

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO.

Public property-routine and major maintenance.

Sponsored by: Representative(s) HDraft

A BILL

for

1 AN ACT relating to public property and buildings; requiring
2 routine maintenance governance, planning and record keeping
3 for public buildings and facilities as specified;
4 specifying duties of the state construction department,
5 state building commission, community college commission,
6 school facilities commission and the board of trustees of
7 the University of Wyoming; allocating major maintenance
8 costs incurred as a result of neglected routine
9 maintenance; authorizing supplemental major maintenance
10 funding requests and recommendations; requiring reporting;
11 requiring rulemaking; and providing for effective dates.

12

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

1

2 **Section 1.** W.S. 9-2-3004(c) by creating a new
3 paragraph (x), 9-5-107(d)(iii), by creating new paragraphs
4 (v) and (vi) and by creating new subsections (j) and (k),
5 21-15-109(e), (f) and by creating a new subsection (g),
6 21-15-116(a) by creating a new paragraph (viii), 21-15-
7 119(a)(i), 21-17-107, 21-17-204 by creating a new
8 subsection (d) and 21-18-225(b) by creating new paragraphs
9 (v) through (vii) and by creating a new subsection (n) are
10 amended to read:

11

12 **9-2-3004. Duties of the department.**

13

14 (c) The department shall:

15

16 (x) Review major maintenance expenditure
17 requests submitted by state agencies, community colleges
18 and the University of Wyoming. For school districts, the
19 department shall review major maintenance expenditures in
20 accordance with W.S. 21-15-109(e). For any component,
21 equipment or system of a building or facility that fails to
22 reach its full life expectancy, the department shall
23 request and review the routine maintenance records for the

1 component, equipment or system. If the department
2 determines routine maintenance was not performed for the
3 component, equipment or system, the department shall
4 identify the component, equipment or system as neglected.
5 The department shall compare the service life of the
6 component, equipment or system at the time of failure to
7 the life expectancy of the component, equipment or system
8 and calculate the proportional cost of the component,
9 equipment or system that is attributable to neglected
10 routine maintenance. The department shall report all
11 neglected property and the costs attributable to neglected
12 routine maintenance to the state building commission,
13 community college commission, the University of Wyoming
14 board of trustees, the school facilities commission, the
15 select committee on school facilities and the joint
16 appropriations committee not later than September 1 of each
17 year.

18

19 **9-5-107. Duties and responsibilities with respect to**
20 **state buildings; state capital construction needs**
21 **assessment and priorities; neglected routine maintenance;**
22 **supplemental major maintenance funding.**

23

1 (d) The state building commission shall adopt rules
2 implementing policies for the management of state
3 buildings. The rules shall establish:

4
5 (iii) Requirements for ~~planned~~ development and
6 implementation of routine maintenance schedules designed to
7 eliminate maintenance backlogs, ~~and to~~ establish proactive
8 maintenance practices and ensure that state buildings and
9 facilities and components, equipment and systems of state
10 buildings and facilities reach their full life expectancy;

11
12 (v) Requirements for planning to the greatest
13 extent possible for the funding of components, equipment
14 and systems of state buildings that have a life expectancy
15 that is less than the life expectancy of the state building
16 or facility;

17
18 (vi) Requirements for maintaining records of
19 routine maintenance for state buildings and facilities and
20 any components, equipment and systems of state buildings
21 and facilities.

22

1 (j) Notwithstanding any other provision of law, the
2 costs of major building and facility repair of any
3 component, equipment or system of a state building or
4 facility that is attributable to neglected routine
5 maintenance, as determined by the state construction
6 department under W.S. 9-2-3004(c)(x), shall be borne
7 entirely by the state agency that is assigned maintenance
8 of the building.

9
10 (k) To the extent the amount of funds appropriated in
11 any fiscal biennium pursuant to a formula adopted by the
12 state building commission for major building and facility
13 repair and replacement are insufficient to replace a failed
14 component, equipment or system of a building or facility,
15 the state building commission, the community college
16 commission, the University of Wyoming or any agency may
17 separately identify and request the additional amount
18 necessary to replace the failed component, equipment or
19 system in its capital construction budget request submitted
20 to the governor. Any supplemental funding appropriated in
21 response to a budget request submitted under this paragraph
22 or a budget recommendation submitted by the school
23 facilities commission under W.S. 21-15-119(a)(i) shall be

1 conditioned on the requesting entity expending all funds
2 appropriated in the fiscal biennium for major building and
3 facility repair and replacement to replace the failed
4 component, equipment or a system, except as otherwise
5 provided by law.

6
7 **21-15-109. Major building and facility repair and**
8 **replacement payments; computation; square footage**
9 **allowance; use of payment funds; accounting and reporting**
10 **requirements; neglected routine maintenance.**

11
12 (e) Amounts distributed under subsection (b) of this
13 section shall be deposited by the recipient district into a
14 separate account, the balance of which may accumulate from
15 year-to-year. Except as specified under subsection (f) of
16 this section and subject to subsection (g) of this section,
17 expenditures from the separate account, including any
18 interest earnings on the account, shall be restricted to
19 expenses incurred for major building and facility repair
20 and replacement as defined in subsection (a) of this
21 section and shall be in accordance with the district's
22 facility plan under W.S. 21-15-116. Account expenditures
23 may include the expenses of district personnel performing

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

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

22

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

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

15

16 (g) Notwithstanding any other provision of law, no
17 expenditure shall be made from the separate account
18 established under subsection (e) of this section for the
19 cost of major building and facility repair of any
20 component, equipment or system of a school building or
21 facility that is attributable to neglected routine
22 maintenance as determined by the state construction
23 department under W.S. 9-2-3004(c)(x). The payments for that

1 district shall be reduced by the costs attributable to
2 neglected routine maintenance in the school year following
3 the year in which the expenditure was identified by the
4 department.

5

6 **21-15-116. School district facility plans;**
7 **development, review and approval; plan criteria;**
8 **administrative review; collaborative committee process.**

9

10 (a) In accordance with rules and regulations of the
11 commission, long range comprehensive school building and
12 facility plans for each school district shall be developed
13 by the department in coordination with the applicable
14 district, which address district wide building and facility
15 needs. The facility plan shall identify building and
16 facility needs aligned with the statewide adequacy
17 standards, actions to remediate building and facility needs
18 including construction, renovation and major building and
19 facility repair and replacement expenditures, and any local
20 enhancements to buildings and facilities beyond statewide
21 adequacy standards. The facility plan shall include a
22 response to each school building and facility need
23 identified on a building-by-building, space-by-space basis.

1 The plan shall also review, and to the extent practical,
2 identify and prioritize nonconstruction alternatives to
3 school building and facility needs such as building
4 closure, modification of school boundaries, modification of
5 school grade configurations and similar approaches.
6 Demolition or use, lease or other methods of disposition of
7 surplus buildings and facilities shall be incorporated as
8 part of the district plan, including the disposition of any
9 existing land owned by the district. The plan shall not
10 include the abandonment or demolition of any school
11 facility or building unless there has first been a public
12 hearing on the issue. The plan shall also specify
13 identified alternative methods of building disposition,
14 proposed allocation of costs incurred or revenues resulting
15 from disposition and allocation of disposition revenues to
16 offset any costs paid by the department. In addition,
17 district facility plans shall include:

18

19 (viii) A plan for addressing school building and
20 facility routine maintenance needs. The routine maintenance
21 plan shall:

22

1 (A) Be designed to eliminate maintenance
 2 backlogs, establish proactive maintenance practices and
 3 ensure that school buildings and facilities and components,
 4 equipment and systems of school buildings and facilities
 5 reach their full life expectancy;

6
 7 (B) To the greatest extent possible,
 8 anticipate the funding of components, equipment and systems
 9 of school buildings and facilities that have a life
 10 expectancy that is less than the life expectancy of the
 11 school building or facility;

12
 13 (C) Establish requirements for maintaining
 14 routine maintenance records for school buildings and
 15 facilities and any components, equipment and systems of
 16 school buildings and facilities.

17
 18 **21-15-119. Commission budget and funding**
 19 **recommendations.**

20
 21 (a) Notwithstanding W.S. 9-2-1012, the commission
 22 shall annually, not later than September 1, develop and
 23 submit a recommended budget for projects and school capital

1 construction financing to the governor, through the state
2 budget department and to the select committee on school
3 facilities. The department shall prepare and provide
4 information as requested by the commission. The commission
5 shall include with its recommended budget to the select
6 committee the prioritized schedules of projects specified
7 in W.S. 21-15-117 including the amounts allocated to each
8 project and the annual building status report specified
9 under W.S. 21-15-121. The recommended budget submitted by
10 the commission shall include:

11

12 (i) The estimated costs and proposed funding
13 amounts for all projects determined under W.S. 21-15-117
14 and 21-15-118 and proposed for that budget period, together
15 with estimated expenditures for major building and facility
16 repair and replacement program payments under W.S. 21-15-
17 109 for the same budget period. To the extent the amount of
18 payments under W.S. 21-15-109 for the same budget period
19 are insufficient to replace a failed component, equipment
20 or system of a school building or facility, the recommended
21 budget may separately identify and request additional
22 amounts necessary to replace the failed component,
23 equipment or system;

1

2 **21-17-107. Legislature to make appropriations;**
3 **neglected routine maintenance.**

4

5 (a) The legislature shall appropriate monies intended
6 for the support and maintenance of the University of
7 Wyoming. The appropriations shall specify the purposes for
8 which the monies are intended and may be used. The
9 appropriations shall apply to and include all monies
10 received by the university from the United States for the
11 endowment and support of colleges for the benefit of
12 agriculture and mechanic arts. No expenditure shall be
13 made in excess of an appropriation, and no monies so
14 appropriated shall be used for any purpose other than that
15 for which they are appropriated.

16

17 (b) Notwithstanding any other provision of law, the
18 costs of major building and facility repair of any
19 component, equipment or system of a University of Wyoming
20 building or facility that is attributable to neglected
21 routine maintenance, as determined by the state
22 construction department under W.S. 9-2-3004(c)(x), shall be
23 entirely borne by the university.

1

2 **21-17-204. Additional powers and duties; sectarian or**
3 **partisan instruction or test prohibited; professional**
4 **services procurement.**

5

6 (d) With respect to University of Wyoming buildings
7 and facilities, the board of trustees shall:

8

9 (i) Develop and implement routine maintenance
10 schedules that are designed to eliminate maintenance
11 backlogs, establish proactive maintenance practices and
12 ensure that buildings and facilities and components,
13 equipment or systems of buildings and facilities reach
14 their full life expectancy;

15

16 (ii) Plan to the greatest extent possible for the
17 funding of components, equipment and systems of buildings
18 and facilities that have a life expectancy that is less
19 than the life expectancy of the building or facility;

20

21 (iii) Maintain records of routine maintenance for
22 buildings and facilities and any components, equipment and
23 systems of buildings and facilities.

1

2 **21-18-225. College maintenance and capital**
3 **construction funding.**

4

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

10

11 (v) Requirements for community colleges to
12 develop and implement routine maintenance schedules for
13 community college buildings and facilities that are
14 designed to eliminate maintenance backlogs, establish
15 proactive maintenance practices and ensure that community
16 college buildings and facilities and any components,
17 equipment and systems of college buildings and facilities
18 reach their full life expectancy;

19

20 (vi) Plan to the greatest extent possible for the
21 funding of components, equipment and systems of college
22 buildings and facilities that have a life expectancy that

1 is less than the life expectancy of the college building or
2 facility;

3
4 (vii) Maintain records of routine maintenance for
5 college buildings and facilities and any components,
6 equipment and systems of college buildings and facilities.

7
8 (n) Notwithstanding any other provision of law, the
9 costs of major building and facility repair of any
10 component, equipment or system of a community college
11 building or facility that is attributable to neglected
12 routine maintenance, as determined by the state
13 construction department under W.S. 9-2-3004(c)(x), shall be
14 entirely borne by the community college.

15

16 **Section 2.**

17

18 (a) The state construction department, state building
19 commission, community college commission and school
20 facilities commission shall promulgate all rules necessary
21 to implement this act.

22

