

**DONATION OF BUILDINGS TO
UNIVERSITIES**

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Howard A. Stephenson

AN ACT RELATING TO HIGHER EDUCATION; AUTHORIZING THE BOARD OF REGENTS TO ACCEPT BUILDINGS DONATED TO HIGHER EDUCATION INSTITUTIONS WITHOUT OBTAINING APPROVAL FROM THE DIVISION OF FACILITIES CONSTRUCTION AND MANAGEMENT; AND MAKING TECHNICAL CORRECTIONS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

53B-20-103, as enacted by Chapter 167, Laws of Utah 1987

63A-5-204, as last amended by Chapter 3, Laws of Utah 1997

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53B-20-103** is amended to read:

53B-20-103. Powers of state board -- Capital facilities projects.

(1) As used in this section, "capital facilities projects and buildings" includes any one or more institutional projects and buildings.

~~[The]~~ (2) The board, on behalf of the institutions of higher education, may ~~[do the~~ following]:

~~[(1)]~~ (a) acquire, purchase, construct, improve, remodel, add to, and extend capital facilities projects and buildings including necessary and related utilities;

(b) accept buildings, land, or a combination of buildings and land, donated to an eligible higher education institution without obtaining approval from the director of the Division of

Facilities Construction and Management;

~~[(2)]~~ (c) acquire necessary and suitable equipment, furnishings, and land for institutional

1 projects and buildings;

2 [(3)] (d) set aside portions of campuses for institutional projects and buildings;

3 [(4)] (e) maintain and operate institutional projects and buildings; and

4 [(5)] (f) impose and collect rents, fees, and charges for the use of institutional projects and
5 buildings.

6 (2) Notwithstanding any other provision of law, if a donor donates land to an eligible
7 institution of higher education and commits to build a building or buildings on that land, the higher
8 education institution shall oversee and manage the construction without involvement, oversight,
9 or management from the Division of Facilities Construction and Management.

10 [~~"Projects" and "buildings" include any one or more of such facilities.~~]

11 Section 2. Section **63A-5-204** is amended to read:

12 **63A-5-204. Specific powers and duties of director.**

13 (1) The director shall:

14 (a) recommend rules to the executive director for the use and management of facilities and
15 grounds owned or occupied by the state for the use of its departments and agencies;

16 (b) supervise and control the allocation of space, in accordance with legislative directive
17 through annual appropriations acts or other specific legislation, to the various departments,
18 commissions, institutions, and agencies in the capitol, the state office building, and all other
19 buildings or space owned, leased, or rented by or to the state, except as otherwise provided by law;

20 (c) comply with the procedures and requirements of Title 63A, Chapter 5, Part 3, Division
21 of Facilities Construction and Management Leasing;

22 (d) acquire, as authorized by the Legislature through the appropriations act or other
23 specific legislation, and hold title to, in the name of the division, all real property, buildings,
24 fixtures, or appurtenances owned by the state or any of its agencies;

25 (e) recommend to the executive director rules to govern traffic flow and vehicle parking
26 on roadways and parking lots which surround the capitol and that are a part of Utah State Highway
27 293;

28 (f) adopt and use a common seal, of a form and design determined by the director, and of
29 which courts shall take judicial notice;

30 (g) file a description and impression of the seal with the Division of Archives;

31 (h) collect and maintain all deeds, abstracts of title, and all other documents evidencing

1 title to or interest in property belonging to the state or any of its departments, except institutions
2 of higher education and the School and Institutional Trust Lands Administration;

3 (i) report all properties acquired by the state, except those acquired by institutions of
4 higher education, to the director of the Division of Finance for inclusion in the state's financial
5 records; and

6 (j) take all other action necessary for carrying out the purposes of this chapter.

7 (2) (a) The director shall direct or delegate maintenance and operations, preventive
8 maintenance, and facilities inspection programs and activities for any department, commission,
9 institution, or agency, except state institutions of higher education.

10 (b) The director may choose to delegate responsibility for these functions only when the
11 director determines that:

12 (i) the department or agency has requested the responsibility;

13 (ii) the department or agency has the necessary resources and skills to comply with facility
14 maintenance standards approved by the State Building Board; and

15 (iii) the delegation would result in net cost savings to the state as a whole.

16 (c) State institutions of higher education are exempt from Division of Facilities
17 Construction and Management oversight.

18 (d) Each state institution of higher education shall comply with the facility maintenance
19 standards approved by the State Building Board.

20 (e) Agencies and institutions that are exempt from division oversight shall annually report
21 their compliance with the facility maintenance standards to the division in the format required by
22 the division.

23 (f) The division shall:

24 (i) prescribe a standard format for reporting compliance with the facility maintenance
25 standards;

26 (ii) report agency and institution compliance or noncompliance with the standards to the
27 Legislature; and

28 (iii) conduct periodic audits of exempt agencies and institutions to ensure that they are
29 complying with the standards.

30 (3) (a) In making any allocations of space under Subsection (1), the director shall:

31 (i) conduct studies to determine the actual needs of each department, commission,

1 institution, or agency; and

2 (ii) comply with the restrictions contained in Subsection (3).

3 (b) The supervision and control of the legislative area is reserved to the Legislature.

4 (c) The supervision and control of the judicial area is reserved to the judiciary for trial
5 courts only.

6 (d) The director may not supervise or control the allocation of space for entities in the
7 public and higher education systems.

8 (4) The director may:

9 (a) hire or otherwise procure assistance and services, professional, skilled, or otherwise,
10 that are necessary to carry out the director's responsibilities, and may expend funds provided for
11 that purpose either through annual operating budget appropriations or from nonlapsing project
12 funds;

13 (b) sue and be sued in the name of the division; and

14 (c) hold, buy, lease, and acquire by exchange or otherwise, as authorized by the Legislature
15 through an appropriations act or other specific legislation, whatever real or personal property that
16 is necessary for the discharge of the director's duties.

17 (5) Notwithstanding the provisions of Subsection (1)(d), the following entities may hold
18 title to any real property, buildings, fixtures, and appurtenances held by them for purposes other
19 than administration that are under their control and management:

20 (a) the Office of Trust Administrator;

21 (b) the Department of Transportation;

22 (c) the Division of Forestry, Fire and State Lands;

23 (d) the Department of Natural Resources;

24 (e) the Utah National Guard;

25 (f) any area vocational center or other institution administered by the State Board of
26 Education; and

27 (g) any institution of higher education.

28 (6) Notwithstanding any other provision in this part, the Board of Regents may accept
29 buildings, land, or a combination of buildings and land, donated to an eligible higher education
30 institution without obtaining approval from the director of the Division of Facilities Construction
31 and Management.

1 (7) Notwithstanding any other provision of this section, if a donor donates land to an
2 eligible institution of higher education and commits to build a building or buildings on that land,
3 the higher education institution shall oversee and manage the construction without involvement,
4 oversight, or management from the Division of Facilities Construction and Management.

5 [(6)] (8) Notwithstanding Subsections (1)(c) and (d), the School and Institutional Trust
6 Lands Administration may hold title to any real property, buildings, fixtures, and appurtenances
7 held by it that are under its control.

Legislative Review Note
as of 2-2-98 5:00 PM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel