibility level of administrators as provided by W.S. 21-13-309(n)(vii) shall be computed for each district as follows:

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(i) For central office staff, the salary level for each central office staff category as defined under paragraph (a)(ii) of this section shall be adjusted during any school year for each one hundred (100) students enrolled within the district that exceeds or is below the district weighted average enrollment. For purposes of this paragraph, district weighted average enrollment shall be as computed in the block grant model for school year 2001-2002. Any increase or decrease from the district weighted average enrollment, or proportion thereof, as appropriate, shall be adjusted based upon the responsibility value level for the applicable school year as prescribed by the education resource block grant model;

(ii) For school principals, the salary level for each principal category of employment as identified within the education resource block grant model shall be adjusted based upon the number of students enrolled in that school for which the school principal is employed. If a school principal is employed for more than one (1) school level within a district, the responsibility level for that school principal shall be proportionately assigned to each school level for which the principal is employed. Each school year, the salary level for each principal category shall be adjusted based upon the number of students enrolled in the applicable principal's school which is above or below four hundred thirty-nine (439), at intervals prescribed by the education resource block grant model. The increase or decrease shall be adjusted in accordance with a responsibility level established by the block grant model;

(iii) As used in this subsection, "student enrollment" means the student enrollment count for the district or school, as appropriate, taken during October of the applicable school year.

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(d) Commencing with school year 2003-2004, the experience level of classified personnel shall pursuant to W.S. 21-13-309(n)(vii), be adjusted for each district based upon any net increase or decrease in the average experience profile for each classification of classified personnel as defined under paragraph (a)(iii) of this section. For school year 2003-2004 and each school year thereafter, the average experience profile for each classified employee classification shall be compared to the average district experience profile for that employment classification during the 2001-2002 school year, and any net increase or decrease for that classification shall result in an adjustment in accordance with the adjustment factor prescribed within the education resource block grant model.

21-13-326. Routine maintenance; adjustment to foundation program formula.

(a) ~~For the 1999-2000 school year, there shall be no adjustment to the amount in W.S. 21-13-309(m)(iii) for routine maintenance.~~ The adjustment for routine maintenance under W.S. 21-13-309(n)(vi), following reduction of the operations and maintenance component contained within each school level within the prototypical school model, as prescribed by the education resource block grant model, shall be computed for each district on a dollar per average daily membership basis under the block grant model, subject to the following:

(i) Actual gross square feet of school buildings and facilities within each district shall be separated into education and noneducation categories with the square footage of any building or facility not used for district purposes excluded;

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(ii) For purposes of computations for the adjustment to the block grant model under this section, actual square footage of education space shall be reported and computed for each district by school level. The gross square footage of education space for each school level shall be subject to the computations prescribed under paragraphs (a)(iv) through (vi) of this section. The standard education space capacity for each school level shall be the gross square footage prescribed by the statewide building adequacy standards promulgated under W.S. 21-15-107;

(iii) Subject to paragraph (a)(vii) of this section, actual gross square footage of noneducation space shall be reported and computed under this section for each district, with the standard noneducation space for each district equal to the greater of ten percent (10%) of the total education space allotted to the district under statewide building adequacy standards, or ten percent (10%) of the district's total actual education space;

(iv) Education space capacity at less than one hundred percent (100%) of the standard space level shall receive an increase in the base dollar amount per square foot in increments specified by the block grant model;

(v) For school years 2002-2003 through 2006-2007, education space capacity greater than one hundred twenty-five percent (125%) of the standard space level and up to two hundred percent (200%) of the standard space level, shall in accordance with the block grant model, receive a decrease in the base dollar amount per square foot for the square footage exceeding the one hundred twenty-five percent (125%) level. Educational space in excess of two hundred percent (200%) of the standard space

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level shall not be included in computations under this section;

(vi) For school year 2007-2008 and each school year thereafter, education space capacity greater than one hundred fifteen percent (115%) of the standard space level and up to two hundred percent (200%) of the standard space, shall as prescribed by the block grant model, receive a decrease in the base dollar amount per square foot for the square footage exceeding one hundred fifteen percent (115%) of the standard level. Education space in excess of two hundred percent (200%) of the standard space level shall not be included in computations under this section;

(vii) Noneducation space capacity greater than the standard level for noneducation space as prescribed under paragraph (a)(iii) of this section, but not to exceed the greater of twenty percent (20%) of the total education space allotted to the district under statewide building adequacy standards or twenty percent (20%) of the district's total actual education space, shall receive a decrease in the base dollar amount per square foot as provided under the block grant model. Noneducation space capacity greater than twenty percent (20%) of the total educational space allotted to the district under state standards or actual district educational space, whichever is greater, shall not be included in computations under this section;

(viii) The base dollar amount per square foot for routine maintenance shall be two dollars and forty-four cents (\$2.44), subject to paragraphs (a)(iv) through (vii) of this section.

21-13-328. Small school district adjustment.

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(a) Pursuant to W.S. 21-13-309(n)(x), there shall be an adjustment for small school districts as provided in subsection (e) of this section. For the purpose of this adjustment for any school year, a small school district is a school district with not more than one thousand three hundred fifty (1350) ADM. W.S. 21-13-309(s) applies to this section. The amount of the adjustment under W.S. 21-13-309(n)(x) shall be the sum of the amounts computed under subsections (b) through (d) of this section divided by the ADM of the district. The adjustment shall apply to any district for any school year in which the adjustment computed in accordance with subsection (e) of this section for the district for that school year was less than the central district administration component amount contained within the appropriate prototypical school model level under the education resource block grant model.

(e) The adjustment for small school districts shall be subject to the following:

(i) The adjustment shall be based upon additional costs incurred by small districts for central office staff, including superintendents, business managers, curriculum and instruction coordinators, technology coordinators and clerical staff;

(ii) District central office staffing levels shall be funded at amounts prescribed by the education resource block grant model based upon the following:

(A) Level I configured at two hundred fifty (250) ADM with six (6) central office staff positions;

(B) Level II configured at five hundred fifty (550) ADM with seven (7) central office staff positions;

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(C) Level III configured at one thousand (1,000) ADM with nine (9) central office staff positions.

28-8-107. Auditing of state agencies; management audit committee; factors to be considered in audit reports.

(b) ~~Except as otherwise provided under W.S. 28-8-115,~~
The legislative service office, at the direction of the management audit committee, subject to management council budget priorities, and subject to general policies established by the legislature when in regular or special session, shall:

Section 3. 1998 Special Session Laws, Chapter 2, Section 1101, W.S. 21-13-309(m) (ii) (A) (I), (B) (I), (C) (I), (n) (iv) and (v), 21-13-318(a) (ii) through (iv), (b) and (c), 21-13-319, 21-13-320(e), 21-13-321(b) (ii) (A) through (D), 21-13-322, 21-13-323(b) (iv), 21-13-325, 21-13-327, 21-13-328(b) through (d) and 28-8-115 are repealed.

Section 4. [VOCATIONAL EDUCATION STUDY]

(a) Program Criteria and Guidelines. The state superintendent of public instruction shall, in consultation with the state board of education, develop statewide minimum program criteria and guidelines prescribing qualification for public school vocational education programs for purposes of state funding under the education resource block grant model. The criteria and guidelines shall describe programs constituting vocational education in sufficient detail to determine educational programs and courses qualifying as vocational education content. As part of this study, the state superintendent shall review program delivery and structure to the extent necessary to identify and prescribe criteria and mechanisms for the most

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cost-effective use of resources in the provision of vocational education programs within schools, districts and the state.

(b) Data Collection. In addition to subsection (a) of this section, the state superintendent of public instruction shall develop a vocational education cost data collection instrument and shall subsequently collect data from school districts on student participation in vocational education programs and on district expenditures for vocational education programs, specifically on expenditures for vocational education program instruction. The collected data shall be of sufficient detail to enable the development of a mechanism within the education resource block grant model that would provide for the distribution of vocational education resources based upon the number of students participating in vocational education programs which meet or comply with state criteria and guidelines established under subsection (a) of this section.

(c) Report to Legislature. Information, findings and recommendations developed under subsections (a) and (b) of this section shall be reported by the state superintendent to the joint education interim committee on or before November 1, 2002. Information collected and other analytical material created for purposes of subsections (a) and (b) of this section shall be filed with the legislative service office. The state superintendent may contract with appropriate experts and professionals as necessary to carry out subsections (a) and (b) of this section.

(d) Vocational Education Funding Adjustment Study. Based upon information collected by the state superintendent under this section, and in conjunction with study and data collection efforts of the state

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superintendent, a joint interim committee of the legislature shall conduct a study to establish an adjustment to the education resource block grant model for vocational education and shall report study findings to the management council and to the joint education interim committee on or before December 15, 2002.

Section 5. [VOCATIONAL EDUCATION GRANTS]

(a) Vocational Education Program Grants. For the 2002-2003 school year, the state superintendent shall provide urgency grants to school districts from the school foundation program account to fund district vocational education programs for the purpose of continuing programs until such time as statewide vocational education criteria and guidelines are developed in accordance with section 4 of this act and a separate vocational education funding mechanism within the education resource block grant model is established. Grants issued under this section shall:

(i) Supplement and not supplant existing vocational education program expenditures by a district;

(ii) Emphasize vocational education program opportunities not accessible or available within another school or community college program located within a reasonable distance;

(iii) Be limited to the following:

(A) The purchase of equipment for vocational education programs preparing students for high skill occupations in fields where employment is in high demand as established by rule and regulation of the state superintendent and for which there is sufficient student

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participation, as defined by rule and regulation of the state superintendent;

(B) The payment of tuition or other expenses incurred by districts to enable attendance by students within the district at vocational education programs offered by other districts or community colleges.

(b) Vocational Education Grant Program Applications. Any school district may on or before June 30, 2002, apply to the state superintendent for a grant under subsection (a) of this section. Application shall be on a form and in a manner specified by rule and regulation of the state superintendent and shall at minimum specify the planned expenditure of requested funding and provide an inventory of existing vocational education program equipment and proposed future equipment needs. Following review of district applications and not later than August 15, 2002, the state superintendent shall notify districts if a grant will be awarded under subsection (a) of this section, and if so, shall issue the grant to the district.

(c) Grant Recipient Reports. Each district shall report to the state superintendent on the expenditure of grants awarded under subsection (a) of this section, and shall provide other information as may be required by the state superintendent to carry out this program.

(d) Program Administration. The state superintendent shall promulgate rules and regulations to implement the grant program established under this section and shall as soon as reasonably possible, notify districts of the availability of vocational education program grants authorized under this section and of the requirements imposed upon districts to obtain a grant award.

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Section 6. [ADMINISTRATION]

(a) In addition to other duties specifically prescribed under this act, the state department of education shall develop necessary procedures and reporting instruments to assemble information required to implement modifications and adjustments to the education resource block grant model as provided by this act, including but not limited to:

(i) District classified personnel data to develop necessary experience profile information and other requirements under W.S. 21-13-323(d), as amended under section 2 of this act;

(ii) District information on administrative experience and education of supervisory personnel as required to implement and administer W.S. 21-13-323(c), as amended under section 2 of this act.

(b) For purposes of information required under this section, school districts shall cooperate with the state department. Information collected and other analytical material created for purposes of this section shall be filed with the legislative service office.

Section 7. [READING ASSESSMENT AND INTERVENTION PROGRAM STUDY]

A joint interim committee of the legislature shall, through qualified contract assistance, conduct a study of the reading assessment and intervention program established under W.S. 21-3-401. The study shall establish a cost-based method of funding the program through the education resource block grant model, subject to remediation and reporting requirements established by W.S. 21-3-401. The

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committee shall report study findings to the management council and to the joint education interim committee on or before December 15, 2002.

Section 8. [STUDENT TRANSPORTATION]

Transition. The state department of education shall, to the extent it determines any excess expenditures by a district were necessary to provide transportation operations and maintenance for school year 2000-2001, increase the school year 2002-2003 guarantee of that district under W.S. 21-13-309(p) by the amount of any reduction made to the 2001-2002 transportation adjustment for that district under W.S. 21-13-320(e)(iii).

Section 9. [SPECIAL EDUCATION]

(a) Transition. The state department of education shall, to the extent it determines any excess expenditures by a district were necessary to provide essential special education programs and services for school year 2000-2001, increase the school year 2002-2003 guarantee of that district under W.S. 21-13-309(p) by the amount of any reduction made to the 2001-2002 special education adjustment for that district under W.S. 21-13-321(b)(ii)(C).

(b) Study. A joint interim committee of the legislature shall conduct a comprehensive review of school district expenditures for special education programs and services, as defined by W.S. 21-13-321(a)(ii). The study shall be undertaken in conjunction with the state department of education and shall be used as a basis for establishing a cost-based method of funding special education programs and services, which would provide incentives to school districts to provide cost effective

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programs and services. The committee shall report study findings to the management council and to the joint education interim committee on or before December 15, 2002.

Section 10. [SMALL SCHOOL STUDY]

(a) The state superintendent shall develop necessary information and procedures for the establishment and application of criteria for defining small schools for purposes of the small school adjustment prescribed by law under W.S. 21-13-318, as amended by section 1 of this act. The state superintendent shall give consideration to recommendations provided by the consultant performing the January 2002 cost of education studies pertaining to small schools, specifically the recommendation for basing a definition upon buildings and facilities comprising a school. The state superintendent shall assemble a report on information and findings developed under this section and on or before November 1, 2002, submit the report together with recommendations to the joint education interim committee.

(b) Based upon information and recommendations reported by the state superintendent under subsection (a) this section, a joint interim committee of the legislature shall study the small school adjustment contained within the education resource block grant model. The committee shall report study findings to the management council and to the joint education interim committee on or before December 15, 2002.

(c) A joint interim committee of the legislature shall include in the study of the necessary small school adjustment conducted in accordance with subsection (b) of this section, further analysis and review of the components comprising the small school adjustment. The analysis and

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review shall include consideration of the ability of the adjustment components to provide students attending Wyoming public schools with the educational program required by law. Economy-of-scale issues and funding implications related to the analysis and review undertaken under this subsection shall involve Wyoming school districts and their data.

Section 11. [TRANSFER OF SCHOOL AUDIT FUNCTION]

All records and other information pertaining to the school finance audit section within the legislative service office, together with all standards and procedures for auditing school district data, shall be transferred to the department of audit as necessary to implement W.S. 9-1-513 as created under section 1 of this act.

Section 12. [HOLD HARMLESS OF FOUNDATION PROGRAM AMOUNT]

Notwithstanding W.S. 21-13-309(p), using computations of district foundation program amounts by the state department of education based upon reports from districts required by the department, the foundation program amount computed for a district under W.S. 21-13-309(p) for school years 2002-2003 and 2003-2004 shall not be less than one hundred percent (100%) of the foundation program amount available to that district during the 2001-2002 school year. A district is not entitled to additional funding under this section if, but for a decrease in ADM as compared with the 2001-2002 school year, that district would not have a foundation program amount that is less than one hundred percent (100%) of the school year 2001-2002 foundation program amount.

Section 13. [REGIONAL COST ADJUSTMENT STUDY]

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(a) The division of economic analysis, department of administration and information, shall undertake a study for the development of an instrument capable of measuring differences in regional costs for purposes of the education resource block grant model. The recommended instrument shall replace or be a refinement of the Wyoming cost-of-living index as a measure of regional cost differences in computing the adjustment under W.S. 21-13-309(o)(ii), as amended under section 2 of this act. The department through the division may contract with appropriate expertise and professionals as necessary to develop the instrument. Information, methodology documentation and all other analytical material created for purposes of this subsection shall be filed with the legislative service office.

(b) The division shall report recommendations developed under subsection (a) of this section to the joint education interim committee not later than November 1, 2002.

Section 14. [DATA FACILITATION AND RESOLUTION]

The joint education interim committee shall provide a forum for facilitated discussion of data requirements, data composition, data quality and data quantity issues pertaining to the operation of the education resource block grant model, school prototypes contained within the model and the adjustments to the model prototypes. The forum shall be facilitated by group facilitation professionals who shall assemble appropriate expertise in school finance data issues, including representatives of school districts, both large and small, urban and rural, and representatives of the division of economic analysis of the department of administration and information, state department of

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education, the department of audit, the department of employment and consultants to the legislature performing the cost of education studies. The facilitator shall provide a report on the forum to the joint education interim committee on or before June 15, 2002.

Section 15. [AT-RISK PROGRAMS]

The state department of education shall review the at-risk adjustment provided under W.S. 21-13-332 as created under section 1 of this act. The review shall include a comprehensive review of the adequacy of the at-risk adjustment and if participation in the free or reduced-price lunch program and limited English speaking program is inclusive, appropriate and accurate as a proxy for at-risk students for purposes of the at-risk adjustment specified under W.S. 21-13-332. On or before November 1, 2002, the state department shall report findings and recommendations based upon its review to the joint education interim committee. Recommendations for use of any identification mechanism or definition for purposes of an at-risk adjustment under the education resource block grant model shall be based upon clear and convincing evidence.

Section 16. [CERTIFIED STAFF COMPENSATION STUDY]

The joint education interim committee of the legislature shall study the certified staff component within the education resource block grant model, including competitive salary levels, fringe benefits, health insurance, seniority and education and experience adjustments and related issues. The committee shall on or before December 15, 2001, report study findings to the management council. Related studies gathering data pursuant to this section shall target a November 1, 2002, completion date.

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Section 17. [FILING OF COST OF EDUCATION STUDIES
AND SPREADSHEET WITH SECRETARY OF STATE]

The legislative service office shall file with the secretary of state the January 2002 cost of education studies and the accompanying spreadsheet provided by the consultants to the legislature performing the cost of education study. The secretary of state shall maintain the studies and spreadsheet on file and shall make the studies and spreadsheet available for public inspection during reasonable business hours.

Section 18. [APPROPRIATIONS]

(a) Five hundred thousand dollars (\$500,000.00) is appropriated from the general fund for the period ending June 30, 2003, to the state superintendent to implement and conduct the vocational education study required under section 4 of this act.

(b) Seven hundred fifty thousand dollars (\$750,000.00) is available to the state superintendent of public instruction within the school foundation program account during the period ending June 30, 2003, for purposes of the vocational education grant program authorized under section 5 of this act.

(c) Six hundred eight thousand nine hundred twenty-five dollars (\$608,925.00) is appropriated from the general fund to the state superintendent of public instruction as necessary to carry out duties and perform activities necessary to implement this act. In addition, the state superintendent is authorized an additional two (2) full-time positions for purposes of implementing this act. The amount appropriated under this subsection shall be for the period ending June 30, 2004. On or before July 1, 2004, the

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state superintendent shall report to the joint education interim committee and the joint appropriations committee on the expenditure of funds appropriated under this subsection, the positions filled and the status of these positions.

(d) Three hundred ninety-nine thousand five hundred fifty dollars (\$399,550.00) is appropriated from the general fund to the department of audit as necessary to implement and administer W.S. 9-1-513, as created under section 1 of this act, for the period ending June 30, 2004, and four hundred forty-three thousand thirty-six dollars (\$443,036.00) of the general fund appropriation to the legislative service office in 2002 SF0001, if enacted, is transferred to the department of audit. In addition, the department is authorized five (5) additional full-time positions as necessary to administer W.S. 9-1-513. On or before July 1, 2004, the department shall report to the joint education interim committee and the joint appropriations committee on the expenditure of funds appropriated under this subsection, the positions filled and the status of these positions.

(e) Thirty thousand dollars (\$30,000.00) is appropriated from the general fund for the period ending June 30, 2003, to the division of economic analysis, department of administration and information, to perform necessary data collection and analysis for the development of recommendations for an instrument measuring regional cost differences, as required under section 13 of this act.

(f) Twenty thousand dollars (\$20,000.00) is appropriated from the general fund for the period ending June 30, 2003, to the department of education to conduct the review of the at-risk adjustment to the education

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resource block grant model as required under section 15 of this act.

(g) The amounts specified in this subsection are appropriated from the general fund to the legislative service office to fund the identified studies required under this act. Funds appropriated under this subsection shall include funding necessary committee meetings, staff support and consultants to the legislature and shall be expended only upon approval of the management council. Specific general fund appropriations are as follows:

(i) Twenty thousand dollars (\$20,000.00) for the study of adjustments to the education resource block grant model for vocational education programs required under section 4(d) of this act;

(ii) Twenty thousand dollars (\$20,000.00) for the study to establish a cost-based reading assessment and intervention adjustment as required under section 7 of this act;

(iii) Two hundred seventy thousand dollars (\$270,000.00) to supplement funding made available by the state department of education in undertaking the comprehensive review of special education costs and to develop a cost-based adjustment to the education resource block grant model as required under section 9(b) of this act;

(iv) Twenty thousand dollars (\$20,000.00) for a study of the small school adjustment to the education resource block grant model as provided under section 10 of this act;

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(v) One hundred fifty thousand dollars (\$150,000.00) for the data facilitation and resolution forum provided under section 14 of this act;

(vi) One hundred thousand dollars (\$100,000.00) for a study of the certified staff compensation component within the education resource block grant model as provided under section 16 of this act.

Section 19. [ADMINISTRATIVE IMPLEMENTATION]

In codifying the law, the legislative service office shall aggregate increases and decreases to the dollar amount per average daily membership (ADM) in W.S. 21-13-309(m)(ii) contained in any bill enacted into law during the 2002 legislative session, so that W.S. 21-13-309(m)(ii) reflects a single dollar amount per ADM for each school level.

Section 20. [FOOTNOTES]

1. Wyoming's Constitution wisely constituted this body as a citizen legislature. Its members labored many days, weeks, and months to produce this Education Finance Bill, the Capital Construction Financing Bill, and the Appropriations Bill. As is the case with prior education bills, that work entailed many hours and days of hearings, listening to witnesses and other interested citizens, interviewing teachers, school board members and administrators, obtaining and digesting voluminous reports, interviewing and assessing experts representing conflicting views, and visits to most communities to inspect their schools. The legislature's work requires traveling hundreds (collectively thousands) of miles throughout the state, innumerable days and nights gathering and weighing facts, as well as studying and evaluating diverse and complicated economic factors. This exercise is required to

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advise ourselves and prepare for the legislative session where individual legislators are called upon to exercise their independent judgment. Anxious proponents making requests for additional funding continually beset legislators. These bills are the result of that arduous effort and involved receipt and consideration of literally thousands of pages of information, and the evaluation of the impact of the bills on each of our school districts. The legislature considered and evaluated alternatives on virtually every conceivable part and subpart of the subjects contained within the bills. This exercise was made significantly more difficult due to the need to receive, read and study divergent professional opinions regarding the existence, meaning and effect of pertinent Court decisions, as well as the glut of information created to influence the Court's prospective allocations of public funds to competing interests. It is the legislative function to apply that information in context of the whole. Those activities are essential to the performance and fulfillment of our legislative responsibilities and our constitutional duty as elected members of the Legislative Department of this State.

In response to the 1995 Wyoming Supreme Court's decision that the school finance system was not constitutionally uniform, the Legislature has undertaken to responsibly conform education financing without causing undue harm to our constituent school districts. Vast sums of money have been expended to identify and test methods to accomplish the goals of equality and uniformity. Since the 1995 Court decision, the Legislature has greatly increased school funding and re-directed its distribution such that the equality and uniformity of the Wyoming school system has vastly improved. Shortly before this legislative session began, Wyoming was ranked second among the 50 states in adequacy of resources. (Education Week, November

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10, 2002) Wyoming will be spending an average of over eight thousand two hundred dollars (\$8,200.00) per pupil during the next biennium for educational funding. The Legislature has increased spending for K-12 financing by more than two hundred sixty-six million four hundred thousand dollars (\$266,400,000.00) per biennium since 1997, notwithstanding a decline in student enrollment of more than seven thousand six hundred (7,600) students statewide. We have substantially remedied the disparities in uniform funding that were criticized by the Court in *Campbell I*.

This legislature has undertaken to fund Wyoming's schools in excess of the Court's requirements. Examples include: (1) Funding schools under the foundation program cost-based model on a three year rolling average basis, amounting to forty-four million two hundred sixty-one thousand eleven dollars (\$44,261,011.00) commencing school year 1998-1999; (2) Implementing hold-harmless provisions during the first two years of cost-based funding, amounting to eight million eight hundred twenty-two thousand five hundred sixty-five dollars (\$8,822,565.00) during that period; (3) Grandfathering district cash reserves existing on and before June 30, 1997, thereby exempting those amounts from inclusion as countable revenue in computing district operating reserves and cash balances under the cost-based formula, totaling roughly fifty-nine million ninety-seven thousand four hundred ninety-seven dollars (\$59,097,497.00) as of January 2002; (4) The exclusion of interest, capital gains and any other earnings on funds held by districts from local resources as used in computing foundation program amounts, amounting to twenty-nine million seventy-five thousand four hundred sixty-nine dollars (\$29,075,469.00) since enacting school reform; (5) Returning local recaptured revenues which reach the limit specified by our Constitution, totaling four million three hundred twenty thousand one hundred eighty-eight dollars

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(\$4,320,188.00) during school year 2001-2002; and (6) Duplication of payments for special education teachers under one hundred percent (100%) reimbursement and under teacher seniority computations, amounting to roughly seven million three hundred thousand dollars (\$7,300,000.00) annually.

The Legislature and the Executive Department have diligently and conscientiously endeavored to achieve a funding system that meets or exceeds Constitutional requirements AND reasonable desires and expectations of the people of Wyoming. We have addressed the unintended consequences and major problems introduced by the Court as mentioned by the Governor in his 2002 State of the State Address, by which forty-two (42) of our school districts lost a total of twenty two million dollars (\$22,000,000.00) that the Court's latest decision reallocated to the other six (6) districts, one of which received a forty percent (40%) increase in funding.

The Legislature is advised that school district attorneys in the protracted litigation in this state's Judicial Department have already commenced a new barrage of discovery to the Executive Department, designed to obtain information and documents relating to these bills. It is apparent that litigation over these bills is already underway by which the school district litigants, none of whom will likely receive their full budget requests, will seek to persuade the Judicial Department to supercede this legislation.

In the Supreme Court opinion described as *Campbell III*¹ the Court recited that "all parties have requested the

¹*Campbell I* refers to *Campbell County School v. Ohman*, 907 P.2d 1238 (Wyo. 1995). *Campbell II* refers to *State v.*

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Court to retain jurisdiction in that case." The Legislature is not one of those parties. The school districts and state Department of Education have already spent upwards of five million dollars (\$5,000,000.00), perhaps even more than seven million dollars (\$7,000,000.00), in fees and costs on the *Campbell* cases. Is there any wonder why education reform is prolonged with legal efforts to prove legislative insufficiencies, rather than terminated with the efforts of the litigants devoted to achieving practical, acceptable resolutions to exceedingly complex issues? The difficulties of converting a one hundred ten (110) year-old unconstitutional education system into a new untried and untested uniform education system are complex, particularly when each one of our school districts and schools is unique.

Major difficulty has been created because the Judicial Department has obtruded upon the Legislative Department of our State. Local participation and control by Wyoming citizens is being lost.

It appears that the Judicial Department has more or less promised the *Campbell* case litigants that the Court will compel the Legislature to distribute greater sums to whichever litigant or litigants presents the best case. It assumes that the *Campbell* case litigants are authorized, by their agreement, to decide what the Legislature must or will do. It appears to have committed itself to assign legislative powers (and perhaps executive powers) to a court officer in the event its litigants are unable to

Campbell County School, 19 P.3d 518 (Wyo. Mar. 2001).
Campbell III refers to *State v. Campbell County School*, 32 P.3d 325 (Wyo. Oct 2001).

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agree²; in effect, compelling the Legislature to surrender its power to the *Campbell* case litigants and the Court.

This Legislature does not question the Judiciary Department's good faith interpretation and construction of statutes, and interpretations that give substance and meaning to Constitutional provisions requiring explanation. This Legislature does not question the ability of the Judicial Department to "declare void all legislation that is unconstitutional." To the contrary, such declarations are welcomed. They relieve the citizens of Wyoming from inappropriate burdens or strictures. They call attention to errors that otherwise may or would have been overlooked, for example, the unconstitutionality of a non-uniform school system.

However, another provision of the Wyoming Constitution seems to have been overlooked except by the dissent in the *Campbell III* decision. The direct command of Article 2, Section 1 of Wyoming's Constitution provides that "[n]o person or collection of persons charged with the exercise of powers properly belonging to one of [the three distinct departments of Wyoming government; legislative, executive and judicial] shall exercise any powers properly belonging to either of the others," except as the Wyoming Constitution directs or permits. That command is clear. It leaves no room for interpretation or construction. It does not permit exceptions that are not expressly set out in the Constitution. The Constitution does not except any

²*Campbell III* states on page 333, "Finally, the court will consider the appropriateness of appointing a special master [to take over the tax and spend functions of the Legislature and Department of Education] in the future should the parties be unable to resolve ongoing disputes."

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power of the Judicial Department to obtrude with its writs and inferred equitable powers. The judge-made doctrine of separation-of-powers and judge-made expansions are foreclosed. Reliance on Federal case law, foreign law reviews, and law of other states whose constitutions omit the forceful prohibition that ours contains is misplaced.

In the case of *Bulova Watch Co. v. Zale Jewelry*, 371 P.2d 409, 419 (Wyo. 1962), the Supreme Court wrote, "[t]he disposition of the judicial branch of government has always been to scrupulously refrain from encroaching in the slightest way into the legislative field of policy making where factual or economic factors require latitude of discretion. We will not and we do not substitute our opinions in such matters for the considered judgment of our lawmakers. Yet, we ourselves have a function to perform, a constitutional right, and the paramount duty to insist that the legislature not renounce its legislative power by any ... attempt to delegate it away." *Bulova Watch Co. v. Zale Jewelry*, 371 P.2d 409, 419 (Wyo. 1962). The application of the principles set out in that decision appear to have been overlooked in the school cases.

Individual legislators are invested with certain important political powers, in the exercise of which each is to use his or her own discretion, accountable only to the State of Wyoming in the political character of each legislator and each to his or her own conscience. Because elected legislators are political, they act concerning situations involving constitutional or legislative discretion. Nothing can be more perfectly clear than that their acts may not be examined judicially; but only politically; that is, at the polls. Questions of a political nature, particularly those involving factual or economic latitude of discretion, or which are submitted to

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the legislature by the Constitution, can never be submitted to the Court.

The judicial power to interpret and construe the Constitution is not unlimited. The Constitution must be understood from the words it contains. Those words may not be stricken, or re-defined, or added to. If the final interpretation comes from the Judicial Department, then the Judicial Department must construe the Constitution without addition or subtraction, particularly when the Constitution clearly, definitively and completely speaks for itself.

The *Campbell* cases rather unabashedly redefine, add to, and subtract from the meaning of words and phrases that are plain and clear; for which interpretation is unnecessary and cannot help but change. Among those items are: "The legislature's paramount priority" is supporting the opportunity for education. (*Campbell II*, p. 538.); "[C]ompeting priorities not of constitutional magnitude are secondary, and the legislature may not yield to them until constitutionally sufficient provision is made for elementary and secondary education." (*Campbell II*, p. 538; also *Campbell I*, p. 1279.); "All other financial considerations must yield until education is funded." (*Campbell I*, p. 1279.); "The constitution requires [the state education program] be the best we can do." (*Campbell I*, p. 1279; *Campbell II*, p. 538.) (Translated to mean the best that money can buy.); "Uniform education of a quality that is both visionary and unsurpassed" requires the "legislature to consider education as a paramount priority over all other considerations." (*Campbell II*, p. 538.); and, "Lack of financial resources will not be an acceptable reason for failure to provide the best educational system [that money can buy]." (*Campbell II*, p. 566.)

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Were the foregoing statements written into the Constitution, among the items that the Legislature would be required to ignore until the "best" "unsurpassed" education is provided, would be:

Protection and promotion of the health and morality of the people, which the Constitution *expressly* deems *essential*. (Wyo. Const. Article 7, § 20.) (Words this strong are not used in connection with Education.)

Funding the other Constitutional officers, including the Governor, Secretary of State, Auditor, Treasurer & Superintendent. (Wyo. Const. Article 4, § 13 *et seq.*, also the entire Executive Department.)

Funding the Judicial Department. (Wyo. Const. Article 5, §§ 5, 17, *et seq.*)

Staffing and paying the legislature. (Wyo. Const. Article 3, § 29.)

Reapportioning legislative membership. (Wyo. Const. Article 3, § 48.)

Providing for elections. (Wyo. Const. Article 6, §§ 13, 14.)

Providing for the Board of Equalization, and just valuations, etc. (Wyo. Const. Article 15 §§ 9, 11, etc.)

Providing for workers' compensation, corporations and other entities. (Wyo. Const. Article 9 §§ 1, 4, 10.)

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Providing for cities and towns and other governmental units. (Wyo. Const. Article 13, §§ 1, 3; Article 14, §§ 1-4.)

Providing for the National Guard. (Wyo. Const. Article 17, § 2.)

Providing for superintendents of the water districts. (Wyo. Const. Article 38 § 4.)

Providing for the protection of livestock from disease, and enforcing labor laws. (Wyo. Const. Article 19, §§ 1, 4.)

The Constitution commands the Legislature to accomplish each and all of those, employing largely the same words employed with reference to schools, except as to the designation of health and morality as "essential" matter.

The Legislature is comprised of individual elected state officials, each of whom hold office equivalent to, and on a table of organization the same as, individual members of the judiciary. They are no less qualified to perform their respective offices. They are elected directly, and frequently are far more politically accountable for political decisions and political action. They have the equal duty to prevent obtrusion from other Departments.

This Legislature is unwilling to, and has no purpose to engage in constitutional confrontation or crisis. These are uncharted waters. Mature restraint prevents embarking on that course unless pushed or pulled. The *Campbell* cases describe how Judicial Department writings have warned for thirty (30) years that this was coming, but the warnings were unheeded. Surely a public education system that

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functioned unconstitutionally for over one hundred years and fifty-three (53) Legislatures does not justify the antagonism that seems to be now appearing.

This footnote ends with an observation and an inquiry. If after considering the direct language of Article 2 of the Constitution, the Judicial Department insists it is at liberty to invest itself with legislative and executive authority, and the Legislative Department perceives that doing so renders the distribution of powers in Article 2 a matter of form without substance, is there a way to avoid a constitutional crisis? This footnote asks: To what purpose are the three distinct powers so emphatically limited by Article 2 if the limits may be exceeded by those intended to be restrained? If Article 2 of the Wyoming Constitution is an attempt to limit a power that is boundless, then is not Article 2 an absurd attempt to separate powers?

Section 21. [EFFECTIVE DATES]

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

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(b) Notwithstanding subsection (a) of this section, W.S. 9-1-513 as created under section 1 of this act and sections 4 through 20 of this act are effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk