

1 OPERATION AND MAINTENANCE OF STATE

2 BUILDINGS

3 2001 GENERAL SESSION

4 STATE OF UTAH

5 Sponsor: Gerry A. Adair

6 This act modifies code sections governing processes for capital development and capital  
7 improvement of state facilities. This act increases the funding required to be set aside for  
8 capital improvements from .9% to 2% of the replacement cost of existing state facilities.

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

10 AMENDS:

11 63A-5-104, as last amended by Chapter 231, Laws of Utah 2000

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

13 Section 1. Section 63A-5-104 is amended to read:

14 63A-5-104. Capital development and capital improvement process -- Approval  
15 requirements -- Limitations on new projects -- Emergencies.

16 (1) As used in this section:

17 (a) "Capital developments" means any:

18 (i) remodeling, site, or utility projects with a total cost of [~~\$1,000,000~~] \$1,500,000 or  
19 more;

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

21 (iii) purchase of real property where an appropriation is requested to fund the purchase.

22 (b) "Capital improvements" means any:

23 (i) remodeling, alteration, replacement, or repair project with a total cost of less than  
24 [~~\$1,000,000~~] \$1,500,000;

25 (ii) site and utility improvement with a total cost of less than [~~\$1,000,000~~] \$1,500,000; or

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

27 (c) (i) "New facility" means the construction of any new building on state property

28 regardless of funding source.

29 (ii) "New facility" includes:

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

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

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

33 (A) the replacement of state-owned space that is demolished, if the total construction cost  
34 of the replacement space is less than [~~\$1,000,000~~] \$1,500,000; or

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

36 (d) "Replacement cost of existing state [~~buildings~~] facilities" means the [~~replacement cost~~]  
37 insured value, as determined by the Division of Risk Management, of state [~~buildings~~] facilities,  
38 excluding auxiliary [~~buildings~~] facilities as defined by the State Building Board.

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

42 (3) (a) Except as provided in Subsections (3)(b), (d), and (e), a capital development project  
43 may not be constructed on state property without legislative approval.

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

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

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

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

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

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

54 (d) Legislative approval is not required for:

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

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

58 (iii) facilities to be built at This is the Place State Park by This is the Place Foundation

59 with funds of the foundation, including grant monies from the state, or with donated services or  
60 materials.

61 (e) (i) Legislative approval is not required for capital development projects to be built for  
62 the Department of Transportation as a result of an exchange of real property under Section  
63 72-5-111.

64 (ii) When the Department of Transportation approves those exchanges, it shall notify the  
65 president of the Senate, the speaker of the House, and the cochairs of the Capital Facilities and  
66 Administrative Services Subcommittee of the Legislature's Joint Appropriation Committee about  
67 any new facilities to be built under this exemption.

68 (4) (a) The State Building Board, on behalf of all state agencies, commissions,  
69 departments, and institutions shall by January 15 of each year, submit a list of anticipated capital  
70 improvement requirements to the Legislature for review and approval.

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

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

77 (5) The Legislature may authorize:

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

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

80 (6) The Legislature may not fund the design or construction of any new capital  
81 development projects, except to complete the funding of projects for which partial funding has  
82 been previously provided, until the Legislature has appropriated [~~9%~~] 2% of the replacement cost  
83 of existing state [~~buildings~~] facilities to capital improvements.

84 (7) (a) If, after approval of capital development and capital improvement priorities by the  
85 Legislature under this section, emergencies arise that create unforeseen critical capital  
86 improvement projects, the State Building Board may, notwithstanding the requirements of Title  
87 63, Chapter 38, Budgetary Procedures Act, reallocate capital improvement funds to address those  
88 projects.

89 (b) The building board shall report any changes it makes in capital improvement

90 allocations approved by the Legislature to:

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

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

93 (8) (a) The State Building Board may adopt a rule allocating to institutions and agencies

94 their proportionate share of capital improvement funding.

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

96 (i) reserves funds for the Division of Facilities Construction and Management for

97 emergency projects; and

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

99 requirement that a report of expenditures will be filed annually with the Division of Facilities

100 Construction and Management and appropriate governing bodies.

101 (9) It is the intent of the Legislature that in funding capital improvement requirements

102 under this section the General Fund be considered as a funding source for at least half of those

103 costs.

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**Legislative Review Note**

**as of 12-8-00 10:09 AM**

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

**Office of Legislative Research and General Counsel**