



WYOMING LEGISLATIVE SERVICE OFFICE

# Issue Brief

## MAJOR MAINTENANCE REVIEW

June 2023

by

Don Richards, Budget/Fiscal Administrator

### PURPOSE

This Issue Brief provides summary information on major maintenance funding for state, University of Wyoming (UW), community college, and K-12 school facilities as background to interim priority topic #4 of the Joint Appropriations Committee (JAC). The complete interim topic states,

The Committee will review major maintenance funding for the state, University of Wyoming, community college, and school buildings. The Committee will consider both the formula used to generate funding requests as well as restrictions on the expenditure of funds. The Committee will explore methods to retain and align allocated funds for large projects, including HVAC, roof replacement, and other major building systems. As part of this review, the Committee will explore how other states address control, supervision, and monitoring of major maintenance appropriations and expenditures and may consider the development of consistent policies and procedures for major maintenance funding and accounting.

### K-12 SCHOOL FACILITIES<sup>1</sup>

**AUTHORITY** Created in 1998, the K-12 school facilities major maintenance formula is authorized under W.S. 21-15-109 and currently administered by the State Construction Department (SCD) in accordance with the School Facilities Commission's (SFC) Chapter 3 and 6 rules.<sup>2</sup> (See Attachment A for a copy of W.S. 21-15-109.)

**FORMULA DESCRIPTION** At the most general level, the K-12 statutory major maintenance formula is equal to the authorized gross square footage (GSF) for each school district's facilities multiplied by a per square foot cost replacement amount to arrive at the calculated total cost of

---

<sup>1</sup> For additional detail and background, see "K-12 Major Maintenance (W.S. 21-15-109)" LSO *Issue Brief*, by Matthew Willmarth, Senior School Finance Analyst, June 2022 for additional information, [https://wyoleg.gov/InterimCommittee/2022/SSF-2022062204-01\\_20220609\\_K-12MajorMaintenanceIssueBrief\\_FINAL.pdf](https://wyoleg.gov/InterimCommittee/2022/SSF-2022062204-01_20220609_K-12MajorMaintenanceIssueBrief_FINAL.pdf) [Accessed May 1, 2023.]

<sup>2</sup> 1998 Wyoming Session Laws, Chapter 3.

replacement value. This estimated cost replacement value is then multiplied by 2 percent to obtain the annual major maintenance amount.<sup>3</sup>

***AUTHORIZED GROSS SQUARE FOOTAGE*** There are multiple steps in determining the authorized gross square footage (GSF) for each building category defined in statute (currently, educational buildings, office buildings, and warehouse buildings).

**Educational GSF** Each district’s educational GSF includes the prior year’s actual educational building GSF less any leased GSF and less any GSF identified as a local enhancement.<sup>4</sup> Educational GSF also incorporates portable building (modular) GSF limited to 10 percent of the total GSF computed for all school buildings and facilities, excluding teacherages. Recently, no district has been limited by the 10 percent portable building limitation. The result is the school district’s adjusted educational building GSF.

Next, each district’s adjusted educational building GSF is compared to each district’s total allowable educational GSF based upon the SFC’s maximum educational GSF methodology using average daily membership from the prior school year. The total allowable educational GSF is multiplied by 115 percent to provide a maximum allowable educational GSF.<sup>5</sup> Each district is allocated the *lesser of* its adjusted educational building GSF or 115 percent of the maximum allowable educational GSF for purposes of major maintenance payments. In school year 2022-2023, four districts used the adjusted educational building GSF in the major maintenance formula and the remaining 44 school districts used 115 percent of allowable educational GSF. The difference between actual and authorized educational building GSF was 4.4 million GSF in school year 2022-2023.

The educational building GSF is then multiplied by the cost replacement amount computed by the SCD.<sup>6</sup> The replacement value cost factor, in accordance with statute, is “established for each building category by the department computed using data from August 1 of the prior school year based upon the median estimate in the most current edition of a nationally recognized, quarterly published construction cost index that provides cost indices for elementary schools, junior high schools, high schools, offices and warehouses by city or town, as modified to reflect current Wyoming construction costs determined by the department of administration and information, division of economic analysis.”<sup>7</sup> The “construction cost index” that is utilized by the SCD comes from RS Means, which identifies replacement value cost factors for the specific building types and for cities across Wyoming. Finally, the product of the authorized educational GSF and the replacement cost value factor is multiplied by the 2 percent multiplier.<sup>8</sup>

<sup>3</sup> W.S. 21-15-109(c)(vi) and (vii). The statutory multiplier was 1.3 percent for school years 1998-1999 through 2000-2001, 2.5 percent for school year 2001-2002, and 3 percent for school year 2002-2003.

<sup>4</sup> W.S. 21-15-109(c)(i)(B) and (D).

<sup>5</sup> The maximum allowable educational GSF was 200% for school years 1998-1999 through 2003-2004, 135% for school years 2004-2005 and 2005-2006, and 125% for school years 2006-2007 through 2008-2009.

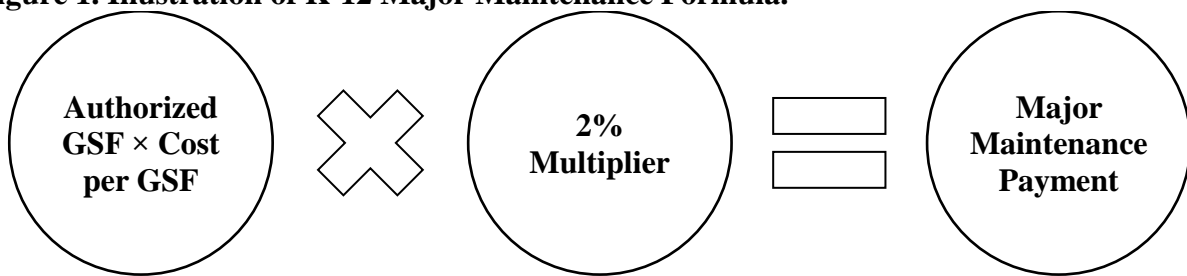
<sup>6</sup> W.S. 21-15-109(c)(v).

<sup>7</sup> Ibid.

<sup>8</sup> W.S. 21-15-109(c)(vi).

Office, Warehouse and Mothballed GSF A similar approach is applied for office and warehouse building GSF and GSF of facilities that are not operational but closed within the district’s facility plan as a cost-efficient means, (or “mothballed GSF”) with some formula differences. Specifically, for office and warehouse space, there is a graduated scale (multiplier) for various proportions of office and warehouse GSF in relation to total educational GSF.<sup>9</sup> The total adjusted office and warehouse GSF is multiplied by the appropriate replacement value cost factor and then multiplied by the 2 percent multiplier. For educational buildings that are mothballed, the SCD multiplies the mothballed GSF by 10 percent and applies the educational building replacement value cost factor, and then applies that product by the 2 percent multiplier. The difference between actual and authorized office, warehouse, and mothballed building GSF was 178,000 GSF in school year 2022-2023. Figure 1 depicts the high-level major maintenance calculation for K-12 school facilities.

**Figure 1. Illustration of K-12 Major Maintenance Formula.**



**OTHER AUTHORIZED EXPENDITURES** Once allocated to a district, appropriations for major maintenance do not revert. In general, expenditures of major maintenance appropriations, including any interest earnings, shall be restricted to expenses incurred for major building and facility repair and replacement as defined in W.S. 21-15-109(a) and in accordance with the district’s facility plan.<sup>10</sup> Major building and facility repair and replacement is defined as “the repair or replacement of complete or major portions of school building and facility systems at irregular intervals which is required to continue the use of the building or facility at its original capacity for its original intended use and is typically accomplished by contractors due to the personnel demand to accomplish the work in a timely manner, the level of sophistication of the work or the need for warranted work.”<sup>11</sup> A district is allowed to expend up to 10 percent of the amount distributed during any school year for major maintenance needs not identified in the district’s facility plan, including maintenance of local enhancements.<sup>12</sup> In 2015, 2018 and 2020, the Budget Bill expressly authorized school districts to use up to 10 percent of a school district’s major maintenance distribution for safety and security building and facility needs. The SCD and school districts interpret the authority for authorized expenditures for needs outside of a facility plan, maintenance of local enhancements, and other allowable expenditures, e.g., safety and security, to carryover indefinitely, even if the total annual major maintenance allocation has been expended on major building and facility repair and replacement needs.

<sup>9</sup> See W.S. 21-15-19(c)(vii). Specifically, if the warehouse and office building GSF is 10 percent or less in relation to educational GSF, the district is entitled to 100 percent; greater than 10 percent and less than 16 percent – 90 percent; 16 percent but less than 21 percent – 80 percent; and 21 percent or greater – 70 percent.

<sup>10</sup> W.S. 21-15-109(e).

<sup>11</sup> W.S. 21-15-109(a)(iii).

<sup>12</sup> W.S. 21-15-109(f).

## **UW, COMMUNITY COLLEGE AND STATE FACILITIES**

**AUTHORITY** “Major maintenance” is defined in statute as “the repair or replacement of complete or major portions of building and facility systems at irregular intervals which is:

- (i) Required to continue the use of the building or facility at its original capacity for its original intended use, including for compliance with the Americans with Disabilities Act, and including installing fire suppression systems in residential facilities; and
- (ii) Typically accomplished by contractors due to the personnel demand to accomplish the work in a timely manner, the level of sophistication of the work or the need for warranted work.”<sup>13</sup>

“Major building and facility repair and replacement” is defined in W.S. 21-15-109(a)(iii) under the K-12 facility statutes.

For community colleges, the statutes outlining the authorities and responsibilities of the Wyoming Community College Commission provide the basis for major maintenance funding requests.<sup>14</sup> The State Building Commission (SBC) is charged with adopting a formula for major building and facility repair and replacement for community college facilities.<sup>15</sup> The SBC has incorporated the process and procedure for determining and prioritizing major maintenance appropriations in Chapter 3 of its rules. (See Attachment B for a copy of W.S. 21-18-225.)

Unlike community college facilities, there are no specific statutory provisions for the allocation, expenditure, and funding request for major maintenance funds for UW or state facilities. Rather, the biennial Budget Bill includes appropriations of major maintenance funding, limits expenditures to “major building and facility repair and replacement” as defined in W.S. 9-5-107(h), provides that the appropriated funds shall not revert, and outlines a process for future budget requests referencing the statutory formula for major maintenance funding requests under W.S. 9-5-107(g).

---

<sup>13</sup> W.S. 9-5-107(h).

<sup>14</sup> W.S. 21-18-225.

<sup>15</sup> See W. S. 9-5-107(g), which states, “(g) The state building commission shall adopt a formula for major building and facility repair and replacement for community college facilities. The formula shall:

(i) Be based on the gross square footage of buildings and facilities for not more than seven (7) categories of buildings and shall:

(A) Include only buildings providing education programs comprising the statewide college system strategic plan developed and maintained under W.S. 21-18-202(a)(v);

(B) Specifically exclude student housing, student unions and auxiliary services areas funded exclusively through community college generated revenues.

(ii) Use a multiplier to maintain facilities in at least fair condition based on criteria from organizations with expertise in the area of major maintenance funding;

(iii) Otherwise be computed in the same manner as for major maintenance for school facilities under W.S. 21-15-109, including using the most current edition of the R.S. Means construction cost index, as modified to reflect current Wyoming construction costs determined by the department of administration and information, division of economic analysis, to calculate replacement cost.”

**FORMULA DESCRIPTION** The major maintenance formula for state, community college and UW facilities is similar to the K-12 formula. Pursuant to Chapter 3, Section 11 of the SBC rules, major maintenance payment requests are equal to the square feet per spatial category multiplied by the current replacement value. This product is then multiplied by the percentage necessary to maintain the building in at least fair condition. Like K-12, the state relies upon RS Means for the current replacement value, which is adjusted by the Economic Analysis Division of the Department of Administration and Information. A difference in the major maintenance methodology for community colleges compared to the methodology for K-12 school districts is the seven-year phase-in period for new construction.<sup>16</sup> The Legislature repealed a similar seven-year phase-in for newly constructed school buildings and facilities in 2018.<sup>17</sup>

#### **AUTHORIZED GROSS SQUARE FOOTAGE**

For state facilities, there are seven spatial categories: (i) auditoriums; (ii) classrooms, libraries, and offices; (iii) laboratories; (iv) support facilities; (v) power plants; (vi) special use; and (vii) hospitals. For higher education facilities, there are seven, somewhat different spatial categories: (i) auditoriums; (ii) classrooms, offices, and residential facilities; (iii) laboratory and food preparation facilities; (iv) support facilities; (v) power plants; (vi) libraries; and (vii) gymnasiums.

#### **PROHIBITED AND OTHER AUTHORIZED EXPENDITURES**

In 2008 and 2010, the Legislature added a footnote prohibiting the use of major maintenance funds for facilities solely funded with local resources.<sup>18</sup> Furthermore, unlike K-12 facilities, there are limited instances of other authorizations, outside the traditional definition of majority maintenance for which the Legislature has allowed expenditure of allocated funds.

For K-12 school district facilities and state facilities other than higher education facilities, appropriations for routine maintenance are separate and apart from appropriations for major maintenance. Higher education institutions receive funding via block grants, or consolidated appropriation line items that do not identify the purpose. Additionally, for all types of facilities and especially prevalent in K-12 school district capital construction requests, the Legislature has appropriated funds for capital construction of component projects,<sup>19</sup> including roofs and HVAC systems.

#### **HISTORICAL APPROPRIATIONS**

<sup>16</sup> See W.S. 21-18-225(b)(iv). In sum, the first year after new construction the major maintenance formula generates zero percent (0%), years two and three generate ten percent (10%), year four generates forty percent (40%), year five generates sixty percent (60%), year six generates eighty percent (80%), and year seven and thereafter generates 100 percent (100%) of the formula amount for major maintenance.

<sup>17</sup> See 2018 Wyoming Session Laws, Chapter 35, Section 2, which repealed W.S. 21-15-109(c)(i)(C).

<sup>18</sup> W.S. 21-18-225(m) removed any doubt as to what community college facilities qualify for major maintenance, as it states, “Notwithstanding any provision of law enacted prior to January 1, 2014, biennial budget requests submitted for major maintenance funding for community college capital construction facilities authorized by the legislature shall be calculated as provided in this section.”

<sup>19</sup> W.S. 21-15-109(a)(iii)(C) defines “system improvements” as the “repair, repair, replacement or upgrade of components or equipment of school district buildings, including: (I) structural systems; (II) fire protection systems; (III) indoor security features; (IV) electrical, plumbing, heating, ventilation or air conditioning systems; (V) roofs; (VI) windows; (VII) information technology systems; or (VIII) similar components or equipment.”



Table 1 illustrates the history of major maintenance appropriations for the executive branch, excluding higher education, UW, community colleges, and K-12 school districts as well as either the stated multiplier used in the formula, where it exists, or the computed multiplier in biennia where it was not reported in budget submission documents.

**Table 1. Historical Major Maintenance Appropriations.**

Biennium	Appropriations				Multiplier	
	Executive Branch, excl Higher Ed.	UW	Community Colleges	K-12	State	K-12
1999-2000 <sup>a</sup>	NA			\$31,594,756	NA	1.30%
2001-2002 <sup>a</sup>	NA			\$57,332,995	NA	1.30%
						2.50%
						3.00%
2003-2004 <sup>a, b</sup>	\$2,495,828	\$2,889,128	\$2,007,900	\$77,222,156	NA	2.00%
2005-2006	\$8,312,528	\$12,585,599	\$8,673,299	\$66,400,000	1.50%	2.00%
2007-2008 <sup>c</sup>	\$30,436,054	\$27,255,144	\$17,166,652	\$74,200,000	2.59%	2.00%
2009-2010 <sup>d, e</sup>	\$23,251,123	\$19,709,452	\$11,864,048	\$84,243,184	1.50%	2.00%
2011-2012 <sup>e</sup>	\$26,422,932	\$27,008,405	\$17,059,666	\$82,000,000	1.72%	2.00%
2013-2014 <sup>f</sup>	\$22,454,254	\$19,033,964	\$11,457,440	\$101,741,513	1.25%	2.00%
2015-2016 <sup>g</sup>	\$28,936,372	\$26,164,189	\$13,517,821	\$115,400,000	1.50%	2.00%
2017-2018 <sup>g, h, i</sup>	\$28,514,816	\$23,015,158	\$13,831,855	\$118,500,000	1.28%	2.00%
2019-2020 <sup>g, j, k</sup>	\$46,435,920	\$41,442,098	\$22,604,781	\$145,500,000	2.00%	2.00%
2021-2022	\$40,646,233	\$35,592,029	\$20,400,428	\$153,000,000	1.50%	2.00%
2023-2024 <sup>l</sup>	\$66,571,699	\$57,081,233	\$30,163,379	\$167,965,715	2.11%	2.00%
<b>TOTAL</b>	<b>\$324,477,759</b>	<b>\$291,776,399</b>	<b>\$168,747,269</b>	<b>\$1,275,100,319</b>		

**Source:** LSO summary of Governor’s budget requests and adopted appropriations.

**Notes:**

- a) The statutory multiplier was 1.3 percent for school years 1998-1999 through 2000-2001, 2.5 percent for school year 2001-2002, and 3 percent for school year 2002-2003.
- b) The fiscal year (FY) 2003-2004 biennium included the first major maintenance appropriation for state facilities applied to FY 2004 only. The multiplier for K-12 in FY 2003 was 3.00% and in FY 2004 was 2.00%.
- c) For FY 2008, the Legislature appropriated \$3,200,000 directly to the Department of Administration and Information for fire suppression replacement and \$858,253 to the Department of State Parks and Cultural Resources for major maintenance.
- d) In 2009, the Legislature added \$61,086 for lease payments, tenant improvements, and common area major maintenance for charter schools.
- e) In 2008 and again in 2010, a footnote to the Budget Bill for community college construction projects prohibited the use of state major maintenance appropriations for separately approved capital construction projects from local resources.
- f) In the FY 2013-2014 biennium, the Legislature incorporated major maintenance funding for community college facilities authorized by the Legislature since 2008. Specified facilities were previously excluded from the square footage formula.
- g) The 2015, 2018, 2020 Budget Bill authorized school districts to use up to 10 percent of a district's major maintenance distribution for safety and security building and facility needs.
- h) In addition to the appropriation listed above, the Department of Corrections was authorized via footnote to carryover up to \$2 million of appropriations for operations for purposes of major maintenance and repairs within the State Penitentiary. (See 2017 Wyoming Session Laws, Chapter 120, Section 2, Section 080, footnote 2.)
- i) In 2017, the Legislature added a \$200,000 appropriation to community colleges specifically for emergency boiler piping and fire suppression repairs or replacement at Wester Wyoming Community College.

- j) The 2018 Budget Bill authorized the expenditure of up to \$1 million of previously appropriated capital construction funds for major maintenance related to Corbett pool.
- k) The FY 2019-2020 biennial K-12 major maintenance appropriation also includes \$1,315,000 for computerized maintenance management software.
- l) Beginning in the 2023-2024 biennium, major maintenance for the Department of State Parks and Cultural Resources was broken out of the general state executive branch appropriation. Additionally, the distribution of major maintenance funds for FY 2024 is not reflective of consistent application of the multiplier. UW received a larger share for FY 2024 than the community colleges or state government. The multiplier shown is an aggregate average.

## PROFESSIONAL LITERATURE AND OTHER STATE COMPARATORS

A review of surrounding states illustrates that nearly all states surveyed include some form of funding for major maintenance of state facilities. According to professional literature,

The normative public finance literature recommends systematic public capital management and budgeting practices for a public infrastructure system that is useful and responsive to the public's capital needs and has reasonable cost compared to its useful life. The systemic process includes long-term capital planning, budgeting and financial management, centralized execution and project management, and infrastructure maintenance.<sup>20</sup>

In practice, Wyoming's funding model for major maintenance is driven by replacement cost of the building and current use. A recent thesis identified and evaluated results and variances in more than two dozen different funding models.<sup>21</sup> In addition to summarizing multiple different approaches to modeling the funding for major maintenance, the research "confirmed that the facility attributes of size, current plant value, age, and initial cost were significant attributes during the regression process."<sup>22</sup> Table 2 illustrates several key attributes of major maintenance funding processes in Wyoming, neighboring states, and North Dakota.

---

<sup>20</sup>Srithonbgrung, Arwiphawee, Ermasova, Natalia B., and Yusuf (Wie), Juita-Elena, *Capital Management and Budgeting in the Public Sector*, 2019, p. 312.

<sup>21</sup> Nipp, Timothy Jay, "Development of a Mathematical Model for the Estimation of Required Maintenance for a Homogenous Facilities Portfolio Using Multiple Linear Regression." PhD diss., University of Tennessee, 2017. [https://trace.tennessee.edu/utk\\_graddiss/4487/](https://trace.tennessee.edu/utk_graddiss/4487/) [Accessed June 17, 2023.]

<sup>22</sup> Ibid.

**Table 2. Quick Summary of Major Maintenance (MM) Activities in Surrounding States.**

	WY	CO	ID	MT	ND	NE	SD	UT
Appropriate funds for MM?	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes
Formula Based?	Yes	No	No	Yes	No; prior to 2017, Yes	No	Yes	Yes
Primary Inputs?	Building type, value, square footage, condition	Request based	Request based	Replacement value and revenue	Request based	Request based	Replacement value	Size, condition multiplier
Typical Source of Revenue?	General Fund (GF)	GF	GF	Earmarked funds	GF (and SIPA-like)	Assessment on agencies	GF	GF and special revenue
Subject to Reversion?	No	5-year reversion	No	No	Yes, can extend	No	2-year reversion	Yes
Legislature Typically Influence Prioritization?	No	No	No	Yes, can and has	Yes	No	Occasional	No

Source: LSO summary of telephone conversations with each executive state budget department, or equivalent.

**UNIQUE STATE CHARACTERISTICS**

**Wyoming** – Wyoming’s state funding of major maintenance for K-12 education was unusual among the states responding to Wyoming’s survey. Although some Colorado schools reportedly have individual requests submitted through the Department of Education, typically, major maintenance of K-12 facilities is supported exclusively by local revenues.

**Colorado** – Colorado has a tiered system of major maintenance broadly defined as emergency maintenance, needed maintenance, and desired maintenance. Often, just the first two categories are funded by appropriation.

**Montana** – Montana applies a more structured approach to definitions where the cost of the activity (less than \$250,000; between \$250,000 and \$2.5 million, and over \$2.5 million) is at least as important as whether the appropriation sought is for new construction or major maintenance.

**North Dakota** – In addition to previously funding major maintenance from the General Fund (GF), North Dakota has a fund akin to Wyoming’s Strategic Investments and Projects Account (SIPA) which supports appropriations for major maintenance.

**Nebraska** – Nebraska utilizes a disaggregated funding model for major maintenance whereby agencies fund the projects through an assessment of agencies' appropriations. This concept is more comparable to Wyoming’s funding and cost allocation for leasing, information technology services, or payment of shared, general expenditures.



**Utah** – Utah is the only state that reported limited use of sinking funds to fund at least some future major maintenance in new construction.

All states have a process that includes both individual agencies and a centralized authority similar to the State Construction Department, though often with a different name and perhaps a subdivision of an entity like Wyoming’s Department of Administration and Information which oversees the budget request, contracting, and performance. In limited instances, it appears that some state agencies have more involvement than in Wyoming, and the oversight of higher education major maintenance is a mix between oversight by a traditional executive branch state agency or the higher education institution itself.

If you have further questions, please advise.

**Attachment A – K-12 School District Major Maintenance**

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

(a) As used in this act:

(i) Repealed By Laws 1999, ch. 170, § 402.

(ii) "Educational building" means a school building or facility primarily used for providing the educational programs offered by a district in compliance with law which is owned by the district, including a school building or facility owned by the district and used for operating a charter school established under W.S. 21-3-301 through 21-3-314;

(iii) "Major building and facility repair and replacement" means the repair or replacement of complete or major portions of school building and facility systems at irregular intervals which is required to continue the use of the building or facility at its original capacity for its original intended use and is typically accomplished by contractors due to the personnel demand to accomplish the work in a timely manner, the level of sophistication of the work or the need for warranted work. The term includes the following categories as hereafter defined:

(A) "Code compliance" means system improvements or site improvements that are mandated in writing by an authority having jurisdiction for the continued use of a school building or facility;

(B) "Site improvements" means the repair, replacement or upgrade of those components or equipment of school district buildings and facilities that are not system improvements, including the repair, replacement or upgrade of:

(I) Sidewalks;

(II) Parking lots;

(III) Athletic tracks;

(IV) Playground features;

(V) Outdoor security features;

(VI) Landscaping;

(VII) Drainage systems; or

(VIII) Similar components or equipment.

(C) "System improvements" means the repair, replacement or upgrade of components or equipment of school district buildings, including:

## Attachment A – K-12 School District Major Maintenance

- (I) Structural systems;
- (II) Fire protection systems;
- (III) Indoor security features;
- (IV) Electrical, plumbing, heating, ventilation or air conditioning systems;
- (V) Roofs;
- (VI) Windows;
- (VII) Information technology systems; or
- (VIII) Similar components or equipment.

(iv) "Office building" means a school building or facility primarily used in connection with or for the purpose of district administrative functions, the major purpose or use of which is not dedicated to the provision of educational programs offered by the district in accordance with law. "Office building" shall include maintenance facilities and storage buildings in which supplies are stored;

(v) "Portable building" means any prebuilt, factory constructed and assembled school building or facility which is transported in an assembled condition to the location on which the building or facility is to be situated and which is acquired and used by the district for temporary purposes only;

(vi) "Routine maintenance and repair" means activities necessary to keep a school building or facility in safe and good working order so that it may be used at its original or designed capacity for its originally intended purposes, including janitorial, grounds keeping and maintenance tasks done on a routine basis and typically accomplished by district personnel with exceptions for any routine tasks accomplished by contractors such as elevator or other specialized equipment or building system maintenance;

(vii) "Teacherage" means housing provided by and owned by a school district for use as living quarters of a teacher or other school district employee;

(viii) "Warehouse building" means a school building or facility primarily used for storage of equipment, materials and other district property and supplies, including facilities in which school buses are stored, maintained or serviced.

(b) To the extent funds are available, the state construction department shall, based upon square footage computations computed from the prior school year, distribute the estimated major building and facility repair and replacement payments in quarterly installments to each school

## Attachment A – K-12 School District Major Maintenance

district from the school capital construction account. The department shall distribute the first quarterly payment on July 1 of each fiscal year, with the remaining payments distributed on October 1, January 2 and April 1. Payments shall be made as equal as reasonably possible. If funds within the account are not sufficient for any quarterly payment, the department shall reduce all district payments for that quarter by a uniform percentage. The department shall also increase or reduce a subsequent school district payment, as appropriate, in the event a school district receives an excessive or deficient distribution. Major building and facility repair and replacement payments shall be computed in accordance with subsection (c) of this section.

Note: Effective 7/1/2024 this subsection will read as:

*(b) To the extent funds are available, the state construction department shall, based upon square footage computations computed from the prior school year, distribute the estimated major building and facility repair and replacement payments in quarterly installments to each school district from the public school foundation program account. The department shall distribute the first quarterly payment on July 1 of each fiscal year, with the remaining payments distributed on October 1, January 2 and April 1. Payments shall be made as equal as reasonably possible. If funds within the account are not sufficient for any quarterly payment, the department shall reduce all district payments for that quarter by a uniform percentage. The department shall also increase or reduce a subsequent school district payment, as appropriate, in the event a school district receives an excessive or deficient distribution. Major building and facility repair and replacement payments shall be computed in accordance with subsection (c) of this section.*

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

(i) Determine the total number of gross square feet of school buildings and facilities within the district from the prior school year according to guidelines prescribed by rule and regulation of the commission, subject to the following:

(A) The gross square footage of any school building or facility within the district which is not used for purposes of delivering the required educational program shall not be included within the district's total gross square footage computed under this section, except for the square footage of any district school building or facility which would otherwise be treated as a closed building under paragraph (c)(iv) of this section, is determined to be surplus by the department or the building or facility is being used for the provision of one (1) of the programs specified in subdivisions (I) through (III) of this subparagraph and the district

## Attachment A – K-12 School District Major Maintenance

complies with subdivisions (IV) through (VI) of this subparagraph:

(I) Child care programs certified to operate in Wyoming under W.S. 14-4-101 through 14-4-111; or

(II) Developmental preschool programs receiving state financial assistance for program operations; or

(III) Educational programs and services provided through a board of cooperative educational services under W.S. 21-20-101 through 21-20-111 in which the district is a participant in the cooperative agreement; and

(IV) The district incorporates this use of closed or surplus buildings into its facility plans required under W.S. 21-15-116; and

(V) The district reports any fees or payments received or collected for this use of closed or surplus buildings as a local resource for purposes of foundation program computations under W.S. 21-13-310(a)(xv); and

(VI) The district limits the lease agreement for the use of the closed or surplus building to not more than one (1) year subject to termination by the district at any time prior to expiration of the one (1) year period if necessary for provision of district educational programs.

(B) The gross square footage of any school building or facility leased by a district, including but not limited to the gross square footage of any school building or facility leased by a charter school operating pursuant to W.S. 21-3-301 through 21-3-314, shall not be included within the district's total gross square footage computed under this section, unless the district's lease agreement is by or with any nonprofit or governmental agency providing educational programs which have been approved by the department of education, the department of health or another state or educational credentialing agency and the leased space is incorporated into the district's facility plans required under W.S. 21-15-116(a)(vi);

(C) Repealed by Laws 2018, ch. 35, § 2.

(D) No gross square footage created by any district enhancement shall be included within the district's gross square footage computed under this section unless the

## Attachment A – K-12 School District Major Maintenance

enhancement or any portion thereof is determined to be included within the state adequacy standards pursuant to this act.

(ii) Of the total gross square feet for all school buildings and facilities computed under paragraph (c)(i) of this section, determine the total gross square feet for each of the following building categories:

(A) Office buildings;

(B) Repealed By Laws 2001, Ch. 191, § 2.

(C) Educational buildings, including buildings used for the provision of certified child care, developmental preschool or cooperative education programs pursuant to subparagraph (c)(i)(A) of this section, and including portable buildings provided portable buildings do not exceed more than ten percent (10%) of the total gross square feet computed for all school buildings and facilities under paragraph (c)(i) of this section, and excluding teacherages;

(D) Warehouse buildings.

(iii) Except as otherwise provided by this paragraph, adjust the total amount of gross square footage determined for educational buildings under subparagraph (c)(ii)(C) of this section by excluding from computations under this section the square footage for those educational buildings closed and not operational as provided for under paragraph (c)(iv) of this section and any amount including the gross square footage of portable buildings, which exceeds capacity levels specified by this paragraph which are above the statewide minimum gross square footage criteria as prescribed by the statewide building and facility adequacy standards promulgated under W.S. 21-15-115(a). For the purpose of adjusting the gross square footage of educational buildings under this paragraph, the gross square footage of buildings used for the provision of certified child care, developmental preschool and cooperative education programs pursuant to subparagraph (c)(i)(A) of this section shall not be excluded. For purposes of this section, per student gross square footage criteria prescribed by the statewide building adequacy standards shall be based upon an average daily membership (ADM) computed as defined under W.S. 21-13-101(a)(i) for the prior school year. For purposes of computations under this section, the allowable capacity in educational building gross square footage for each district including portable buildings but excluding buildings used for the provision of certified child care, developmental preschool and cooperative education programs pursuant to subparagraph (c)(i)(A) of this section, shall be as follows:



## Attachment A – K-12 School District Major Maintenance

(A) Repealed by Laws 2018, ch. 36, § 2.

(B) Repealed by Laws 2018, ch. 36, § 2.

(C) For school year 2009-2010 and each school year thereafter, up to one hundred fifteen percent (115%) of the prescribed per student gross square footage criteria.

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

(v) Multiply the adjusted square footage amount for each district's educational buildings determined under paragraph (c)(iii) of this section and the amount determined under paragraph (c)(ii) of this section for all remaining building categories of that district, times a replacement value cost factor established for each building category by the department computed using data from August 1 of the prior school year based upon the median estimate in the most current edition of a nationally recognized, quarterly published construction cost index that provides cost indices for elementary schools, junior high schools, high schools, offices and warehouses by city or town, as modified to reflect current Wyoming construction costs determined by the department of administration and information, division of economic analysis;

(vi) Multiply the amount computed under paragraph (c)(v) of this section for the adjusted square footage of the district's educational buildings times two and one-half percent (2.5%) for school year 2001-2002, three percent (3%) for school year 2002-2003, and by two percent (2%) for school year 2003-2004 and each school year thereafter;

## Attachment A – K-12 School District Major Maintenance

(vii) Multiply the sum of the amounts obtained under paragraph (c) (v) of this section for the building categories identified under subparagraphs (c) (ii) (A) and (D) of this section times two and one-half percent (2.5%) for school year 2001-2002, three percent (3%) for school year 2002-2003, and by two percent (2%) for school year 2003-2004 and each school year thereafter, adjusted as follows:

(A) Determine the proportion that the sum of the square footage for these building categories within the district bears to the educational building square footage computed under subparagraph (c) (ii) (C) of this section, as adjusted pursuant to paragraph (c) (iii) of this section, excluding any square footage included under paragraph (c) (iv) of this section;

(B) If the proportion is ten percent (10%) or less, the district is entitled to one hundred percent (100%) of the amount computed under this paragraph;

(C) If the proportion is greater than ten percent (10%) but less than sixteen percent (16%), the district is entitled to ninety percent (90%) of the amount computed under this paragraph;

(D) If the proportion is sixteen percent (16%) or greater but less than twenty-one percent (21%), the district is entitled to eighty percent (80%) of the amount computed under this paragraph;

(E) If the proportion is twenty-one percent (21%) or greater, the district is entitled to seventy percent (70%) of the amount computed under this paragraph.

(viii) Total the amounts computed under paragraphs (c) (iv), (vi) and (vii) of this section.

(d) Repealed By Laws 2004, Chapter 114, § 2.

(e) Amounts distributed under subsection (b) of this section shall be deposited by the recipient district into a separate account, the balance of which may accumulate from year-to-year. Except as specified under subsection (f) of this section, expenditures from the separate account, including any interest earnings on the account, shall be restricted to expenses incurred for major building and facility repair and replacement as defined in subsection (a) of this section and shall be in accordance with the district's facility plan under W.S. 21-15-116. Account expenditures may include the expenses of district personnel performing work described under paragraph (a) (iii) of this section if approved by the department and if documented within the district's facility plan. The district's facility plan shall clearly specify proposed major maintenance expenditures for addressing district major building and

## Attachment A – K-12 School District Major Maintenance

facility repair and replacement needs on a building-by-building basis, updated for the applicable reporting period, which shall be aligned to the statewide adequacy standards and prioritized based upon the impact of the building or facility on the district's ability to deliver the required educational program. The district shall include plans for maintaining any district building or facility which is under a lease agreement, specifying lease revenues available to the district for maintenance of facilities to the level required by statewide adequacy standards. No expenditures shall be made from the separate account unless the repair or replacement of the building or facility systems for which the expenditure is to be made is clearly specified within the district's facility plan or otherwise approved by the department. In a manner and form required by commission rule and regulation, each district shall annually report to the department on the expenditures made from the separate account during the applicable reporting period, separating account expenditures on a building-by-building basis. The department shall annually review account expenditures and shall report expenditures to the commission and the select committee on school facilities established under W.S. 28-11-301. The department shall compile reported building-by-building expenditure information for each district and the district facility plan and include this information in its annual report to the select committee pursuant to W.S. 21-15-121. If any district expends funds within the separate account for purposes not authorized by this subsection or by rule and regulation of the commission, the payments for that district shall be reduced by the amount of the unauthorized expenditure in the school year following the year in which the expenditure was discovered or the school year in which notification was provided by the department, whichever first occurs.

(f) Notwithstanding subsection (e) of this section, a district may expend up to ten percent (10%) of the amount distributed during any school year under subsection (b) of this section for major building and facility repair and replacement needs of the district which are not specified in the district's facility plan, including expenditures for maintenance of district enhancements. Expenditures shall be made under this subsection only after the district's building and facility repair and replacement needs specified in its facility plan have been addressed in accordance with subsection (e) of this section and the department has approved the district's proposed expenditures under this subsection. Amounts not expended for purposes of this subsection during any school year may be accumulated by a district and earmarked within the separate account established under subsection (e) of this section for expenditure under this subsection in subsequent school years, provided the unexpended amount during any school year to be accumulated does not exceed ten percent (10%) of the amount distributed to the district under subsection (b) of this section for that school year. Each district shall include expenditures under this subsection and any amounts accumulated from year-to-year under this subsection within the annual report required under

## **Attachment A – K-12 School District Major Maintenance**

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

## Attachment B – Community College Major Maintenance

### 21-18-225. College maintenance and capital construction funding.

(a) As part of its administrative functions, the community college commission shall identify community college building needs and develop a prioritized list of community college capital construction projects. The prioritized community college capital construction projects shall be reported by the commission to the state construction department in accordance with subsection (g) of this section. Following review, analysis and study, the state construction department shall forward recommendations for community college capital construction projects to the state building commission. The state construction department shall also submit major maintenance budget requests for college buildings to the legislature in accordance with this section. Major maintenance budget requests shall be based upon the square footage submitted by the commission under subsection (f) of this section and upon a formula adopted by the state building commission, and upon forms and in a format specified by the state budget department. College building maintenance budget requests submitted by the state construction department to the legislature and capital construction budget requests forwarded by the state building commission to the legislature shall include only necessary building square footage:

(i) Required for provision of those education programs comprising the statewide college system strategic plan developed and maintained under W.S. 21-18-202(a)(v); and

(ii) For major maintenance, exclude student housing, student unions and auxiliary services areas funded exclusively through college generated revenues.

(b) To carry out this section and in accordance with rules and regulations of the state building commission promulgated under W.S. 9-5-107(d) and (e) serving as guidelines for implementation and administration of this section, the commission shall establish and maintain:

(i) A statewide community college building data base comprised of building inventory, specific building condition, square footage, usage, space utilization and building capacity data;

(ii) Statewide planning and reporting criteria and guidelines for use by community college districts in developing and maintaining comprehensive long-range plans for district building needs as required under W.S. 21-18-304(a)(xi), providing necessary guidance to college districts for separating future building space needs and requests attached to the statewide college system strategic plan from other district space requests;

(iii) Methodologies for use by community college districts in computing future student enrollments, building space demands and

## Attachment B – Community College Major Maintenance

future building needs in establishing long-range plans addressing district building needs;

(iv) Methodologies which require a seven (7) year phase-in period for major maintenance following the new construction of a community college facility. The phase-in period shall be as follows:

- (A) Year one (1) - zero percent (0%);
- (B) Year two (2) - ten percent (10%);
- (C) Year three (3) - ten percent (10%);
- (D) Year four (4) - forty percent (40%);
- (E) Year five (5) - sixty percent (60%);
- (F) Year six (6) - eighty percent (80%);
- (G) Year seven (7) and thereafter - one hundred percent (100%).

(c) The commission shall conduct and maintain a comprehensive assessment of community college buildings and future space requirements as defined by the statewide strategic plan. The comprehensive building assessment shall be designed and maintained to provide timely and uniform statewide data on building condition and building longevity and future space requirements. The needs assessment shall be revised annually to reflect current conditions and shall be capable of providing data sufficient to accommodate a five (5) year planning cycle.

(d) On or before November 1 of each year, the commission shall, based upon the assessment performed under subsection (c) of this section and upon facility plans and annual reports submitted by each college pursuant to W.S. 21-18-304(a)(xi), prioritize community college construction needs for the current fiscal year and the succeeding four (4) fiscal years based upon:

- (i) Criteria for statewide capacity for education programs aligned to the statewide college system strategic plan;
- (ii) Analysis of student enrollment changes based upon commission approved enrollment projection methodology, to determine the need for changes in statewide building capacities over time for delivering statewide education program needs identified within the strategic plan;
- (iii) A methodology and process established by the commission for identifying the most critical building needs.

(e) The commission may modify construction needs prioritized under subsection (d) of this section in any subsequent fiscal year as necessary to address statewide needs as substantiated by data, condition



## **Attachment B – Community College Major Maintenance**

assessments, needs analysis and other information assembled by the commission under this section. Needs receiving a lower priority than previously assigned may be removed or reprioritized by the commission. Construction needs modified under this subsection shall be reported to the state construction department.

(f) In addition to subsection (d) of this section and on or before June 1 of each odd-numbered year, the commission shall report college building square footage to the state construction department as necessary for computation of major maintenance funds for community college buildings. The reported square footage shall be restricted to that square footage necessary for the delivery of education programs comprising the statewide college system strategic plan and exclude student housing, student unions and auxiliary services areas funded exclusively through college generated revenues.

(g) Upon prioritizing community college construction needs under subsection (d) of this section, the commission shall not later than June 1 of each year, report the prioritized list to the state construction department. In accordance with W.S. 9-5-108(a)(ii), the state construction department shall review, analyze and study construction needs prioritized under subsection (d) of this section and conduct necessary value engineering analysis, schematic design review, safety and security assessments and other analysis and review prior to submission of recommendations to the state building commission. The state building commission shall consider and incorporate prioritized construction needs recommendations into legislation requesting necessary funding, developed under W.S. 9-5-108(a)(ii)(J), for submission to the legislature for review, authorization and approval. The legislation shall also include a separate appropriation for contingency costs associated with recommended construction projects and a separate appropriation for administrative costs of the state construction department for management of the recommended construction projects as required by subsection (j) of this section. The state construction department shall submit a separate budget request for project design and planning funds to be available to assist community colleges with costs incurred in developing and providing necessary plans, designs and other information to the state construction department for purposes of this subsection. This request shall also include funds for major maintenance for the square footage reported by the commission under subsection (f) of this section. The state construction department shall consult with the community college commission in developing recommendations under this subsection.

(h) The community college commission shall provide copies of the needs assessment, construction priorities and major maintenance square footage established under this section to members of the legislature on or before December 1 of each year.

## **Attachment B – Community College Major Maintenance**

(j) Subject to amounts made available by legislative appropriation and to any conditions which may be attached to appropriation expenditures, the state construction department shall distribute state funds for building construction approved and authorized by the legislature. Distributions of state funds for any approved and authorized construction project shall be in accordance with payment schedules established by rule and regulation of the department. Payments by the department shall be contingent upon the receipt of any local district funding as may be required by legislative authorization, or upon receipt of other documentation which may be required by the program certifying the timely receipt of required local district funds for the capital construction project. Payments to districts shall also be attached to prescribed phases of the construction project and the completion of certain project phases. Construction phases for which approval of the program is required shall be specified by the state construction department rule and regulation, clearly prescribing a process for program review and approval of project plans and specifications, project development and project changes and change orders. In carrying out duties under this subsection, the department may execute powers prescribed under W.S. 9-5-108(a)(iii) in coordination with the state building commission and the appropriate community college district. No scheduled payment shall be made by the department without compliance with the prescribed process.

(k) Appropriations for major maintenance shall be distributed by the state construction department to community colleges in equal quarterly installments in amounts determined by the funding formula developed by the state building commission, subject to restrictions imposed on qualifying square footage pursuant to this section. The state construction department shall distribute the first quarterly payment on July 1 of each fiscal year, with the remaining payments distributed on October 1, January 2 and April 1.

(m) Notwithstanding any provision of law enacted prior to January 1, 2014, biennial budget requests submitted for major maintenance funding for community college capital construction facilities authorized by the legislature shall be calculated as provided in this section.