

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO. _____

School facilities commission-reorganization.

Sponsored by: HDRAFT

A BILL

for

1 AN ACT relating to school capital construction;
2 establishing the school facilities department; providing a
3 definition; reorganizing the membership of the school
4 facilities commission; modifying requirements for
5 commission members; establishing the powers and duties of
6 the commission and the department as specified; and
7 providing for an effective date.

8

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

10

11 **Section 1.** W.S. 21-15-123 is created to read:

12

13 **21-15-123. School facilities department; creation;**

14 **control; director; duties and authority.**

1

2 (a) The school facilities department is created.

3

4 (b) The department is under the direction and
5 supervision of the school facilities commission. The
6 department shall perform all duties required pursuant to
7 this act and any duties as designated by the commission.

8

9 (c) The department consists of the director who is
10 the chief administrative officer and other personnel as
11 approved by the governor.

12

13 (d) The governor shall appoint a competent person as
14 the director of the department who shall serve at the
15 pleasure of the governor and may be removed by him as
16 provided in W.S. 9-1-202. The director shall be appointed
17 by the governor from a list of three (3) qualified
18 candidates submitted by the school facilities commission.
19 The director's salary shall be determined by the
20 commission. Any appointment under this subsection shall be
21 with the advice and consent of the senate.

22

1 (e) The director is the chief administrative officer
2 of the department with general supervision and control of
3 all activities, functions and employees of the department,
4 under the direction and supervision of the commission. He
5 shall devote his entire time to the performance and
6 supervision of the duties conferred on him by the
7 commission and by law.

8

9 (f) The school facilities department shall:

10

11 (i) Implement policies, guidelines and standards
12 as adopted by the commission for school district facility
13 plans required under W.S. 21-15-116;

14

15 (ii) Establish a consistent, systematic research
16 approach for student enrollment projections used by
17 districts in developing district facility plans and
18 forecasting building and facility needs to comply with
19 statewide building adequacy standards;

20

21 (iii) Develop cost per square foot guidelines to
22 be used in estimating the cost of constructing, renovating
23 and otherwise remediating buildings and facilities to

1 comply with statewide adequacy standards, which shall
2 account for demonstrated differences among regions and
3 communities within the state;

4

5 (iv) Establish a statewide school facilities
6 database comprised of building and facility specific
7 condition, suitability, accessibility, capacity, inventory
8 and site data;

9

10 (v) Enter into or approve construction or
11 renovation project agreements, as appropriate. Each
12 agreement shall:

13

14 (A) Require the district to make
15 arrangements for appropriate professional supervision and
16 management of the project;

17

18 (B) Provide for the review and approval by
19 the department of project plans and specifications;

20

21 (C) Provide for review and approval by the
22 department of project changes and change orders provided
23 that:

1

2 (I) The agreement may specify
3 parameters identifying the circumstances under which
4 changes and change orders may also be approved;

5

6 (II) All changes and change orders
7 shall be approved by the district or its representative.

8

9 (D) Establish payment schedules involving
10 state funds;

11

12 (E) Assure the state is not responsible or
13 liable for compliance with construction or renovation
14 project schedules or completion dates;

15

16 (F) Provide that the agreement shall expire
17 upon completion of the project or projects;

18

19 (G) Contain any other provision mutually
20 agreed upon by the department and the district; and

21

1 (H) Allow for alternate design and
2 construction delivery methods as defined in W.S. 16-6-701
3 for provision of design and construction services.
4

5 (vi) Review district plans for the disposition
6 or demolition of buildings and facilities made surplus by
7 an approved construction or renovation project or by
8 changes in school population, including allocation of
9 resulting costs and revenues and report the plans to the
10 commission. Disposition shall include options for use,
11 lease, sale and any other means of disposing of the surplus
12 building or facility. The costs and revenues incurred by
13 the disposition or demolition of the building or facility
14 shall be accounted for in each district's school facility
15 plan and considered in any building or facility remedy for
16 that district, including the allocation of revenues
17 resulting from the disposition of property rendered surplus
18 to offset property demolition costs. The department shall
19 report this review to the commission. The district shall
20 have final authority over the disposition or demolition of
21 any surplus buildings or facilities, except that the
22 commission, after receiving a report of the review by the
23 department, may disapprove any plans related to disposition

1 or demolition submitted pursuant to this paragraph if the
2 commission determines that the plans do not protect the
3 financial interests of the state or are not otherwise in
4 the public interest. Any revenues resulting from property
5 disposition under this paragraph shall not be considered or
6 counted under W.S. 21-13-310(a)(xiv) or (xv);

7

8 (vii) Authorize, subject to commission review,
9 the purchase and acquisition of sites for any project
10 within the approved district facility plan if state funds
11 are to be expended for the acquisition;

12

13 (viii) Review any proposed sale of existing land
14 owned by a district, which land is within the scope of the
15 district's facility plan, and determine the impact of the
16 land disposition upon that plan. The department shall
17 report the review to the commission. The district shall
18 have final authority over the sale of existing land owned
19 by the district, except that the commission, after
20 receiving a report of the review by the department, may
21 disapprove any plans related to a sale submitted pursuant
22 to this paragraph if the commission determines that the
23 plans do not protect the financial interests of the state

1 or are not otherwise in the public interest. If the
2 commission determines land disposition adversely impacts
3 the cost-effectiveness of the district's facility plan, the
4 revenues resulting from land disposition shall be
5 considered by the commission in any future building or
6 facility remedy for that district and, notwithstanding
7 paragraph (vi) of this subsection, the commission may
8 direct the department of education to consider or count
9 those revenues under either W.S. 21-13-310(a)(xiv) or (xv).

10

11 (g) The department may contract with appropriate
12 expertise and professionals in administering this act and
13 performing duties imposed under this act.

14

15 **Section 2.** W.S. 9-2-1704(d)(xv), 21-3-110(a)(x) and
16 (xxvii), 21-15-109(b), (c)(intro)(i), (iv) and (v), (e) and
17 (f), 21-15-114(a)(iii), 21-15-111(a)(vii) and by creating a
18 new paragraph (ix), 21-15-113(a), (b) and (c),
19 21-15-115(b), 21-15-116(a)(intro)(vi) and (vii),
20 (d)(intro), (e) and (f), 21-15-117(a)(intro)(v), (b) and
21 (d), 21-15-118(a) and (b), 21-15-119(a), (b) and (c) and
22 28-11-301(b)(iii), (iv) and (v) and (c)(intro)(ii) are
23 amended to read:

1

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

3

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

13

14 (xv) School facilities commission established
15 under W.S. 21-15-113 and the school facilities department
16 established under W.S. 21-15-123;

17

18 **21-3-110. Duties of boards of trustees.**

19

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

22

1 (x) Subject to review by the school facilities
2 ~~commission~~ department under W.S. 21-15-115 for any project
3 involving state capital construction assistance, fix the
4 site of each school building and facility considering the
5 needs of the people of each portion of the district. If
6 the district enters into an agreement to lease buildings
7 and facilities owned by the district and the buildings and
8 facilities are included within the statewide database
9 maintained by the school facilities ~~commission~~ department
10 under W.S. ~~21-15-114(a)(vi)~~ 21-15-123(f)(iv), the district
11 shall, except as provided under W.S. 21-15-109(c)(i)(A)(II)
12 and (III) and (B), ensure the lease agreement requires
13 sufficient payment from the lessee to cover expenses
14 necessary to adequately maintain the facility or building
15 in accordance with statewide adequacy standards prescribed
16 by the commission. If the district enters into an
17 agreement to lease buildings and facilities under which the
18 district is the lessee and the building is to be used for
19 the provision of the required educational program within
20 the district, the lease agreement shall require the lessor
21 to adequately maintain the buildings and facilities in
22 accordance with standards prescribed by the commission. ~~If~~
23 ~~approved by the commission,~~ Ihe district shall be

1 reimbursed for the lease payment if the square footage of
2 the leased facility is not included within the district's
3 total square footage for purposes of major maintenance
4 computations under W.S. 21-15-109, subject to the
5 following:

6

7 (A) If the lease payment is for educational
8 facilities used in the actual operation of a charter
9 school, the ~~commission~~ school facilities department shall
10 pay the district an amount ~~approved by the commission~~ for
11 the lease payment by the charter school if:

12

13 (II) The ~~commission~~ department
14 determines no adequate educational facilities exist within
15 the district for operation of the charter school;

16

17 (B) If the lease payment is for facilities
18 leased to the district by a state institution which meets
19 state adequacy standards prescribed by rule and regulation
20 of the commission, the amount of the lease reimbursement
21 paid by the ~~commission~~ school facilities department shall
22 not include the amount received by the institution from the
23 state for major building and facility repair and

1 replacement costs attributable to the facility, as computed
2 by the construction management section within the general
3 services division of the department of administration and
4 information.

5

6 (xxvii) Cooperate with the school facilities
7 ~~commission~~ department in developing facility plans for the
8 district addressing district-wide building and facility
9 needs in accordance with W.S. 21-15-116 and rule and
10 regulation of the school facilities commission;

11

12 **21-15-105. Bonded indebtedness mill levy supplement.**

13

14 (a) On or before June 15 of each year, any school
15 district may apply to the department of education to
16 receive a mill levy supplement as calculated under
17 subsections (c) and (d) of this section. The mill levy
18 supplement shall not apply to the first two (2) mills
19 levied by a district for payment of outstanding bonds. The
20 amount of mill levy supplement to be received shall be
21 certified by the department of education to the district
22 and the board of county commissioners of the county or
23 counties in which the district is located on or before July

1 15. Subject to limitations imposed by this section, the
2 mill levy necessary to make scheduled payments under
3 outstanding general obligation bonds of the school district
4 for the current year shall be decreased accordingly. The
5 mill levy supplement shall be paid to each district
6 applying on or before January 1 and shall be credited to
7 the debt service fund of the school district. Any mill
8 levy supplement revenues not used to reduce the current
9 mill levy as provided in this section shall be rebated to
10 the state treasurer.

11

12 (d) The mill levy supplement determined under
13 subsection (c) of this section shall be decreased by
14 subtracting the product of two (2) mills times the assessed
15 value of the school district for the preceding year from
16 the amount calculated under subsection (c) of this section.
17 Following certification of the amounts and if the amount
18 calculated under subsection (c) of this section is greater
19 than the amount determined under this subsection, the
20 department of education shall pay the difference to the
21 school district under subsection (a) of this section.

22

1 (e) The department of education shall develop forms
2 containing such information as may be required to implement
3 this section. The forms shall be completed and submitted to
4 the department of education by any school district applying
5 under this section. The department of education shall adopt
6 rules and regulations to implement this section. The mill
7 levy supplement shall be computed using the assessed
8 valuation for the state and district for the preceding
9 year.

10
11 **21-15-109. Major building and facility repair and**
12 **replacement payments; computation; square footage**
13 **allowance; use of payment funds; accounting and reporting**
14 **requirements.**

15
16 (b) To the extent funds are available, on July 1 of
17 each year, the school facilities ~~commission~~ department
18 shall based upon square footage computations computed on
19 September 1 of the prior school year, distribute major
20 building and facility repair and replacement payments to
21 each school district from the capital construction account.
22 If funds within the account are not sufficient for payments
23 on July 1 of any school year, the ~~commission~~ department

1 shall distribute payments from the account on or before
2 September 30 and March 31 of that school year. Major
3 building and facility repair and replacement payments shall
4 be computed in accordance with subsection (c) of this
5 section.

6

7 (c) To compute the major building and facility repair
8 and replacement payment for each district, the ~~commission~~
9 department shall:

10

11 (i) Annually on or before September 1, determine
12 the total number of gross square feet of school buildings
13 and facilities within the district according to guidelines
14 prescribed by rule and regulation of the commission,
15 subject to the following:

16

17 (A) The gross square footage of any school
18 building or facility within the district which is not used
19 for purposes of delivering the required educational program
20 shall not be included within the district's total gross
21 square footage computed under this section, except for the
22 square footage of any district school building or facility
23 which would otherwise be treated as a closed building under

1 paragraph (c)(iv) of this section, ~~or~~ is determined to be
2 surplus, ~~and following approval of the commission,~~ by the
3 department or the building or facility is being used for
4 the provision of one (1) of the programs specified in
5 subdivisions (I) through (III) of this subparagraph and the
6 district complies with subdivisions (IV) through (VI) of
7 this subparagraph:

8
9 (B) The gross square footage of any school
10 building or facility leased by a district shall not be
11 included within the district's total gross square footage
12 computed under this section, unless the lease agreement is
13 by or with any nonprofit or governmental agency providing
14 educational programs which have been approved by the
15 department of education, the department of health or
16 another state or educational credentialing agency and the
17 leased space is incorporated into the district's facility
18 plans required under W.S. 21-15-116(a)(vi); ~~and is approved~~
19 ~~by the commission;~~

20
21 (iv) The square footage of any district building
22 or facility which is closed and not operational, is not
23 being replaced under a district's facility plan ~~approved by~~

1 ~~the commission~~ under W.S. 21-15-116, is not determined
2 surplus by the ~~commission~~ department and is specified as a
3 closed building within the district's facility plan as a
4 cost efficient means to address future district building
5 needs, shall be segregated from the square footage of other
6 district buildings and facilities and multiplied by the
7 replacement value ~~determined by the commission~~ under
8 paragraph (c)(v) of this section for the appropriate
9 building category. The resulting amount shall then be
10 multiplied by an exterior closure factor established by the
11 ~~commission~~ department based upon the most current edition
12 of the Whitestone Building Maintenance and Repair Cost
13 Reference Index and added to the total amount determined
14 for the district under paragraph (c)(viii) of this section.
15 This paragraph shall not apply to any school year during
16 which the building or facility is reopened and becomes
17 operational for purposes of delivering the required
18 educational program within the district or to any school
19 year during which the building or facility is used to
20 provide certified child care, developmental preschool or
21 cooperative education programs pursuant to subparagraph
22 (c)(i)(A) of this section;

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 and the amount
4 determined under paragraph (c)(ii) of this section for all
5 remaining building categories of that district, times a
6 replacement value cost factor established for each building
7 category by the ~~commission~~ department based upon the median
8 estimate in the most current edition of the R. S. Means
9 construction cost index, as modified to reflect current
10 Wyoming construction costs determined by the department of
11 administration and information, division of economic
12 analysis;

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. Except as specified under subsection (f) of
18 this section, expenditures from the separate account,
19 including any interest earnings on the account, shall be
20 restricted to expenses incurred for major building and
21 facility repair and replacement as defined in subsection
22 (a) of this section and shall be in accordance with the
23 district's facility plan ~~approved by the commission~~ under

1 W.S. 21-15-116. Account expenditures may include the
2 expenses of district personnel performing work described
3 under paragraph (a)(iii) of this section if approved by the
4 ~~commission~~ department and if documented within the
5 district's facility plan. The district's facility plan
6 shall clearly specify proposed major maintenance
7 expenditures for addressing district major building and
8 facility repair and replacement needs on a building-by-
9 building basis, updated for the applicable reporting
10 period, which shall be aligned to the statewide adequacy
11 standards and prioritized based upon the impact of the
12 building or facility on the district's ability to deliver
13 the required educational program. The district shall
14 include plans for maintaining any district building or
15 facility which is under a lease agreement, specifying lease
16 revenues available to the district for maintenance of
17 facilities to the level required by statewide adequacy
18 standards. No expenditures shall be made from the separate
19 account unless the repair or replacement of the building or
20 facility systems for which the expenditure is to be made is
21 clearly specified within the district's facility plan or
22 otherwise approved by the ~~commission~~ department. In a
23 manner and form required by commission rule and regulation,

1 each district shall annually report to the ~~commission~~
2 department on the expenditures made from the separate
3 account during the applicable reporting period, separating
4 account expenditures on a building-by-building basis. The
5 ~~commission~~ department shall annually review account
6 expenditures and shall report expenditures to the
7 commission and the select committee on school facilities
8 established under W.S. 28-11-301. The ~~commission~~ department
9 shall compile reported building-by-building expenditure
10 information for each district and the district facility
11 plan and include this information in its annual report to
12 the select committee pursuant to W.S. 21-15-121. If any
13 district expends funds within the separate account for
14 purposes not authorized by this subsection or by rule and
15 regulation of the commission, the payments for that
16 district shall be reduced by the amount of the unauthorized
17 expenditure in the school year following the year in which
18 the expenditure was discovered ~~by the commission~~ or the
19 school year in which notification was provided by the
20 ~~commission~~ department, whichever first occurs.

21

22 (f) Notwithstanding subsection (e) of this section, a
23 district may expend up to ten percent (10%) of the amount

1 distributed during any school year under subsection (b) of
2 this section for major building and facility repair and
3 replacement needs of the district which are not specified
4 in the district's facility plan, including expenditures for
5 maintenance of district enhancements. Expenditures shall
6 be made under this subsection only after the district's
7 building and facility repair and replacement needs
8 specified in its facility plan have been addressed in
9 accordance with subsection (e) of this section and the
10 ~~commission~~ department has approved the district's proposed
11 expenditures under this subsection. ~~Effective for the July~~
12 ~~1, 2007 payment under this section and each payment~~
13 ~~thereafter,~~ Amounts not expended for purposes of this
14 subsection during any school year may be accumulated by a
15 district and earmarked within the separate account
16 established under subsection (e) of this section for
17 expenditure under this subsection in subsequent school
18 years, provided the unexpended amount during any school
19 year to be accumulated does not exceed ten percent (10%) of
20 the amount distributed to the district under subsection (b)
21 of this section for that school year. Each district shall
22 include expenditures under this subsection and any amounts
23 accumulated from year-to-year under this subsection within

1 the annual report required under subsection (e) of this
2 section. Nothing in this subsection shall prohibit or
3 limit the application of subparagraph (c)(i)(D) of this
4 section in computing a district's building and facility
5 gross square footage for purposes of determining payment
6 amounts under this section. If any school district exceeds
7 expenditure limitations prescribed by this subsection or
8 fails to comply with expenditure levels for facility
9 adequacy needs identified within its facility plan, the
10 payments for that district in the immediately succeeding
11 year shall be reduced by the excess expenditure amount
12 including any excess expenditure of amounts accumulated
13 under this subsection.

14

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

16

17 (a) As used in this act, unless the context requires
18 otherwise:

19

20 (viii) "This act" means W.S. 21-15-108, 21-15-
21 109 and 21-15-111 through ~~21-15-122.~~ 21-15-123;

22

1 (ix) "Department" means the school facilities
2 department created by this act.

3
4 **21-15-113. School facilities commission; membership;**
5 **conflict of interest; terms; chairman; meetings;**
6 **compensation.**

7
8 (a) The school facilities commission is established
9 to consist of ~~seven (7)~~ eight (8) members comprised of the
10 state superintendent of public instruction and ~~six (6)~~
11 seven (7) members who are Wyoming residents appointed ~~as~~
12 follows: by the governor with one (1) member from each of
13 the seven (7) appointment districts designated in W.S.
14 9-1-218(b).

15
16 (b) Commission members ~~appointed under subsection (a)~~
17 ~~of this section~~ shall not be an employee of any educational
18 association or organization. In addition, not more than one
19 (1) commission member shall be an employee of a school
20 district. Commission members shall be subject to W.S. 16-6-
21 118 and shall not vote or otherwise participate in any
22 matter as prohibited under W.S. 16-6-118.

23

1 (c) Gubernatorial ~~and state superintendent~~
2 appointments shall be subject to senate approval and shall
3 serve a term of four (4) years beginning March 1. Not more
4 than four (4) of the appointed members shall be of the same
5 political party. The governor ~~and the state superintendent~~
6 shall fill a vacancy on respective appointments to the
7 commission in accordance with W.S. 28-12-101, and may
8 remove ~~respectively~~ appointed commissioners as provided by
9 W.S. 9-1-202. ~~For purposes of this subsection, appointments~~
10 ~~by the state superintendent shall be subject to this~~
11 ~~subsection in the same manner provided for gubernatorial~~
12 ~~appointments under W.S. 9-1-202, 28-12-101 and 28-12-102.~~

13

14 **21-15-114. School facilities commission powers and**
15 **duties.**

16

17 (a) The school facilities commission shall:

18

19 ~~(i) Act in consultation with school districts~~
20 ~~who may utilize local advisory committees on school~~
21 ~~building and facility needs, as appropriate, and shall~~
22 ~~consult with architects and other professional advisors;~~

23

1 (ii) Adopt policies, guidelines and standards
2 for the comprehensive assessment of school buildings and
3 facilities required under W.S. 21-15-115;

4
5 (iii) Adopt policies, guidelines and standards
6 for school district facility plans required under W.S. 21-
7 15-116 and review and ~~certify a~~ approve each plan ~~for each~~
8 ~~district~~ as required under this act;

9
10 ~~(iv) Establish a consistent, systematic research~~
11 ~~approach for student enrollment projections used by~~
12 ~~districts in developing district facility plans and~~
13 ~~forecasting building and facility needs to comply with~~
14 ~~statewide building adequacy standards;~~

15
16 ~~(v) Develop cost per square foot guidelines to~~
17 ~~be used in estimating the cost of constructing, renovating~~
18 ~~and otherwise remediating buildings and facilities to~~
19 ~~comply with statewide adequacy standards, which shall~~
20 ~~account for demonstrated differences among regions and~~
21 ~~communities within the state;~~

22

1 ~~(vi) Establish a statewide school facilities~~
2 ~~database comprised of building and facility specific~~
3 ~~condition, suitability, accessibility, capacity, inventory~~
4 ~~and site data;~~

5
6 (vii) Develop policies and criteria for use in
7 determining renovation, replacement or discontinuation of
8 inadequate buildings and facilities based upon statewide
9 adequacy standards and other requirements necessary to
10 ensure adequate, efficient and cost effective school
11 buildings and facilities;

12
13 ~~(viii) Enter into or approve construction or~~
14 ~~renovation project agreements, as appropriate. The~~
15 ~~agreement shall:~~

16
17 ~~(A) Require the district make arrangements~~
18 ~~for appropriate professional supervision and management of~~
19 ~~the project;~~

20
21 ~~(B) Provide for the review and approval of~~
22 ~~project plans and specifications;~~

23

1 ~~(C) Provide for review and approval of~~
2 ~~project changes and change orders provided that:~~

3
4 ~~(I) The agreement may specify~~
5 ~~parameters identifying the circumstances under which~~
6 ~~changes and change orders may be approved;~~

7
8 ~~(II) Repealed By Laws 2008, Ch. 93, §~~
9 ~~2.~~

10
11 ~~(III) All changes and change orders~~
12 ~~shall be approved by the district or its representative.~~

13
14 ~~(D) Establish payment schedules involving~~
15 ~~state funds;~~

16
17 ~~(E) Assure the commission is not~~
18 ~~responsible or liable for compliance with construction or~~
19 ~~renovation project schedules or completion dates;~~

20
21 ~~(F) Repealed By Laws 2008, Ch. 93, § 2.~~

22

1 ~~(G) Provide that the agreement shall expire~~
2 ~~upon completion of the project or projects;~~

3
4 ~~(H) Contain any other provision mutually~~
5 ~~agreed upon by the commission and the district; and~~

6
7 ~~(J) Allow for alternate design and~~
8 ~~construction delivery methods as defined in W.S. 16-6-701~~
9 ~~for provision of design and construction services.~~

10
11 (ix) Establish criteria and procedures for the
12 identification of local enhancements to school buildings
13 and facilities which are in excess of state building
14 adequacy standards and develop criteria and procedures to
15 determine whether and how any local enhancements should be
16 incorporated into the statewide adequacy standards;

17
18 ~~(x) Review and approve district plans for the~~
19 ~~disposition or demolition of buildings and facilities made~~
20 ~~surplus by an approved construction or renovation project~~
21 ~~or by changes in school population, including allocation of~~
22 ~~resulting costs and revenues. Disposition shall include~~
23 ~~options for use, lease, sale and any other means of~~

1 ~~disposing of the surplus building or facility. The costs~~
2 ~~and revenues incurred by the disposition or demolition of~~
3 ~~the building or facility shall be accounted for in each~~
4 ~~district's school facility plan and considered in any~~
5 ~~building or facility remedy for that district, including~~
6 ~~the allocation of revenues resulting from the disposition~~
7 ~~of property rendered surplus to offset property demolition~~
8 ~~costs. The district shall have final authority over the~~
9 ~~disposition or demolition of any surplus buildings,~~
10 ~~facilities or land, but the commission may disapprove any~~
11 ~~plans submitted pursuant to this paragraph to protect the~~
12 ~~financial interests of the state if the plans are not~~
13 ~~otherwise in the public interest. Any revenues resulting~~
14 ~~from property disposition under this paragraph shall not be~~
15 ~~considered or counted under W.S. 21-13-310(a)(xiv) or (xv);~~

16

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

22

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, provided that this
7 subparagraph shall not be construed to grant the commission
8 any authority to specify the educational programs offered
9 by any district;

10
11 (C) Accommodations, in coordination and
12 cooperation with the district, to the proposed site on
13 which the building or facility is to be constructed,
14 including specific site requirements and limitations.

15
16 (xii) Develop criteria and procedures for the
17 site analysis of remedies responding to identified building
18 and facility needs by building and facility replacement.
19 Site analysis shall include a comprehensive review and
20 evaluation of site soil conditions, traffic patterns,
21 utilities and site topography;

22

1 ~~(xiii) Provide for the purchase and acquisition~~
2 ~~of sites for any project within the approved district~~
3 ~~facility plan if state funds are to be expended for the~~
4 ~~purchase and acquisition;~~

5
6 ~~(xiv) Review any proposed sale of existing land~~
7 ~~owned by a district, which land is within the scope of the~~
8 ~~district's facility plan, and the impact of the land~~
9 ~~disposition upon that plan. The commission may disapprove~~
10 ~~any plans submitted pursuant to this paragraph to protect~~
11 ~~the financial interests of the state if the plans are not~~
12 ~~otherwise in the public interest. If the commission~~
13 ~~determines land disposition adversely impacts the cost-~~
14 ~~effectiveness of the district's facility plan, the revenues~~
15 ~~resulting from land disposition shall be considered by the~~
16 ~~commission in any future building or facility remedy for~~
17 ~~that district and notwithstanding paragraph (x) of this~~
18 ~~subsection, may at the direction of the commission to the~~
19 ~~department of education, be considered or counted under~~
20 ~~W.S. 21-13-310(a)(xiv) or (xv);~~

21

1 (xv) With prior consultation with the select
2 committee on school facilities, promulgate necessary rules
3 and regulations to administer and implement this act.

4 ***** STAFF COMMENTS *****

5 **Stricken language in subsection (a) is repealed**
6 **from the duties of the commission and added to**
7 **the duties of the department under W.S.**
8 **21-15-123, except paragraph (i) which is**
9 **repealed.**

10
11 ~~(b) The commission may contract with appropriate~~
12 ~~expertise and professionals in administering this act and~~
13 ~~performing duties imposed under this act.~~

14 ***** STAFF COMMENTS *****

15 **Repealed here and added under W.S. 21-15-123 for**
16 **the department.**

17
18 ~~(c) The commission shall select and subject to senate~~
19 ~~confirmation, employ a director who is a Wyoming resident~~
20 ~~and who shall have demonstrated competency in facilities~~
21 ~~planning and construction. The director shall receive an~~
22 ~~annual salary determined by the commission and may be~~
23 ~~removed from office by the commission or the governor as~~
24 ~~provided under W.S. 9-1-202(b). In addition to other powers~~
25 ~~granted under this act, the director may hire necessary~~
26 ~~staff as approved by legislative appropriation and shall~~
27 ~~provide administrative support to the commission and carry~~
28 ~~out this act under the direction of the commission.~~

1 ***** STAFF COMMENTS *****

2 **This subsection will be repealed, shown here for**
3 **committee discussion.**

4

5 **21-15-115. Statewide standards for school building**
6 **and facility adequacy; adequacy assessment.**

7

8 (b) ~~In addition to subsection (a) of this section,~~

9 The commission department shall maintain the comprehensive
10 assessment of the adequacy of existing school buildings and
11 facilities and of future space requirements within the
12 state. Maintenance of the assessment shall include district
13 reporting of new construction and major building and
14 facility repair and replacement activities in accordance
15 with guidelines prescribed by rule and regulation of the
16 commission, the results of ~~commission~~ department on-site
17 visitations and inspections of buildings and facilities and
18 needs assessment data and verification of building and
19 facility ratings through periodic review. The assessment
20 shall be designed and maintained to provide timely and
21 uniform statewide data on all of the following:

22

23 **21-15-116. School district facility plans;**
24 **development, review and approval; plan criteria;**
25 **administrative review.**

1

2 (a) In accordance with rules and regulations of the
3 commission, long range comprehensive school building and
4 facility plans for each school district shall be developed
5 by the ~~commission~~ department in coordination with the
6 applicable district, which address district wide building
7 and facility needs. The facility plan shall identify
8 building and facility needs in accordance with the
9 statewide adequacy standards, actions to remediate building
10 and facility needs including construction, renovation and
11 major building and facility repair and replacement
12 expenditures, and any local enhancements to buildings and
13 facilities beyond statewide adequacy standards. The
14 facility plan shall include a response to each building and
15 facility need identified on a building-by-building, space-
16 by-space basis. The plan shall also review and to the
17 extent practical, identify nonconstruction alternatives to
18 building and facility needs such as building closure,
19 modification of school boundaries, modification of school
20 grade configurations and similar approaches. Demolition or
21 use, lease or other methods of disposition of ~~commission~~
22 ~~determined~~ surplus buildings and facilities shall be
23 incorporated as part of the district plan, including the

1 disposition of any existing land owned by the district. The
2 plan shall not include the abandonment or demolition of any
3 school facility or building unless there has first been a
4 public hearing on the issue. The plan shall also specify
5 identified alternative methods of building disposition,
6 proposed allocation of costs incurred or revenues resulting
7 from disposition and allocation of disposition revenues to
8 offset any costs paid by the ~~commission~~department. In
9 addition, district facility plans shall include:

10

11 (vi) An inventory of buildings and facilities to
12 be leased by the district during the planning period,
13 either as lessee or lessor, including the purpose for which
14 the leased buildings and facilities are to be used and if
15 any of this leased space will involve any district
16 buildings or facilities included within the statewide
17 school facilities database maintained by the ~~commission~~
18 department under W.S. ~~21-15-114(a)(vi)~~21-15-123(f)(iv);

19

20 (vii) Other information required by the
21 ~~commission~~department to evaluate each district's plan.

22

1 (d) At least once every two (2) years, the commission
2 shall review and approve each plan developed by the
3 department under this section to ensure each plan:
4

5 (e) Any school district aggrieved by a decision of
6 the department or the commission under this act may seek
7 review in accordance with the Wyoming Administrative
8 Procedure Act. In accordance with W.S. 16-3-112, review of
9 a decision of the department shall be before the
10 commission.
11

12 (f) In carrying out this act and in accordance with
13 policies adopted by the commission, the commission or the
14 department shall consult with the affected school districts
15 and shall provide districts the opportunity to informally
16 review facility plans, remedies and projects with the
17 department or the commission before districts pursue
18 administrative review under subsection (e) of this section.
19

20 **21-15-117. Annual evaluation of school buildings and**
21 **facilities; remediation schedule; needs prioritization;**
22 **combining facilities; implementation of remedy.**
23

1 (a) Through the identification of school building and
2 facility conditions and needs provided by the assessment
3 conducted and maintained under W.S. 21-15-115, and a
4 comparison of the identified conditions and needs with the
5 established statewide building adequacy standards and the
6 district facility plans developed under W.S. 21-15-116, the
7 commission shall, based upon reports provided by the
8 department and in coordination and cooperation with the
9 districts, evaluate the adequacy of school buildings and
10 facilities within local school districts. ~~and~~ Based upon
11 this evaluation, the commission shall establish a schedule
12 for building and facility remediation. Remediation shall
13 bring all buildings and facilities to conditions such that
14 over time, only routine maintenance is required to maintain
15 building adequacy. The schedule shall identify and
16 prioritize building and facility remedies on a statewide
17 basis, based upon the following:

18

19 (v) A methodology and process for identifying
20 the most critical building and facility needs, which
21 independently provides full consideration to each of the
22 measures provided in paragraphs (i) through (iv) of this
23 subsection.

1

2 (b) The commission shall for each building and
3 facility remedy scheduled under subsection (a) of this
4 section, ~~determine~~ ensure the adoption of the most cost
5 effective method of remediation of building and facility
6 needs to deliver quality educational services and ensure
7 compliance with the statewide adequacy standards. For any
8 scheduled remedy for which major building and facility
9 repair and replacement payments under W.S. 21-15-109 are
10 not sufficient to remedy the scheduled need, as determined
11 by the commission, the commission shall determine if the
12 remedy requires capital outlay.

13

14 (d) In determining building and facility remedies
15 under subsection (b) of this section, in developing
16 criteria and procedures for site analysis under W.S.
17 21-15-114(a)(xii) and in ~~developing~~ approving district
18 facility plans under W.S. 21-15-116 and otherwise
19 administering this act, the commission shall adopt the
20 remedy that is in the best financial and educational
21 interests of the state, taking into consideration the
22 recommendations of the department and the most efficient
23 and cost effective approach in order to deliver quality

1 educational services and address building and facility
2 need. Expenditures from the school capital construction
3 account shall be for necessary and related costs to
4 implement efficient and cost effective building and
5 facility remedies required to deliver quality educational
6 services. In making determinations under this paragraph,
7 the commission shall take into consideration the effects of
8 the proposed activity on the local community. The
9 commission shall implement this subsection in carrying out
10 building and facility remedies and shall, giving proper
11 consideration to the prevention of unnecessary delays in
12 preceding with a remedy, establish a process to work with
13 other political subdivisions of the state in implementing
14 this subsection.

15

16 **21-15-118. Building and facility construction and**
17 **renovation projects.**

18

19 (a) Upon determination by the commission following
20 review under W.S. 21-15-117, and appropriation by the
21 legislature in accordance with W.S. 21-15-119, the
22 ~~commission~~ department shall proceed with projects as
23 follows:

1

2 (b) If required, the ~~commission~~ department shall
3 provide for temporary space for any scheduled building
4 remedy by means of portable buildings creating capacity or
5 by other means available to the ~~commission~~ department.

6

7 **21-15-119. Commission budget and funding**
8 **recommendations.**

9

10 (a) Notwithstanding W.S. 9-2-1012, the commission
11 shall annually, not later than September 1, ~~prepare~~ develop
12 and submit a recommended budget for projects and school
13 capital construction financing to the governor, through the
14 budget division of the department of administration and
15 information and to the select committee on school
16 facilities. The department shall prepare and provide
17 information as requested by the commission. The commission
18 shall include with its recommended budget to the select
19 committee the comprehensive assessment specified in W.S.
20 21-15-115(b), the prioritized list of projects specified in
21 W.S. 21-15-117 including the amounts allocated to each
22 project and the annual building status report specified

1 under W.S. 21-15-121. The recommended budget submitted by
2 the commission shall include:

3

4 (b) The ~~commission~~ department may enter into
5 agreements under which the ~~commission~~ department may make
6 payments on behalf of a school district with respect to the
7 district's lease of school facilities under W.S. 21-15-112.
8 The ~~commission~~ department may also enter into any agreement
9 with a nonprofit corporation or other entity necessary to
10 ensure that a district can lease facilities under W.S. 21-
11 15-112.

12

13 (c) Budgets submitted by the commission under
14 subsection (a) of this section and recommended by the
15 select committee under W.S. 28-11-301 shall be attached to
16 specified projects for the applicable budget period, which
17 projects shall be referred to as planning and design phase
18 projects and construction phase projects. With the
19 approval of the governor, the ~~commission~~ department may
20 transfer up to fifteen percent (15%) of the total funds
21 appropriated between project phases. Any modification of
22 appropriation expenditures between project phases shall be
23 reported to the select committee in accordance with W.S.

1 28-11-301(c)(iv). Additionally, the commission may for any
2 budget period specify amounts within its budget which are
3 recommended to cover inflation, unanticipated costs, off-
4 site infrastructure costs and other such contingency or
5 special project costs provided the additional costs are
6 reported and approved in accordance with W.S. 28-11-
7 301(c)(iv). Amounts appropriated by the legislature shall
8 not be construed to be an entitlement or guaranteed amount
9 and shall be expended by the ~~commission~~ department in
10 accordance with facility guidelines to ensure adequate,
11 efficient and cost effective school buildings and
12 facilities as required by W.S. 21-15-114(a)(vii).

13

14 **28-11-301. Appointment of members; powers and duties;**
15 **related duties of school facilities commission.**

16

17 (b) The select committee shall:

18

19 (iii) Monitor the assessment of statewide school
20 facility needs, prioritization of these needs and
21 remediation of identified needs, as undertaken by the
22 school facilities commission and the school facilities
23 department pursuant to law;

1

2 (iv) Develop knowledge and expertise among its
3 members regarding issues pertaining to school facilities
4 and commission and department programs and procedures to
5 maintain statewide facility adequacy;

6

7 (v) Not later than November 1 of each year,
8 prepare and submit budget recommendations based upon
9 information reported by the commission and the department
10 under W.S. 21-15-119 and 21-15-121, addressing statewide
11 building and facility needs to the joint appropriations
12 committee and the governor. Based upon reports submitted
13 under W.S. 21-15-119 and 21-15-121, the select committee
14 may report recommendations to the legislature including any
15 necessary implementing legislation;

16

17 (c) The school facilities ~~commission~~ department
18 shall:

19

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

23

1 **Section 3.** W.S. 21-15-113(a)(i) and (ii) and
2 21-15-114(a)(i), (iv), (v), (vi), (viii), (x), (xiii) and
3 (xiv), (b) and (c) are repealed.

4

5 **Section 4.**

6

7 (a) Notwithstanding W.S. 21-15-113(c) as amended by
8 this act, not later than March 1, 2011 or the effective
9 date of this section, whichever is later, the governor
10 shall appoint the seven (7) members of the school
11 facilities committee in accordance with W.S. 21-15-113, as
12 amended by this act, to take office effective July 1, 2011,
13 except as otherwise provided in subsection (b) of this
14 section, for initial terms specified as follows:

15

16 (i) Two (2) members for a period of two (2)
17 years;

18

19 (ii) Two (2) members for a period of three (3)
20 years; and

21

22 (iii) Three (3) members for a period of four (4)
23 years.

1

2 (b) The commission members appointed pursuant to
3 subsection (a) of this section, together with the state
4 superintendent of public instruction, shall meet not later
5 than May 1, 2011, solely for the purpose of providing a
6 list to the governor of three (3) candidates for the
7 director of the department as required under W.S.
8 21-15-123, as created by this act. The commission members
9 appointed pursuant to subsection (a) of this section,
10 together with the state superintendent, shall not otherwise
11 take any official action prior to July 1, 2011, as the
12 newly constituted commission created under W.S. 21-15-123,
13 as amended by this act. Appointed members shall receive
14 salary and expense reimbursement to attend meetings
15 required under this subsection.

16

17 (c) Not later than June 1, 2011, the governor shall
18 appoint a director as provided in W.S. 21-15-123 from the
19 list provided pursuant to subsection (b) of this section,
20 to take office effective July 1, 2011.

21

22 (d) Effective July 1, 2011, the school facilities
23 commission is reorganized in accordance with this act. The

1 terms of office of appointed school facilities commission
2 members serving under W.S. 21-15-113 prior to the effective
3 date of section 4 of this act expire effective June 30,
4 2011.

5

6 (e) All property, equipment, supplies and personnel
7 of the school facilities commission shall be transferred to
8 the school facilities department as created by this act
9 effective July 1, 2011.

10

11 (f) The validity of rules, regulations, contracts,
12 agreements or other obligations of the school facilities
13 commission existing on or before the effective date of this
14 act are not affected by this act and shall be designated as
15 rules, regulations, contracts, agreements or obligations of
16 the school facilities commission as reorganized pursuant to
17 this act or contracts, agreements or obligations of the
18 school facilities department created pursuant to this act,
19 as appropriate.

20

21 **Section 5.**

22

1 (a) Except as provided in subsection (b) of this
2 section, this act is effective July 1, 2011.

3

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

8

9

(END)