

## Ideas to improve and clarify oversight of capital projects

1. Standardize the definition of “state funds” throughout UCA 63A Chapter 5. Currently it is only defined in section 104, (“as used in this section”) as “public monies appropriated by the Legislature.”
  - a. The Analyst recommends a change to “any funds other than contributions by non-state entities.”
2. Clarify statute regarding the powers of the Building Board relative to “*state-funded*” buildings:
  - a. Can the board authorize state entities to use their existing budgets to plan and program new buildings prior to legislative approval of the project? This is not design, but initial plans to help decide what type of building is needed. The Analyst recommends yes, but at agencies’ own risk.
    - i. Should be limited to the top five ranked projects not approved by the Legislature in the previous session.
    - ii. State entities should be eligible for reimbursement for 1 plan from project funds if the building is later approved by the Legislature.
    - iii. State entities are not eligible for reimbursement if the building is not approved by the Legislature.
  - b. To what point can the board authorize scope changes on legislatively authorized buildings, such as when state entities receive unexpected donations? At what point does the Legislature need to approve? The Analyst recommends any outside funding over 15% of original legislative authorization, or \$2,500,000, whichever is less, must be approved by the Building Board; any outside funding over 30% of original legislative authorization, or \$5,000,000, whichever is less, must be legislatively authorized.
3. Clarify statute regarding the powers of the Building Board relative to “*non-state funded*” buildings:
  - a. Can the board authorize state entities to use their existing budgets to plan and program new buildings prior to legislative approval of the project? The Analyst recommends yes, but at agencies’ own risk.
  - b. Can the board authorize state entities to use their existing budgets to design new buildings prior to legislative approval of the project? The Analyst recommend no.
  - c. To what point can the board authorize scope changes on legislatively-authorized buildings? When does the Legislature need to approve? The Analyst recommends any outside funding over 25% of original legislative authorization, or \$5,000,000, whichever is less, must be approved by the Building Board; any outside funding over 50% of original legislative authorization, or \$10,000,000, whichever is less, must be legislatively authorized.

4. Clarify statute regarding use of Capital Improvement funds
  - a. Can funds be set aside to design capital improvement projects that won't be funded until the following year? The Analyst recommends yes.
  - b. Can funds be set aside for "statewide purposes" such as roofing, hazardous material abatement, paving, preventive maintenance? The Analyst recommends yes.
  
5. Clarify other statute
  - a. Explicitly state that no state entity may acquire a new building through a lease-purchase arrangement without legislative approval.
  - b. Explicitly state that any "capital lease" (a long-term lease for most of the useful life of a new building) must be approved by the Legislature.
  - c. Amend UCA 63A-5-104(1)(c): "New Facility" means the construction of any new building or infrastructure on state property for state use regardless of funding source.
  - d. Amend UCA 63A-5-204(6): Remove "Forestry, Fire and State Lands" since it is part of DNR which is already listed; remove "area vocational center" since it's now UCAT under higher education which is listed as well.
  - e. Amend UCA 63A-5-206(2)(a)(i): The director shall exercise direct supervision over design and construction of all capital improvement projects if the projects are financed with monies appropriated to DFCM, unless delegation is approved by the State Building Board, and all capital development and capital improvement projects ~~new facilities, and all alterations, repairs, and improvements to existing facilities~~ if the total project construction cost, regardless of funding source, is greater than \$100,000.
  - f. Amend UCA 63A-5-211(2): The director may, with State Building Board approval, make expenditures from the Planning Fund in order to provide planning and schematic information to the State Building Board, the governor, and the Legislature, up to a maximum of \$350,000.
  
6. Discussion Items:
  - a. 63A-5-206(2): Require DFCM to use in-house architects for repetitive, fairly standard projects such as liquor stores, transportation maintenance sheds, and storage sheds. This may save the state money over the current practice of hiring the work out.
  - b. Clarify whether the state must or must not pay impact fees on construction projects. According to statute, "Impact fee" means a payment of money imposed upon development activity as a condition of development approval. Since the state doesn't require local development approval, DFCM has interpreted this to mean the state doesn't pay impact fees.
  
7. O&M and Programming Costs:
  - a. Recommend continuing policy of forward-funding O&M on new state-funded projects

- b. Recommend continuing policy of waiting until the general session prior to completion of non-state funded buildings, since these can take some time to complete, and sometimes aren't completed at all. However, recommend it not be debated. If the Legislature authorized the building, the Legislature should fund the O&M unless it is an auxiliary building.
- c. Does the Legislature want to forward fund agency operating costs when a new building is approved? For example, if the Legislature authorizes a new prison building, should it recognize the operating costs at the same time? Agencies provide anticipated operating costs with the building request. Estimated costs are published in the Five Year Book.

Table 1: Guide to recommendations 2 and 3

Estimate	15%	25%	30%	50%
10,000,000	1,500,000	2,500,000	3,000,000	5,000,000
20,000,000	3,000,000	5,000,000	6,000,000	10,000,000
30,000,000	4,500,000	7,500,000	9,000,000	15,000,000
40,000,000	6,000,000	10,000,000	12,000,000	20,000,000
50,000,000	7,500,000	12,500,000	15,000,000	25,000,000
60,000,000	9,000,000	15,000,000	18,000,000	30,000,000
70,000,000	10,500,000	17,500,000	21,000,000	35,000,000
80,000,000	12,000,000	20,000,000	24,000,000	40,000,000
90,000,000	13,500,000	22,500,000	27,000,000	45,000,000
100,000,000	15,000,000	25,000,000	30,000,000	50,000,000