

1 **CAPITAL PROJECTS APPROVAL AND**
2 **ADMINISTRATION**

3 2000 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Gerry A. Adair**

6 AN ACT RELATING TO THE STATE BUILDING BOARD AND THE DIVISION OF
7 FACILITIES CONSTRUCTION AND MANAGEMENT; MODIFYING AND ADDING
8 DEFINITIONS; MODIFYING AND CLARIFYING THE PROCESS FOR APPROVALS,
9 REVIEW, AND CONSTRUCTION FOR STATE CAPITAL DEVELOPMENT AND CAPITAL
10 IMPROVEMENT PROJECTS; REPEALING OBSOLETE AND REDUNDANT SECTIONS;
11 AND MAKING TECHNICAL CORRECTIONS.

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

13 AMENDS:

14 **9-4-1103**, as last amended by Chapter 214, Laws of Utah 1997

15 **53B-20-104**, as enacted by Chapter 167, Laws of Utah 1987

16 **63A-5-104**, as enacted by Chapter 3, Laws of Utah 1997

17 **63A-5-204**, as last amended by Chapter 135, Laws of Utah 1999

18 **63A-5-206**, as last amended by Chapters 225 and 285, Laws of Utah 1998

19 **63A-5-207**, as renumbered and amended by Chapter 212, Laws of Utah 1993

20 **63A-5-209**, as renumbered and amended by Chapters 212 and 292, Laws of Utah 1993

21 **63A-5-211**, as renumbered and amended by Chapter 212, Laws of Utah 1993

22 **63A-5-220**, as last amended by Chapter 21, Laws of Utah 1999

23 **63A-5-222**, as enacted by Chapter 312, Laws of Utah 1999

24 REPEALS:

25 **63A-5-210**, as renumbered and amended by Chapter 212, Laws of Utah 1993

26 **63A-5-212**, as last amended by Chapter 285, Laws of Utah 1998

27 **63A-5-214**, as renumbered and amended by Chapter 212, Laws of Utah 1993

28 **63A-5-217**, as renumbered and amended by Chapter 212, Laws of Utah 1993

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

30 Section 1. Section **9-4-1103** is amended to read:

31 **9-4-1103. Utah State Fair Corporation -- Legal status -- Powers.**

32 (1) There is created an independent public nonprofit corporation known as the "Utah State
33 Fair Corporation."

34 (2) The board shall file articles of incorporation for the corporation with the Division of
35 Corporations and Commercial Code.

36 (3) The corporation shall, subject to this part, have all powers and authority permitted
37 nonprofit corporations by law.

38 (4) The corporation shall, subject to approval of the board:

39 (a) have general management, supervision, and control over all activities relating to the
40 state fair and have charge of all state expositions except as otherwise provided by statute;

41 (b) for public entertainment, displays, and exhibits or similar events:

42 (i) provide, sponsor, or arrange the events;

43 (ii) publicize and promote the events; and

44 (iii) secure funds to cover the cost of the exhibits from:

45 (A) private contributions;

46 (B) public appropriations;

47 (C) admission charges; and

48 (D) other lawful means;

49 (c) establish the time, place, and purpose of state expositions; and

50 (d) acquire and designate exposition sites.

51 (5) (a) The corporation shall:

52 (i) use generally accepted accounting principals in accounting for its assets, liabilities, and
53 operations;

54 (ii) seek corporate sponsorships for the state fair park and for individual buildings or
55 facilities within the fair park;

56 (iii) work with county and municipal governments, the Salt Lake Convention and Visitor's
57 Bureau, the Utah Travel Council, and other entities to develop and promote expositions and the
58 use of the state fair park;

59 (iv) develop and maintain a marketing program to promote expositions and the use of the
60 state fair park;

61 (v) in cooperation with the Division of Facilities Construction and Management, maintain
62 the physical appearance and structural integrity of the state fair park and the buildings located at
63 the state fair park;

64 (vi) hold an annual exhibition that:

65 (A) is called the state fair or a similar name;

66 (B) includes expositions of livestock, poultry, agricultural, domestic science, horticultural,
67 floricultural, mineral, and industrial products, manufactured articles, and domestic animals that,
68 in the corporation's opinion will best stimulate agricultural, industrial, artistic, and educational
69 pursuits and the sharing of talents among the people of Utah;

70 (C) includes the award of premiums for the best specimens of the exhibited articles and
71 animals;

72 (D) permits competition by livestock exhibited by citizens of other states and territories
73 of the United States; and

74 (E) is arranged according to plans approved by the board;

75 (vii) fix the conditions of entry to the exposition described in Subsection (5)(a)(vi); and

76 (viii) publish a list of premiums that will be awarded at the exhibition described in
77 Subsection (5)(a)(vi) for the best specimens of exhibited articles and animals.

78 (b) In addition to the state fair to be held in accordance with Subsection (5)(a)(vi), the
79 corporation may hold other exhibitions of livestock, poultry, agricultural, domestic science,
80 horticultural, floricultural, mineral, and industrial products, manufactured articles, and domestic
81 animals that, in its opinion, will best stimulate agricultural, industrial, artistic, and educational
82 pursuits and the sharing of talents among the people of Utah.

83 (6) The corporation may:

84 (a) employ advisers, consultants, and agents, including financial experts and independent
85 legal counsel, and fix their compensation;

86 (b) procure insurance against any loss in connection with its property and other assets,
87 including mortgage loans;

88 (c) receive and accept aid or contributions of money, property, labor, or other things of
89 value from any source, including any grants or appropriations from any department, agency, or

90 instrumentality of the United States or Utah;

91 (d) hold, use, loan, grant, and apply that aid and those contributions to carry out the
92 purposes of the corporation, subject to the conditions, if any, upon which the aid and contributions
93 were made;

94 (e) enter into management agreements with any person or entity for the performance of its
95 functions or powers;

96 (f) establish whatever accounts and procedures as necessary to budget, receive, and
97 disburse, account for, and audit all funds received, appropriated, or generated;

98 (g) enter into agreements for the leasing of any of the facilities at the state fair park, if
99 approved by the board; and

100 (h) sponsor events as approved by the board.

101 (7) (a) ~~[As]~~ Except as provided in Subsection (7)(c), as an independent agency of [the state
102 of] Utah, the corporation is exempt from:

- 103 (i) Title 63, Chapter 38, Budgetary Procedures Act;
- 104 (ii) Title 51, Chapter 7, State Money Management Act;
- 105 (iii) Title 63A, Utah Administrative Services Code;
- 106 (iv) Title 51, Chapter 5, Funds Consolidation Act;
- 107 (v) Title 63, Chapter 56, Utah Procurement Code; and
- 108 (vi) Title 67, Chapter 19, Utah State Personnel Management Act.

109 (b) The board shall adopt policies parallel to and consistent with:

- 110 (i) Title 63, Chapter 38, Budgetary Procedures Act;
- 111 (ii) Title 51, Chapter 7, State Money Management Act;
- 112 (iii) Title 63A, Utah Administrative Services Code;
- 113 (iv) Title 51, Chapter 5, Funds Consolidation Act; and
- 114 (v) Title 63, Chapter 56, Utah Procurement Code.

115 (c) The corporation shall comply with the legislative approval requirements for new
116 facilities established in Subsection 63A-5-104(3).

117 Section 2. Section **53B-20-104** is amended to read:

118 **53B-20-104. Buildings and facilities -- Board approval of construction and**
119 **purchases.**

120 (1) The board shall approve all new construction, repair, or purchase of educational and

121 general buildings and facilities financed from any source at all institutions subject to the
122 jurisdiction of the board.

123 (2) ~~[No]~~ An institution may not submit plans or specifications to the State Building Board
124 for the construction or alteration of buildings, structures, or facilities or for the purchases of
125 equipment or fixtures for the structure without the authorization of the board.

126 (3) The board shall make rules establishing the conditions under which facilities may be
127 eligible to request state funds for operations and maintenance.

128 (4) Before approving the purchase of a building, the board shall:

129 (a) determine whether or not the building will be eligible for state funds for operations and
130 maintenance by applying the rules adopted under Subsection (3); and

131 (b) if the annual request for state funding for operations and maintenance will be greater
132 than \$100,000, notify the speaker of the House, the president of the Senate, and the cochairs of the
133 Capital Facilities and Administrative Services subcommittee of the Legislature's Joint
134 Appropriation Committee.

135 Section 3. Section **63A-5-104** is amended to read:

136 **63A-5-104. Capital development and capital improvement process.**

137 (1) As used in this section:

138 (a) "Capital developments" means any:

139 (i) remodeling, site, or utility projects with a total cost of \$1,000,000 or more;

140 ~~[(ii) addition of new space that will cost more than \$100,000; or]~~

141 (ii) new facility with a construction cost of \$250,000 or more; or

142 ~~(iii) [land acquisition]~~ purchase of real property where an appropriation is requested to
143 fund the purchase.

144 (b) "Capital improvements" means any:

145 (i) remodeling, alteration, replacement, or repair project with a total cost of less than
146 \$1,000,000; ~~[or]~~

147 (ii) site and utility improvement with a total cost of less than \$1,000,000; or

148 (iii) new facility with a total construction cost of less than \$250,000.

149 (c) (i) "New facility" means the construction of any new building on state property
150 regardless of funding source.

151 (ii) "New facility" includes:

152 (A) an addition to an existing building; and

153 (B) the enclosure of space that was not previously fully enclosed.

154 (iii) "New facility" does not mean:

155 (A) the replacement of state-owned space that is demolished, if the total construction cost
156 of the replacement space is less than \$1,000,000; or

157 (B) the construction of facilities that do not fully enclose a space.

158 ~~[(c)]~~ (d) "Replacement cost of existing state buildings" means the replacement cost, as
159 determined by the Division of Risk Management, of state buildings, excluding auxiliary buildings
160 as defined by the State Building Board.

161 (2) The State Building Board, on behalf of all state agencies, commissions, departments,
162 and institutions shall submit its capital development recommendations and priorities to the
163 Legislature for approval and prioritization.

164 (3) (a) Except as provided in Subsections (3)(b) ~~h~~ [and], ~~h~~ (d), ~~h~~ AND (e), ~~h~~ a capital
164a development project may

165 not be constructed on state property without legislative approval.

166 (b) Legislative approval is not required for a capital development project if the State
167 Building Board determines that:

168 (i) the requesting agency or institution has provided adequate assurance that state funds
169 will not be used for the construction of, operations and maintenance to, and immediate or future
170 capital improvements to the resulting facility; and

171 (ii) the use of the state property is:

172 (A) appropriate and consistent with the master plan for the property; and

173 (B) will not create an adverse impact on the state.

174 (c) The Division of Facilities Construction and Management shall maintain a record of
175 facilities constructed under the exemption provided in Subsection 63A-5-104(3)(b).

176 (d) Legislative approval is not required for:

177 (i) the renovation, remodeling, or retrofitting of an existing facility with nonstate funds;

178 (ii) facilities to be built with nonstate funds and owned by nonstate entities within research
179 park areas at the University of Utah and Utah State University; or

180 (iii) facilities to be built at This is the Place State Park by This is the Place Foundation
181 with funds of the foundation, including grant monies from the state, or with donated services or
182 materials.

182a ~~h~~ (e) (i) LEGISLATIVE APPROVAL IS NOT REQUIRED FOR CAPITAL DEVELOPMENT
182b PROJECTS TO BE BUILT FOR THE DEPARTMENT OF TRANSPORTATION AS A RESULT OF ~~h~~

182c h AN EXCHANGE OF REAL PROPERTY UNDER SECTION 72-5-111.
182d (ii) WHEN THE DEPARTMENT OF TRANSPORTATION APPROVES THOSE EXCHANGES, IT
182e SHALL NOTIFY THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE, AND THE
182f CO-CHAIRS OF THE CAPITAL FACILITIES AND ADMINISTRATIVE SERVICES SUBCOMMITTEE OF
182g THE LEGISLATURE'S JOINT APPROPRIATION COMMITTEE ABOUT ANY NEW FACILITIES TO BE
182h BUILT UNDER THIS EXEMPTION. h

183 [~~3~~] (4) (a) The State Building Board, on behalf of all state agencies, commissions,
184 departments, and institutions shall by January 15 of each year, submit a list of anticipated capital
185 improvement requirements to the Legislature for review and approval.

186 (b) Unless otherwise directed by the Legislature, the building board shall prioritize capital
187 improvements from the list submitted to the Legislature up to the level of appropriation made by
188 the Legislature.

189 (c) In prioritizing capital improvements, the building board shall consider the results of
190 facility evaluations completed by an architect/engineer as stipulated by the building board's
191 facilities maintenance standards.

192 [~~4~~] (5) The Legislature may authorize:

193 (a) the total square feet to be occupied by each state agency; and

194 (b) the total square feet and total cost of lease space for each agency.

195 [~~5~~] (6) The Legislature may not fund the design or construction of any new capital
196 development projects, except to complete the funding of projects for which partial funding has
197 been previously provided, until the Legislature has appropriated .9% of the replacement cost of
198 existing state buildings to capital improvements.

199 [~~6~~] (7) (a) If, after approval of capital development and capital improvement priorities
200 by the Legislature under this section, emergencies arise that create unforeseen critical capital
201 improvement projects, the State Building Board may, notwithstanding the requirements of Title
202 63, Chapter 38, Budgetary Procedures Act, reallocate capital improvement funds to address those
203 projects.

204 (b) The building board shall report any changes it makes in capital improvement
205 allocations approved by the Legislature to:

206 (i) the Office of Legislative Fiscal Analyst within 30 days of the reallocation; and

207 (ii) the Legislature at its next annual general session.

208 [~~7~~] (8) (a) The State Building Board may adopt a rule allocating to institutions and
209 agencies their proportionate share of capital improvement funding.

210 (b) The building board shall ensure that the rule:

211 (i) reserves funds for the Division of Facilities Construction and Management for
212 emergency projects; and

213 (ii) allows the delegation of projects to some institutions and agencies with the

214 requirement that a report of expenditures will be filed annually with the Division of Facilities
215 Construction and Management and appropriate governing bodies.

216 ~~[(8)]~~ (9) It is the intent of the Legislature that in funding capital improvement requirements
217 under this section the General Fund be considered as a funding source for at least half of those
218 costs.

219 Section 4. Section **63A-5-204** is amended to read:

220 **63A-5-204. Specific powers and duties of director.**

221 (1) As used in this section, "capitol hill facilities" and "capitol hill grounds" have the same
222 meaning as provided in Section 63C-9-102.

223 (2) ~~(a)~~ (a) The director shall:

224 ~~[(a)]~~ (i) recommend rules to the executive director for the use and management of facilities
225 and grounds owned or occupied by the state for the use of its departments and agencies;

226 ~~[(b)]~~ (ii) supervise and control the allocation of space, in accordance with legislative
227 directive through annual appropriations acts or other specific legislation, to the various
228 departments, commissions, institutions, and agencies in all buildings or space owned, leased, or
229 rented by or to the state, except capitol hill facilities and capitol hill grounds and except as
230 otherwise provided by law;

231 ~~[(c)]~~ (iii) comply with the procedures and requirements of Title 63A, Chapter 5, Part 3,
232 Division of Facilities Construction and Management Leasing;

233 ~~[(d)]~~ (iv) except as provided in Subsection (2)(b), acquire, as authorized by the Legislature
234 through the appropriations act or other specific legislation, and hold title to, in the name of the
235 division, all real property, buildings, fixtures, or appurtenances owned by the state or any of its
236 agencies;

237 ~~[(e)]~~ (v) adopt and use a common seal, of a form and design determined by the director,
238 and of which courts shall take judicial notice;

239 ~~[(f)]~~ (vi) file a description and impression of the seal with the Division of Archives;

240 ~~[(g)]~~ (vii) collect and maintain all deeds, abstracts of title, and all other documents
241 evidencing title to or interest in property belonging to the state or any of its departments, except
242 institutions of higher education and the School and Institutional Trust Lands Administration;

243 ~~[(h)]~~ (viii) report all properties acquired by the state, except those acquired by institutions
244 of higher education, to the director of the Division of Finance for inclusion in the state's financial

245 records; and

246 [†] (ix) take all other action necessary for carrying out the purposes of this chapter.

247 (b) Legislative approval is not required for acquisitions by the division that cost less than
248 \$250,000.

249 (3) (a) The director shall direct or delegate maintenance and operations, preventive
250 maintenance, and facilities inspection programs and activities for any department, commission,
251 institution, or agency, except:

252 (i) the State Capitol Preservation Board; and

253 (ii) state institutions of higher education.

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

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

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

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

260 (c) The State Capitol Preservation Board and state institutions of higher education are
261 exempt from Division of Facilities Construction and Management oversight.

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

264 (e) Except for the State Capitol Preservation Board, agencies and institutions that are
265 exempt from division oversight shall annually report their compliance with the facility
266 maintenance standards to the division in the format required by the division.

267 (f) The division shall:

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

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

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

274 (4) (a) In making any allocations of space under Subsection (2), the director shall:

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

276 institution, or agency; and

277 (ii) comply with the restrictions contained in this Subsection (4).

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

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

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

283 (e) The supervision and control of capitol hill facilities and capitol hill grounds is reserved
284 to the State Capitol Preservation Board.

285 (5) The director may:

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

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

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

294 (6) Notwithstanding the provisions of Subsection (2)(d), the following entities may hold
295 title to any real property, buildings, fixtures, and appurtenances held by them for purposes other
296 than administration that are under their control and management:

297 (a) the Office of Trust Administrator;

298 (b) the Department of Transportation;

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

300 (d) the Department of Natural Resources;

301 (e) the Utah National Guard;

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

304 (g) any institution of higher education.

305 (7) The director shall ensure that any firm performing testing and inspection work

306 governed by the American Society for Testing Materials Standard E-329 on public buildings under

307 the director's supervision shall:

308 (a) fully comply with the American Society for Testing Materials standard specifications
309 for agencies engaged in the testing and inspection of materials known as ASTM E-329;

310 (b) carry a minimum of \$1,000,000 of errors and omissions insurance; and

311 (c) when testing concrete, use laboratory facilities that are inspected annually by the
312 Cement and Concrete Reference Laboratory, a division of the National Institute of Standards and
313 Technology.

314 [~~(8) Notwithstanding any other provision in this part, the Board of Regents may accept
315 buildings, land, or a combination of buildings and land, donated to an eligible higher education
316 institution without obtaining approval of the donation from the director of the Division of Facilities
317 Construction and Management.]~~

318 [~~(9) Notwithstanding any other provision of this section, if a donor donates land to an
319 eligible institution of higher education and commits to build a building or buildings on that land,
320 and the institution agrees to provide funds for the operations and maintenance costs from sources
321 other than state funds, and agrees that the building or buildings will not be eligible for state capital
322 improvement funding, the higher education institution may:]~~

323 [~~(a) oversee and manage the construction without involvement, oversight, or management
324 from the Division of Facilities Construction and Management; or]~~

325 [~~(b) arrange for management of the project by the Division of Facilities Construction and
326 Management.]~~

327 [~~(10)~~] (8) Notwithstanding Subsections [~~(2)(c) and (d)~~] (2)(a)(iii) and (iv), the School and
328 Institutional Trust Lands Administration may hold title to any real property, buildings, fixtures,
329 and appurtenances held by it that are under its control.

330 Section 5. Section **63A-5-206** is amended to read:

331 **63A-5-206. Construction, alteration, and repair of state facilities -- Powers of**
332 **director -- Exceptions -- Expenditure of appropriations.**

333 (1) As used in this section:

334 (a) "Analysis" means an economic assessment of competing design and maintenance
335 alternatives, the object of which is to reduce cost and conserve energy.

336 (b) "Capital developments" [~~means any:~~] and "capital improvements" have the same
337 meaning as provided in Section 63A-5-104.

338 ~~[(i) remodeling, site, or utility projects with a total cost of \$1,000,000 or more;]~~

339 ~~[(ii) addition of new space that will cost more than \$100,000; or]~~

340 ~~[(iii) land acquisition where an appropriation is requested.]~~

341 ~~[(c) "Capital improvements" means any:]~~

342 ~~[(i) remodeling, alteration, repair project with a total cost of less than \$1,000,000; or]~~

343 ~~[(ii) site and utility improvement with a total cost of less than \$1,000,000.]~~

344 (c) "Compliance agency" has the same meaning as provided in Subsection 58-56-3(4).

345 (d) (i) "Facility" means any building, structure, or other improvement that is constructed

346 on property owned by the state, its departments, commissions, institutions, or agencies.

347 (ii) "Facility" does not mean an unoccupied structure that is a component of the state

348 highway system.

349 ~~[(d)]~~ (e) "Life cycle cost-effective" means the lowest cost of owning and operating a
350 facility over a 25-year period, including the initial cost, energy costs, operation and maintenance
351 costs, repair costs, and the costs of energy conservation and renewable energy systems.

352 (f) "Local government" means the county, municipality, or local school district that would
353 have jurisdiction to act as the compliance agency if the property on which the project is being
354 constructed were not owned by the state.

355 ~~[(e)]~~ (g) "Renewable energy system" means a system designed to use solar, wind,
356 geothermal power, wood, or other replenishable energy source to heat, cool, or provide electricity
357 to a building.

358 ~~[(f) "State-owned facilities" means those facilities identified in Section 63A-5-212.]~~

359 ~~[(2) The director shall prepare or have prepared by private firms or individuals designs,~~
360 ~~plans, and specifications for the various buildings and improvements, and other work carried out~~
361 ~~by the division.]~~

362 ~~[(3)]~~ (2) (a) [(i)] Except as provided in [Subsection (3)(a)(ii) or (3)(a)(iii), and except for
363 facilities under the jurisdiction of the State Capitol Preservation Board] Subsections (3) and (4),
364 the director shall [recommend the need for and] exercise direct supervision over the design and
365 construction of all new facilities, and all alterations, repairs, and improvements to [all] existing
366 facilities [of the state, its departments, commissions, institutions, and agencies] if the total project
367 construction cost, regardless of the funding source, is greater than \$100,000.

368 (b) The director shall prepare or have prepared by private firms or individuals designs,

369 plans, and specifications for the projects administered by the division.

370 (c) Before proceeding with construction, the director and the officials charged with the
371 administration of the affairs of the particular department, commission, institution, or agency shall
372 approve the location, design, plans, and specifications.

373 [~~(ii) The director may:-]~~

374 [~~(A) authorize a department, commission, institution, or agency to control design and~~
375 ~~construction of alterations, repairs, and improvements when the total project construction cost is~~
376 ~~greater than \$100,000 by following the delegation requirements and procedures of Subsection~~
377 ~~(3)(c); or]~~

378 [~~(B) by rule, authorize a particular department, commission, institution, or agency to~~
379 ~~control design and construction on projects within a particular dollar range and a particular project~~
380 ~~type:]~~

381 [~~(iii) (A) At the request of This is the Place Foundation, the director may authorize the~~
382 ~~foundation to control design and construction of alterations, repairs, or improvements to facilities~~
383 ~~at This is the Place State Park to be made with funds of the foundation, including grant monies~~
384 ~~from the state, or with donated services or materials:]~~

385 [~~(B) If the foundation controls design and construction as provided in Subsection~~
386 ~~(3)(a)(iii)(A), the alterations, repairs, or improvements are subject to plan review and inspection~~
387 ~~by Salt Lake City for the purpose of assuring compliance with building codes:]~~

388 [~~(b) (i) Except for the placement or installation of works of art through Title 9, Chapter~~
389 ~~6, Part 4, Utah Percent-for-Art Act, or as provided in Subsection (3)(b)(ii), and except for facilities~~
390 ~~under the jurisdiction of the State Capitol Preservation Board, an existing facility may not be~~
391 ~~altered, repaired, or improved on the property of any state institution, department, commission, or~~
392 ~~agency if the total project construction cost exceeds \$100,000 until the location, design, plans, and~~
393 ~~specifications are approved by the director and the officials charged with the administration of the~~
394 ~~affairs of the particular department, commission, institution, or agency:]~~

395 [~~(ii) Alterations, repairs, or improvements to facilities at This is the Place State Park to be~~
396 ~~made by This is the Place Foundation with funds of the foundation, including grant monies from~~
397 ~~the state, or with donated services or materials, are exempt from Subsection (3)(b)(i):]~~

398 (3) Projects for the construction of new facilities and alterations, repairs, and
399 improvements to existing facilities are not subject to Subsection (2) if the project:

400 (a) occurs on property under the jurisdiction of the State Capitol Preservation Board;
401 (b) is within a designated research park at the University of Utah or Utah State University;
402 (c) occurs within the boundaries of This is the Place State Park and is administered by This
403 is the Place Foundation except that This is the Place Foundation may request the director to
404 administer the design and construction; or
405 (d) is for the creation and installation of art under Title 9, Chapter 6, Part 4, Utah
406 Percent-for-Art Program.

407 ~~[(e)] (4) (a) (i) The [director may delegate] State Building Board may authorize the~~
408 delegation of control over design, construction, and all other aspects of any project to entities of
409 state government on a project-by-project basis [if the state entity requests that delegation in writing
410 and the State Building Board approves the delegation] or for projects within a particular dollar
411 range and a particular project type.

412 ~~[(ii) (A) The director, his designee, or the state entity to whom control has been designated~~
413 pursuant to Subsection (5)(c)(i) shall notify in writing the elected representatives of local
414 government entities directly and substantively affected by any diagnostic, treatment, parole,
415 probation, or other secured facility project exceeding \$250,000, if:]

416 ~~[(B) the nature of the project has been significantly altered since prior notification or~~
417 approval;]

418 ~~[(H) the project would significantly change the nature of the functions presently conducted~~
419 at the location;]

420 ~~[(H) the project adds 50% or more square feet to the area of the facility; or]~~
421 ~~[(IV) the project is new construction.]~~

422 ~~[(B) At the request of either the state entity or the local government entity, representatives~~
423 from the state entity and the affected local entity shall conduct or participate in a local public
424 hearing or hearings to discuss these issues.]

425 ~~[(iii)] (ii) The state entity to whom control is delegated shall assume fiduciary control over~~
426 project finances, shall assume all responsibility for project budgets and expenditures, and shall
427 receive all funds appropriated for the project, including any contingency funds contained in the
428 appropriated project budget.

429 ~~[(iv)] (iii) Delegation of project control does not exempt the state entity from complying~~
430 with the codes and guidelines for design and construction adopted by the division and the State

431 Building Board.

432 ~~[(v)]~~ (iv) State entities that receive a delegated project may not ~~[have access to the building~~
433 ~~board]~~ access, for the delegated project, the division's statewide contingency ~~[funds]~~ reserve and
434 project reserve authorized in Section 63A-5-209 ~~[for the delegated project]~~.

435 (b) For facilities that will be owned, operated, maintained, and repaired by an entity that
436 is not a state agency or institution and that are located on state property, the State Building Board
437 may authorize the owner to administer the design and construction of the project instead of the
438 division.

439 (5) Notwithstanding any other provision of this section, if a donor donates land to an
440 eligible institution of higher education and commits to build a building or buildings on that land,
441 and the institution agrees to provide funds for the operations and maintenance costs from sources
442 other than state funds, and agrees that the building or buildings will not be eligible for state capital
443 improvement funding, the higher education institution may:

444 (a) oversee and manage the construction without involvement, oversight, or management
445 from the division; or

446 (b) arrange for management of the project by the division.

447 (6) (a) The role of compliance agency as provided in Title 58, Chapter 56, Utah Uniform
448 Building Standards Act, shall be provided by:

449 (i) the director, for projects administered by the division;

450 (ii) the entity designated by the State Capitol Preservation Board, for projects under
451 Subsection (3)(a);

452 (iii) the local government, for projects exempt from the division's administration under
453 Subsection (3)(b) or administered by This is the Place Foundation under Subsection (3)(c);

454 (iv) the state entity or local government designated by the State Building Board, for
455 projects under Subsection (4); or

456 (v) the institution, for projects exempt from the division's administration under Subsection
457 (5)(a).

458 (b) For the installation of art under Subsection (3)(d), the role of compliance agency shall
459 be provided by the entity that is acting in this capacity for the balance of the project as provided
460 in Subsection (6)(a).

461 (c) The local government acting as the compliance agency under Subsection (6)(a)(ii) may:

462 (i) only review plans and inspect construction to enforce the building codes as adopted by
463 the Uniform Building Codes Commission; and

464 (ii) charge a building permit fee of no more than the amount it could have charged if the
465 land upon which the improvements are located were not owned by the state.

466 (d) (i) The use of state property and any improvements constructed on state property,
467 including improvements constructed by nonstate entities, is not subject to the zoning authority of
468 local governments as provided in Section 10-9-105.

469 (ii) The state entity controlling the use of the state property shall consider any input
470 received from the local government in determining how the property shall be used.

471 (7) Before construction may begin, the director shall review the design of projects
472 exempted from the division's administration under Subsection (4) to determine if the design:

473 (a) complies with any restrictions placed on the project by the State Building Board; and

474 (b) is appropriate for the purpose and setting of the project.

475 ~~[(4)]~~ (8) (a) The director shall ensure that state-owned facilities, except for facilities under
476 the control of the State Capitol Preservation Board, are life cycle cost effective.

477 (b) The estimated cost of the analysis shall be included in each program budget document
478 and in the project funding request submitted to the State Building Board, the governor, and the
479 Legislature.

480 (c) The final cost estimate shall reflect the most life cycle cost-effective building.

481 (d) The ~~[director]~~ State Building Board, in consultation with the ~~[State Building Board and~~
482 ~~Division of Energy]~~ director and the State Energy Manager, shall make rules to implement this
483 Subsection (8) by following the procedures and requirements of Title 63, Chapter 46a, Utah
484 Administrative Rulemaking Act.

485 (e) The State Building Board may exempt a facility from being life cycle cost-effective
486 pursuant to rules, after reviewing and concurring with a written request and justification from the
487 director.

488 ~~[(5) (a) Except as provided in Subsection (5)(c) or (5)(d), and except for facilities~~
489 ~~constructed on property under the jurisdiction of the State Capitol Preservation Board, the director~~
490 ~~shall recommend the need for and exercise direct supervision over the design and construction of~~
491 ~~all new facilities of the state, its departments, commissions, institutions, and agencies if the total~~
492 ~~project construction cost is in excess of \$100,000.]~~

493 ~~[(b) (i) Except for the placement or installation of works of art under Title 9, Chapter 6,~~
494 ~~Part 4, Utah Percent-for-Art Act, or as provided in Subsection (5)(b)(ii), (5)(b)(iii), or (5)(b)(iv);~~
495 ~~and except for facilities constructed on property under the jurisdiction of the State Capitol~~
496 ~~Preservation Board, a new facility may not be constructed on the property of any state department,~~
497 ~~commission, institution, or agency if the total project construction cost of the facility, regardless~~
498 ~~of the funding source, exceeds \$100,000, until the construction of the facility has been approved~~
499 ~~by the Legislature in an Appropriations Act or by other specific legislation, and the location,~~
500 ~~design, plans, and specifications are approved by the director and the official charged with the~~
501 ~~administration of the affairs of the particular department, commission, institution, or agency.]~~

502 ~~[(ii) Facilities to be built with nonstate funds and owned and occupied by nonstate entities~~
503 ~~within research park areas are exempt from this Subsection (5)(b).]~~

504 ~~[(iii) Facilities to be built for the Utah National Guard for which the funding for~~
505 ~~construction, operations, and maintenance are derived totally from the United States Government~~
506 ~~are exempt from the requirement of obtaining legislative approval required by this Subsection~~
507 ~~(5)(b).]~~

508 ~~[(iv) New facilities to be built at This is the Place State Park by This is the Place~~
509 ~~Foundation with funds of the foundation, including grant monies from the state, or with donated~~
510 ~~services or materials, are exempt from Subsection (5)(b)(i).]~~

511 ~~[(c) (i) The director may delegate control over design, construction, and all other aspects~~
512 ~~of any project to entities of state government on a project-by-project basis if the state entity~~
513 ~~requests that delegation in writing and the State Building Board approves the delegation.]~~

514 ~~[(ii) The state entity to whom control is delegated shall assume fiduciary control over~~
515 ~~project finances, shall assume all responsibility for project budgets and expenditures, and shall~~
516 ~~receive all funds appropriated for the project, including any contingency funds contained in the~~
517 ~~appropriated project budget.]~~

518 ~~[(iii) Delegation of project control does not exempt the state entity from complying with~~
519 ~~the codes and guidelines for design and construction adopted by the division and the State Building~~
520 ~~Board.]~~

521 ~~[(iv) State entities that receive a delegated project may not have access to the building~~
522 ~~board contingency funds authorized in Section 63A-5-209 for the delegated project.]~~

523 ~~[(d) (i) At the request of This is the Place Foundation, the director may authorize the~~

524 foundation to control design and construction of any new facility at This is the Place State Park
525 to be built with funds of the foundation, including grant monies from the state, or with donated
526 services or materials.]

527 [~~(ii) If the foundation controls design and construction as provided in Subsection (5)(d)(i),~~
528 ~~the new facility is subject to plan review and inspection by Salt Lake City for the purpose of~~
529 ~~assuring compliance with building codes.]~~

530 [~~(6)~~ (9) The director may expend appropriations for statewide projects from funds
531 provided by the Legislature for those specific purposes and within guidelines established by the
532 State Building Board.

533 [~~(7)~~ (10) (a) The director, with the approval of the Office of Legislative Fiscal Analyst,
534 shall develop standard forms to present capital development and capital improvement cost
535 summary data.

536 (b) The director shall:

537 (i) within 30 days after the completion of each capital development project, submit cost
538 summary data for the project on the standard form to the Office of Legislative Fiscal Analyst; and

539 (ii) upon request, submit cost summary data for a capital improvement project to the Office
540 of Legislative Fiscal Analyst on the standard form.

541 [~~(8)~~ (11) Notwithstanding the requirements of Title 63, Chapter 38, Budgetary Procedures
542 Act, the director may:

543 (a) accelerate the design of projects funded by any appropriation act passed by the
544 Legislature in its annual general session;

545 (b) use any unencumbered existing account balances to fund that design work; and

546 (c) reimburse those account balances from the amount funded for those projects when the
547 appropriation act funding the project becomes effective.

548 (12) (a) The director, his designee, or the state entity to whom control has been designated
549 under Subsection (4), shall notify in writing the elected representatives of local government entities
550 directly and substantively affected by any diagnostic, treatment, parole, probation, or other secured
551 facility project exceeding \$250,000, if:

552 (i) the nature of the project has been significantly altered since prior notification;

553 (ii) the project would significantly change the nature of the functions presently conducted
554 at the location; or

555 (iii) the project is new construction.

556 (b) At the request of either the state entity or the local government entity, representatives
557 from the state entity and the affected local entity shall conduct or participate in a local public
558 hearing or hearings to discuss these issues.

559 Section 6. Section **63A-5-207** is amended to read:

560 **63A-5-207. Director to have plans prepared and award contracts for facilities --**
561 **Prerequisites -- Availability of appropriated funds -- Excessive obligations prohibited --**
562 **Exceptions.**

563 ~~[(1) The director may have plans prepared for a facility for which an appropriation has~~
564 ~~been made by the Legislature, and shall pay for the preparation from the planning fund as soon as:]~~

565 ~~[(a) the measures passed by the Legislature are approved by the governor;]~~

566 ~~[(b) the director receives the written request of the sponsoring institution; and]~~

567 ~~[(c) the state fiscal officer certifies that the Legislature has made an appropriation for the~~
568 ~~project indicated.]~~

569 ~~[(2) The director may proceed to award contracts for construction of any project if the~~
570 ~~written request by a sponsoring institution directs the director to proceed and if the state fiscal~~
571 ~~officer has certified that the Legislature has made an appropriation for the purpose. The director~~
572 ~~shall promptly notify the director of the Division of Fine Arts, Department of Community and~~
573 ~~Economic Development, of each request by a sponsoring institution and of each certification by~~
574 ~~the state fiscal officer.]~~

575 ~~[(3) The funds shall be available upon demand within the year to which the appropriation~~
576 ~~applies. The director is not required to delay action until the full amount of the appropriation is~~
577 ~~transferred. However, the state fiscal officer shall make the amount available at times as the~~
578 ~~director may require to meet the obligations incurred in the development of building projects~~
579 ~~authorized by the Legislature.]~~

580 ~~[(4)(a)]~~ (1) The director shall assure, unless otherwise specifically instructed by the terms
581 of the appropriation of a particular project, that no obligations beyond the [appropriation]
582 authorized funding are incurred in the construction of any project authorized by the Legislature.

583 ~~[(b)]~~ (2) The director may consent to the drafting of [any] a plan or the awarding of [any]
584 a contract that will exceed in cost the [appropriation] funding currently available for the project
585 in question only if the Legislature has specifically provided for extending construction of a

586 building or the completion of a project into future fiscal periods.

587 ~~[(5) (a) The director shall request the state fiscal officer to certify the amount of any funds~~
588 ~~set aside in an appropriation for deposit in the Percent-for-Art Account at the beginning of the~~
589 ~~percent-for-art project for which the appropriation is made.]~~

590 ~~[(b) The certified amount shall be released to the director of the Division of Fine Arts, who~~
591 ~~shall use the fund to administer the Percent-for-Art Program established under Title 64, Chapter~~
592 ~~2a.]~~

593 Section 7. Section **63A-5-209** is amended to read:

594 **63A-5-209. Building appropriations supervised by director -- Disposition of surplus.**

595 (1) The director shall:

596 (a) supervise the expenditure of funds in providing plans, engineering specifications, sites,
597 and construction of the buildings for which legislative appropriations are made and shall
598 specifically allocate money appropriated when more than one project is included in any single
599 appropriation without legislative directive;

600 (b) (i) expend the amount necessary from appropriations for planning, engineering, and
601 architectural work; and

602 (ii) allocate amounts from appropriations necessary to cover expenditures previously made
603 from the planning fund in the preparation of plans, engineering, and specifications shall be
604 returned to the fund; and

605 (c) hold in a statewide contingency reserve the amount budgeted for contingencies in
606 appropriations for the construction or remodeling of facilities, for contingencies which may be over
607 and above all amounts obligated by contract for planning, engineering, and architectural work,
608 sites, and construction contracts.

609 (i) The amount budgeted for contingencies shall be based on a sliding scale percentage of
610 the construction cost. The sliding scale shall range from 4-1/2% to 6-1/2% for new construction,
611 and from 6% to 9-1/2% for remodeling projects.

612 (ii) The statewide contingency funds shall be held by the director to cover costs such as
613 change orders and other unforeseen, necessary costs beyond those specifically budgeted for the
614 project.

615 (iii) The Legislature shall annually review the percentage and the amount held in the
616 statewide contingency reserve. It may reappropriate to other building needs any amount from the

617 statewide contingency reserve which is determined to be in excess of the reserve required to meet
618 future contingency needs.

619 (2) The director shall hold in a separate reserve those state appropriated funds accrued
620 through bid savings and project residual as a project reserve.

621 (a) The director may authorize the use of project reserve funds only for the award of
622 contracts in excess of the construction budget if this is required to meet the intent of the project.

623 (b) The Legislature shall annually review the amount held in the project reserve for
624 possible reallocation by the Legislature to other building needs.

625 (3) ~~[In the event]~~ If any part of the appropriation for a building project, other than the part
626 set aside for the Utah Percent-for-Art Program under Title 9, Chapter 6, Part 4, remains
627 unencumbered after the award of construction and professional service contracts, and establishing
628 a reserve for fixed and moveable equipment, the balance of the appropriation shall be dedicated
629 to the ~~[contingency fund described in this section and shall]~~ project reserve and does not revert to
630 the General Fund.

631 (4) (a) One percent of the amount appropriated for the construction of any new state
632 building or facility may be appropriated and set aside ~~[in an appropriation]~~ for the Utah
633 Percent-for-Art Program administered by the Division of Fine Arts under Title 9, Chapter 6, Part
634 4.

635 (b) The director shall release to the Division of Fine Arts any funds included in an
636 appropriation to the division that are designated by the Legislature for the Utah Percent-for-Art
637 Program.

638 (c) Funds from appropriations for any state building or facility of which any part is derived
639 from the issuance of bonds, to the extent it would jeopardize the federal income tax exemption
640 otherwise allowed for interest paid on bonds, ~~[shall]~~ may not be set aside.

641 Section 8. Section **63A-5-211** is amended to read:

642 **63A-5-211. Planning Fund expenditures authorized -- Ceiling on expenditures --**
643 **Recovery -- Not to revert to General Fund.**

644 (1) The Planning Fund shall be used to make payments for engineering, architectural, and
645 other planning expenses necessary to make a meaningful cost estimate of any facility or
646 improvement with a demonstrable or immediate need.

647 (2) ~~[(a)]~~ The director may make expenditures from the Planning Fund in order to provide

648 planning information to the State Building Board, the governor, and the Legislature, up to a
649 maximum of \$350,000 in outstanding Planning Fund commitments.

650 ~~[(b) Planning Fund commitments made prior to February 28, 1987, will not require~~
651 ~~reimbursement, and any balance existing in the Planning Fund on that date beyond \$350,000 shall~~
652 ~~be returned to the General Fund.]~~

653 (3) (a) The director shall authorize all payments made from the Planning Fund.

654 (b) These payments shall be a charge on the project for which they were drawn.

655 (c) The amount paid shall be credited to the Planning Fund when the Legislature
656 appropriates money for any building project for which planning costs have previously been paid
657 from the Planning Fund.

658 (4) (a) Money may also be expended from the Planning Fund for architectural and
659 engineering services incident to the planning and preparation of applications for funds on
660 construction financed by other than state sources, including federal grants.

661 (b) However, upon approval of such financing, the money spent for architectural and
662 engineering services shall be returned as a reimbursement to the Planning Fund.

663 (5) This fund does not lapse to the General Fund at the end of any year but shall remain
664 as a permanent fund.

665 Section 9. Section **63A-5-220** is amended to read:

666 **63A-5-220. Definitions -- Creation of Trust Fund for People with Disabilities -- Use**
667 **of trust fund monies -- Feasibility study and report.**

668 (1) As used in this section:

669 (a) "Developmental center" means the Utah State Developmental Center described in
670 Section 62A-5-201.

671 (b) ~~["Division"]~~ "DSPD" means the Division of Services for People with Disabilities
672 within the Department of Human Services.

673 (c) "Fund" means the Trust Fund for People with Disabilities created by this section.

674 (2) Notwithstanding the provisions of Section 63A-5-215, any monies received by the
675 division or DSPD from the sale, lease, except any lease existing on May 1, 1995, or other
676 disposition of real property associated with the developmental center shall be deposited in the
677 fund.

678 (3) (a) There is created a restricted account within the General Fund entitled the "Trust

679 Fund for People with Disabilities."

680 (b) The Division of Finance shall deposit the following revenues into the fund:

681 (i) revenue from the sale, lease, except any lease existing on May 1, 1995, or other
682 disposition of real property associated with the developmental center;

683 (ii) revenue from the sale, lease, or other disposition of water rights associated with the
684 developmental center; and

685 (iii) revenue from voluntary contributions made to the fund.

686 (c) Notwithstanding the provisions of Section 65A-4-1, any sale or disposition of real
687 property or water rights associated with the developmental center shall be conducted as provided
688 in this Subsection (3)(c).

689 (i) The division shall secure the concurrence of DSPD and the approval of the governor
690 [~~through the director of the Division of Facilities Construction and Management~~] before making
691 the sale or other disposition of land or water rights.

692 (ii) The [~~Division of Facilities Construction and Management~~] division shall sell or
693 otherwise dispose of the land or water rights as directed by the governor.

694 (d) The state treasurer shall invest monies contained in the fund according to the
695 procedures and requirements of Title 51, Chapter 7, State Money Management Act, and all interest
696 shall remain with the fund.

697 (e) (i) Except as provided in Subsection (3)(e)(ii), no expenditure or appropriation may be
698 made from the fund.

699 (ii) (A) The Legislature may appropriate interest earned on fund monies invested pursuant
700 to Subsection (3)(d), leases from real property and improvements, leases from water, rents, and
701 fees to [~~the Division of Services for People with Disabilities within the Department of Human
702 Services for use by that division~~] DSPD for programs described in Title 62A, Chapter 5, Services
703 [~~to~~] for People with Disabilities.

704 (B) Fund monies appropriated each year under Subsection (3)(e)(ii)(A) may not be
705 expended unless approved by the Board of Services for People with Disabilities within the
706 Department of Human Services.

707 [~~(4) By July 1, 1998, the Board of Regents shall:~~]

708 [~~(a) review the advisability of leasing developmental center land by Utah Valley State
709 College;~~]

710 ~~[(b) in conducting their review, consult with the Division of Facilities Construction and~~
 711 ~~Management about the advantages and disadvantages of the leasing and purchasing options;]~~

712 ~~[(c) if the board determines that a lease or purchase is advisable, identify which land~~
 713 ~~should be acquired, the terms of the lease or purchase, and the financing mechanism to be used;~~
 714 ~~and]~~

715 ~~[(d) report its findings, conclusions, and recommendations to the Education Interim~~
 716 ~~Committee, the Health and Human Services Interim Committee, and the Executive Appropriations~~
 717 ~~Interim Committee.]~~

718 Section 10. Section **63A-5-222** is amended to read:

719 **63A-5-222. Critical land near state prison -- Definitions -- Preservation as open land**
 720 **-- Management and use of land -- Restrictions on transfer -- Wetlands development.**

721 (1) For purposes of this section:

722 (a) "Corrections" means the Department of Corrections created under Section 64-13-2.

723 (b) "Critical land" means a parcel of approximately 250 acres of land owned by the
 724 division and located on the east edge of the Jordan River between about 12300 South and 14600
 725 South in Salt Lake County, approximately the southern half of whose eastern boundary abuts the
 726 Denver and Rio Grande Western Railroad right of way.

727 ~~[(c) "Division" means the Division of Facilities Construction and Management created~~
 728 ~~under Section 63A-5-201.]~~

729 ~~[(d)]~~ (c) (i) "Open land" means land that is:

730 (A) preserved in or restored to a predominantly natural, open, and undeveloped condition;
 731 and

732 (B) used for:

733 (I) wildlife habitat;

734 (II) cultural or recreational use;

735 (III) watershed protection; or

736 (IV) another use consistent with the preservation of the land in or restoration of the land
 737 to a predominantly natural, open, and undeveloped condition.

738 (ii) (A) "Open land" does not include land whose predominant use is as a developed
 739 facility for active recreational activities, including baseball, tennis, soccer, golf, or other sporting
 740 or similar activity.

741 (B) The condition of land does not change from a natural, open, and undeveloped
742 condition because of the development or presence on the land of facilities, including trails,
743 waterways, and grassy areas, that:

744 (I) enhance the natural, scenic, or aesthetic qualities of the land; or

745 (II) facilitate the public's access to or use of the land for the enjoyment of its natural,
746 scenic, or aesthetic qualities and for compatible recreational activities.

747 (2) (a) (i) The critical land shall be preserved in perpetuity as open land.

748 (ii) The long-term ownership and management of the critical land should eventually be
749 turned over to the Department of Natural Resources created under Section 63-34-3 or another
750 agency or entity that is able to accomplish the purposes and intent of this section.

751 (b) Notwithstanding Subsection (2)(a)(i) and as funding is available, certain actions should
752 be taken on or with respect to the critical land, including:

753 (i) the development and implementation of a program to eliminate noxious vegetation and
754 restore and facilitate the return of natural vegetation on the critical land;

755 (ii) the development of a system of trails through the critical land that is compatible with
756 the preservation of the critical land as open land;

757 (iii) the development and implementation of a program to restore the natural features of
758 and improve the flows of the Jordan River as it crosses the critical land;

759 (iv) the preservation of the archeological site discovered on the critical land and the
760 development of an interpretive site in connection with the archeological discovery;

761 (v) in restoring features on the critical land, the adoption of methods and plans that will
762 enhance the critical land's function as a wildlife habitat;

763 (vi) taking measures to reduce safety risks on the critical land; and

764 (vii) the elimination or rehabilitation of a prison dump site on the critical land.

765 (3) (a) Except as provided in Subsection (3)(b), no interest in the critical land may be sold,
766 assigned, leased, or otherwise transferred unless measures are taken to ensure that the critical land
767 that is transferred will be preserved as open land in perpetuity.

768 (b) Notwithstanding Subsection (3)(a), exchanges of property may be undertaken to
769 resolve boundary disputes with adjacent property owners and easements may be granted for trails
770 and other purposes consistent with Subsection (2)(b) and with the preservation of the critical land
771 as open land.

772 (4) The division shall use the funds remaining from the appropriation under Chapter 399,
773 Laws of Utah 1998, for the purposes of:

774 (a) determining the boundaries and legal description of the critical land;

775 (b) determining the boundaries and legal description of the adjacent property owned by
776 the division;

777 (c) fencing the critical land and adjacent land owned by the division where appropriate and
778 needed; and

779 (d) assisting to carry out the intent of this section.

780 (5) (a) Notwithstanding Subsection (2)(a)(i), the division or its successor in title to the
781 critical land may develop or allow a public agency or private entity to develop more wetlands on
782 the critical land than exist naturally or existed previously.

783 (b) (i) Subject to Subsections (3)(a) and (5)(b)(ii), the division or its successor in title may
784 transfer jurisdiction of all or a portion of the critical land to a public agency or private entity to
785 provide for the development and management of wetlands and designated wetland buffer areas.

786 (ii) Before transferring jurisdiction of any part of the critical land under Subsection
787 (5)(b)(i), the division or its successor in title shall assure that reasonable efforts are made to obtain
788 approval from the appropriate federal agency to allow mitigation credits in connection with the
789 critical land to be used for impacts occurring anywhere along the Wasatch Front.

790 (6) Notwithstanding any other provision of this section, corrections shall have access to
791 the cooling pond located on the critical land as long as that access to and use of the cooling pond
792 are not inconsistent with the preservation of the critical land as open land.

793 (7) ~~[(a)]~~ The Department of Corrections, the division, and all other state departments,
794 divisions, or agencies shall cooperate together to carry out the intent of this section.

795 ~~[(b) The division, with the cooperation and assistance of the Governor's Office of Planning~~
796 ~~and Budget established under Section 63-38-1.4, shall report to the Political Subdivisions Interim~~
797 ~~Committee of the Legislature no later than November 30, 1999, concerning the efforts and actions~~
798 ~~of the division and other state agencies under this section to carry out the intent of this section.]~~

799 **Section 11. Repealer.**

800 This act repeals:

801 **Section 63A-5-210, Liquidation of assets.**

802 **Section 63A-5-212, Buildings for which director responsible.**

803 Section **63A-5-214, Transfer of title to real property from DFCM to the State Board**
804 **of Education.**

805 Section **63A-5-217, No unauthorized expenditures for facilities.**

805a **h SECTION 12. COORDINATION CLAUSE.**

805b **IF THIS BILL AND H B. 153, UTAH DEPARTMENT OF TRANSPORTATION MAINTENANCE**

805c **SHEDS, BOTH PASS, IT IS THE INTENT OF THE LEGISLATURE THAT THE AMENDMENTS TO**

805d **SECTION 63A-5-206 IN H.B.153 MAY NOT BE GIVEN EFFECT. h**

Legislative Review Note
as of 1-10-00 4:10 PM

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

Office of Legislative Research and General Counsel