

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO.

Public property and buildings-amendments.

Sponsored by: Joint Appropriations Committee

A BILL

for

1 AN ACT relating to public property and buildings; amending
2 and creating provisions related to budgeting, planning and
3 reporting for capital construction projects, major
4 maintenance and routine maintenance for public buildings,
5 facilities and sites; conforming and repealing definitions;
6 amending requirements for contracting for public works;
7 specifying duties related to capital construction projects,
8 major maintenance and routine maintenance for the state
9 construction department, the state building commission,
10 school districts, the board of trustees of the University
11 of Wyoming and the community college commission; repealing
12 major maintenance funding requirements; requiring reports;

1 requiring rulemaking; specifying applicability; and
2 providing for effective dates.

3

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

5

6 **Section 1.** W.S. 21-17-208 is created to read:

7

8 **21-17-208. University property maintenance and**
9 **capital construction.**

10

11 (a) As used in this section:

12

13 (i) "Capital construction project" means as
14 defined by W.S. 9-2-3001(b)(ii);

15

16 (ii) "Major maintenance" means as defined by
17 W.S. 9-2-3001(b)(ix);

18

19 (iii) "Property" means as defined by W.S.
20 9-2-3001(b)(x);

21

22 (iv) "Routine maintenance" means as defined by
23 W.S. 9-2-3001(b)(xii).

1

2 (b) As part of its administrative functions, the board
3 of trustees shall identify University of Wyoming property
4 needs and develop a prioritized list of capital
5 construction projects. The prioritized capital construction
6 projects shall be reported by the board to the state
7 construction department not later than June 1 of each year.
8 Following review, analysis and study, the state
9 construction department shall forward the prioritized list
10 of university capital construction projects to the state
11 building commission.

12

13 (c) The state construction department shall submit to
14 the state building commission a recommendation for funding
15 university major maintenance each biennium in preparation
16 for the development of the state budget. This
17 recommendation for major maintenance shall be based on a
18 formula adopted by the state building commission pursuant
19 to W.S. 9-5-107(g) and upon forms and in a format specified
20 by the state budget department. At the end of each fiscal
21 year, the board of trustees shall submit a report to the
22 state construction department on major maintenance

1 expenditures and commitments incurred in the immediately
2 preceding fiscal year as required by W.S. 9-5-107(j).

3

4 (d) With respect to University of Wyoming
5 property, the board of trustees shall:

6

7 (i) Develop and implement schedules for routine
8 maintenance that are designed to eliminate maintenance
9 backlogs, establish proactive maintenance practices and
10 ensure that university property and the components,
11 equipment and systems of university property reach their
12 full life expectancy;

13

14 (ii) Plan for the funding of major maintenance
15 for the components, equipment and systems of university
16 property that have a life expectancy that is less than the
17 life expectancy of university property of which the
18 component, equipment or system is part;

19

20 (iii) Maintain records of routine maintenance
21 for university property and the components, equipment and
22 systems of university property.

23

1 **Section 2.** W.S. 9-2-3001(b)(ii) and by creating new
2 paragraphs (viii) through (xii), 9-2-3004(c)(i), (vi) and
3 by creating new paragraphs (x) through (xii), 9-2-3202(a)
4 by creating a new paragraph (xi), 9-4-207(d)(intro) and by
5 creating a new paragraph (iv), 9-5-107(d)(iii), by creating
6 new paragraphs (v) and (vi), (g)(intro), (i) and by
7 creating new subsections (j) through (m), 16-6-101(a)(v),
8 16-6-102(a) and by creating a new subsection (g),
9 16-6-401(a)(ix), 16-6-1001(f)(i), 21-15-108(b),
10 21-15-109(a)(iii)(intro), (iv), (vi) and (viii) and (e),
11 21-15-111(a)(iii) through (v) and by creating new
12 paragraphs (x) and (xi), 21-15-116(a)(intro) and by
13 creating a new paragraph (viii), 21-15-119(a)(i),
14 21-15-123(f)(v)(intro), (E) and (vi), 21-18-102(a) by
15 creating new paragraphs (xxiii) through (xxvi) and by
16 renumbering (xxiii) as (xxvii), 21-18-202(d)(v)(intro), (A)
17 and (C), 21-18-225(a)(intro), (b) by creating new
18 paragraphs (v) through (vii), (d)(intro) and (e), (g), (h),
19 (j) and by creating a new subsection (n) and
20 21-18-319(e)(ii) are amended to read:

21

22 **9-2-3001. State construction department created;**
23 **definitions.**

1

2 (b) As used in this article:

3

4 (ii) "Capital construction project" means new
5 construction, demolition, renovation, ~~and~~ capital renewal
6 and major maintenance of or to ~~any public building or~~
7 ~~facility and any other public improvement necessary for the~~
8 ~~public building or facility, major maintenance as defined~~
9 ~~in W.S. 16-6-101(a)(v) and major building and facility~~
10 ~~repair and replacement as defined in W.S. 21-15-109(a)(iii)~~
11 property;

12

13 (viii) "Capital renewal" means capital
14 construction infrastructure upgrades and replacement
15 projects to systems external to a building or facility that
16 are necessary for the continued functionality of a building
17 or facility. "Capital renewal" includes projects that do
18 not qualify as new construction and for which the costs
19 exceed amounts typically appropriated or expended on major
20 maintenance for a property such as water projects, sewer
21 projects, electrical projects and other major
22 infrastructure projects external to a building or facility

1 that impact the life, health and safety of occupants in a
2 building or facility;

3
4 (ix) "Major building and facility repair and
5 replacement" and "major maintenance" mean the repair,
6 replacement or upgrade of complete or major portions of any
7 component, equipment or system of a property at irregular
8 intervals that is required to continue the use of the
9 property at its designed capacity for its designed intended
10 use and is typically accomplished by contractors due to the
11 personnel demand to accomplish the work in a timely manner,
12 the level of sophistication of the work or the need for
13 warranted work. The terms include, but are not limited to,
14 the following categories as hereafter defined:

15
16 (A) "Code compliance" means the repair,
17 replacement or upgrade of a component, equipment or system
18 of a property that is mandated by law, regulation or code
19 to continue the use of the property at its designed
20 capacity for its designed intended use;

21
22 (B) "Site improvements" means the repair,
23 replacement or upgrade of a component, equipment or system

1 of a site, including the repair, replacement or upgrade of
2 any of the following:

3

4 (I) Sidewalks;

5

6 (II) Parking lots;

7

8 (III) Athletic tracks;

9

10 (IV) Playground features;

11

12 (V) Outdoor security features;

13

14 (VI) Landscaping;

15

16 (VII) Drainage systems;

17

18 (VIII) Campus roads or streets;

19

20 (IX) Components, equipment or systems

21 similar to those specified in subdivisions (I) through

22 (VIII) of this subparagraph.

23

1 (C) "System improvements" means the repair,
2 replacement or upgrade of a component, equipment or system
3 of a building or facility, including any of the following:

4
5 (I) Structural systems;

6
7 (II) Fire protection systems;

8
9 (III) Indoor security features;

10
11 (IV) Electrical, lighting, plumbing,
12 heating, ventilation or air conditioning systems;

13
14 (V) Roofs;

15
16 (VI) Windows and doors;

17
18 (VII) Conveyance systems, including
19 elevators and escalators;

20
21 (VIII) Information technology systems;

22

1 (IX) Components, equipment or systems
2 similar to those specified in subdivisions (I) through
3 (VIII) of this subparagraph.

4
5 (x) "Property" means a building, facility or
6 site;

7
8 (xi) "Renovation" means work done to restore
9 property to a condition that is functional for its original
10 or designed intended use and capacity, to modernize or
11 adapt property to an approved new use and capacity or for
12 the purpose of making it code compliant, including
13 architectural and structural changes and the modernization
14 of mechanical and electrical systems. "Renovation" includes
15 the repair, strengthening or restoration of major building
16 systems or structures to a safe condition. "Renovation"
17 does not include work that consists primarily of routine
18 maintenance, minor repairs and replacement due to normal
19 use, wear and tear or deterioration;

20
21 (xii) "Routine maintenance" means activities
22 necessary to keep a property and the components, equipment
23 and systems of a property in safe and good working order so

1 that the property may be used at its original or designed
2 capacity for its original or designed intended use.
3 "Routine maintenance" includes custodial, groundskeeping
4 and maintenance tasks done on a routine basis by building
5 personnel and specialized equipment and building system
6 maintenance that is accomplished on a routine basis by
7 contractors.

8

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

10

11 (c) The department shall:

12

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

18

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

23

1 (x) Not later than September 1 of each odd
 2 numbered year, submit to the state building commission a
 3 recommendation for funding for the immediately succeeding
 4 fiscal biennium for major maintenance for state property,
 5 community college property and University of Wyoming
 6 property. This recommendation shall be based on the formula
 7 adopted by the state building commission pursuant to W.S.
 8 9-5-107(g);

9
 10 (xi) Review and approve any renovation that
 11 changes the intended capacity or designed intended use of a
 12 property that receives appropriations for major
 13 maintenance;

14
 15 *****
 16 *****
 17 **STAFF COMMENT**
 18 **Paragraph (xii) below is new this interim.**
 19 *****
 20 *****
 21

22 (xii) Develop and maintain a twenty (20) year
 23 statewide strategic facility plan and comprehensive system
 24 for monitoring and reporting appropriations and
 25 expenditures for capital construction projects and routine

1 maintenance for state property, community college property
2 and University of Wyoming property.

3

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

7

8 (a) As used in this act:

9

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

12

13 **9-4-207. Disposition of unexpended appropriations.**

14

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

23

1 (iv) For major maintenance as defined by W.S.
2 9-2-3001(b)(ix) for state property, community college
3 property and University of Wyoming property. Appropriations
4 subject to this paragraph that do not revert may be
5 expended on any expenses incurred for major maintenance as
6 defined by W.S. 9-2-3001(b)(ix).

7 *****
8 *****

9 STAFF COMMENT

10 At the June meeting, the Committee inquired about
11 purchasing, leasing and building governance for entities
12 not subject to the State Building Commission's control
13 (e.g., Game and Fish, WYDot). Under W.S. 9-5-105(b), 9-5-
14 106(a), 9-5-107(e) and 9-5-108(e), if the operation,
15 management and use of a state leased or owned building is
16 assigned by statute to any other state agency that agency
17 may adopt rules and regulations relative to the operation,
18 management and use of the building different than those of
19 the commission and the agency's projects are exempt from
20 inclusion in the Wyoming public buildings construction
21 program.

22
23 If the Committee wishes to require the State Building
24 Commission to review or monitor (but not approve)
25 purchasing, leasing, and building decisions by exempted
26 agencies, it may consider an amendment to W.S. 9-5-105 such
27 as the following:

28
29 9-5-105. Purchase or lease of state lands
30 and buildings; state building commission
31 authority.

32
33 (c) A state agency assigned the operation,
34 management or use of a state leased or owned
35 building by statute shall not construct,
36 renovate, lease or purchase any building unless
37 the proposed construction, renovation, lease or
38 purchase has been submitted to and reviewed by
39 the state building commission.

1 *****
2 *****
3

4 9-5-107. Duties and responsibilities with respect to
5 state buildings; state capital construction needs
6 assessment and priorities; neglected routine maintenance;
7 supplemental major maintenance funding.

8

9 (d) The state building commission shall adopt rules
10 implementing policies for the management of state buildings
11 property. The rules shall establish:

12

13 (iii) Requirements for planned development and
14 implementation of routine maintenance schedules designed to
15 eliminate maintenance backlogs, and to establish proactive
16 maintenance practices and ensure that state property and
17 the components, equipment and systems of state property
18 reach their full life expectancy;

19

20 (v) Requirements for planning for the funding of
21 major maintenance for the components, equipment and systems
22 of state property that have a life expectancy that is less
23 than the life expectancy of the state property of which the
24 component, equipment or system is part;

1

2

(vi) Requirements for maintaining records of routine maintenance for state property and the components, equipment and systems of state property.

5

6

(g) The state building commission shall adopt a formula for major ~~building and facility repair and replacement for~~ maintenance for state property, community college facilities property and University of Wyoming property. The formula shall:

11

12

(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:

16

17

(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);

21

22

(B) Specifically exclude student housing, student unions and auxiliary services areas funded

23

1 exclusively through university or community college
2 generated revenues unless otherwise specified by law.

3

4 (j) At the end of each fiscal year, the state
5 construction department, any agency responsible for the
6 operation and management of a state property, the community
7 college commission and the University of Wyoming shall
8 report to the state building commission on the expenditures
9 and commitments made from any funds appropriated for major
10 maintenance.

11

12 (k) To the extent the amount of funds appropriated in
13 any fiscal biennium pursuant to the formula adopted by the
14 state building commission under subsection (g) of this
15 section for major maintenance are insufficient to repair,
16 replace or upgrade a failed component, equipment or system
17 of a property, the state building commission, the community
18 college commission, any agency and the University of
19 Wyoming may separately identify and request in its capital
20 construction budget request submitted to the governor the
21 additional amount necessary for the major maintenance. Any
22 supplemental funding appropriated in response to a budget
23 request submitted under this subsection shall be

1 conditioned on the requesting entity expending all funds
2 appropriated in the fiscal biennium for major maintenance
3 on the failed component, equipment or a system, except as
4 otherwise provided by law.

5

6 (m) As used in this section:

7

8 (i) "Major maintenance" means as defined by W.S.
9 9-2-3001(b)(ix);

10

11 (ii) "Property" means as defined by W.S.
12 9-2-3001(b)(x);

13

14 (iii) "Routine maintenance" means as defined by
15 W.S. 9-2-3001(b)(xii).

16

17 **16-6-101. Definitions.**

18

19 (a) As used in this act:

20

21 (v) "Major maintenance" means ~~the repair or~~
22 ~~replacement of complete or major portions of building and~~
23 ~~facility systems at irregular intervals which is required~~

1 ~~to continue the use of the building or facility at its~~
2 ~~original capacity for its original intended use and is~~
3 ~~typically accomplished by contractors due to the personnel~~
4 ~~demand to accomplish the work in a timely manner, the level~~
5 ~~of sophistication of the work or the need for warranted~~
6 ~~work as defined by W.S. 9-2-3001(b)(ix);~~

7
8 **16-6-102. Resident contractors; preference limitation**
9 **with reference to lowest bid or qualified response;**
10 **decertification; denial of application for residency.**

11
12 (a) If a contract is let by a public entity for a
13 public work, the contract shall be let, if advertisement
14 for bids or request for proposal is not required, to a
15 resident of the state, provided that if the services
16 required are not offered by any known resident of the
17 state, the public entity may let the contract to a
18 nonresident. If advertisement for bids is required, the
19 contract shall be let to the responsible certified resident
20 making the lowest bid if the certified resident's bid is
21 not more than five percent (5%) higher than that of the
22 lowest responsible nonresident bidder.

23

1 (g) Whenever an emergency arises requiring a contract
2 for a public work, a public entity may waive any applicable
3 requirement of this section if the requirement endangers
4 the health, welfare or safety of the public.

5
6 **16-6-401. Definitions.**

7
8 (a) As used in W.S. ~~16-6-401 through 16-6-403~~ this
9 article:

10
11 (ix) "Renovation" means ~~revision to a major~~
12 ~~facility which will affect more than fifty percent (50%) of~~
13 ~~the gross floor area in the building~~ as defined by W.S.
14 9-2-3001(b)(xi).

15
16 **16-6-1001. Capital construction projects**
17 **restrictions; preference requirements; waivers.**

18
19 (f) As used in this section:

20
21 (i) "Capital construction project" means ~~new~~
22 ~~construction, demolition, renovation and capital renewal of~~
23 ~~or to any public building or facility and any other public~~

1 ~~improvement necessary for the public building or facility,~~
2 ~~major maintenance~~ as defined in by W.S. ~~16-6-101(a)(v) and~~
3 ~~major building and facility repair and replacement as~~
4 ~~defined in W.S. 21-15-109(a)(iii)~~ 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.
18 21-15-119. Any bonds issued under this section, together
19 with 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; neglected routine maintenance.**

13

14 (a) As used in this act:

15

16 (iii) "Major building and facility repair and
17 replacement" and "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:~~ mean as defined by W.S.
 4 9-2-3001(b)(ix) for school building and facility systems;

5
 6 (iv) "Office building" means a school building
 7 or facility primarily used in connection with or for the
 8 purpose of district administrative functions, the major
 9 purpose or use of which is not dedicated to the provision
 10 of educational programs offered by the district in
 11 accordance with law; ~~"Office building" shall include~~
 12 ~~maintenance facilities and storage buildings in which~~
 13 ~~supplies are stored;~~

14
 15 (vi) "Routine maintenance" ~~and repair~~ means
 16 ~~activities necessary to keep a school building or facility~~
 17 ~~in safe and good working order so that it may be used at~~
 18 ~~its original or designed capacity for its originally~~
 19 ~~intended purposes, including janitorial, grounds keeping~~
 20 ~~and maintenance tasks done on a routine basis and typically~~
 21 ~~accomplished by district personnel with exceptions for any~~
 22 ~~routine tasks accomplished by contractors such as elevator~~
 23 ~~or other specialized equipment or building system~~

1 ~~maintenance~~ as defined by W.S. 9-2-3001(b)(xii) for school
2 buildings and facilities;

3

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

9

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

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

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

18

19 **21-15-111. Definitions.**

20

21 (a) As used in this act, unless the context requires
22 otherwise:

23

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

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

19
20 (v) "Remedy" or "remediation" means a course of
21 action addressing identified building and facility needs in
22 accordance with statewide adequacy standards developed
23 under this act, consisting of building or facility

1 construction, replacement, renovation, capital renewal,
2 repair or any combination thereof;

3
4 (x) "Capital renewal" means as defined by W.S.
5 9-2-3001(b)(viii) for school buildings and facilities;

6
7 (xi) "Renovation" means as defined by W.S.
8 9-2-3001(b)(xi) for school buildings and facilities.

9
10 **21-15-116. School district facility plans;**
11 **development, review and approval; plan criteria;**
12 **administrative review; collaborative committee process.**

13
14 (a) In accordance with rules and regulations of the
15 commission, long range comprehensive school building and
16 facility plans for each school district shall be developed
17 by the department in coordination with the applicable
18 district, which address district wide building and facility
19 needs. The facility plan shall identify building and
20 facility needs aligned with the statewide adequacy
21 standards, actions to remediate building and facility needs
22 including new construction, demolition as provided in this
23 subsection, renovation, capital renewal and major building

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

23

1 (viii) A plan for addressing school building and
2 facility routine and major maintenance needs. The routine
3 and major maintenance plan shall:

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

10
11 (B) Anticipate the funding of major
12 building and facility repair for the components, equipment
13 and systems of school buildings and facilities that have a
14 life expectancy that is less than the life expectancy of
15 the school building or facility of which the component,
16 equipment or system is part;

17
18 (C) Establish requirements for maintaining
19 routine maintenance records for school buildings and
20 facilities and the components, equipment and systems of
21 school buildings and facilities.

22

1 **21-15-119. Commission budget and funding**
2 **recommendations.**

3
4 (a) Notwithstanding W.S. 9-2-1012, the commission
5 shall annually, not later than September 1, develop and
6 submit a recommended budget for projects and school capital
7 construction financing to the governor, through the state
8 budget department and to the select committee on school
9 facilities. The department shall prepare and provide
10 information as requested by the commission. The commission
11 shall include with its recommended budget to the select
12 committee the prioritized schedules of projects specified
13 in W.S. 21-15-117 including the amounts allocated to each
14 project and the annual building status report specified
15 under W.S. 21-15-121. The recommended budget submitted by
16 the commission shall include:

17
18 (i) The estimated costs and proposed funding
19 amounts for all projects determined under W.S. 21-15-117
20 and 21-15-118 and proposed for that budget period, together
21 with estimated expenditures for major building and facility
22 repair and replacement program payments under W.S.
23 21-15-109 for the same budget period. To the extent the

1 amount of payments under W.S. 21-15-109 for the same budget
2 period are insufficient to repair, replace or upgrade a
3 failed component, equipment or system of a school building
4 or facility, the recommended budget may separately identify
5 and request additional amounts necessary to repair, replace
6 or upgrade the failed component, equipment or system.
7 Except as otherwise provided by law, any supplemental
8 funding appropriated in response to a budget recommendation
9 submitted under this paragraph shall be conditioned on the
10 school district expending amounts available in the separate
11 account established under W.S. 21-15-109(e) on major
12 building and facility repair and replacement, provided that
13 a school district shall not be required to expend more than
14 fifty percent (50%) of the projected balance of the
15 separate account after all planned expenses for major
16 building and facility repair are deducted;

17

18 **21-15-123. State construction department; duties and**
19 **authority relating to school facilities.**

20

21 (f) The state construction department shall:

22

1 (v) Enter into or approve ~~construction or~~
2 ~~renovation~~ project agreements with school districts, as
3 appropriate. Each agreement shall:

4

5 (E) Assure the state is not responsible or
6 liable for compliance with ~~construction or renovation~~
7 project schedules or completion dates;

8

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

1 receiving a report of the review by the department, shall
2 approve the proposal related to disposition or demolition
3 submitted pursuant to this paragraph unless the commission
4 determines that the proposal does not protect the financial
5 interests of the state or is not otherwise in the public
6 interest. Any revenues resulting from property disposition
7 under this paragraph shall not be considered or counted
8 under W.S. 21-13-310(a)(xiv) or (xv);

9

10 **21-18-102. Definitions.**

11

12 (a) As used in this act:

13

14 (xxiii) "Capital construction project" and
15 "capital construction" mean as defined by W.S.
16 9-2-3001(b)(ii);

17

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

20

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

23

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

3
4 ~~(xxiii)~~(xxvii) "This act" means W.S. 21-18-101
5 through 21-18-409.

6
7 **21-18-202. Powers and duties of the commission.**

8
9 (d) The commission shall perform the following
10 approval functions:

11
12 (v) Approve ~~all new capital construction~~
13 ~~projects~~ the following expenditures in excess of two
14 hundred fifty thousand dollars (\$250,000.00) market value
15 for which state funds are or could be eventually applied;
16 ~~"New capital construction projects" include:~~

17
18 (A) ~~New~~ Capital construction projects,
19 ~~renovation and capital renewal~~ excluding major maintenance,
20 in excess of two hundred fifty thousand dollars
21 (\$250,000.00) market value; ~~which is not necessary~~
22 ~~maintenance or repair;~~

23

1 (C) Previously approved and uncompleted ~~new~~
2 capital construction projects, excluding major maintenance,
3 which have increased in total cost by ten percent (10%) or
4 more since cost estimates were developed at the time of
5 initial project approval under this paragraph and W.S.
6 21-18-205(g).

7

8 **21-18-225. College maintenance and capital**
9 **construction funding.**

10

11 (a) As part of its administrative functions, the
12 community college commission shall identify community
13 college building needs and develop a prioritized list of
14 community college capital construction projects. The
15 prioritized community college capital construction projects
16 shall be reported by the commission to the state
17 construction department in accordance with subsection (g)
18 of this section. Following review, analysis and study, the
19 state construction department shall forward recommendations
20 for community college capital construction projects to the
21 state building commission. The state construction
22 department shall also submit ~~major maintenance budget~~
23 ~~requests for college buildings to the legislature in~~

1 ~~accordance with this section. Major maintenance budget~~
2 ~~requests shall be based upon the square footage submitted~~
3 ~~by the commission under subsection (f) of this section and~~
4 ~~upon a formula adopted by the state building commission,~~
5 ~~and upon forms and in a format specified by the state~~
6 ~~budget department~~ to the state building commission and the
7 joint appropriations committee a recommendation for funding
8 community college major maintenance each biennium in
9 preparation for the development of the state budget. This
10 recommendation shall be based on a formula adopted by the
11 state building commission pursuant to W.S. 9-5-107(g) and
12 upon forms and in a format specified by the state budget
13 department. At the end of each fiscal year, the commission
14 shall submit a report to the state construction department
15 on major maintenance expenditures incurred in the
16 immediately preceding fiscal year as required by W.S.
17 9-5-107(j). College building maintenance budget requests
18 submitted by the state construction department to the
19 legislature and capital construction budget requests
20 forwarded by the state building commission to the
21 legislature shall include only necessary building square
22 footage:

23

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

6
7 (v) Requirements for community college districts
8 to develop and implement routine maintenance schedules that
9 are designed to eliminate maintenance backlogs, establish
10 proactive maintenance practices and ensure that community
11 college buildings, facilities and sites and the components,
12 equipment and systems of community college buildings,
13 facilities and sites reach their full life expectancy;

14
15 (vi) Plan for the funding of the major
16 maintenance for the components, equipment and systems of
17 community college buildings, facilities and sites that have
18 a life expectancy that is less than the life expectancy of
19 the building, facility or site of which the component,
20 equipment or system is part;

21
22 (vii) Maintain records of routine maintenance
23 for community college buildings, facilities and sites and

1 any components, equipment and systems of community college
2 buildings, facilities and sites.

3

4 (d) On or before November 1 of each year, the
5 commission shall, based upon the assessment performed under
6 subsection (c) of this section and upon facility plans and
7 annual reports submitted by each college pursuant to W.S.
8 21-18-304(a)(xi), prioritize community college capital
9 construction project needs for the current fiscal year and
10 the succeeding four (4) fiscal years based upon:

11

12 (e) The commission may modify capital construction
13 project needs prioritized under subsection (d) of this
14 section in any subsequent fiscal year as necessary to
15 address statewide needs as substantiated by data, condition
16 assessments, needs analysis and other information assembled
17 by the commission under this section. Needs receiving a
18 lower priority than previously assigned may be removed or
19 reprioritized by the commission. Capital construction
20 project needs modified under this subsection shall be
21 reported to the state construction department.

22

1 (g) Upon prioritizing community college capital
2 construction project needs under subsection (d) of this
3 section, the commission shall not later than June 1 of each
4 year, report the prioritized list to the state construction
5 department. In accordance with W.S. 9-5-108(a)(ii), the
6 state construction department shall review, analyze and
7 study construction needs prioritized under subsection (d)
8 of this section and conduct necessary value engineering
9 analysis, schematic design review, safety and security
10 assessments and other analysis and review prior to
11 submission of recommendations to the state building
12 commission. The state building commission shall consider
13 and incorporate prioritized capital construction project
14 needs recommendations into legislation requesting necessary
15 funding, developed under W.S. 9-5-108(a)(ii)(J), for
16 submission to the legislature for review, authorization and
17 approval. The legislation shall also include a separate
18 appropriation for contingency costs associated with
19 recommended capital construction projects and a separate
20 appropriation for administrative costs of the state
21 construction department for management of the recommended
22 capital construction projects as required by subsection (j)
23 of this section. The state construction department shall

1 submit a separate budget request for project design and
2 planning funds to be available to assist community colleges
3 with costs incurred in developing and providing necessary
4 plans, designs and other information to the state
5 construction department for purposes of this subsection.
6 This request shall also include funds for major maintenance
7 for the square footage reported by the commission under
8 subsection (f) of this section. The state construction
9 department shall consult with the community college
10 commission in developing recommendations under this
11 subsection.

12

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

18

19 (j) Subject to amounts made available by legislative
20 appropriation and to any conditions which may be attached
21 to appropriation expenditures, the state construction
22 department shall distribute state funds for building
23 capital construction projects approved and authorized by

1 the legislature. Distributions of state funds for any
2 approved and authorized capital construction project shall
3 be in accordance with payment schedules established by rule
4 and regulation of the department. Payments by the
5 department shall be contingent upon the receipt of any
6 local district funding as may be required by legislative
7 authorization, or upon receipt of other documentation which
8 may be required by the program certifying the timely
9 receipt of required local district funds for the capital
10 construction project. Payments to districts shall also be
11 attached to prescribed phases of the capital construction
12 project and the completion of certain project phases.
13 Construction phases for which approval of the program is
14 required shall be specified by the state construction
15 department rule and regulation, clearly prescribing a
16 process for program review and approval of project plans
17 and specifications, project development and project changes
18 and change orders. In carrying out duties under this
19 subsection, the department may execute powers prescribed
20 under W.S. 9-5-108(a)(iii) in coordination with the state
21 building commission and the appropriate community college
22 district. No scheduled payment shall be made by the
23 department without compliance with the prescribed process.

1

2 (n) The community college district shall be
3 responsible for funding not less than fifty percent (50%)
4 of the costs of a capital construction project from sources
5 other than state general funds for any new construction or
6 renovation constructed on property owned by the community
7 college district. For purposes of calculating community
8 college district funding responsibilities under this
9 subsection, "construction costs" shall not include amounts
10 appropriated for contingency costs and administrative costs
11 described in subsection (g) of this section.

12

13 **21-18-319. Student dormitory capital construction**
14 **loans; rulemaking; requirements; reporting; definition.**

15

16 (e) As used in this section:

17

18 (ii) "Capital construction" ~~or~~ "construction"
19 includes new construction, demolition, renovation or
20 capital renewal.

21

22 **Section 3.** W.S. 9-5-107(h), 21-15-109(a)(iii)(A)
23 through (C) and 21-18-225(b)(iv) are repealed.

1 *****
2 *****

3 STAFF COMMENT

4 The repealed provisions are:

5
6 9-5-107. Duties and responsibilities with respect to
7 state buildings; state capital construction needs
8 assessment and priorities.

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

13 ~~(i) Required to continue the use of the building
14 or facility at its original capacity for its original
15 intended use, including for compliance with the Americans
16 with Disabilities Act, and including installing fire
17 suppression systems in residential facilities; and~~

18 ~~(ii) Typically accomplished by contractors due
19 to the personnel demand to accomplish the work in a timely
20 manner, the level of sophistication of the work or the need
21 for warranted work.~~

22
23 21-15-109. Major building and facility repair and
24 replacement payments; computation; square footage
25 allowance; use of payment funds; accounting and reporting
26 requirements.

27 (a) As used in this act:

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

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

42 ~~(B) "Site improvements" means the repair,
43 replacement or upgrade of those components or equipment of
44 school district buildings and facilities that are not~~

1 ~~system improvements, including the repair, replacement or~~
2 ~~upgrade of:~~

- 3 ~~(I) Sidewalks;~~
- 4 ~~(II) Parking lots;~~
- 5 ~~(III) Athletic tracks;~~
- 6 ~~(IV) Playground features;~~
- 7 ~~(V) Outdoor security features;~~
- 8 ~~(VI) Landscaping;~~
- 9 ~~(VII) Drainage systems; or~~
- 10 ~~(VIII) Similar components or equipment.~~

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

- 14 ~~(I) Structural systems;~~
- 15 ~~(II) Fire protection systems;~~
- 16 ~~(III) Indoor security features;~~
- 17 ~~(IV) Electrical, plumbing, heating,~~
18 ~~ventilation or air conditioning systems;~~
- 19 ~~(V) Roofs;~~
- 20 ~~(VI) Windows;~~
- 21 ~~(VII) Information technology systems; or~~
- 22 ~~(VIII) Similar components or equipment.~~

23
24 **21-18-225. College maintenance and capital**
25 **construction funding.**

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

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

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

43 *****

44 *****

45

