

**DRAFT ONLY  
NOT APPROVED FOR  
INTRODUCTION**

HOUSE BILL NO.

Public property-construction, maintenance and contracts.

Sponsored by: Representative(s) HDraft

A BILL

for

1 AN ACT relating to public property; amending and conforming  
2 definitions and requirements for capital construction  
3 projects, major maintenance and contracts for materials,  
4 goods and services; modifying provisions relating to the  
5 reversion of appropriated funds; allowing contracts for  
6 public works to be let to nonresidents under specified  
7 circumstances; requiring reporting; specifying duties of  
8 the state construction department, the state building  
9 commission, the board of trustees of the University of  
10 Wyoming, and the community college commission related to  
11 capital construction project and major maintenance funding;  
12 providing restrictions on use of appropriations as  
13 specified; repealing definitions; repealing requirements

1 for the phase-in of major maintenance funding as specified;  
2 and providing for an effective date.

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

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6       **Section 1.** W.S. 9-2-3001(b)(ii) and by creating new  
7 paragraphs (viii) through (xii), 9-2-3004(c)(i) and (vi)  
8 and by creating a new paragraph (x), 9-2-3202(a) by  
9 creating a new paragraph (xi), 9-4-207(d)(intro) and by  
10 creating a new paragraph (iv), 9-5-107(g)(intro) and (i),  
11 16-6-101(a)(v),           16-6-102(a),           16-6-401(a)(ix),  
12 16-6-1001(f)(i),   21-15-108(b),   21-15-109(a)(iii)(intro),  
13 (iv), (vi), (viii) and (e), 21-15-111(a)(iii) through (v)  
14 and by creating new paragraphs (x) and (xi),  
15 21-15-116(a)(intro), 21-15-123(f)(v)(intro) and (E) and  
16 (iv), 21-17-204 by creating a new subsection (d), 21-18-  
17 102(a) by creating new paragraphs (xxiii) through (xxvi)  
18 and by renumbering (xxiii) as (xxvii),  
19 21-18-202(d)(v)(intro) and (A) and (C),  
20 21-18-225(a)(intro), (j), (k) and by creating a new  
21 subsection (m) and 21-18-319(e)(ii) are amended to read:

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(ix) "Major building and facility repair and replacement" or "major maintenance" means the repair or replacement of complete or major portions of property systems at irregular intervals, which is required to continue the use of the property 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 by law, regulation or code for the continued use of property;

(B) "Site improvements" means the repair, replacement or upgrade of property components or equipment that are not system improvements, including the repair, replacement or upgrade of any of the following:

(I) Sidewalks;

1                   (II) Parking lots;

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3                   (III) Athletic tracks;

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5                   (IV) Playground features;

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7                   (V) Outdoor security features;

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9                   (VI) Landscaping;

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11                   (VII) Drainage systems;

12

13                   (VIII) Components or equipment similar  
14 to those specified in subdivisions (I) through (VII) of  
15 this subparagraph.

16

17                   (C) "System improvements" means the repair,  
18 replacement or upgrade of property components or equipment,  
19 including any of the following:

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21                   (I) Structural systems;

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23                   (II) Fire protection systems;

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(III) Indoor security features;

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(IV) Electrical, plumbing, heating,

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ventilation or air conditioning systems;

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(V) Roofs;

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(VI) Windows;

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(VII) Information technology systems;

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(VIII) Components or equipment similar

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to those specified in subdivisions (I) through (VII) of

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this subparagraph.

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(x) "Property" means a building, facility or site

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and any component, equipment or system of a building or

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facility;

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(xi) "Renovation" means work done to restore

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property to a condition that is functional for its intended

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purpose and for the purpose of making it code compliant,

1 including architectural and structural changes and the  
 2 modernization of mechanical and electrical systems.  
 3 "Renovation" includes the repair, strengthening or  
 4 restoration of major building systems or structures to a  
 5 safe condition. "Renovation" does not include work that  
 6 consists primarily of routine maintenance, minor repairs  
 7 and replacement due to normal use, wear and tear or  
 8 deterioration.

9  
 10 (xii) "Routine maintenance" means activities  
 11 necessary to keep property in safe and good working order  
 12 so that the property may be used at its original or  
 13 designed capacity for its originally intended purposes.  
 14 "Routine maintenance" includes janitorial, groundskeeping  
 15 and maintenance tasks done on a routine basis by building  
 16 personnel and specialized equipment and building system  
 17 maintenance that is accomplished on a routine basis by  
 18 contractors.

19 \*\*\*\*\*  
 20 **STAFF COMMENT**  
 21

22 The definition of routine maintenance is based on W.S. 21-15-109(a)(vi) and is modified  
 23 for clarity. The original definition reads:

24  
 25 (vi) "Routine maintenance and repair" means  
 26 activities necessary to keep a school building or  
 27 facility in safe and good working order so that

1 it may be used at its original or designed  
2 capacity for its originally intended purposes,  
3 including janitorial, grounds keeping and  
4 maintenance tasks done on a routine basis and  
5 typically accomplished by district personnel with  
6 exceptions for any routine tasks accomplished by  
7 contractors such as elevator or other specialized  
8 equipment or building system maintenance;

9 \*\*\*\*\*

10 **9-2-3004. Duties of the department.**

11

12 (c) The department shall:

13

14 (i) Review and make recommendations to the  
15 governor concerning capital construction project and land  
16 acquisition budget requests made by the state building  
17 commission, school facilities commission, the University of  
18 Wyoming, community college commission and any agency;

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**STAFF COMMENT**

22 Because "capital construction project" is specifically defined in this act and does not  
23 include land acquisition, paragraph (i) above adds "land acquisition" to the budget  
24 requests reviewed by the State Construction Department.

25 \*\*\*\*\*

26

27 (vi) Plan for all capital construction projects  
28 in accordance with the provisions of W.S. 9-5-107, 9-5-108  
29 and rules, procedures and criteria adopted pursuant to  
30 those sections;

31



1                   (x) Beginning September 1, 2025 and each odd  
2 numbered year thereafter, submit to the state building  
3 commission a recommendation for funding for the immediately  
4 succeeding fiscal biennium for major maintenance for state  
5 property, University of Wyoming property and community  
6 college property. This recommendation shall be based on the  
7 formula adopted by the state building commission pursuant  
8 to W.S. 9-5-107(g).

9 \*\*\*\*\*

10                   **STAFF COMMENT**

11  
12 For your reference paragraph (x) above is based on the budget bill, 2022 Wyo. Sess.  
13 Laws, ch., 51, Section 308(c), copied below:

14  
15                   (c) Not later than September 1, 2023, the  
16 state construction department shall submit to the  
17 state building commission a recommendation for  
18 funding for the biennium beginning July 1, 2024,  
19 for major building and facility repair and  
20 replacement for state institutions, for  
21 University of Wyoming facilities and for  
22 community college facilities. This recommendation  
23 for all facilities shall be based on a formula  
24 adopted by the state building commission pursuant  
25 to W.S. 9-5-107(g), except that the formula shall  
26 incorporate the gross square footage of buildings  
27 and facilities for each category of buildings for  
28 state facilities, university facilities and  
29 community college facilities, not to exceed seven  
30 (7) building categories for each entity,  
31 excluding student housing, the student union and  
32 auxiliary services areas funded exclusively  
33 through university or community college generated  
34 revenues unless otherwise specified.

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2           **9-2-3202. Definitions; powers generally; duties of**  
3 **governor; provisions construed; cooperation with**  
4 **legislature and judiciary; divisions enumerated.**

5

6           (a) As used in this act:

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8                   (xi) "Routine maintenance" means as defined by  
9 W.S. 9-2-3001(b)(xii).

10

11           **9-4-207. Disposition of unexpended appropriations.**

12

13           (d) Appropriations for the purposes specified in this  
14 subsection shall be excluded from reverting pursuant to  
15 subsections (a) through (c) of this section.  
16 Appropriations which do not revert pursuant to this  
17 subsection shall be expended only on the projects for which  
18 the funds were appropriated except as provided pursuant to  
19 paragraph (iv) of this subsection. Funds subject to this  
20 subsection are appropriations:

21

22                   (iv) For major maintenance as defined by W.S. 9-  
23 2-3001(b)(ix) for state property, University of Wyoming

1 property and community college property. Appropriations  
2 subject to this paragraph that do not revert shall be  
3 expended only on expenses incurred for major maintenance as  
4 defined by W.S. 9-2-3001(b)(ix).

5 \*\*\*\*\*

6 **STAFF COMMENT**

7  
8 For your reference paragraph (iv) above is based on the budget bill, 2022 Wyo. Sess.  
9 Laws, ch., 51, Section 308(b), copied below:

10 (b) Notwithstanding W.S. 9-2-1008, 9-2-  
11 1012(e) and 9-4-207, appropriations made under  
12 subsection (a) of this section shall be  
13 separately accounted for by the recipient and  
14 shall not revert. Expenditures from these  
15 appropriations shall be restricted to expenses  
16 incurred for major building and facility repair  
17 and replacement as defined in W.S. 9-5-107(h) and  
18 as prescribed by rule and regulation of the state  
19 building commission.

20 \*\*\*\*\*

21  
22 **9-5-107. Duties and responsibilities with respect to**  
23 **state buildings; state capital construction needs**  
24 **assessment and priorities; major maintenance funding and**  
25 **reporting.**

26  
27 (g) The state building commission shall adopt a  
28 formula for major building and facility repair and  
29 replacement as defined by W.S. 9-2-3001(b)(ix) for state  
30 property, University of Wyoming property and community  
31 college facilities~~property~~. The formula shall:

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(i) Be based on the gross square footage of ~~buildings and facilities~~ for not more than seven (7) categories of buildings for state property, University of Wyoming property and community college property and shall:

(A) For community college property, 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 university or community college generated revenues unless otherwise specified by law.

\*\*\*\*\*  
**STAFF COMMENT**  
For reference, the provisions that are repealed in Section 3 of this bill are included in stricken format within the body of Section 1.  
\*\*\*\*\*

~~(h) As used in this section "major building and facility repair and replacement" means the repair or replacement of complete or major portions of building and facility systems at irregular intervals which is:~~

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~~(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~~

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~~(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.~~

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13

(j) Not later than October 31 of each odd numbered year, the state construction department, an agency responsible for the operation and management of a state building, the University of Wyoming and the community college commission shall report to the state building commission and the joint appropriations committee on the expenditures and commitments made from any funds appropriated for major building and facility repair and replacement as defined by W.S. 9-2-3001(b)(ix).

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**STAFF COMMENT**

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For your reference subsection (j) above is based on the budget bill, 2022 Wyo. Sess. Laws, ch., 51, Section 308(d), copied below:

(d) Not later than October 31, 2023, the state construction department, the department of state parks and cultural resources, the University of Wyoming and the community college commission shall report to the state building commission and the joint appropriations committee on the expenditures and commitments made from the appropriations under subsection (a) of this section.

\*\*\*\*\*

**16-6-101. Definitions.**

(a) As used in this act:

(v) "Major maintenance" means ~~the repair or replacement of complete or major portions of 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 as defined by W.S. 9-2-3001(b)(ix);

1           16-6-102. Resident contractors; preference limitation  
2 with reference to lowest bid or qualified response;  
3 decertification; denial of application for residency.

4

5           (a) If a contract is let by a public entity for a  
6 public work, the ~~contract shall be let, if advertisement~~  
7 ~~for bids or request for proposal is not required, to a~~  
8 ~~resident of the state.~~ following shall apply:

9

10           (i) If advertisement for bids is required, the  
11 contract shall be let to the responsible certified resident  
12 making the lowest bid if the certified resident's bid is  
13 not more than five percent (5%) higher than that of the  
14 lowest responsible nonresident bidder;

15

16           (ii) If advertisement for bids or request for  
17 proposals are not required, the contract shall be let to a  
18 resident of the state, provided that if the services  
19 required are not offered by any known resident of the  
20 state, the public entity may let the contract to a  
21 nonresident.

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**STAFF COMMENT**

The revision to W.S. 16-6-102(a) relates to procurement of public property and resident preference while the rest of the bill draft relates to capital construction and major maintenance of public property. The title is drafted broadly to relate to public property, but the bill draft may be argued to contain more than one subject, raising issues under Wyo. Const. Art. 3, Sec. 24.

\*\*\*\*\*

**16-6-401. Definitions.**

(a) As used in W.S. 16-6-401 through 16-6-403:

(ix) "Renovation" means ~~revision to a major facility which will affect more than fifty percent (50%) of the gross floor area in the building~~ as defined by W.S. 9-2-3001(b)(xi).

**16-6-1001. Capital construction projects restrictions; preference requirements; waivers.**

(f) As used in this section:

(i) "Capital construction project" means ~~new construction, demolition, renovation and capital renewal of or to any public building or facility and any other public improvement necessary for the public building or facility,~~



1 ~~major maintenance as defined in W.S. 16-6-101(a)(v) and~~  
2 ~~major building and facility repair and replacement as~~  
3 ~~defined in W.S. 21-15-109(a)(iii)~~ as defined by W.S.  
4 9-2-3001(b)(ii);

5

6 **21-15-108. Revenue bonds for grants and loans;**  
7 **refunding revenue bonds.**

8

9 (b) The school facilities commission may borrow money  
10 in a principal amount not to exceed one hundred million  
11 dollars (\$100,000,000.00) by the issuance from time to time  
12 of one (1) or more series of revenue bonds. The commission  
13 may encumber revenues under subsection (a) of this section  
14 for bonds in total amounts not to exceed one hundred  
15 million dollars (\$100,000,000.00) issued for ~~school capital~~  
16 ~~construction~~ projects and assistance as determined by the  
17 commission and approved by the legislature under W.S. 21-  
18 15-119. Any bonds issued under this section, together with  
19 any interest accruing thereon and any prior redemption  
20 premiums due in connection therewith, are payable and  
21 collectible solely out of revenues authorized under this  
22 section. The bondholders may not look to any general or  
23 other fund for payment of the bonds except the revenues

1 pledged therefore. The bonds shall not constitute an  
2 indebtedness or a debt within the meaning of any  
3 constitutional or statutory provision or limitation. The  
4 bonds shall not be considered or held to be general  
5 obligations of the state but shall constitute its special  
6 obligations and the commission shall not pledge the state's  
7 full faith and credit for payment of the bonds.

8

9       **21-15-109. Major building and facility repair and**  
10 **replacement payments; computation; square footage**  
11 **allowance; use of payment funds; accounting and reporting**  
12 **requirements.**

13

14       (a) As used in this act:

15

16               (iii) "Major building and facility repair and  
17 replacement" or "major maintenance" means ~~the repair or~~  
18 ~~replacement of complete or major portions of school~~  
19 ~~building and facility systems at irregular intervals which~~  
20 ~~is required to continue the use of the building or facility~~  
21 ~~at its original capacity for its original intended use and~~  
22 ~~is typically accomplished by contractors due to the~~  
23 ~~personnel demand to accomplish the work in a timely manner,~~

1 ~~the level of sophistication of the work or the need for~~  
 2 ~~warranted work. The term includes the following categories~~  
 3 ~~as hereafter defined:~~ as defined by W.S. 9-2-3001(b)(ix)  
 4 for school building and facility systems;

5  
 6 (A) ~~"Code compliance" means system~~  
 7 ~~improvements or site improvements that are mandated in~~  
 8 ~~writing by an authority having jurisdiction for the~~  
 9 ~~continued use of a school building or facility;~~

10  
 11 (B) ~~"Site improvements" means the repair,~~  
 12 ~~replacement or upgrade of those components or equipment of~~  
 13 ~~school district buildings and facilities that are not~~  
 14 ~~system improvements, including the repair, replacement or~~  
 15 ~~upgrade of:~~

16  
 17 (I) ~~Sidewalks;~~

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 19 (II) ~~Parking lots;~~

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 21 (III) ~~Athletic tracks;~~

22  
 23 (IV) ~~Playground features;~~

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~~(V) Outdoor security features;~~

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~~(VI) Landscaping;~~

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~~(VII) Drainage systems; or~~

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8

~~(VIII) Similar components or~~

9

~~equipment.~~

10

11

~~(C) "System improvements" means the repair,~~

12

~~replacement or upgrade of components or equipment of school~~

13

~~district buildings, including:~~

14

15

~~(I) Structural systems;~~

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~~(II) Fire protection systems;~~

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~~(III) Indoor security features;~~

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~~(IV) Electrical, plumbing, heating,~~

22

~~ventilation or air conditioning systems;~~

23

1 ~~(V) Roofs;~~

2

3 ~~(VI) Windows;~~

4

5 ~~(VII) Information technology systems;~~

6 ~~or~~

7

8 ~~(VIII) Similar components or~~  
9 ~~equipment.~~

10

11 (iv) "Office building" means a school building  
12 or facility primarily used in connection with or for the  
13 purpose of district administrative functions, the major  
14 purpose or use of which is not dedicated to the provision  
15 of educational programs offered by the district in  
16 accordance with law<sup>i</sup>. ~~"Office building" shall include~~  
17 ~~maintenance facilities and storage buildings in which~~  
18 ~~supplies are stored;~~

19

20 (vi) "Routine maintenance" and repair means  
21 ~~activities necessary to keep a school building or facility~~  
22 ~~in safe and good working order so that it may be used at~~  
23 ~~its original or designed capacity for its originally~~

1 ~~intended purposes, including janitorial, grounds keeping~~  
2 ~~and maintenance tasks done on a routine basis and typically~~  
3 ~~accomplished by district personnel with exceptions for any~~  
4 ~~routine tasks accomplished by contractors such as elevator~~  
5 ~~or other specialized equipment or building system~~  
6 ~~maintenance~~ as defined by W.S. 9-2-3001(b)(xii) for school  
7 buildings and facilities;  
8

9 (viii) "Warehouse building" means a school  
10 building or facility primarily used for storage of  
11 ~~equipment,~~ materials and other district property and  
12 supplies, including facilities in which school buses and  
13 school equipment is stored, maintained or serviced.  
14

15 (e) Amounts distributed under subsection (b) of this  
16 section shall be deposited by the recipient district into a  
17 separate account, the balance of which may accumulate from  
18 year-to-year. Except as specified under subsection (f) of  
19 this section, expenditures from the separate account,  
20 including any interest earnings on the account, shall be  
21 restricted to expenses incurred for major building and  
22 facility repair and replacement ~~as defined in subsection~~  
23 ~~(a) of this section~~ and shall be in accordance with the

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

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

20

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

22



1 (a) As used in this act, unless the context requires  
2 otherwise:

3  
4 (iii) "Local enhancements to school buildings  
5 and facilities" or "local enhancements" means any  
6 renovation, capital renewal, construction, replacement,  
7 repair or other improvement of or to any school building or  
8 facility initiated by a school district which is designed  
9 to bring the building or facility to a condition exceeding  
10 the statewide building adequacy standards;

11  
12 (iv) "Project" means replacement, renovation,  
13 capital renewal or new construction projects which increase  
14 the value of the school building or facility by improving  
15 the functioning of the building or facility or the capacity  
16 of the building or facility, or both, excluding major  
17 building and facility repair and replacement ~~defined under~~  
18 ~~W.S. 21-15-109(a)(iii)~~ as defined by W.S. 9-2-3001(b)(ix),  
19 and routine maintenance ~~and repair defined under W.S.~~  
20 ~~21-15-109(a)(vi)~~ as defined by W.S. 9-2-3001(b)(xii);

21 \*\*\*\*\*  
22 **STAFF COMMENT**  
23 Within existing Title 21, Chapter 15, (W.S. 21-15-108, 21-15-109 and 21-15-111 through  
24 21-15-123) for school buildings and facilities, major maintenance and capital  
25 construction are distinct. Accordingly, the term "capital construction project," which is

1 defined to include major maintenance in this bill draft, is not used in paragraph (iv)  
2 above. Instead, the existing term "project" is retained in this chapter.

3 \*\*\*\*\*  
4

5 (v) "Remedy" or "remediation" means a course of  
6 action addressing identified building and facility needs in  
7 accordance with statewide adequacy standards developed  
8 under this act, consisting of building or facility  
9 construction, replacement, renovation, capital renewal,  
10 repair or any combination thereof;

11

12 (x) "Capital renewal" means as defined by W.S. 9-  
13 2-3001(b)(viii) for school buildings and facilities;

14

15 (xi) "Renovation" means as defined by W.S. 9-2-  
16 3001(b)(xi) for school buildings and facilities.

17

18 **21-15-116. School district facility plans;**  
19 **development, review and approval; plan criteria;**  
20 **administrative review; collaborative committee process.**

21

22 (a) In accordance with rules and regulations of the  
23 commission, long range comprehensive school building and  
24 facility plans for each school district shall be developed

1 by the department in coordination with the applicable  
2 district, which address district wide building and facility  
3 needs. The facility plan shall identify building and  
4 facility needs aligned with the statewide adequacy  
5 standards, actions to remediate building and facility needs  
6 including new construction, demolition as provided in this  
7 subsection, renovation, capital renewal and major building  
8 and facility repair and replacement expenditures, and any  
9 local enhancements to buildings and facilities beyond  
10 statewide adequacy standards. The facility plan shall  
11 include a response to each school building and facility  
12 need identified on a building-by-building, space-by-space  
13 basis. The plan shall also review, and to the extent  
14 practical, identify and prioritize nonconstruction  
15 alternatives to school building and facility needs such as  
16 building closure, modification of school boundaries,  
17 modification of school grade configurations and similar  
18 approaches. Demolition or use, lease or other methods of  
19 disposition of surplus buildings and facilities shall be  
20 incorporated as part of the district plan, including the  
21 disposition of any existing land owned by the district. The  
22 plan shall not include the abandonment or demolition of any  
23 school facility or building unless there has first been a

1 public hearing on the issue. The plan shall also specify  
2 identified alternative methods of building disposition,  
3 proposed allocation of costs incurred or revenues resulting  
4 from disposition and allocation of disposition revenues to  
5 offset any costs paid by the department. In addition,  
6 district facility plans shall include:

7

8 **21-15-123. State construction department; duties and**  
9 **authority relating to school facilities.**

10

11 (f) The state construction department shall:

12

13 (v) Enter into or approve ~~construction or~~  
14 ~~renovation~~ project agreements with school districts, as  
15 appropriate. Each agreement shall:

16

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

20

21 (vi) Review district proposals for the  
22 disposition or demolition of buildings and facilities made  
23 surplus by an approved ~~construction or renovation~~ project

1 or by changes in school population, including allocation of  
2 resulting costs and revenues and report the proposals to  
3 the commission. Disposition shall include options for use,  
4 lease, sale and any other means of disposing of the surplus  
5 building or facility. The costs and revenues incurred by  
6 the disposition or demolition of the building or facility  
7 shall be accounted for in each district's school facility  
8 plan and considered in any building or facility remedy for  
9 that district, including the allocation of revenues  
10 resulting from the disposition of property rendered surplus  
11 to offset property demolition costs. The department shall  
12 report this review to the commission. The commission, after  
13 receiving a report of the review by the department, shall  
14 approve the proposal related to disposition or demolition  
15 submitted pursuant to this paragraph unless the commission  
16 determines that the proposal does not protect the financial  
17 interests of the state or is not otherwise in the public  
18 interest. Any revenues resulting from property disposition  
19 under this paragraph shall not be considered or counted  
20 under W.S. 21-13-310(a)(xiv) or (xv);

21

1           **21-17-204. Additional powers and duties; sectarian or**  
2 **partisan instruction or test prohibited; professional**  
3 **services procurement; capital construction budget requests.**

4  
5           (d) The board of trustees shall identify university  
6 building needs and develop a prioritized list of university  
7 capital construction projects, as defined by W.S. 9-2-  
8 3001(b)(ii). The prioritized capital construction projects  
9 shall be reported by the board to the state construction  
10 department not later than June 1 of each year. Following  
11 review, analysis and study, the state construction  
12 department shall forward recommendations for university  
13 capital construction projects to the state building  
14 commission. The state construction department shall  
15 separately identify and include budget requests for  
16 university major maintenance, as defined by W.S. 9-2-  
17 3001(b)(ix), which shall be submitted to the legislature in  
18 accordance with this section. Budget requests for major  
19 maintenance shall be based upon the square footage  
20 submitted by the university and a formula adopted by the  
21 state building commission pursuant to W.S. 9-5-107(g), and  
22 upon forms and in a format specified by the state budget  
23 department.

1

2           **21-18-102. Definitions.**

3

4           (a) As used in this act:

5

6                   ~~(xxiii) "Capital construction project" or~~  
7 ~~"capital construction" means as defined by W.S. 9-2-~~  
8 ~~3001(b)(ii);~~

9

10                   ~~(xxiv) "Capital renewal" means as defined by W.S.~~  
11 ~~9-2-3001(b)(viii);~~

12

13                   ~~(xxv) "Major maintenance" means as defined by~~  
14 ~~W.S. 9-2-3001(b)(ix);~~

15

16                   ~~(xxvi) "Renovation" means as defined by W.S. 9-2-~~  
17 ~~3001(b)(xi);~~

18

19                   ~~(xxiii)~~~~—(xxvii)~~ "This act" means W.S. 21-18-101  
20 through 21-18-409.

21

22           **21-18-202. Powers and duties of the commission.**

23

1 (d) The commission shall perform the following  
2 approval functions:

3  
4 (v) Approve ~~all new capital construction~~  
5 ~~projects~~ the following expenditures in excess of two  
6 hundred fifty thousand dollars (\$250,000.00) market value  
7 for which state funds are or could be eventually applied;

8 ~~"New capital construction projects" include:~~

9  
10 (A) ~~New construction, renovation and~~  
11 ~~capital renewal~~ Capital construction projects in excess of  
12 two hundred fifty thousand dollars (\$250,000.00) market  
13 value; ~~which is not necessary maintenance or repair;~~

14  
15 (B) The acquisition of real property in  
16 excess of two hundred fifty thousand dollars (\$250,000.00)  
17 market value whether by purchase or exchange; and

18  
19 (C) Previously approved and uncompleted ~~new~~  
20 capital construction projects which have increased in total  
21 cost by ten percent (10%) or more since cost estimates were  
22 developed at the time of initial project approval under  
23 this paragraph and W.S. 21-18-205(g).



1 \*\*\*\*\*

2 **STAFF COMMENT**

3 The application of the definition of "capital construction project" above in W.S. 21-18-  
4 202(d) would require the Community College Commission to approve major  
5 maintenance projects in addition to other types of capital construction projects in excess  
6 of \$250,000.

7  
8 Similarly, the application of the definition in W.S. 21-18-205(g) would prohibit use of  
9 state funds for major maintenance projects in addition to capital construction projects in  
10 excess of \$1.5M which are not approved by the Legislature and the Community College  
11 Commission.

12 \*\*\*\*\*

13

14 **21-18-225. College maintenance and capital**  
15 **construction funding.**

16

17 (a) As part of its administrative functions, the  
18 community college commission shall identify community  
19 college building needs and develop a prioritized list of  
20 community college capital construction projects. The  
21 prioritized community college capital construction projects  
22 shall be reported by the commission to the state  
23 construction department in accordance with subsection (g)  
24 of this section. Following review, analysis and study, the  
25 state construction department shall forward recommendations  
26 for community college capital construction projects to the  
27 state building commission. The state construction  
28 department shall ~~also submit~~ separately identify and  
29 include major maintenance budget requests for college

1 buildings, which shall be submitted to the legislature in  
2 accordance with this section. Major maintenance budget  
3 requests shall be based upon the square footage submitted  
4 by the commission under subsection (f) of this section and  
5 upon a formula adopted by the state building commission  
6 pursuant to W.S. 9-5-107(g), and upon forms and in a format  
7 specified by the state budget department. College building  
8 maintenance budget requests submitted by the state  
9 construction department to the legislature and capital  
10 construction budget requests forwarded by the state  
11 building commission to the legislature shall include only  
12 necessary building square footage:

13

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

19

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

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4  
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21  
22

~~(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%).~~

(g) No state funds shall be used for the maintaining, operating or equipping of any capital construction project in excess of one million five hundred thousand dollars (\$1,500,000.00) which was not approved by the commission and authorized by the legislature.

1           (j) Subject to amounts made available by legislative  
2 appropriation and to any conditions which may be attached  
3 to appropriation expenditures, the state construction  
4 department shall distribute state funds for building  
5 capital construction projects approved and authorized by  
6 the legislature. Distributions of state funds for any  
7 approved and authorized capital construction project shall  
8 be in accordance with payment schedules established by rule  
9 and regulation of the department. Payments by the  
10 department shall be contingent upon the receipt of any  
11 local district funding as may be required by legislative  
12 authorization, or upon receipt of other documentation which  
13 may be required by the program certifying the timely  
14 receipt of required local district funds for the capital  
15 construction project. Payments to districts shall also be  
16 attached to prescribed phases of the capital construction  
17 project and the completion of certain project phases.  
18 Construction phases for which approval of the program is  
19 required shall be specified by the state construction  
20 department rule and regulation, clearly prescribing a  
21 process for program review and approval of project plans  
22 and specifications, project development and project changes  
23 and change orders. In carrying out duties under this

1 subsection, the department may execute powers prescribed  
2 under W.S. 9-5-108(a)(iii) in coordination with the state  
3 building commission and the appropriate community college  
4 district. No scheduled payment shall be made by the  
5 department without compliance with the prescribed process.

6

7 (k) Appropriations for major maintenance shall be  
8 distributed by the state construction department to  
9 community colleges in equal quarterly installments in  
10 amounts determined by the funding formula developed by the  
11 state building commission, subject to restrictions imposed  
12 on qualifying square footage pursuant to this section. The  
13 state construction department shall distribute the first  
14 quarterly payment on July 1 of each fiscal year, with the  
15 remaining payments distributed on October 1, January 2 and  
16 April 1. No appropriation of major maintenance funds shall  
17 be used to solely fund the costs of any capital renewal  
18 project.

19

20 (m) The community college shall be responsible for  
21 funding not less than fifty percent (50%) of the  
22 construction cost from sources other than state general

1 funds of any renovation constructed on property owned by  
2 the community college.

3 \*\*\*\*\*

4 **STAFF COMMENT**

5 Note that the restrictions on appropriations in this section apply to the community  
6 colleges but not the University of Wyoming.

7 \*\*\*\*\*

8

9 **21-18-319. Student dormitory capital construction**  
10 **loans; rulemaking; requirements; reporting; definition.**

11

12 (e) As used in this section:

13

14 (ii) "Capital construction" ~~or~~ "construction"  
15 includes new construction, demolition, renovation or  
16 capital renewal.

17

18 **Section 2.** W.S. 9-5-107(h), 21-15-109(a)(iii)(A)  
19 through (C) and 21-18-225(b)(iv) are repealed.

20

21 **Section 3.** This act is effective July 1, 2024.

22

23 (END)