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The Wyoming Education Code of 1969 was enacted into law as Chapter III, Session Laws of Wyoming, 1969. It is the first major revision of the State's education laws since statehood. This revision will produce a great change in the structure of school government in Wyoming. While generally the new law is a codification of the old law, it includes many substantive changes. In this article, Messrs. Johnson and Painter explore in depth and report upon the significance of the changes found within the new law, and their effect upon the structure of school government.

THE WYOMING EDUCATION CODE OF 1969

*Donald L. Painter**

*Robert H. Johnson***

THE Wyoming Education Code of 1969, introduced in the Legislature as Senate File 10, was enacted into law as Chapter III, Session Laws of Wyoming, 1969. It was the first major revision of the State's education laws since statehood. A product of the Education Sub-Committee of the Wyoming Statute Revision Commission, it represented nearly two years work on the part of that committee. In reality it was the result of a thirty-year effort to revise the education laws. Three previous revisions had failed to be enacted.

When the proposed new code was presented to the public, at a meeting of the Wyoming School Boards Association in the fall of 1968, those assembled were told if the proposed

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new code is passed, you will see in the next two years the greatest change in the structure of school government in Wyoming since statehood. Whether because of that warning, or in spite of it, the codification passed with only minor changes. It did have one close call—a motion to delete Chapter 6, the chapter on reorganization, failed in the Senate on a 15-15 tie vote.

While the new law is generally a codification of old law, it includes many significant substantive changes. The most discussed of these is Chapter 6, the reorganization law, with its compulsory reorganization feature and the authority of the State Committee on School District Organization to reorganize the school district of a county if the county planning committee fails to act. But equally important, and perhaps in the long run of more major significance, are the provisions for pupil rights and guarantees of education. Some of these carry out provisions in the old law, but many are new. Together they provide specific guarantees of education to all children:¹ the isolated child,² the homebound child,³ and to the handicapped child.⁴ The authority of a school board and administration to suspend or expel a child is defined, but is regulated and limited to curtail arbitrary dismissals.⁵

Another provision⁶ is one reminding the schools that they are subject to the provisions of the Wyoming Administrative Procedure Act.⁷ While the provision is new, the application of this act to the schools was generally conceded before the new code was enacted. Some boards and school administrators had hoped they would not be subject to the procedure act, however, and this section eliminated any contentions that the schools might be beyond the scope of this law.

While the new law also made some changes in the financing of schools, these were generally added in the legislature

1. WYO. STAT. § 21.1-57 (Supp. 1969).

2. WYO. STAT. § 21.1-65 (Supp. 1969).

3. WYO. STAT. § 21.1-66 (Supp. 1969).

4. WYO. STAT. § 21.1-284 (Supp. 1969).

5. WYO. STAT. § 21.1-61 (Supp. 1969), WYO. STAT. § 21.1-64 (Supp. 1969).

6. WYO. STAT. § 21.1-4 (Supp. 1969).

7. WYO. STAT. §§ 9-276.19 to 9-276.33 (Supp. 1969).

as changes in amount, and not as substantive changes of method.

There are two statutory methods by which the boundaries of school districts may be changed. In the order of presentation in this article they are the District Boundary Board acting in accord with Chapter 7 of the Wyoming Education Code,⁸ and the County Planning Committee whose duties and powers are set forth in Chapter 6.⁹

The County Planning Committee is first found in the Reorganization Law of 1947¹⁰ while District Boundary Boards trace their legal existence to another source.¹¹ The purpose for which both reorganization statutes are enacted is best summarized thusly:

to provide machinery for the organization of school districts . . . provide an improved and more equalized educational opportunity for all of the pupils in the state; provide a wiser and more efficient use of public funds for education by making it possible to reduce the disparity in per pupil valuation among school districts; to allow the initial planning for the organization of school districts under this chapter to be conducted on the local level; generally enlarge the school districts of the state; and eliminate the different types and kinds of school districts that presently exist and replace them with unified school districts as defined in this chapter.¹²

It requires no proof to show that smaller school districts, having an exceedingly limited curriculum and small faculty, are ill-prepared to provide the intensified and diversified curriculum that present increased paces of life require. Certainly a high school with an enrollment of 500, and an appropriate number of teachers, is more equipped to offer the kind of program required by today's living than a high school of 35 with a correspondingly small number of faculty membership.

8. WYO. STAT. §§ 21.1-136 to 21.1-150 (Supp. 1969).

9. WYO. STAT. §§ 21.1-105 to 21.1-135 (Supp. 1969).

10. WYO. STAT. §§ 21-224 to 21-243 (1957) (repealed 1969).

11. WYO. STAT. §§ 21-211 to 21-223 (1957) (repealed 1969).

12. WYO. STAT. § 21.1-106 (Supp. 1969).

While educators and lawmakers have been aware for years that a reorganization of school districts was needed to provide a more equalized educational opportunity for children, pressures in local government as well as at the state level have prevented enactment of a reorganization of all districts in the state into unified school districts.

The District Boundary Board is composed of the County Assessor, the Board of County Commissioners, and the County Superintendent of Schools, if one exists, otherwise the County Treasurer.¹³ County Superintendents of Schools may not exist in some counties because that office was abolished in the last legislature.¹⁴ However, incumbents may serve until the end of the terms for which they are elected.¹⁵ Except for the Assessor, this is virtually the same membership the District Boundary Board had under the old education law.¹⁶ A quorum now exists of a simple majority of the members of the District Boundary Board,¹⁷ while under the old law a quorum consisted of the County Superintendent and two County Commissioners.¹⁸ Under the old law, absence of a County Superintendent was held to invalidate a meeting.¹⁹

Any action of the District Boundary Board must receive a majority vote of all members of the District Boundary Board instead of just those attending.²⁰ Under both the new and the old acts, the Chairman of the Board of County Commissioners is likewise the Chairman of the District Boundary Board.²¹ Under the old act, the County Superintendent of Schools was the secretary,²² while under the new law, the secretary is elected from the membership of the committee.²³

13. WYO. STAT. § 21.1-136 (Supp. 1969).

14. WYO. STAT. § 21.1-176 (Supp. 1969).

15. WYO. STAT. § 21.1-177 (Supp. 1969).

16. WYO. STAT. § 21-211 (1957) (repealed 1969).

17. WYO. STAT. § 21.1-137 (Supp. 1969).

18. WYO. STAT. § 21-212 (1957) (repealed 1969).

19. *School District No. 9 v. District Boundary Bd.*, 351 P.2d 106 (Wyo. 1960).

20. WYO. STAT. § 21.1-137 (Supp. 1969).

21. WYO. STAT. § 21.1-138 (Supp. 1969); WYO. STAT. § 21-212 (1957) (repealed 1969).

22. WYO. STAT. § 21-212 (1957) (repealed 1969).

23. WYO. STAT. § 21.1-138 (Supp. 1969).

Meetings are called by the chairman or majority of the members of the board.²⁴

As under the old law, the secretary must keep an accurate record showing the boundaries of all the districts in the county.²⁵ The new law requires that each member of the District Boundary Board receive at least one day's written notice of each meeting²⁶ and notice of meetings considering boundary changes must be advertised by published notice in the local newspaper.²⁷ This requirement of notice was not required in the old law.²⁸

The jurisdiction of the District Boundary Board remains practically unchanged from the old law. Whenever it benefits the educational needs of the pupils, the District Boundary Board may alter any school district boundaries, reorganize any districts or portions of districts, or combine any school district or portion thereof with fewer than eight pupils with an adjoining district, providing that no existing district shall be divided in any manner which will leave a total assessed valuation less in proportion to the number of children educated than the average ratio for all school districts in the county, unless the trustees of the affected districts' agree.²⁹ In addition, when any district fails to maintain a school for six months in any school year, the District Boundary Board is obliged to consolidate this district with an adjacent district within thirty (30) days after the end of the six months,³⁰ as it was under the old act.³¹

Until it was amended in 1961,³² Section 21-211 of the old education code provided that a District Boundary Board could alter or change boundaries of districts "so formed," meaning those districts that the District Boundary Board had

24. *Id.*

25. WYO. STAT. § 21.1-139 (Supp. 1969); WYO. STAT. § 21-212 (1957) (repealed 1969).

26. WYO. STAT. § 21.1-139 (Supp. 1969).

27. *Id.*

28. WYO. STAT. § 21-212 (1957) (repealed 1969).

29. WYO. STAT. § 21.1-140 (Supp. 1969); WYO. STAT. § 21-211 (1957) (repealed 1969).

30. WYO. STAT. § 21.1-141 (Supp. 1969).

31. WYO. STAT. § 21-211 (1957) (repealed 1969).

32. WYO. STAT. § 21-211 (1957), as amended ch. 111, [1961] WYO. SESS. LAWS 200.

already acted upon. In several cases, this amounted to an effective barrier against the reorganization of high school districts which were not at that time formed by the District Boundary Board.³³ After the 1961 amendment to Sec. 21-211, District Boundary Boards were empowered to reorganize high school districts, even when only one high school district was involved, and the statute provided "districts."³⁴ While under the terms of the new law reorganizations are to be for the "benefit of the educational needs of the pupils,"³⁵ the old law required only justification by "existing circumstances and conditions."³⁶

The acquisition of land with high assessed valuation has been a motivating factor in many reorganizations and has prompted a good deal of litigation. In *Chicago, Burlington, & Quincy Railroad Co. v. Byron School District No. 1*,³⁷ a nearly bankrupt Byron school district, by Boundary Board action, extended its boundaries to include several miles of the C.B.&Q. Railway roadbed, an action which affected no children. This reorganization was upheld by the Wyoming Supreme Court, presumably because the educational needs of the children were being safeguarded by providing an adequate tax base upon which the district could operate. A like holding is found in *Marathon Oil Co. v. Welsh*,³⁸ in which Fremont County School District No. 9 in Jeffrey City, by Boundary Board action, annexed several townships containing producing oil wells owned by the plaintiff. In fact, Marathon owned 81 percent of all the property affected by this reorganization. The reorganization was upheld by the Wyoming Supreme Court even though no notice or opportunity for a hearing had been given to the taxpayer, the reason being that none was required by law. The new code requires notice of any meeting at which a change in boundaries is to be considered.³⁹ The same rule obtains in *Forest Oil Co. v.*

33. In re Sanders Appeal, 80 Wyo. 265, 341 P.2d 85 (1959).

34. *Forest Oil Co. v. Davis*, 384 P.2d 716 (Wyo. 1963).

35. WYO. STAT. § 21.1-140 (Supp. 1969).

36. WYO. STAT. § 21-211 (1957) (repealed 1969).

37. 37 Wyo. 259, 260 P. 537 (1927).

38. 379 P.2d 832 (Wyo. 1963).

39. WYO. STAT. § 21.1-139 (Supp. 1969).

Davis,⁴⁰ in which the District Boundary Board extended the boundaries of one district by annexing districts No. 5, 13, and 18 in Natrona County to include land on which Forest Oil Company had producing oil wells. Here Forest Oil Company contended that the action was illegal and void because the District Boundary Board exceeded its authority, it was unconstitutional, and it was arbitrary and capricious. The first two contentions are taken care of in *Forest Oil Co. v. Davis*.⁴¹ The court further held that this action was not arbitrary and capricious because equalization of the tax burden caused by maintenance of school systems is a legitimate aim in reorganizing school districts, citing *Chicago, Burlington, & Quincy Railroad Co. v. Byron School District No. 1*.⁴² The only time a District Boundary Board action has been thrown out by the Wyoming Supreme Court in a situation where the reorganization was motivated by a desire to acquire assessed valuation, was *Forest Oil Co. v. District Boundary Board of Sweetwater Co.*⁴³ Sweetwater County School District No. 21 in the far northwestern corner of that county, in its search for additional assessed valuation, attempted to annex about \$4,000,000 worth of assessed valuation from district No. 1, which was Wamsutter. Had this reorganization been upheld, it would have resulted in two non-contiguous areas in one district. The holding of the Wyoming Supreme Court was that it was legally impermissible to form non-contiguous districts. While the law at the time imposed nothing in the way of a requirement that all districts formed by a District Boundary Board be contiguous, the court nevertheless felt that this was a reasonable judicial limitation to be placed upon District Boundary Boards.

Besides the formation of non-contiguous school districts is prohibited by *Forest Oil Co. v. District Boundary Board of Sweetwater Co.*⁴⁴ It is also held that District Boundary Boards must take care to learn what effect their intended reorganization will have. In other words, they must have

40. 396 P.2d 832 (Wyo. 1964).

41. 384 P.2d 716 (Wyo. 1963).

42. 37 Wyo. 259, 260 P. 537 (1927).

43. *Forest Oil Co. v. District Boundary Bd. of Sweetwater County*, 419 P.2d 194 (Wyo. 1966).

44. *Id.*

sufficient information upon which to act wisely. In *School District No. 9, in County of Fremont v. District Boundary Board in and for Fremont County*,⁴⁵ the Boundary Board simply met in a private meeting and added two townships in district No. 9 to district No. 25. It was pointed out that the District Boundary Board had no way of knowing what children were residing in these townships, what the assessed valuation was in these townships, what the school census was, or what the school needs of districts No. 9 and 25 happen to be at the time. Again, the motivation was furnished by the oil wells in the Gas Hills area for this reorganization. While the Court noted that there was nothing improper in holding a private session of a District Boundary Board, the District Boundary Board must nevertheless have sufficient information upon which to base its action, else the action is arbitrary and capricious and cannot be judicially ordained.

One substantial change in the District Boundary Board law was the requirement that the State Committee on School District Organization must approve each and every Boundary Board action with a special eye as to what effect the District Boundary Board action will have on reorganization under Chapter 6 by the County Planning Committees.⁴⁶ While reorganization submitted to the State Committee before January 20, 1971 cannot "hamper efforts toward school district organization under that law"⁴⁷ (Chapter 6 of the Wyoming Education Code of 1969),⁴⁸ plans submitted after that date must conform to Chapter 6 of the Wyoming Education Code of 1969.⁴⁹

The State Committee has ninety (90) days after the receipt of such a proposal to either approve or reject it.⁵⁰ If the State Committee approves the action of the District Boundary Board, it mails notice of that approval to the Chairman of the District Boundary Board who shall file the action with the County Clerk within ten (10) days, and the plan becomes

45. 351 P.2d 106 (Wyo. 1960).

46. WYO. STAT. § 21.1-142 (Supp. 1969).

47. *Id.*

48. WYO. STAT. §§ 21.1-105 to 21.1-135 (Supp. 1969).

49. *Id.*

50. WYO. STAT. § 21.1-142 (Supp. 1969).

effective on filing.⁵¹ While no provision in the former law makes it absolutely clear, it is presumed that the plan became effective upon adoption by the District Boundary Board. Under the old law, the County Superintendent was required to notify the clerks of the school districts affected by the reorganization of any change of their boundaries.⁵² This requirement still exists in the new code.⁵³ Both laws provide that all territory embraced in any incorporated city or village shall be one school district.⁵⁴ While the old law was silent as to trustees or trustee residence areas, the new law⁵⁵ requires that the District Boundary Board shall establish trustee residence areas and appoint a board of trustees from the combined membership of the original boards of trustees of the districts involved.⁵⁶ The newly appointed board must be made up of five, seven, or nine members, and their terms of office should be staggered so that a proportion of membership, as nearly equal as possible, will be elected each year.⁵⁷ Trustees must be residents of the trustee area from which they are elected, but are voted upon by all the electors in the district, thus complying with the rule set forth in *Dusch v. Davis*.⁵⁸ The board of trustees of the newly organized district may draw its proportion of public school funds for school expenses from the school treasury of the district or districts from which it was created, until the newly reorganized district receives its proper apportionment of school money from taxation and otherwise.⁵⁹ This also was the case under the old law.⁶⁰

Upon the reorganization of any school district or districts by the District Boundary Board, the District Boundary Board shall "allocate equitably the assets and debts of the districts affected by the action of the district boundary

51. WYO. STAT. § 21.1-143 (Supp. 1969).

52. WYO. STAT. § 21-213 (1957) (repealed 1969).

53. WYO. STAT. § 21.1-144 (Supp. 1969).

54. WYO. STAT. § 21.1-145 (Supp. 1969); WYO. STAT. § 21-214 (1957) (repealed 1969).

55. WYO. STAT. § 21.1-146 (Supp. 1969).

56. *Id.*

57. *Id.*

58. 387 U.S. 112 (1967).

59. WYO. STAT. § 21.1-147 (Supp. 1969).

60. WYO. STAT. § 21-216 (1957) (repealed 1969).

board.”⁶¹ This duty raises vexing legal questions which, as yet, are incompletely answered by the Wyoming Supreme Court. Involved is the so called “debt-spreading” concept. Debt is generally created as a result of a bond issue election held in accordance with Article 7 of Chapter 14 of the Wyoming Education Code of 1969.⁶² Suffice it to say that the Wyoming Constitution prohibits the creation of debt in excess of taxes for the current year by any county or political subdivision unless the proposal to create such a debt shall have been submitted to a vote of the people.⁶³ When two school districts are consolidated into one, for example, and one has a large bonded indebtedness and the other has none, customarily the entire assessed valuation of the district will be levied against the entire newly formed district to pay off the bonded indebtedness incurred by only a part of the district. Many courts have decided that spreading this indebtedness to persons who never had a chance to vote for it does not affront constitutional provisions such as Wyoming’s. The majority rule appears to be that this is not a creation of indebtedness prohibited by the Constitution, but rather is a “reallocation” and therefore need not be voted upon.⁶⁴ The opposite rule obtains at least in Idaho where it is held that debt spreading such as that which is ordinarily employed in a school district reorganization be voted upon by the persons who would be assuming a pre-existing debt.⁶⁵

While the Wyoming Supreme Court has not ruled directly on the debt spreading issue, it did approve a county-wide reorganization with debt spreading, but without ruling directly on the debt spreading issue.⁶⁶ The claim that the debt spreading violated the provisions of Article XVI, Sec. 4 of the Wyoming Constitution was passed over as not supported by cogent argument or authority, with the comment that the “Boundary Board created a district with current

61. WYO. STAT. § 21.1-148 (Supp. 1969).

62. WYO. STAT. §§ 21.1-253 to 21.1-283 (Supp. 1969).

63. WYO. CONST., art XVI, § 4.

64. See *Linke v. County Comm’rs of Grand County*, 268 P.2d 416 (Colo. 1954); *Town of Valverde v. Shattuck*, 19 Colo. 104, 34 P. 947 (1893) and cases cited therein.

65. In re Joint Class A School District No. 370, 295 P.2d 249 (Idaho 1956).

66. *Elementary School Dist. v. District Boundary Bd. of Campbell County*, 454 P.2d 237 (Wyo. 1969).

yearly taxing power greatly in excess of any debt either existing or created by the consolidation.'⁶⁷

Where a school district is created by the action of a Boundary Board, the District Boundary Board must designate a descriptive name and number for the newly created district.⁶⁸ Finally, any school district, elector, or taxpayer of a school district, if aggrieved, can contest the decision of a District Boundary Board by instituting proceedings for judicial review in the district court in the county in which the school district is located.⁶⁹ This appeal is made pursuant to the Wyoming Administrative Procedure Act.⁷⁰ This is a substantial variation from the old law which provided that when a majority of the voters of any district affected by a boundary change were dissatisfied by the formation of a new district, they could appeal to the State Superintendent of Public Instruction whose decision was final in the matter.⁷¹ District Courts only had jurisdiction to decide matters involving assessed valuation and assets and debts of districts involved in a reorganization.⁷²

Chapter 6 of the Wyoming Education Code of 1969⁷³ is a compulsory reorganization law in that it requires the formation of the entire state into unified districts, meaning districts which offer grades 1 through 12 or K through 12.⁷⁴ County Planning Committees are the units of school government at the local level to accomplish the reorganization required by this chapter. If this is not accomplished, the State Committee on School District Organization may do so if the county committee has failed to accomplish its statutory duty by January 1, 1971.⁷⁵

The 1969 law has the teeth that the 1947 law lacked. If by January 1, 1971, a county committee has not acted, and if by December 1, 1971, an approved plan has not been filed

67. *Id.* at 240.

68. WYO. STAT. § 21.1-149 (Supp. 1969).

69. WYO. STAT. § 21.1-150 (Supp. 1969).

70. *Id.*

71. WYO. STAT. § 21-215 (1957) (repealed 1969).

72. WYO. STAT. §§ 21-220 (1957) (repealed 1969).

73. WYO. STAT. §§ 21.1-105 to 21.1-135 (Supp. 1969).

74. WYO. STAT. § 21.1-20 (Supp. 1969).

75. WYO. STAT. § 21.1-118(a) (Supp. 1969).

for any territory, then the State Committee can reorganize the territory by December 20, 1971.⁷⁶

Reorganizations must fulfill the intent of the law as set forth on page 3, and meet the criteria set forth in the statute. The first criteria is the mandate that all districts in the state, except elementary districts on the Wind River Indian Reservation supporting a high school, must be reorganized into unified districts,⁷⁷ meaning districts offering all twelve grades.⁷⁸ The territory of all districts must be contiguous and have trustee residence areas with contiguous territory considering school population, general population, and ecology. In addition, reorganized districts must be "efficient administrative units considering primarily the education, convenience, and welfare of the children." Consideration must be given to "a ratio of average daily membership to assessed valuation as nearly equalized as practicable among the unified districts in the various counties." Also, "each plan . . . shall include provisions for educational opportunity as nearly equal as possible in all areas of each unified district."⁷⁹

The State Committee must approve or reject proposed plans of county committees and District Boundary Boards before those plans can become effective.⁸⁰ The State Committee is now composed of the State Superintendent of Public Instruction and the State Board of Education.⁸¹ The State Board of Education is composed of nine members, at least one of whom is from each of the seven judicial districts in the state, and membership from each district shall rotate among the counties within the judicial district in alphabetical order. Other members appointed at large are a certified classroom teacher and a certified school administrator at the time of their appointments. The other seven members of the Board are appointed from lay citizens in the state, not more than five of which can be from any one political party, and

76. WYO. STAT. § 21.1-113 (Supp. 1969).

77. WYO. STAT. § 21.1-109 (b) (Supp. 1969).

78. WYO. STAT. § 21.1-20 (Supp. 1969).

79. WYO. STAT. § 21.1-109 (Supp. 1969).

80. WYO. STAT. §§ 21.1-112(g), 21.1-142 (Supp. 1969).

81. WYO. STAT. § 21.1-111 (Supp. 1969).

all of which serve for six-year terms and are not eligible for re-appointment. Except for the State Superintendent of Public Instruction, all members of the State Board are appointed by the Governor with the advice and consent of the Senate.⁸² This method of appointing members of the State Committee is easily contrasted to the 1947 law which provided that the State Committee was to be made up of the State Superintendent of Public Instruction and eight other persons appointed by the State Board, three or fewer of which could come from within professional education ranks. Appointments were two four-year staggered terms and vacancies could be filled by the State Board.⁸³

The powers of the State Committee are nearly identical under both laws. The State Committee may appoint a director and other personnel as may be necessary to assist it in carrying out the powers and duties contained in Chapter 6, such personnel to be compensated in accordance with the policies of the Wyoming Personnel Commission. The State Committee must govern disbursements of funds provided by law for carrying out the provisions of Chapter 6, and must be in the procedure and the manner provided for disbursement of funds generally in the state government. An important power is to aid the several county committees in carrying out the powers and duties vested in them by Chapter 6, and supplying these county committees with procedures, standards, data, maps, and other information that may be helpful in carrying out the purposes of Chapter 6 reorganization.⁸⁴

In keeping with the mandatory nature of Chapter 6 reorganization, the law now requires the formation of County Planning Committees by April 1, 1969.⁸⁵ The State Committee has the duty to appoint a County Committee in any county in which no county committee is elected as required by this chapter.⁸⁶ In addition, the State Committee is empowered to recommend to any county committee modifications of its plan when such modifications, in the opinion of

82. WYO. STAT. § 21.1-11 (Supp. 1969).

83. WYO. STAT. § 21-226 (1957) (repealed 1969).

84. WYO. STAT. § 21.1-112(c) (Supp. 1963).

85. WYO. STAT. § 21.1-114(a) (Supp. 1969).

86. WYO. STAT. § 21.1-112(e) (Supp. 1969).

the State Committee, are more feasible to effectuate the purposes of this chapter.⁸⁷ The State Committee has the power to either approve or reject plans of the County Planning Committees with reasons for rejection and recommendations for making the plan acceptable.⁸⁸ The State Committee must act on proposed plans within sixty (60) days after their receipt, and may reject a plan only if it fails to comply with the provisions of Chapter 6. If the plan is approved by the State Committee, the State Committee makes an order establishing the unified district according to the approved plan. This order is the final administrative determination, and shall be filed with the County Clerk in each county affected by the reorganization within ten (10) days from the time the reorganization becomes an effective plan. The order is effective ten (10) days after it is filed with the County Clerk. If, by December 1, an approved plan has not been filed for any territory, the State Committee is authorized to reorganize this territory and to unify the school districts by December 20, 1971.⁸⁹

County Planning Committees are composed of one registered voter appointed by each school board of each school district within the county, except in those counties that have five or fewer districts there are two representatives from each district.⁹⁰ This method of election of such a board was approved in *Sailors v. Board of Education*.⁹¹ In addition, each member of the District Boundary Board is an ex-officio member of the County Planning Committee without voting privileges.⁹²

The first meeting of the County Planning Committee must be called no later than May 15, 1969 for the purpose of committee organization. The term of each member of the county committee is two years, or until a plan of reorganization has become effective, whichever occurs first.⁹³ When all of the territory in the state is included in unified school

87. *Id.* § 21.1-112(f).

88. Wyo. STAT. § 21.1-112(g) (Supp. 1969).

89. Wyo. STAT. § 21.1-113 (Supp. 1969).

90. Wyo. STAT. § 21.1-114(a) (Supp. 1969).

91. 387 U.S. 105 (1967).

92. Wyo. STAT. § 21.1-114(b) (Supp. 1969).

93. Wyo. STAT. § 21.1-115 (Supp. 1969).

districts, the boards of trustees of the unified districts in each county constitute the county committee which may then submit plans to the State Committee concerning organization of school districts under this chapter.⁹⁴ The county committee must elect from its membership a chairman, vice-chairman, and a secretary. Meetings are called by the majority or the members or by the chairman, and a majority of the committee constitutes a quorum for the transaction of business. However, no plan shall be adopted without the majority vote of all the committee.⁹⁵ As in the old code, members of the county committee serve without compensation, but are entitled to reimbursement from their representative school districts for actual expenses incurred in their duties.⁹⁶ This section is distinguishable from the expenses for which reimbursement for the orderly discharge of its duties by the county committee such as stenographic fees, legal fees, election fees, and supplies which will be prorated on a classroom unit basis among existing school districts in the county.⁹⁷

Section 21.1-118⁹⁸ is a vital section containing the powers and duties of the county committee. This committee has as its first duty to prepare and submit to the State Committee, before January 1, 1971, a plan of reorganization conforming to the criteria set forth in Chapter 6. A plan for the organization of a unified school district across county lines may be prepared by the joint action of three representatives of each county planning committee, and must be finally adopted by each county committee involved.⁹⁹

Before its proposal or plan can be adopted, the County Planning Committee must hold a hearing or hearings within the county on the proposal so that interested patrons may express their views concerning that proposal.¹⁰⁰ Notice of each of these public hearings must be given in a newspaper of general circulation at least once a week for two weeks immediately preceding the hearing. As in the old law, a sub-

94. WYO. STAT. § 21.1-134 (Supp. 1969).

95. WYO. STAT. § 21.1-116 (Supp. 1969).

96. WYO. STAT. § 21.1-117 (Supp. 1969).

97. WYO. STAT. 21.1-119 (Supp. 1969).

98. WYO. STAT. 21.1-118 (Supp. 1969).

99. WYO. STAT. 21.1-118(a) (Supp. 1969).

100. WYO. STAT. 21.1-118(b) (Supp. 1969).

committee composed of not less than three (3) voting members of each county committee may hold a hearing.

Once the County Planning Committee decides on and adopts a plan for reorganization of the county into unified school districts, that plan must include many items. The plan is required to state a name and a number of the proposed unified district or districts, a map showing the boundaries of established school districts as well as those proposed under the plan, a legal description of the proposed boundaries, recommendations respecting the location of schools, utilization of the physical plant, allocation of existing indebtedness, employment of existing personnel, and transportation requirements including bussing and private transportation. With the plan must be submitted a summary of reasons for the plan as well as a record of all hearings held in gathering information to formulate the plan, and a summary of anticipated improvement in education plus such other reports, records, and materials as may be deemed appropriate.¹⁰¹

The allocation of existing indebtedness required by this section raises vexing legal problems which are more fully discussed in the part of this writing on Chapter 7 involving District Boundary Boards. The personnel employed prior to reorganization are subject to the provision that no right, fringe benefit, or any other status of any employee conferred by law can be denied or reduced as a result of reorganization.¹⁰²

In addition to the foregoing, the plan must include a proposal for a number of trustees to be five, seven, or nine, and trustee residence areas from which these trustees will be nominated. The terms of the appointed trustees must be staggered so that as equal a proportion as possible will serve for either one, two, or three years from the date of the first election. Thereafter, all terms shall be for three years.¹⁰³

These trustees shall be elected at an election set by the plan prior to January 10, 1972.¹⁰⁴ On the effective date of

101. WYO. STAT. § 21.1-118(c) (Supp. 1969).

102. WYO. STAT. § 21.1-133 (Supp. 1969).

103. WYO. STAT. § 21.1-122 (Supp. 1969).

104. WYO. STAT. § 21.1-120 (Supp. 1969).

the plan, the proposed unified district or districts are bodies corporate and have all the powers that school districts now have under the code.¹⁰⁵ The board of trustees establishes the length of each trustee's term by drawing lots. The period between January 20, 1972 and January 30, 1973 counts as one year for the purpose of computing the length of terms.¹⁰⁶ As is usually the case, the new board of trustees will assume their duties on the effective date of the plan, and the terms of the trustees of the old districts from which the new unified district is formed are automatically terminated.¹⁰⁷

Trustees must be residents of the trustee area they seek to represent, and they must be nominated by a petition signed by at least 25 qualified electors from that trustee residence area. However, the trustees are elected at large by the entire electorate of all of the organized unified district.¹⁰⁸ Authority for this mode of election is found in *Dusch v. Davis*,¹⁰⁹ so that the one man-one vote rule as set forth in *Reynolds v. Sims*¹¹⁰ is not violated.

A trustee's office is considered vacant when he is no longer a trustee of the trustee residence area from which he was elected, and this or a vacancy caused for any other reason shall be filled by a majority vote of the remaining members until the next annual election.¹¹¹

As in the old code, the boundaries of trustee residence areas can be changed by only a two-thirds majority vote of qualified electors within the school district, after preliminary approval for such a change has been received from the board of the unified district.¹¹² Appeal from the final decision of the State Committee is to the district court in the county in which the new district lies. Such an appeal is governed by the Wyoming Rules of Civil Procedure and the Administrative Procedure Act.¹¹³ Pending appeal, the board of

105. WYO. STAT. § 21.1-121 (Supp. 1969).

106. WYO. STAT. § 21.1-122 (Supp. 1969).

107. WYO. STAT. § 21.1-123 (Supp. 1969).

108. WYO. STAT. § 21.1-125(a) (Supp. 1969).

109. 387 U.S. 112 (1967).

110. 377 U.S. 533 (1964).

111. WYO. STAT. § 21.1-125(b) (Supp. 1969).

112. WYO. STAT. § 21.1-126 (Supp. 1969).

113. WYO. STAT. §§ 9-276.19 to 9-276.33 (Supp. 1969).

trustees of the new unified district continues to act as though the appeal had not been taken unless the court otherwise orders,¹¹⁴ and all real and personal property of any district reorganized into the new unified district becomes the property of that district.¹¹⁵

Before any district, except unified districts, may conduct a bond issue election for the construction of school buildings, the State Committee must approve that bond issue as well as the county committee involved.¹¹⁶ This section is designed to guard against the construction of buildings that will, in a short while, perhaps become useless after the county has become organized and attendance centers have been changed.

Whenever the reorganization of two or more districts into a unified school district creates a diminution of total fiscal resources for the unified school district, the State Board of Education has the authority to adjust the state foundation entitlement to compensate for the difference up to two years, except for classroom units of vocational education, special education, and one teacher schools.¹¹⁷

Provision is further made for "advisory boards" to aid and advise the board of trustees of a unified district in matters concerning the operation of elementary schools.¹¹⁸ Such an advisory board may be elected whenever an elementary school within a unified district is more than twenty (20) miles from the population center of the district, and whenever fifty (50%) percent of the parents of the children attending that elementary school agree to have such an advisory board. The advisory board consists of three members, each elected for a term of one year.¹¹⁹

Inasmuch as Niobrara and Campbell Counties are now county-wide districts, the State Committee may exempt from this chapter any county-wide unified school district so long

114. WYO. STAT. § 21.1-128 (Supp. 1969).

115. WYO. STAT. § 21.1-129 (Supp. 1969).

116. WYO. STAT. § 21.1-130 (Supp. 1969).

117. WYO. STAT. § 21.1-131 (Supp. 1969).

118. WYO. STAT. § 21.1-132(b) (Supp. 1969).

119. WYO. STAT. § 21.1-132(a) (Supp. 1969).

as the county-wide district reasonably complies with the criteria of this chapter.¹²⁰

Chapter 2 of the Wyoming Education Code of 1969 governs administration of education at the state level.¹²¹ All hearings required to be held by this code, for example, teacher suspension and dismissal and student expulsion hearings, are to be held in accordance with the provision of the Wyoming Administrative Procedure Act.¹²² The government of the University of Wyoming and community colleges throughout the state are unaffected by this code except that a graduate of any accredited high school in the state must be admitted without examination to any public institution of higher learning in the State of Wyoming.¹²³

While the authority of the State Superintendent of Public Instruction emanates from constitutional authority,¹²⁴ no provision has ever sanctioned the existence of the State Department of Education. The law now provides for a separate and distinct State Department of Education consisting of the State Superintendent, State Board, and other divisions, staffed in the manner approved by the State Superintendent with the approval of the State Board.¹²⁵ General supervision of public schools in the State of Wyoming, except the University of Wyoming and community colleges, is entrusted to the State Superintendent who is the administrative head and chief executive officer of the Department of Education.¹²⁶ Among the duties imposed upon the State Superintendent is the making of such rules and regulations as may be necessary or desirable for the proper and efficient administration of the state educational system, except in areas where rule-making power is specifically entrusted to the State Board. In addition, he must consult and advise with the State Board, local school boards, local school administrators, teachers, and interested citizens in developing support for a complete educational system in this state. Except

120. WYO. STAT. § 21.1-135 (Supp. 1969).

121. WYO. STAT. §§ 21.1-4 to 21.1-16 (Supp. 1969).

122. WYO. STAT. §§ 9-276.19 to 9-276.33 (Supp. 1969).

123. WYO. STAT. §§ 21.1-5, 21.1-60 (Supp. 1969).

124. WYO. CONST., art. VII, § 14.

125. WYO. STAT. § 21.1-7 (Supp. 1969).

126. WYO. STAT. § 21.1-9 (Supp. 1969).

where otherwise provided by law, he must decide controversies arising from the administration of the state school system involving rules, regulations, orders, and directives promulgated by the State Superintendent, State Department, or State Board; and in such cases, his decision is the final determination.¹²⁷

The State Board of Education is re-established and composed of nine members, seven of whom are lay citizens appointed from each of the seven judicial districts of the state.¹²⁸ Membership in each district shall rotate among the counties in an alphabetical order. One other member is a certified classroom teacher appointed at large, and the ninth member is a certified school administrator, also appointed at large. Not more than five (5) members of the entire board shall represent any one political party, and all members are appointed for six-year terms by the Governor, with the approval of the Senate, no member being eligible for re-appointment. The State Superintendent of Public Instruction is an ex-officio member of the State Board, and does not have the right to vote.¹²⁹

The majority of the voting members of the State Board constitutes a quorum for the transaction of business; however, approval of a majority of all the members is required for any action of the State Board.¹³⁰ Unlike the old law, the new Education Code provides that the voting members of the State Board receive \$10.00 per day while in the performance of their duty, in addition to travel expenses, per diem, and mileage, in the same manner as employees of the State.¹³¹

Of the many duties and powers possessed by the State Board, the first is to prescribe minimum standards with which public schools must comply before they can receive any State Education money. Standards shall relate to general education programs, site selection and building construction of public schools, and the evaluation and accreditation of

127. WYO. STAT. § 21.1-10 (Supp. 1969).

128. WYO. STAT. § 21.1-11(a) (Supp. 1969).

129. *Id.*

130. WYO. STAT. § 21.1-12 (Supp. 1969).

131. WYO. STAT. § 21.1-13 (Supp. 1969).

public schools.¹³² Acting with or without the assistance of the State Superintendent, the State Board must enforce all the rules and regulations adopted under the preceding subsection, utilizing where necessary, available judicial remedies.¹³³

The duty of prescribing certification regulations for school administrators, teachers, and other personnel required to have certificates lies with the State Board.¹³⁴ While the foregoing is in accord with pre-existing law, now teachers must have at least a college degree, and administrators must be qualified as teachers in addition to having training in educational administration. However, the Board, in its discretion, may make exceptions as to teachers and administrators as it deems proper in special circumstances.¹³⁵ In addition, the State Board must prepare and maintain a list of approved institutions whose graduates may receive certificates in Wyoming;¹³⁶ maintain placement lists of all teachers employed in the state, and such other teachers within or without the state who wish to register with the State Department of Education;¹³⁷ conduct investigations in or outside the State of Wyoming regarding educational needs and ways of taking care of these needs in the state;¹³⁸ and to print and distribute to local boards of trustees and local school administrators, the law, regulations, forms and reports of the State Board of Education.¹³⁹ In addition to any other powers the State Board may have under other provisions of the Wyoming Education Code, it has the power to revoke or suspend teachers' certificates issued by the State Department of Education for grounds including incompetency, immorality, or other reprehensible neglect of duty upon its own motion or the petition of local trustees. However, no certificate can be revoked or suspended without a hearing conducted as re-

132. WYO. STAT. § 21.1-14(a) (Supp. 1969).

133. WYO. STAT. § 21.1-14(b) (Supp. 1969).

134. WYO. STAT. § 21.1-14(c) (Supp. 1969).

135. WYO. STAT. § 21.1-14(c) (iii) (Supp. 1969).

136. WYO. STAT. § 21.1-14(d) (Supp. 1969).

137. WYO. STAT. § 21.1-14(e) (Supp. 1969).

138. WYO. STAT. § 21.1-14(f) (Supp. 1969).

139. WYO. STAT. § 21.1-14(g) (Supp. 1969).

quired by law,¹⁴⁰ which means that the hearing shall be held in accord with the Wyoming Administrative Procedure Act.¹⁴¹

The operation of local school districts is generally governed by Chapter 3 of the Wyoming Education Code of 1969.¹⁴² Under the new code there are three types of school districts. District offering grades kindergarten or one through eight are known as elementary school districts.¹⁴³ Districts that offer grades nine through twelve are known as high school districts,¹⁴⁴ and districts offering grades kindergarten or one through twelve are known as unified school districts.¹⁴⁵ This is a simplification of the old law which allowed five different kinds of school districts.

The board of trustees is the governing body of a school district.¹⁴⁶ A majority of the members must attend a meeting before a quorum is present, but no action of the board is valid unless approved by a majority of all members of the board of trustees.¹⁴⁷ This contrasts with the old law which provided that the action of the board need only be approved by four trustees.¹⁴⁸ The members of the board of trustees serve without compensation but receive mileage to and from board meetings at a rate not to exceed the maximum allowed by law for State employees.¹⁴⁹ Oddly enough, the old law allowed for no such payments for mileage. Vacancies on the board of trustees for any cause are filled within thirty days of that vacancy by action of the remaining members of the board. The person chosen to fill that vacancy serves until the next election of school district trustees, at which time an election is held to fill that unexpired term.¹⁵⁰ Unlike the old law, the present law defines a vacancy on the board of trustees. A vacancy occurs on the membership of the board when any member dies, resigns, becomes a non-resident of the

140. WYO. STAT. § 21.1-15 (a) (Supp. 1969).
 141. WYO. STAT. §§ 9-276.19 to 9-276.33 (Supp. 1969).
 142. WYO. STAT. §§ 21.1-17 to 21.1-46 (Supp. 1969).
 143. WYO. STAT. § 21.1-18 (Supp. 1969).
 144. WYO. STAT. § 21.1-19 (Supp. 1969).
 145. WYO. STAT. § 21.1-20 (Supp. 1969).
 146. WYO. STAT. § 21.1-21 (Supp. 1969).
 147. *Id.*
 148. WYO. STAT. § 21-184 (1957) (repealed 1969).
 149. WYO. STAT. § 21.1-23 (Supp. 1969).
 150. WYO. STAT. § 21.1-24 (Supp. 1969).

school district, or becomes a non-resident of the trustee residence area from which he was elected.¹⁵¹

Section 26 is an important section, setting forth the duties of the local boards of trustees. The local board has the duty of prescribing and enforcing rules, regulations, and policies for its government and the government of schools within its jurisdiction. Such rules and regulations must be consistent with the laws of the state and state board regulations.¹⁵² This is an addition to the old law, no doubt inserted because the Wyoming Administrative Procedure Act¹⁵³ is the governing authority for all hearings required to be held under the Wyoming Education Code.¹⁵⁴ Local boards must keep minutes of all meetings at which official action is taken, a record of all official acts including records of warrants issued against money belonging to the school district. These minutes are public records,¹⁵⁵ which was not the case under the old education law.¹⁵⁶ A list of each warrant over \$300 must be published each month in a newspaper in the county, but individual warrants for salary payments need be published only twice a year, once in the fall after school commences and once in the spring before contracts are renewed.¹⁵⁷

A chairman, vice-chairman, and a clerk are elected from the membership of the board at its first regular meeting following the annual election of trustees,¹⁵⁸ which is on the first Tuesday following the third Saturday in June.¹⁵⁹ Boards must conduct at least one regular meeting per month and fix the time and place of these regular meetings,¹⁶⁰ which contrasts with the old statute requiring a posting of notice of the meetings.¹⁶¹ Boards must submit such reports concerning finances and other matters as the State Board of Education

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151. WYO. STAT. § 21.1-25 (Supp. 1969).
 152. WYO. STAT. § 21.1-26(a) (Supp. 1969).
 153. WYO. STAT. §§ 9-276.19 to 9-276.33 (Supp. 1969).
 154. WYO. STAT. § 21.1-4 (Supp. 1969).
 155. WYO. STAT. § 21.1-26(b) (Supp. 1969).
 156. WYO. STAT. § 21-117 (1957) (repealed 1969).
 157. WYO. STAT. § 21.1-26(b) (Supp. 1969).
 158. WYO. STAT. § 21.1-26(c) (Supp. 1969).
 159. WYO. STAT. § 21.1-96 (Supp. 1969).
 160. WYO. STAT. § 21.1-26(d) (Supp. 1969).
 161. WYO. STAT. § 21-139 (1957) (repealed 1969).

or state law requires.¹⁶² However, before June 15 of each year, the trustees must estimate the amount of funds they need to raise for running the school system through tax levy on the property in the district, and accordance with the procedure set forth in either Sec. 213¹⁶³ of this code or the Municipal Budget Act,¹⁶⁴ whichever is applicable, present to the Board of County Commissioners in the counties in which the district is located, a certified copy of the budget they have adopted and an estimate of the tax required to raise the appropriate amount.¹⁶⁵ This contrasts with the old law under which the trustees did the very same thing in presenting a tax levy to the County Commissioners but without any authority in the old law. The board of trustees has exclusive control over all monies received from any source for the purpose of maintaining schools within the district¹⁶⁶ which includes money from federal grants as well as state sources such as the Foundation Program and local ad valorem property taxation. It is the duty of the local board of trustees to conduct school district elections in accordance with the election procedures set forth in this code.¹⁶⁷

The board of trustees is required by law to obtain competitive bids when any school building is to be built or any repairs, additions, or improvements costing more than \$1,000 and less than \$5,000 are to be made to any school house or district property, or when any purchase of insurance, supplies, materials other than textbooks which cost more than \$1,000 but less than \$5,000 is contemplated. If such an amount exceeds \$5,000, a call for bids shall be published at least once in a newspaper in the district and the district must reserve the right to reject any and all bids as well as to waive irregularities and informalities in the bidding. No contract shall be divided for the purpose of avoiding this section.¹⁶⁸ This is to be contrasted with pre-existing law requiring expenditures

162. WYO. STAT. § 21.1-26(e) (Supp. 1969).

163. WYO. STAT. § 21.1-213 (Supp. 1969).

164. WYO. STAT. §§ 9-525 to 9-540 (1957) *as amended*.

165. WYO. STAT. § 21.1-26(f) (Supp. 1969).

166. WYO. STAT. § 21.1-26(g) (Supp. 1969).

167. WYO. STAT. §§ 21.1-72 to 21.1-104, 21.1-26(h) (Supp. 1969).

168. WYO. STAT. § 21.1-26(i) (Supp. 1969).

in excess of \$1,000 to be advertised for bids.¹⁶⁹ Under this section, it is held necessary for school districts to obtain competitive bids for supplies such as gasoline, furnace oil, and fuel, that are purchased from time to time when the total estimated annual purchases equals or exceeds \$1,000.¹⁷⁰ It is worth noting that while this present section requires the bidding of such items as insurance, supplies, and materials other than textbooks, the old section only required bidding for school district building construction.¹⁷¹ The clerk, treasurer, and school district superintendent are required to give bonds conditioned upon faithful application of all monies and property that they handle.¹⁷²

For the first time, the board is required to consider every petition submitted to it signed by at least five patrons of the school district and take some action on that petition within thirty (30) days after they receive it except when a petition requires the same action that has been presented to the trustees within the current fiscal year.¹⁷³ Because monthly posting of notice of school board meetings is no longer required,¹⁷⁴ a notice must now be published twice annually stating when and where regular meetings of the board of trustees are to be held.¹⁷⁵ A new duty assigned to the boards is that of requiring an accounting of all funds or any organization functioning within the schools, at least once each year, with a copy of the report to be posted in the schools.¹⁷⁶

In addition to its duties, the local board of trustees has numerous powers. They may sue and be sued in the name by which the district is designated.¹⁷⁷ They may acquire, convey, lease, rent, and manage real and personal property for the benefit of the school district in the district's name either alone or jointly with other public or private agencies.¹⁷⁸ This is far broader than the old code which only empowered

169. WYO. STAT. § 21-125 (1957) (repealed 1969).

170. WYO. STAT. § 21.1-26(i) (Supp. 1969).

171. WYO. STAT. § 21-125 (1957) (repealed 1969).

172. WYO. STAT. § 21.1-26(j) (Supp. 1969).

173. WYO. STAT. § 21.1-26(n) (Supp. 1969).

174. WYO. STAT. § 21.1-26(d) (Supp. 1969).

175. WYO. STAT. § 21.1-26(q) (Supp. 1969).

176. WYO. STAT. § 21.1-26(o) (Supp. 1969).

177. WYO. STAT. § 21.1-27(a) (Supp. 1969).

178. WYO. STAT. § 21.1-27(b) (Supp. 1969).

the board of trustees to direct the sale or other disposition of school houses and their sites, and such other property as may belong to the district.¹⁷⁹ The trustees may employ lawyers and bear the cost of litigation,¹⁸⁰ and accept or reject any federal or other gift, grant, request, or devise.¹⁸¹ The district may hire and fire certified as well as other personnel.¹⁸² Under these two subsections it has been held that a local board of trustees is without power to enter into a binding negotiations agreement with a group of teachers or a teachers' union whereby the decision of the negotiations unit is to become binding on both parties.¹⁸³ The reason is that common law confers upon the local board of trustees broad discretion in deciding matters concerning conditions of employment and since discretionary duties are not delegable without some statute permitting such a delegation, it is legally improper to have a negotiations unit making these decisions for the local board of trustees. The board is further empowered to insure against loss of property.¹⁸⁴ Under the old law there was no specific power to insure property. Another new power is that of establishing and maintaining vocational programs or kindergartens in conjunction with public schools in the district,¹⁸⁵ as well as to provide for the operation of school lunch programs in the school district.¹⁸⁶

In addition to the three officers previously mentioned, the local board of trustees may require bonds to be given by any other officer or employee whose duty it is to handle funds or property of the district.¹⁸⁷ Finally, the local board of trustees is empowered to acquire by condemnation real estate in fee simple title or a lesser estate such as an easement within the district as sites for school buildings or grounds or for other school purposes in accordance with the Wyoming Rules of Civil Procedure.¹⁸⁸

179. WYO. STAT. § 21-115(7) (1957) (repealed 1969).

180. WYO. STAT. § 21.1-27(d) (Supp. 1969).

181. WYO. STAT. § 21.1-27(e) (Supp. 1969).

182. WYO. STAT. § 21.1-27(f)(g) (Supp. 1969).

183. OPS. WYO. ATT'Y GEN., Febr. 16, 1970.

184. WYO. STAT. § 21.1-27(h) (Supp. 1969).

185. WYO. STAT. § 21.1-27(i) (Supp. 1969).

186. WYO. STAT. § 21.1-27(k) (Supp. 1969).

187. WYO. STAT. § 21.1-27(l) (Supp. 1969).

188. WYO. STAT. § 21.1-27(m) (Supp. 1969).

While warrants or other orders to pay money on the school district treasury must bear the signature of the clerk or treasurer and the chairman of the board, these signatures may be reproduced as provided for facsimile signatures.¹⁸⁹ The clerk of the school district is generally charged with submitting reports to the State Superintendent of Public Instruction as required by the State Board of Education.¹⁹⁰ It is now provided that after two years from the date of filing, such records may be microfilmed.¹⁹¹ The clerk is also required to sign every bond or evidence of indebtedness certifying that such certificate of indebtedness is within the lawful debt limit of the school district and is issued according to law.¹⁹² The Wyoming Constitution limits indebtedness for school purposes to ten (10) percent of the assessed valuation within the district under the 1962 amendment to that constitutional section.¹⁹³ The treasurer of the school board has general custody of all the monies in the district and must keep an account of all the receipts and expenditures in addition to rendering a statement of the finances to the district whenever required by the board of trustees. In addition, he must cause to be published in a newspaper of general circulation, a summary or revenue and expenditures for the last fiscal year.¹⁹⁴

Special meetings, which are defined as meetings that are not regular meetings,¹⁹⁵ may be called upon the request of the chairman or any other two members of the board of trustees.¹⁹⁶ Notice of each special meeting must be posted in three public places within three days of the meeting, and notice shall be published once in a newspaper of general circulation again, at least three days before the meeting.¹⁹⁷ These notices are unnecessary if each trustee gives a written waiver of notice before or after the meeting.¹⁹⁸ The officers must

189. WYO. STAT. § 21.1-29 (Supp. 1969); §§ 9-18.1 to 9-18.4 (1957) as amended.

190. WYO. STAT. § 21.1-33(a) (Supp. 1969).

191. WYO. STAT. § 21.1-33(b) (Supp. 1969).

192. WYO. STAT. § 21.1-33(c) (Supp. 1969).

193. WYO. CONST., art. XVI, § 5.

194. WYO. STAT. § 21.1-34 (Supp. 1969).

195. WYO. STAT. § 21.1-26(d) (Supp. 1969).

196. WYO. STAT. § 21.1-35 (Supp. 1969).

197. WYO. STAT. § 21.1-36(a) (Supp. 1969).

198. *Id.*

transfer all books, documents, etc., to their successors.¹⁹⁹ All board meetings are open to the public at which official action is taken.²⁰⁰ However, the board may hold executive sessions meaning they may meet by themselves, but official action cannot be taken at an executive session.²⁰¹ Failure to perform any of the duties imposed on school district trustees is punishable by a \$100 fine, 30 days in jail, or both.²⁰² Unified school districts must comply with the Municipal Budget Act,²⁰³ which is a uniform system of public financial accounting imposed upon all state and county agencies, which previously included only first class school districts, being defined as those with a school population of 1400 or more.²⁰⁴

Governmental immunity is expressly waived on torts arising out of the operation of school busses to the extent that districts carry liability insurance on these vehicles.²⁰⁵ In addition, boards of trustees are required to procure a liability insurance on buses as well as private vehicles with which school districts sign contracts for the transportation of students.²⁰⁶ Trustees may make accident insurance indemnifying the insured for medical, hospital, injury, or death benefit, available to pupils, the cost of such insurance to be paid by the district, the pupils, or both in some proportionate share agreeable to both.²⁰⁷ In lieu of carrying such insurance, the trustees may establish a fund from school district money to defray the medical, hospital and other expenses suffered by students in athletic or non-athletic endeavors.²⁰⁸ The board likewise has the power to protect board members, teachers, and other school district personnel from lawsuits arising out of some claim, demand, suit, or judgment caused by that person's negligence or other act resulting in accidental bodily injury or death, inside or outside the school building, if the employee at the time such a loss occurred was act-

199. WYO. STAT. § 21.1-37 (Supp. 1969).

200. WYO. STAT. § 21.1-39 (Supp. 1969).

201. *Id.*

202. WYO. STAT. § 21.1-40 (Supp. 1969).

203. WYO. STAT. §§ 9-525 to 9-540 (1957) *as amended*; WYO. STAT. § 21.1-41 (Supp. 1969).

204. WYO. STAT. § 21-160 (Supp. 1969).

205. WYO. STAT. § 21.1-42 (Supp. 1969).

206. *Id.*

207. WYO. STAT. § 21.1-43 (Supp. 1969).

208. *Id.*

ing "within the scope of his employment."²⁰⁹ It is specifically stated that no liability on the school district is created by either the acquisition or failure to purchase such insurance.²¹⁰ The board of trustees may insure against possible tort liability to the extent of \$50,000 per person, with a maximum total coverage of \$500,000, for financial loss arising out of the alleged tort of any officer, employee, or agent of the school district.²¹¹ To the extent that such insurance is purchased, governmental immunity is expressly waived.²¹¹ Finally, it is noted that insurance procured under this section is a specific exception to the requirement that insurance be carried on school district vehicles.²¹³

While the Wyoming Constitution has a number of guarantees, of the right to receive an education,²¹⁴ implementation of these rights in the old school law was included in scattered statutes which were incomplete and ambiguous. The new code includes three specific areas which, combined spell out specifically the right to an education which the State Constitution guarantees. These include the right to attend school, isolation, program for handicapped children, vocational education and rehabilitation. These provisions require that the state provide an education for all children through high school, and include provisions for adult education and education for the handicapped beyond childhood.

Two sections provide the basic guarantee: "the public schools of each school district in the state shall at all times be equally free and accessible to all children resident therein over six (6) years of age and under the age of twenty-one (21)"²¹⁵

This phrase is identical to the old law.²¹⁶ The new section, however, also requires that each district "shall operate

209. WYO. STAT. § 21.1-44 (Supp. 1969)..

210. *Id.*

211. WYO. STAT. § 21.1-45(a) (Supp. 1969).

212. WYO. STAT. § 21.1-45(b) (Supp. 1969).

213. WYO. STAT. § 21.1-45(c) (Supp. 1969).

214. WYO. CONST., art 1, § 23; art. VII, §§ 1-14; art. XXI, § 28.

215. WYO. STAT. § 21.1-57 (Supp. 1969).

216. WYO. STAT. § 21-244 (1957) (repealed 1969).

its schools and its classes for a minimum of one hundred seventy five (175) days each school year."²¹⁷

This provision previously was in the regulations of the State Board of Education. Supplementing this basic statute is an even broader guarantee: "Each and every child of school age in the State of Wyoming having a mental, physical, or psychological handicap or social maladjustment which impairs learning, shall be entitled to and shall receive a free and appropriate education in accordance with his capabilities."²¹⁸

It is doubtful if any child in the state, from the severely retarded on up, is omitted from the scope of these functions.

The cost of these programs is paid in full by the school foundation program,²¹⁹ thus passing the financial burden on to the state.²²⁰

The basic rights section of the code now provides: "No child shall be denied the right to attend the public schools of this state on account of sex, race, or religion,"²²¹ merely putting into the statute the constitutional mandate.²²² A graduate of a Wyoming high school may still enter college in Wyoming without examination.²²³ This latter guarantee is broadened to remove the old requirement of college entrance within one year of high school graduation, but is limited to undergraduate enrollment.

The right to an education is further spelled out in the various sections on isolation, the provisions for transportation, maintenance, and tuition for children living in isolated areas. The old law, if narrowly construed, would have limited a child living in a rural district, to attendance in high school in an adjoining district, often an inconvenient and restrictive requirement. The new code rephrases the old law to allow a child to attend high school anywhere "within or

217. WYO. STAT. § 21.1-57 (Supp. 1969).

218. WYO. STAT. § 21.1-284 (Supp. 1969).

219. *Id.*

220. WYO. STAT. § 21.1-232(e) (Supp. 1969).

221. WYO. STAT. § 21.1-59 (Supp. 1969).

222. WYO. CONST., art. VII, § 10.

223. WYO. STAT. § 21.1-60 (Supp. 1969).

without the state which the board may designate in the best interests, welfare, and convenience of the child."²²⁴ The district of the child's residence, of course, would pay tuition and maintenance costs,²²⁵ and the isolation section provides for enforcement by mandamus with legal costs paid by the school district.²²⁶ Even when a district maintains a high school, it may send a child to school in another district "when attendance in such other district would be more convenient or is desirable because of services available in such other district."²²⁷ This latter provision could also include grade school pupils who, for some reason, might be better off in another school.

Other provisions require Wyoming schools to admit pupils from other districts in the state, except when overcrowding would result.²²⁸ Tuition cost is set at the actual cost per pupil as the minimum that can be charged and defines this cost as the total of operating cost and bond principal and interest cost, divided by the average daily membership.²²⁹

A Wyoming school district may contract with public schools in any other state whenever it appears "that instruction for any pupil residing in the district can be more advantageously or economically furnished by a public school maintained by another state . . ."²³⁰ Each district must now provide homebound instruction for "each pupil in the district who is hospitalized or homebound for more than one week because of injury or illness."²³¹

While these general provisions might be considered as also sufficient to include and require education for the handicapped, the new code adds more provisions to leave no doubt. The old law,²³² while apparently designed to provide full educational opportunity for the handicapped, had been interpreted by a number of district in a restrictive manner.

224. WYO. STAT. § 21.1-67(a) (Supp. 1969).

225. WYO. STAT. §§ 21.1-65(a), 21.1-67(a), 21.1-70 (Supp. 1969).

226. WYO. STAT. § 21.1-65(c) (Supp. 1969).

227. WYO. STAT. § 21.1-68(a) (Supp. 1969).

228. WYO. STAT. §§ 21.1-67(b), 21.1-68(b) (Supp. 1969).

229. WYO. STAT. § 21.1-69 (Supp. 1969).

230. WYO. STAT. § 21.1-71 (Supp. 1969).

231. WYO. STAT. § 21.1-66 (Supp. 1969).

232. WYO. STAT. § 21-307 and related statutes (1957) (repealed 1969).

The new code includes a broad group of children.²³³ The State Board of Education has joint responsibility with the local boards for this program,²³⁴ and must provide "appropriate diagnosis, evaluation, education or training, and necessary related services for such children."²³⁵ Local districts may also contract with other school districts or agencies, including private or parochial ones, for such services.²³⁶

With the new code in effect for only a year at this writing, the full impact of these new provisions has not yet been seen. However, as parents and others become for informed of the new provisions, an increase in special education programs is the logical result. For many programs, regional education centers will probably evolve in order to develop the programs required. These are possible under the Boards of Cooperative Educational Services Act.²³⁷

While the various provisions cited above detail the right to enter school, the new code includes three entirely new sections spelling out a child's right to stay in school once he has enrolled, and one new section defining the circumstances under which a board of trustees may deny admission.

Admission may be denied if the child has completed the twelfth grade, or: "has such a mental or physical disability that, based upon a physician's certificate the board believes such child could not reasonably benefit from the programs available or the attendance of such child would be inimical to the health, safety, or welfare of other pupils"²³⁸

But the section goes on to provide that in such cases the board "shall make the best possible provision for suitable and adequate education of such child"²³⁹

There are no grounds for denial of admission. The board cannot anticipate that a student will violate its regulations, and thus refuse to enroll him—it must enroll him.

233. WYO. STAT. § 21.1-284 (Supp. 1969).

234. WYO. STAT. § 21.1-285 (Supp. 1969).

235. WYO. STAT. § 21.1-286 (Supp. 1969).

236. *Id.*

237. WYO. STAT. §§ 21-501 to 21-507 (1957) *as amended*.

238. WYO. STAT. § 21.1-63 (Supp. 1969).

239. *Id.*

The provisions for suspension or expulsion combine with the Wyoming Administrative Procedure Act²⁴⁰ to require the school to build a detailed case against a child. Suspension or expulsion must be based on reasons enumerated by statute,²⁴¹ and requires written notice to the parents or guardian within twenty-four (24) hours and oral notice, if possible, shall be given immediately.²⁴² Authority to suspend for up to ten (10) days may be delegated to administrative and supervisory personnel,²⁴³ but only the board may expel a pupil, and then only after giving an opportunity for a hearing.²⁴⁴

After expulsion or suspension for more than ten days, provision is made for appeal to the courts, with specific authority to the court to stay the decision of the board pending the appeal "as the best interests of the child appear."²⁴⁵ This provision might seem unnecessary, except that in at least one case a school board refused to re-admit expelled pupils on request of the court. Another provision which might seem unnecessary, prohibiting suspension or expulsion as an additional punishment for offenses not related to the school, was inserted because of a practice of some schools in expelling pupils facing criminal charges, regardless of the type of offense charged or where committed.²⁴⁶

The grounds for suspension or expulsion are generally limited to four:

- (a) Continued wilful disobedience or open and persistent defiance of the authority of school personnel.
- (b) Wilful destruction or defacing of school property.
- (c) Any behavior which in the judgment of the local board of trustees is clearly detrimental to the welfare, safety, or morals of other pupils.
- (d) Torturing, tormenting, or abusing a pupil or in

240. WYO. STAT. §§ 9-276.19 to 9-276.33 (Supp. 1969).

241. WYO. STAT. §§ 21.1-61(a), 21.1-62 (Supp. 1969).

242. WYO. STAT. § 21.1-61(a) (Supp. 1969).

243. *Id.*

244. WYO. STAT. § 21.1-63(b) (Supp. 1969).

245. WYO. STAT. § 21.1-61(d) (Supp. 1969).

246. WYO. STAT. § 21.1-61(c) (Supp. 1969).

any way maltreating a pupil or a teacher with physical violence.²⁴⁷

Subsections (b) and (d) will probably cause little doubt in administration, and subsection (c) could be fairly clear as to violations. Subsection (a), however, may provide the area for conflict and court appeal, hinging as it does on the authority of school personnel. The code does not define what is the authority of school personnel, but it would seem that authority must be reasonably related to the educational function of the schools. Whether this would include the controversial issue of authority to prescribe style of dress and hair is not defined, but here again it would seem that any rule as to dress or hair would necessarily be required to have a distinct relation to the educational function, and would have to be defined by the board of trustees itself, rather than by individual teachers or administrators.

The board of trustees may adopt rules and regulations for reasonable forms of punishment and discipline, and allowing delegation of authority to teachers to punish and discipline.²⁴⁸ Course credits and diplomas may not be denied as a means of punishment or discipline.²⁴⁹ This latter provision was designated to stop the practice in some schools of withholding an earned diploma as punishment, usually for graduation eve pranks off the school grounds.

The provisions of the new code require a child to attend school until he reaches the age of 16 or the eighth grade, whichever is sooner,²⁵⁰ and place the burden of attendance on the child as well as the parents.²⁵¹ An attendance officer is specifically provided for,²⁵² and provisions are made for proceedings under the Juvenile Court Act²⁵³ in the case of an habitual truant.²⁵⁴

Two small, but important, changes were made in the field of vocational rehabilitation. The old law, relating to opera-

247. WYO. STAT. §§ 21.1-61(a), 21.1-62 (Supp. 1969).

248. WYO. STAT. § 21.1-64(a) (Supp. 1969).

249. WYO. STAT. § 21.1-64(b) (Supp. 1969).

250. WYO. STAT. § 21.1-48 (Supp. 1969).

251. WYO. STAT. § 21.1-51 (Supp. 1969).

252. WYO. STAT. § 21.1-49 (Supp. 1969).

253. WYO. STAT. §§ 14-97 to 14-115 (1957).

254. WYO. STAT. § 21.1-53 (Supp. 1969).

tion of vending stands by legally blind persons,²⁵⁵ was expanded to include "other small business" and to include "otherwise handicapped persons."²⁵⁶ However, the extent of rehabilitation services was reduced by eliminating payment for "training" that was included in the old law.²⁵⁷

Taken together, the new code's various sections relating to the right to an education reflect a concern on the part of the Statute Revision Commission to provide an education to all children. While the various provisions may now appear to reflect the national trend toward enforcement of civil rights, they were adopted by the drafters of the code against a background of examples within the state. It is generally conceded by those writing the law that Wyoming provides a good educational opportunity for the average student who has immediate accessibility to a school, but that this opportunity has been somewhat less for the rural students and for the handicapped student. It was also felt that some schools, administrators, and teachers tend to solve their classroom problems by the route of expulsion or pressure on the pupil to drop out. The result has been shown to be a transfer of the problem, in increased seriousness, to the courts. By broadening the law on rights to an education, it is hoped to broaden the opportunity for an education to include those heretofore deprived or limited; and by making it more difficult to suspend or expel a student, it is hoped to meet the sociological problem at its earlier and minor stage, in the schools, rather than in the more serious stage later on in the courts. Some schools, of course, will need to adjust to this role. The intention was not to make the schools a part of the reform process, but rather to encourage the schools in their responsibility to the maladjusted child before the need for reform arises.

Courses of study, textbooks, and supplies are governed by Chapter 10 of the Wyoming Education Code of 1969.²⁵⁸ Generally speaking, courses of study must adhere to minimum standards relating to educational programs set by the State

255. WYO. STAT. § 21-322.1 (1957) *as amended*.

256. WYO. STAT. §§ 21.1-205 (a), 21.1-210 (Supp. 1969).

257. WYO. STAT. § 21.1-208 (Supp. 1969).

258. WYO. STAT. §§ 21.1-178 to 21.1-183 (Supp. 1969).

Board of Education.²⁵⁹ All schools and colleges in this state must give instruction in the essentials of the United States and Wyoming Constitutions including a "study of and devotion to American institutions and ideals" and no student can receive a certificate of graduation from any institution unless passing a satisfactory examination of both constitutions. Instruction shall be given at least three years in elementary grades and one year in secondary and college grades, respectively.²⁶⁰ Wilful failure on the part of any school or college administrator or instructor to comply with this chapter is sufficient cause for the removal of such person from his position.²⁶¹ In keeping with the policy that fosters free education for all students, textbooks and supplies required for the education of an individual child are loaned to the pupils free of any charge, except that such pupils shall be held responsible for damage, loss, or failure to return books and supplies, except those that by their nature, are naturally expendable.²⁶² In addition, the board may sell to the student or parent any surplus books or supplies that it has purchased.²⁶³

Protective devices for the eyes are required to be worn when work involves hot molten metals, milling, sawing, turning, etc., of solid materials; heat treatment, tempering or kiln firing of any material during gas or electric arc welding; the repair or servicing of any vehicle; working with caustic or explosive materials; or any other activity creating a substantial risk of harm to the eyes.²⁶⁴ Such eye glasses are to be made available free of charge to all pupils and teachers involved in these activities.²⁶⁵

The hiring and firing of teachers and employees is governed by Chapter 8, Article 4 of the Wyoming Education Code of 1969.²⁶⁶ Except for minor changes, this article is the same as the Wyoming Teachers Employment Act of 1967.²⁶⁷

259. WYO. STAT. § 21.1-178 (Supp. 1969).

260. WYO. STAT. § 21.1-179 (Supp. 1969).

261. WYO. STAT. § 21.1-180 (Supp. 1969).

262. WYO. STAT. § 21.1-181(a) (Supp. 1969).

263. WYO. STAT. § 21.1-181(b) (Supp. 1969).

264. WYO. STAT. § 21.1-183(a) (Supp. 1969).

265. WYO. STAT. § 21.1-183(b) (Supp. 1969).

266. WYO. STAT. §§ 21.1-151 to 21.1-164 (Supp. 1969).

267. See WYO. STAT. § 21.1-151 (Supp. 1969); Act of February 28, 1967, ch. 182, § 1, [1967] WYO. SESS. LAWS 515.

Generally speaking, there are two types of teachers. A continuing contract teacher is any teacher who has been employed in the same school district in the state for three consecutive school years, had his contract renewed for a fourth consecutive school year, or a teacher who has achieved continuing contract status in one district in Wyoming and has taught two consecutive school years and had his contract renewed for a third year in the employing school district.²⁶⁸ A teacher who has not acquired continuing contract status is known as an initial contract teacher, being defined as a teacher who has not achieved continuing contract status.²⁶⁹ It must be pointed out that the word "teacher" includes superintendents and principals because "teacher" is defined in the law as "[a]ny person employed under contract by the board of trustees of a school district as a certified professional employee."²⁷⁰ In acquiring continuing contract status, absences and leaves of absence approved by the employing board are not considered as interruptions in service for the purpose of determining continuing contract status.²⁷¹

There are three statutory means by which a teacher's employment can be ended. Termination is defined as the failure of the school board trustees to re-employ a teacher at the end of a school year in any given year.²⁷² Suspension is the removal of a teacher from a classroom during the school year without termination of salary.²⁷³ Dismissal is the cancellation of a teacher's contract by the board of trustees while the contract is still in effect.²⁷⁴

Suspension or dismissal must be based on the grounds of "incompetency, neglect of duty, immorality, insubordination, or any other good or just cause."²⁷⁵ In the case of suspension or dismissal, teachers must be given written notice of the proceedings with the written reasons for the suspension or dismissal, and an opportunity for a hearing not less than

268. WYO. STAT. § 21.1-152(b) (Supp. 1969).

269. WYO. STAT. § 21.1-152(d) (Supp. 1969).

270. WYO. STAT. § 21.1-152(g) (Supp. 1969).

271. WYO. STAT. § 21.1-153 (Supp. 1969).

272. WYO. STAT. § 21.1-152(h) (Supp. 1969).

273. WYO. STAT. § 21.1-152(f) (Supp. 1969).

274. WYO. STAT. § 21.1-152(c) (Supp. 1969).

275. WYO. STAT. § 21.1-160 (Supp. 1969).

ten (10) nor more than thirty (30) days after the notice is given for the suspension or dismissal proceedings.²⁷⁶ Because this is a hearing required by law to be held, and because hearings required by law to be held under the Wyoming Education Code are subject to Wyoming Administrative Procedure Act,²⁷⁷ this is a "contested case" as defined therein,²⁷⁸ which means that school districts must adopt rules of practice and procedure for the conduct of such hearings.²⁷⁹

In the case of termination, which is the failure to re-employ a teacher at the end of any school year, an initial contract teacher must be notified in writing of such termination no later than March 15 of that school year.²⁸⁰ In addition to receiving the written notice required to be given to an initial contract teacher, a continuing contract teacher must be notified of termination with written reasons therefore on or before March 15.²⁸¹ While an initial contract teacher is guaranteed no hearing when he is terminated, a continuing contract teacher is entitled to a hearing within thirty (30) days after receipt of notice of termination.²⁸²

Nothing in the Wyoming Teachers Employment Law prohibits the transfer of a teacher within a school system to a position of equal or greater salary, or the retirement of a teacher in accordance with an established policy of retirement²⁸³ which, if none other is stated, means the Wyoming Retirement Act²⁸⁴ which is made applicable to school districts and teachers, and requires retirement at the age of 65 with an exception made for extended service on recommendation of the employer and the employee.²⁸⁵ Also permitted is the reduction of a salary of a teacher as part of a general salary reduction applicable to at least half of the teachers employed in the district,²⁸⁶ and the termination of a contract of a

276. WYO. STAT. § 21.1-160(a) (b) (Supp. 1969).

277. WYO. STAT. § 21.1-4 (Supp. 1969).

278. WYO. STAT. § 9-276.19(b) (2) (1957) *as amended*.

279. WYO. STAT. § 9-276.20(a) (1) (1957) *as amended*.

280. WYO. STAT. § 21.1-155 (Supp. 1969).

281. WYO. STAT. § 21.1-156(a) (Supp. 1969).

282. WYO. STAT. § 21.1-158 (Supp. 1969).

283. WYO. STAT. § 21.1-161(a) (b) (Supp. 1969).

284. WYO. STAT. §§ 9-294 to 9-324 (1957) *as amended*.

285. WYO. STAT. § 9-308(c) (1957) *as amended*.

286. WYO. STAT. § 21.1-161(c) (Supp. 1969).

teacher at the end of the current school year because of the size of the faculty due to decreased enrollment or other event beyond the control of the school board.²⁸⁷

Since the transfer of a teacher to a position of equal or greater salary within the system is permitted, it is a reasonable interpretation that a transfer to a lesser salary is not permitted. When asked whether the so-called "extra service" portions of a teacher's contract, meaning the money he was paid for coaching or additional administrative duties, could be terminated at will, the Attorney General held that extra service portions of a teacher's contract could only be terminated in the manner provided by law,²⁸⁸ which means the giving of notice and opportunity for a hearing, especially in the case of a continuing contract teacher.

In addition, it has been held that agreements between teachers or teacher's groups and local boards of trustees whereby questions of employment conditions such as salaries and work load are to be submitted to a board of arbitration whose decision is binding on both parties, is an impermissible delegation of the board's power to hire and fire set forth in the code.²⁸⁹ Therefore, such a contract is illegal.²⁹⁰

The contracts of all teachers in this state are subject to the rules, policies, and regulations of the employing school district,²⁹¹ and the status of teachers governed under this act will be determined by their original date of employment rather than the enactment of the Wyoming Teachers Employment Law.²⁹² Finally, the local board of trustees may designate a teacher as a continuing contract teacher at any time without regard to the provisions of this article, meaning that a local board of trustees can grant a teacher continuing contract status in fewer years than would ordinarily be required.²⁹³

287. WYO. STAT. § 21.1-161(d) (Supp. 1969).

288. OPS. WYO. ATT'Y. GEN., Febr. 18, 1970.

289. WYO. STAT. § 21.1-27(f) (g) (Supp. 1969).

290. OPS. WYO. ATT'Y. GEN., Febr. 16, 1970.

291. WYO. STAT. § 21.1-162 (Supp. 1969).

292. WYO. STAT. § 21.1-163 (Supp. 1969).

293. WYO. STAT. § 21.1-164 (Supp. 1969).

Provisions for three hundred (\$300) scholarships previously established²⁹⁴ are carried forward in the present law.²⁹⁵

Boards of trustees may provide for health insurance, life insurance and other fringe and employment benefits to teachers, administrative personnel, and other employees, and can be paid entirely by the school district, partly by the school district and partly by the employee, with the amount of each contribution being in the discretion of the board of trustees.²⁹⁶ There can be no discrimination in the amount of compensation paid teachers on account of sex, race, or religious beliefs,²⁹⁷ and it is illegal to pay a teacher who does not possess a valid certificate issued under the laws of this state by the State Board of Education.²⁹⁸ Before a teacher or administrator can acquire a valid certificate, they must pass a satisfactory examination on the Constitution of the United States and the State of Wyoming,²⁹⁹ or have successfully completed a course on the Constitutions of the United States and Wyoming which instruction is given for at least three years in the elementary grades and one year in secondary and college respectively.³⁰⁰

The operation of school lunch programs is governed by Chapter 11 of the Wyoming Education Code of 1969.³⁰¹ The school lunch program is a program where lunches are served in any school in the state on a non-profit basis to all children, including such programs that receive assistance from federal funds.³⁰² The State Board of Education is authorized to accept and direct disbursement of federal funds made available for school lunch programs as well as commodity distribution programs. Such funds are kept in a special account with the Wyoming State Treasurer.³⁰³ In the furtherance of

294. Act of February 13, 1961, ch. 66, § 1 [1961] WYO. SESS. LAWS 78.

295. WYO. STAT. §§ 21.1-165 to 21.1-171 (Supp. 1969).

296. WYO. STAT. § 21.1-172 (Supp. 1969).

297. WYO. STAT. § 21.1-173 (Supp. 1969).

298. WYO. STAT. § 21.1-174 (Supp. 1969).

299. WYO. STAT. § 21.1-175 (Supp. 1969).

300. WYO. STAT. § 21.1-179 (Supp. 1969).

301. WYO. STAT. §§ 21.1-184 to 21.1-190 (Supp. 1969).

302. WYO. STAT. § 21.1-184(b) (Supp. 1969).

303. WYO. STAT. § 21.1-185 (Supp. 1969).

this chapter, the State Board of Education may enter into agreements with federal agencies as well as local school boards of trustees, and other agencies or persons and prescribe such regulations as are necessary for the operation or expansion of any school lunch program.³⁰⁴

Boards of trustees are empowered to operate and provide for the operation of school lunch programs, and disburse funds made available to them for this purpose.³⁰⁵ The State Board of Education, in addition to the powers prescribed elsewhere, may make rules and regulations for the keeping of accounts and records by the local trustees, and conduct audits and inspections of accounts and records kept by the local trustees with respect to the school lunch program.³⁰⁶ The School Lunch Division of the State Department of Education is obligated to maintain a revolving fund with a balance of at least \$5,000 to pay transportation and allied charges for the shipping of commodities made available by the federal government for the purposes of this chapter.³⁰⁷ Schools and institutions benefiting under this program are billed for their pro-rata share of transportation and such other charges as are necessary.³⁰⁸ If and when the U.S. Dept. of Agriculture ever removes commodities in this program, the \$5,000 revolving fund returns to the State Treasury.³⁰⁹

Since 1967 the State Department of Education has been empowered to license private schools operating in this state, and Chapter 12 of the new code makes several additions to that law.³¹⁰ In addition to the general power to license both in-state and out-of-state private schools, appropriate personnel in the State Department of Education may investigate and evaluate such schools.³¹¹ Private schools operating outside the State of Wyoming but doing business within the state, and who employ an agent for the purpose of soliciting resident students, must pay an annual agent's fee to the

304. WYO. STAT. § 21.1-186 (Supp. 1969).

305. WYO. STAT. § 21.1-187 (Supp. 1969).

306. WYO. STAT. § 21.1-188 (Supp. 1969).

307. WYO. STAT. § 21.1-190(a) (Supp. 1969).

308. WYO. STAT. § 21.1-190(b) (Supp. 1969).

309. WYO. STAT. § 21.1-190(c) (Supp. 1969).

310. WYO. STAT. §§ 21.1-191 to 21.1-197 (Supp. 1969).

State Board not to exceed \$50.00.³¹² The resident private school's agents need only pay a \$25.00 agent's fee.³¹³

While the old code forbade the operation of unlicensed private schools in this state, it is now provided that agents are likewise prohibited from acting within the state without an agent's permit as required by statute.³¹⁴

In addition to the above sanctions, no official or employee of any Wyoming State Department of Education, college, university or school district within the state can permit an agent of a school to solicit business in the public school unless both the agent and the school are properly licensed.³¹⁵ For the first time, private schools in or outside the State of Wyoming to acquire the license required by law must post a \$10,000 performance bond to be approved by the Attorney General.³¹⁶ Exemptions from this chapter are given to parochial schools or schools teaching techniques of outdoor recreation, leadership, ecology, or conservation which are domiciled in the State of Wyoming.³¹⁷

Two kinds of legal action await those who disobey this chapter. In the first instance, those who violate the chapter may be found guilty of a misdemeanor and fined not more than \$100 or imprisoned in the county jail not more than six months, or both, for each solicitation of enrollment. Also, any person violating the provisions of this chapter may be enjoined or ousted from continuation of such violation by proceedings brought by the Attorney General, County Attorney, school official, or any aggrieved citizen regardless of whether or not the misdemeanor provisions above mentioned have been instituted.³¹⁸

School boards in this state are now empowered to maintain a fully accredited four-year high school, and to establish

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- 311. WYO. STAT. § 21.1-191 (Supp. 1969).
 - 312. WYO. STAT. § 21.1-192 (Supp. 1969).
 - 313. WYO. STAT. § 21.1-193 (Supp. 1969).
 - 314. WYO. STAT. § 21.1-194 (a) (Supp. 1969).
 - 315. WYO. STAT. § 21.1-194 (b) (Supp. 1969).
 - 316. WYO. STAT. § 21.1-195 (Supp. 1969).
 - 317. WYO. STAT. § 21.1-196 (Supp. 1969).
 - 318. WYO. STAT. § 21.1-197 (Supp. 1969).

a program of vocational terminal continuation in adult education in connection with those schools.³¹⁹ Vocational courses permitted under this chapter may be made available to high school pupils, out of school persons or adults, and shall be given in the regular high school grades, or as post-graduate work, except that no school district can establish such program at the college level and offer college credit for it.³²⁰ In addition to the other powers given to local boards of trustees operating such programs, they may fix fee and tuition rates for adult education courses;³²¹ cooperate with the State Department of Education, the State Board, and the federal government in administering the program;³²² and, do all things necessary to promote the purposes of this article.³²³

A mill levy over and above the maximum forty mills set for unified school districts is made available to finance operation of these programs. Such mill levy shall not exceed 2½ mills on the taxable valuation of the district.³²⁴ Before such a mill levy can be made, there must be an election conducted in accord with the law governing school elections generally, and a simple majority vote is all that is required to enact this special levy.³²⁵

Vocational rehabilitation is governed by Article 2, of Chapter 13 of the Wyoming Education Code of 1969.³²⁶ Since the purposes of this article are not committed to the Department of Health and Social Services as of July 1, 1969,³²⁷ this matter is no longer properly listed as an educational activity for the purposes of the Wyoming Education Code of 1969 and therefore will not be considered in this article.

The new school code generally left the current finance sections of the old law untouched as to basic methods of financing the schools, but did change the tax levies, simplify the sections on federal aid, building reserve funds, and emer-

319. WYO. STAT. § 21.1-198(b) (Supp. 1969).

320. *Id.*

321. WYO. STAT. § 21.1-199(a) (Supp. 1969).

322. WYO. STAT. § 21.1-199(b) (Supp. 1969).

323. WYO. STAT. § 21.1-199(c) (Supp. 1969).

324. WYO. STAT. § 21.1-200 (Supp. 1969).

325. WYO. STAT. § 21.1-201 (Supp. 1969).

326. WYO. STAT. §§ 21.1-202 to 21.1-212 (Supp. 1969).

327. Act of February 21, 1969, ch. 93, § 2 [1969] WYO. SESS. LAWS 116.

agency building programs, and completely revised the sections on school bonding laws.

Current financing of the schools is included in Articles 1 through 4 of Chapter 14 of the code, and covers the areas of local, district, county, state, and federal support.³²⁸ The only basic change in the local support area now requires a new public hearing on the budget and certification of the tax levy to the county commissioners, in all districts to which the Municipal Budget Act does not apply,³²⁹ which are elementary and high school districts.³³⁰ Otherwise, only changes were in the maximum allowable local district tax levy. Elementary districts raised from the old eleven (11) mills to a maximum of eighteen (18) mills, with six (6) mills not to be levied except with the approval of the voters; high school districts raised from seven (7) mills to ten (10) mills, with two (2) mills not to be levied except with voter approval; and unified districts, raised from eighteen (18) mills to twenty-eight (28) mills, with six (6) mills not to be levied except with voter approval.³³¹

County support was left the same at twelve (12) mills.³³² Computation of the amount allocated according to bus drivers was simplified,³³³ the power of investigation of bus routes was transferred from the county superintendent to the State Superintendent of Public Instruction,³³⁴ and duties as to apportionment of funds among districts were transferred from the county superintendent to the county treasurer.³³⁵

State financial support was continued at six (6) mills.³³⁶ The state school foundation program was continued in its basic form, but some of the fundamental factors used in the computations were changed. The divisor used in determining classroom units allotted for supervisory personnel was lowered

328. WYO. STAT. §§ 21.1-213 to 21.1-239 (Supp. 1969).

329. WYO. STAT. § 21.1-213 (Supp. 1969).

330. WYO. STAT. § 21.1-41 (Supp. 1969).

331. WYO. STAT. § 21.1-214(a) (c) (d) (Supp. 1969).

332. WYO. STAT. §§ 21.1-217 (Supp. 1969).

333. WYO. STAT. §§ 21.1-218 (Supp. 1969).

334. WYO. STAT. § 21.1-220 (Supp. 1969).

335. WYO. STAT. § 21.1-223 (Supp. 1969).

336. WYO. STAT. § 21.1-226 (Supp. 1966).

from eight to seven,³³⁷ and the size of kindergarten classes was lowered from $37\frac{1}{2}$ to 25.³³⁸ The amount to be included in the operating expense of the district for each classroom unit was raised from \$8,200 to \$10,500,³³⁹ and this increase was then offset with a new provision requiring a local tax effort of six mills for an elementary district, two mills for a high school district, and six mills for a unified district, over and above the county 12-mill levy;³⁴⁰ and a new section was added on programs for the handicapped.³⁴¹

A number of provisions in the old law on federal aid, authorizing acceptance of such aid for various programs, were replaced by three sections,³⁴² giving broad authority for acceptance of federal aid and also making such acceptance permissive on the part of the local districts.³⁴³

Two significant changes were made in the old law on building funds and reserve funds. The old law³⁴⁴ required an election to establish a building reserve fund, and then required the amount of such reserve to be deducted from the permissible amount of any bonded debt. The new law continues the requirement for an election and the limit of four (4%) percent of the assessed valuation, but allows this to be in addition to the existing bonded debt.³⁴⁵ It continues the provision that after a building fund is started and a bond issue approved, the building fund levy shall be discontinued when the levy for payment of the bonds starts. Another new provision is included clarifying that interest earned from investment of the funds accrues to the fund involved.³⁴⁶

The old law on funds for emergency school construction was re-enacted with but one change, eliminating the statutory figure of three (3%) percent annual rental and inserting

337. WYO. STAT. § 21.1-231(e) (Supp. 1969).

338. WYO. STAT. § 21.1-231(g) (Supp. 1969).

339. WYO. STAT. § 21.1-232(a) (Supp. 1969).

340. WYO. STAT. § 21.1-233(b) (Supp. 1969).

341. WYO. STAT. § 21.1-232(c) (Supp. 1969).

342. WYO. STAT. §§ 21.1-237 to 21.1-239 (Supp. 1969).

343. WYO. STAT. § 21.1-238 (Supp. 1969).

344. WYO. STAT. §§ 21-71 to 21-75 (1957) (repealed 1969).

345. WYO. STAT. §§ 21.1-240 to 21.1-243 (Supp. 1969).

346. WYO. STAT. § 21.1-241 (Supp. 1969).

instead a provision that the Wyoming Farm Loan Board shall set "reasonable rental charges."³⁴⁷

Provisions for school bond issues were completely revised in the new code, with a comprehensive new bond law. It generally simplifies the law on school bond issues and has a number of major and minor changes.

The provisions for the constitutional bonded debt limit, included in two statutes in the old law, are clarified in the new law in one section. While the old law provided for two (2%) percent limit in one section,³⁴⁸ with an additional four (4%) percent for elementary districts, four (4%) percent for high school districts, and eight (8%) for unified districts in another,³⁴⁹ the new code includes all the provisions in one specifying a ten (10%) percent limit for unified districts and six (6%) percent for elementary districts or high school districts.³⁵⁰

The general purpose statute clarifies the matter of whether bonds can be issued for purchase of land by inserting such a provision in the law and adding that "[t]hat the purposes for which an indebtedness may be created shall be broadly construed."³⁵¹ Under the old law, bonds could be matured in equal annual amounts of principal, or in substantially equal annual tax levies for payment of principal and interest, or in substantially equal annual tax levies for payment of principal and interest of all outstanding bonds.³⁵² The new provision allows each of the three methods of the old law and adds "or in any other manner as the board may determine," provided the maturities shall commence not later than the third year after the date of the bonds.³⁵³ Thus, a board may vary the amounts of bonds to be redeemed in each year, in anticipation of high or low assessed valuations. This has proved to be a highly flexible and desirable method in other states.

347. WYO. STAT. § 21.1-248 (Supp. 1969).

348. WYO. STAT. § 21-76 (1957) (repealed 1969).

349. WYO. STAT. §§ 21-77 (1957) (repealed 1969).

350. WYO. STAT. §§ 21.1-255 (Supp. 1969).

351. WYO. STAT. §§ 21.1-253 (Supp. 1969).

352. WYO. STAT. § 9-625 (1957).

353. WYO. STAT. § 21.1-270 (Supp. 1969).

Other changes include simplification of the contents of the notice of election and other election requirements;³⁵⁴ a provision that a building may be constructed on leased land;³⁵⁵ a choice given between a statutory form of bond or other form;³⁵⁶ and simplification of the signature requirements on bonds.³⁵⁷ Many other changes include general clarification and simplification of wording.

The Wyoming Education Code of 1969 may be justly viewed as one of the most significant pieces of legislation enacted by the Fortieth Legislature. This will become increasingly apparent as all persons affected become more aware of the provisions and their extent and meaning. It is hoped by the writers of this article to speed acclimation to the Code by emphasizing changes in the education laws made in the Code. The coverage intended by these changes now depends upon administrators, teachers, students, and parents.

354. WYO. STAT. § 21.1-256 (Supp. 1969).

355. WYO. STAT. § 21.1-254 (Supp. 1969).

356. WYO. STAT. § 21.1-267 (Supp. 1969).

357. WYO. STAT. § 21.1-280 (Supp. 1969).