

STATE FACILITIES AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions of the Utah Administrative Services Code related to state facilities.

Highlighted Provisions:

This bill:

- ▶ amends the definition of "agency";
- ▶ grants rulemaking authority to the State Building Board relating to budgeting for and determining operations and maintenance expenses for a state facility;
- ▶ establishes requirements relating to compliance with rules made by the State Building Board under this bill;
- ▶ amends provisions relating to the capital development and capital improvement process;
- ▶ requires the Division of Facilities and Construction Management to present a regular report on state land or buildings that are no longer needed by the state;
- ▶ requires the State Board of Regents to conduct a study; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



27 **Utah Code Sections Affected:**

28 AMENDS:

- 29 **63A-1-103**, as last amended by Laws of Utah 2014, Chapter 292
- 30 **63A-1-111**, as renumbered and amended by Laws of Utah 1993, Chapter 212
- 31 **63A-3-104**, as renumbered and amended by Laws of Utah 1993, Chapter 212
- 32 **63A-3-106**, as last amended by Laws of Utah 2014, Chapter 387
- 33 **63A-3-201**, as last amended by Laws of Utah 2015, Chapter 43
- 34 **63A-3-203**, as last amended by Laws of Utah 2010, Chapter 324
- 35 **63A-3-302**, as enacted by Laws of Utah 1993, Chapter 212
- 36 **63A-3-501**, as last amended by Laws of Utah 2014, Chapter 286
- 37 **63A-5-103**, as last amended by Laws of Utah 2015, Chapter 297
- 38 **63A-5-104**, as last amended by Laws of Utah 2015, Chapter 297
- 39 **63A-5-204**, as last amended by Laws of Utah 2009, Chapters 183 and 344
- 40 **63A-5-206**, as last amended by Laws of Utah 2011, Chapter 14
- 41 **63A-5-215**, as renumbered and amended by Laws of Utah 1993, Chapter 212
- 42 **63J-1-201**, as last amended by Laws of Utah 2015, Chapters 175 and 407

43 ENACTS:

- 44 **63A-5-226**, Utah Code Annotated 1953

45 **Uncodified Material Affected:**

46 ENACTS UNCODIFIED MATERIAL



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

49 Section 1. Section **63A-1-103** is amended to read:

50 **63A-1-103. Definitions.**

51 As used in this title:

52 (1) "Agency" means a board, commission, institution, department, division, officer,
 53 council, office, committee, bureau, or other administrative unit of the state, including the
 54 agency head, agency employees, or other persons acting on behalf of or under the authority of
 55 the agency head, the Legislature, the courts, or the governor, but does not mean a political
 56 subdivision of the state, or any administrative unit of a political subdivision of the state.

57 (2) "Department" means the Department of Administrative Services.

58 (3) "Executive director" means the executive director of the Department of
59 Administrative Services.

60 Section 2. Section **63A-1-111** is amended to read:

61 **63A-1-111. Service plans established by each division -- Contents -- Distribution.**

62 (1) Each division of the department shall formulate and establish service plans for each
63 fiscal year.

64 (2) The service plans shall describe:

65 (a) the services to be rendered to state agencies;

66 (b) the methods of providing those services;

67 (c) the standards of performance; and

68 (d) the performance measures used to gauge compliance with those standards.

69 (3) Before the beginning of each fiscal year, the service plans shall be distributed to
70 each state agency [~~and institution~~] that uses the services provided by that division.

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

72 **63A-3-104. Appropriation for contingency purposes -- Procedure for allotment --**
73 **Legislative intent.**

74 (1) (a) The Legislature shall determine the amount to be appropriated for contingency
75 purposes, as well as the limits on the amount of any one allotment or total allotments to any
76 one [~~department or~~] agency.

77 (b) In advance of making any such allotment, the governor shall notify the Legislature
78 through the Office of the Legislative Fiscal Analyst, of his or her intent to do so, of the amount
79 to be allotted, and the justification for the allotment.

80 (2) It is the intent of the Legislature that such transfers be made only for unforeseeable
81 emergencies, and allotments shall not be made to correct poor budgetary practices or for
82 purposes having no existing appropriation or authorization.

83 Section 4. Section **63A-3-106** is amended to read:

84 **63A-3-106. Per diem rates for board members.**

85 (1) As used in this section and Section **63A-3-107**:

86 (a) "Board" means a board, commission, council, committee, task force, or similar
87 body established to perform a governmental function.

88 (b) "Board member" means a person appointed or designated by statute to serve on a

89 board.

90 (c) "Executive branch" means [~~a department, division, agency, board, or office~~] an
91 agency within the executive branch of state government.

92 (d) "Governmental entity" has the same meaning as provided under Section
93 [63G-2-103](#).

94 (e) "Higher education" means a state institution of higher education, as defined under
95 Section [53B-1-102](#).

96 (f) "Officer" means a person who is elected or appointed to an office or position within
97 a governmental entity.

98 (g) "Official meeting" means a meeting of a board that is called in accordance with
99 statute.

100 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and
101 subject to approval by the executive director, the director of the Division of Finance shall make
102 rules establishing per diem rates to defray subsistence costs for a board member's attendance at
103 an official meeting.

104 (3) Unless otherwise provided by statute, a per diem rate established under Subsection
105 (2) is applicable to a board member who serves:

106 (a) within the executive branch, except as provided under Subsection (3)(b);

107 (b) within higher education, unless higher education pays the costs of the per diem;

108 (c) on a board that is:

109 (i) not included under Subsection (3)(a) or (b); and

110 (ii) created by a statute that adopts the per diem rates by reference to:

111 (A) this section; and

112 (B) the rule authorized by this section; and

113 (d) within a government entity that is not included under Subsection (3)(a), if the
114 government entity adopts the per diem rates by reference to:

115 (i) this section; or

116 (ii) the rule establishing the per diem rates.

117 (4) (a) Unless otherwise provided by statute, a board member who is not a legislator
118 may receive per diem under this section and travel expenses under Section [63A-3-107](#) if the per
119 diem and travel expenses are incurred by the board member for attendance at an official

120 meeting.

121 (b) Notwithstanding Subsection (4)(a), a board member may not receive per diem or
122 travel expenses under this Subsection (4) if the board member is being paid by a governmental
123 entity while performing the board member's service on the board.

124 (5) A board member may decline to receive per diem for the board member's service.

125 (6) Compensation and expenses of a board member who is a legislator are governed by
126 Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

127 Section 5. Section 63A-3-201 is amended to read:

128 **63A-3-201. Appointment of accounting and other officers and employees by**
129 **director of the Division of Finance -- Delegation of powers and duties by director --**
130 **Background checks.**

131 (1) With the approval of the executive director, the director of the Division of Finance
132 shall appoint an accounting officer and other administrative officers that are necessary to
133 efficiently and economically perform the functions of the Division of Finance.

134 (2) The director of the Division of Finance may:

135 (a) organize the division and employ other assistants to discharge the functions of the
136 division;

137 (b) delegate to assistants, officers, and employees any of the powers and duties of the
138 office subject to his or her control and subject to any conditions he may prescribe; and

139 (c) delegate the powers and duties of the office only by written order filed with the
140 lieutenant governor.

141 (3) (a) As used in this Subsection (3):

142 (i) "Public employee" means a person employed by a state agency.

143 (ii) "Public funds" means money, funds, and accounts, regardless of the source from
144 which the money, funds, and accounts are derived, that are owned, held, or administered by a
145 state agency.

146 (iii) "Public funds position" means employment with a state agency that requires:

147 (A) physical or electronic access to public funds;

148 (B) performing internal control functions or accounting;

149 (C) creating reports on public funds; or

150 (D) using, operating, or accessing state systems that account for or help account for

151 public funds.

152 (iv) "State agency" means [~~an executive branch~~]:

153 [~~(A) department;~~]

154 [~~(B)~~] (A) an executive branch agency; or

155 [~~(C) board;~~]

156 [~~(D) commission;~~]

157 [~~(E) division;~~]

158 [~~(F) office; or~~]

159 [~~(G)~~] (B) a state educational institution with the exception of an institution defined in
160 Subsection 53B-1-102(1).

161 (b) The Division of Finance may require that a public employee who applies for or
162 holds a public funds position:

163 (i) submit a fingerprint card in a form acceptable to the division;

164 (ii) consent to a criminal background check by:

165 (A) the Federal Bureau of Investigation;

166 (B) the Utah Bureau of Criminal Identification; or

167 (C) another agency of any state that performs criminal background checks; or

168 (iii) consent to a credit history report, subject to the requirements of the Fair Credit

169 Reporting Act, 15 U.S.C. Sec. 1681 et seq.

170 (c) The Division of Finance may, in accordance with Title 63G, Chapter 3, Utah
171 Administrative Rulemaking Act, adopt rules to implement this section.

172 Section 6. Section 63A-3-203 is amended to read:

173 **63A-3-203. Accounting control over state departments and agencies --**

174 **Prescription and approval of financial forms, accounting systems, and fees.**

175 (1) The director of the Division of Finance shall:

176 (a) exercise accounting control over all state departments and agencies except

177 institutions of higher education; and

178 (b) prescribe the manner and method of certifying that funds are available and adequate

179 to meet all contracts and obligations.

180 (2) The director shall audit all claims against the state for which an appropriation has

181 been made.

- 182 (3) (a) The director shall:
- 183 (i) prescribe all forms of requisitions, receipts, vouchers, bills, or claims to be used by
- 184 all state departments and agencies;
- 185 (ii) prescribe the forms, procedures, and records to be maintained by all departmental,
- 186 institutional, or agency store rooms;
- 187 (iii) exercise inventory control over the store rooms; and
- 188 (iv) prescribe all forms to be used by the division.

189 (b) Before approving the forms in Subsection (3)(a), the director shall obtain approval

190 from the state auditor that the forms will adequately facilitate the post-audit of public accounts.

191 (4) Before implementation by any state [~~department or~~] agency, the director of the

192 Division of Finance shall review and approve:

- 193 (a) any accounting system developed by a state [~~department or~~] agency; and
- 194 (b) any fees established by any state [~~department or~~] agency to recover the costs of
- 195 operations.

196 Section 7. Section **63A-3-302** is amended to read:

197 **63A-3-302. Unpaid account receivable due the state.**

198 If any account receivable has been unpaid for more than 90 days, any agency[;

199 ~~department, division, commission, committee, board, council, institution, or any]~~ or other

200 authority of state government responsible for collection of the account may proceed under this

201 part to collect the delinquent amount.

202 Section 8. Section **63A-3-501** is amended to read:

203 **63A-3-501. Definitions.**

204 As used in this part:

205 (1) (a) "Accounts receivable" or "receivables" means any amount due to a state agency

206 from an entity for which payment has not been received by the state agency that is servicing the

207 debt.

208 (b) "Accounts receivable" includes unpaid fees, licenses, taxes, loans, overpayments,

209 fines, forfeitures, surcharges, costs, contracts, interest, penalties, restitution to victims,

210 third-party claims, sale of goods, sale of services, claims, and damages.

211 (2) "Administrative offset" means:

212 (a) a reduction of an individual's tax refund or other payments due to the individual to

213 reduce or eliminate accounts receivable that the individual owes to a state agency; and

214 (b) a reduction of an entity's tax refund or other payments due to the entity to reduce or
215 eliminate accounts receivable that the entity owes to a state agency.

216 (3) "Entity" means an individual, a corporation, partnership, or other organization that
217 pays taxes to or does business with the state.

218 (4) "Office" means the Office of State Debt Collection established by this part.

219 (5) "Past due" means any accounts receivable that the state has not received by the
220 payment due date.

221 (6) "Restitution to victims" means restitution ordered by a court to be paid to a victim
222 of an offense in a criminal or juvenile proceeding.

223 (7) (a) "State agency" includes:

224 (i) [~~any department, division, commission, council, board, bureau, committee, office,~~
225 ~~or other administrative subunit of Utah state government~~] an executive branch agency;

226 (ii) the legislative branch of state government; and

227 (iii) the judicial branches of state government, including justice courts.

228 (b) "State agency" does not include:

229 (i) any institution of higher education;

230 (ii) except in Subsection 63A-3-502(7)(g), the State Tax Commission; or

231 (iii) the administrator of the Uninsured Employers' Fund appointed by the Labor
232 Commissioner under Section 34A-2-704, solely for the purposes of collecting money required
233 to be deposited into the Uninsured Employers' Fund under:

234 (A) Section 34A-1-405;

235 (B) Title 34A, Chapter 2, Workers' Compensation Act; or

236 (C) Title 34A, Chapter 3, Utah Occupational Disease Act.

237 (8) "Writing-off" means the removal of an accounts receivable from an agency's
238 accounts receivable records but does not necessarily eliminate further collection efforts.

239 Section 9. Section 63A-5-103 is amended to read:

240 **63A-5-103. Board -- Powers.**

241 (1) The State Building Board shall:

242 (a) in cooperation with [~~state institutions, departments, commissions, and~~] agencies,
243 prepare a master plan of structures built or contemplated;

244 (b) submit to the governor and the Legislature a comprehensive five-year building plan
245 for the state containing the information required by Subsection (2);

246 (c) amend and keep current the five-year building program for submission to the
247 governor and subsequent legislatures;

248 (d) as a part of the long-range plan, recommend to the governor and Legislature any
249 changes in the law that are necessary to ~~[insure]~~ ensure an effective, well-coordinated building
250 program for all ~~[state institutions]~~ agencies;

251 (e) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
252 make rules:

253 (i) that are necessary to discharge its duties and the duties of the Division of Facilities
254 Construction and Management;

255 (ii) to establish standards and requirements for life cycle cost-effectiveness of state
256 facility projects;

257 (iii) to govern the disposition of real property by the division and establish factors,
258 including appraised value and historical significance, in evaluating the disposition;

259 (iv) to establish standards and requirements for a capital development project request,
260 including a requirement for a feasibility study; and

261 (v) ~~[to establish standards and requirements for reporting]~~ for operations and
262 maintenance expenditures for state-owned facilities~~[-including standards and requirements~~
263 ~~relating to]~~ that require, and establish standards for:

264 (A) reporting;

265 (B) utility metering;

266 (C) creating operations and maintenance programs within all agency institutional line
267 items;

268 (D) reviewing and adjusting for inflationary costs of goods and services on an annual
269 basis; and

270 (E) determining the actual cost for operations and management requests for a new
271 facility;

272 (f) with support from the Division of Facilities Construction and Management,
273 establish design criteria, standards, and procedures for planning, design, and construction of
274 new state facilities and for improvements to existing state facilities, including life-cycle

275 costing, cost-effectiveness studies, and other methods and procedures that address:

276 (i) the need for the building or facility;

277 (ii) the effectiveness of its design;

278 (iii) the efficiency of energy use; and

279 (iv) the usefulness of the building or facility over its lifetime;

280 (g) prepare and submit a yearly request to the governor and the Legislature for a
281 designated amount of square footage by type of space to be leased by the Division of Facilities
282 Construction and Management in that fiscal year;

283 (h) assure the efficient use of all building space; and

284 (i) conduct ongoing facilities maintenance audits for state-owned facilities.

285 (2) (a) An agency shall comply with the rules described in Subsection (1)(e)(v)(E) for
286 new facility requests submitted to the Legislature for the 2017 General Session or any session
287 of the Legislature after the 2017 General Session.

288 (b) On or before September 1, 2016, each agency shall revise the agency's budget to
289 comply with the rules described in Subsection (1)(e)(v)(C).

290 (c) Beginning on December 1, 2016, the Office of the Legislative Fiscal Analyst and
291 the Governor's Office of Management and Budget shall, for each agency with operating and
292 maintenance expenses, ensure that each required budget for that agency is adjusted in
293 accordance with the rules described in Subsection (1)(e)(v)(D).

294 ~~[(2)]~~ (3) In order to provide adequate information upon which the State Building Board
295 may make ~~[its]~~ a recommendation ~~[under]~~ described in Subsection (1), any state agency
296 requesting new full-time employees for the next fiscal year shall report those anticipated
297 requests to the building board at least 90 days before the annual general session in which the
298 request is made.

299 ~~[(3)]~~ (4) (a) The State Building Board shall ensure that the five-year building plan
300 required by Subsection (1)(c) includes:

301 (i) a list that prioritizes construction of new buildings for all structures built or
302 contemplated based upon each agency's~~[- department's, commission's, and institution's]~~ present
303 and future needs;

304 (ii) information, and space use data for all state-owned and leased facilities;

305 (iii) substantiating data to support the adequacy of any projected plans;

306 (iv) a summary of all statewide contingency reserve and project reserve balances as of
307 the end of the most recent fiscal year;

308 (v) a list of buildings that have completed a comprehensive facility evaluation by an
309 architect/engineer or are scheduled to have an evaluation;

310 (vi) for those buildings that have completed the evaluation, the estimated costs of
311 needed improvements; and

312 (vii) for projects recommended in the first two years of the five-year building plan:

313 (A) detailed estimates of the cost of each project;

314 (B) the estimated cost to operate and maintain the building or facility on an annual
315 basis;

316 (C) the cost of capital improvements to the building or facility, estimated at 1.1% of
317 the replacement cost of the building or facility, on an annual basis;

318 (D) the estimated number of new agency full-time employees expected to be housed in
319 the building or facility;

320 (E) the estimated cost of new or expanded programs and personnel expected to be
321 housed in the building or facility;

322 (F) the estimated lifespan of the building with associated costs for major component
323 replacement over the life of the building; and

324 (G) the estimated cost of any required support facilities.

325 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
326 State Building Board may make rules prescribing the format for submitting the information
327 required by this Subsection [~~(3)~~] (4).

328 [~~(4)~~] (5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
329 Act, the State Building Board may make rules establishing circumstances under which bids
330 may be modified when all bids for a construction project exceed available funds as certified by
331 the director.

332 (b) In making those rules, the State Building Board shall provide for the fair and
333 equitable treatment of bidders.

334 [~~(5)~~] (6) (a) A person who violates a rule adopted by the board under Subsection (1)(e)
335 is subject to a civil penalty not to exceed \$2,500 for each violation plus the amount of any
336 actual damages, expenses, and costs related to the violation of the rule that are incurred by the

337 state.

338 (b) The board may take any other action allowed by law.

339 (c) If any violation of a rule adopted by the board is also an offense under Title 76,
340 Utah Criminal Code, the violation is subject to the civil penalty, damages, expenses, and costs
341 allowed under Subsection (1)(e) in addition to any criminal prosecution.

342 Section 10. Section **63A-5-104** is amended to read:

343 **63A-5-104. Definitions -- Capital development and capital improvement process**
344 **-- Approval requirements -- Limitations on new projects -- Emergencies.**

345 (1) As used in this section:

346 (a) (i) "Capital developments" means a:

347 [(i)] (A) remodeling, site, or utility project with a total cost of [~~\$2,500,000~~] \$3,500,000
348 or more;

349 [(ii)] (B) new facility with a construction cost of \$500,000 or more; or

350 [(iii)] (C) purchase of real property where an appropriation is requested to fund the
351 purchase.

352 (ii) "Capital developments" does not include a project described in Subsection

353 (1)(b)(iii).

354 (b) "Capital improvements" means [a]:

355 (i) a remodeling, alteration, replacement, or repair project with a total cost of less than
356 [~~\$2,500,000~~] \$3,500,000;

357 (ii) a site [~~and~~] or utility improvement with a total cost of less than [~~\$2,500,000; or~~]
358 \$3,500,000;

359 (iii) a utility infrastructure improvement project that:

360 (A) has a total cost of less than \$7,000,000;

361 (B) consists of two or more projects that, if done separately, would each cost less than
362 \$3,500,000; and

363 (C) the State Building Board determines is more cost effective or feasible to be
364 completed as a single project; or

365 [(iii)] (iv) a new facility with a total construction cost of less than \$500,000.

366 (c) (i) "New facility" means the construction of a new building on state property
367 regardless of funding source.

- 368 (ii) "New facility" includes:
- 369 (A) an addition to an existing building; and
- 370 (B) the enclosure of space that was not previously fully enclosed.
- 371 (iii) "New facility" does not ~~[mean]~~ include:
- 372 (A) the replacement of state-owned space that is demolished or that is otherwise
- 373 removed from state use, if the total construction cost of the replacement space is less than
- 374 ~~[\$2,500,000]~~ \$3,500,000; or
- 375 (B) the construction of facilities that do not fully enclose a space.
- 376 (d) "Replacement cost of existing state facilities and infrastructure" means the
- 377 replacement cost, as determined by the Division of Risk Management, of state facilities,
- 378 excluding auxiliary facilities as defined by the State Building Board and the replacement cost
- 379 of infrastructure as defined by the State Building Board.
- 380 (e) "State funds" means public money appropriated by the Legislature.
- 381 (2) (a) The State Building Board, on behalf of all state agencies, ~~[commissions,~~
- 382 ~~departments, and institutions]~~ shall submit its capital development recommendations and
- 383 priorities to the Legislature for approval and prioritization.
- 384 (b) In developing the State Building Board's capital development recommendations and
- 385 priorities, the State Building Board shall:
- 386 (i) require each state agency~~[, commission, department, or institution]~~ requesting an
- 387 appropriation for a capital development project to complete a study that demonstrates the
- 388 feasibility of the capital development project, including:
- 389 (A) the need for the capital development project;
- 390 (B) the appropriateness of the scope of the capital development project;
- 391 (C) any private funding for the capital development project; and
- 392 (D) the economic and community impacts of the capital development project; ~~[and]~~
- 393 (ii) verify the completion and accuracy of the feasibility study described in Subsection
- 394 (2)(b)(i)~~[-];~~ and
- 395 (iii) require that an institution described in Section 53B-1-102 that submits a request
- 396 for a capital development project address whether and how, as a result of the project, the
- 397 institution will:
- 398 (A) offer courses or other resources that will help meet demand for jobs, training, and

399 employment in the current market and the projected market for the next five years;

400 (B) respond to individual skilled and technical job demand over the next 3, 5, and 10
 401 years;

402 (C) respond to industry demands for trained workers;

403 (D) help meet commitments made by the Governor's Office of Economic
 404 Development, including relating to training and incentives;

405 (E) respond to changing needs in the economy; and

406 (F) based on demographics, respond to demands for on-line or in-class instruction.

407 (c) An agency may not modify a capital development project request after the deadline
 408 for submitting the request.

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

411 (b) Legislative approval is not required for a capital development project that consists
 412 of the design or construction of a new facility if:

413 (i) the State Building Board determines that~~[(+)]~~ the requesting state agency~~;~~
 414 ~~commission, department, or institution]~~ has provided adequate assurance that~~[(A)]~~ state funds
 415 will not be used for the design or construction of the facility; ~~[and]~~

416 ~~[(B)]~~ (ii) the state agency~~;~~ ~~commission, department, or institution has a plan for~~
 417 ~~funding in place that will not require increased state funding]~~ provides to the State Building
 418 Board a written document, signed by the head of the state agency:

419 (A) stating that funding is in place to ensure that increased state funding will not be
 420 required to cover the cost of operations and maintenance to~~[- or state funding for,]~~ the resulting
 421 facility for immediate or future capital improvements ~~[to the resulting facility];~~ and

422 (B) detailing the source of the funding that will be used for the cost of operations and
 423 maintenance for immediate and future capital improvements to the resulting facility; and

424 ~~[(ii)]~~ (iii) the State Building Board determines that the use of the state property is:

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

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

427 (c) (i) The Division of Facilities Construction and Management shall maintain a record
 428 of facilities constructed under the exemption provided in Subsection (3)(b).

429 (ii) For facilities constructed under the exemption provided in Subsection (3)(b), a state

430 agency[, ~~commission, department, or institution~~] may not request:

431 (A) increased state funds for operations and maintenance; or

432 (B) state capital improvement funding.

433 (d) Legislative approval is not required for:

434 (i) the renovation, remodeling, or retrofitting of an existing facility with nonstate funds
435 that has been approved by the State Building Board;

436 (ii) a facility to be built with nonstate funds and owned by nonstate entities within
437 research park areas at the University of Utah and Utah State University;

438 (iii) a facility to be built at This is the Place State Park by This is the Place Foundation
439 with funds of the foundation, including grant money from the state, or with donated services or
440 materials;

441 (iv) a capital project that:

442 (A) is funded by:

443 (I) the Uintah Basin Revitalization Fund; or

444 (II) the Navajo Revitalization Fund; and

445 (B) does not provide a new facility for a state agency or higher education institution; or

446 (v) a capital project on school and institutional trust lands that is funded by the School
447 and Institutional Trust Lands Administration from the Land Grant Management Fund and that
448 does not fund construction of a new facility for a state agency or higher education institution.

449 (e) (i) Legislative approval is not required for capital development projects to be built
450 for the Department of Transportation:

451 (A) as a result of an exchange of real property under Section [72-5-111](#); or

452 (B) as a result of a sale or exchange of real property from a maintenance facility if the
453 real property is exchanged for, or the proceeds from the sale of the real property are used for,
454 another maintenance facility, including improvements for a maintenance facility and real
455 property.

456 (ii) When the Department of Transportation approves a sale or exchange under
457 Subsection (3)(e), it shall notify the president of the Senate, the speaker of the House, and the
458 cochairs of the Infrastructure and General Government Appropriations Subcommittee of the
459 Legislature's Joint Appropriation Committee about any new facilities to be built or improved
460 under this exemption.

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

464 (ii) The list shall identify:

465 (A) a single project that costs more than \$1,000,000;

466 (B) multiple projects within a single building or facility that collectively cost more than
467 \$1,000,000;

468 (C) a single project that will be constructed over multiple years with a yearly cost of
469 \$1,000,000 or more and an aggregate cost of more than [~~\$2,500,000~~] \$3,500,000;

470 (D) multiple projects within a single building or facility with a yearly cost of
471 \$1,000,000 or more and an aggregate cost of more than [~~\$2,500,000~~] \$3,500,000;

472 (E) a single project previously reported to the Legislature as a capital improvement
473 project under \$1,000,000 that, because of an increase in costs or scope of work, will now cost
474 more than \$1,000,000; [~~and~~]

475 (F) multiple projects within a single building or facility previously reported to the
476 Legislature as a capital improvement project under \$1,000,000 that, because of an increase in
477 costs or scope of work, will now cost more than \$1,000,000[~~]; and~~ and

478 (G) projects approved under Subsection (1)(b)(iii).

479 (b) Unless otherwise directed by the Legislature, the State Building Board shall
480 prioritize capital improvements from the list submitted to the Legislature up to the level of
481 appropriation made by the Legislature.

482 (c) In prioritizing capital improvements, the State Building Board shall consider the
483 results of facility evaluations completed by an architect/engineer as stipulated by the building
484 board's facilities maintenance standards.

485 (d) Beginning on July 1, 2013, in prioritizing capital improvements, the State Building
486 Board shall allocate at least 80% of the funds that the Legislature appropriates for capital
487 improvements to:

488 (i) projects that address:

489 (A) a structural issue;

490 (B) fire safety;

491 (C) a code violation; or

- 492 (D) any issue that impacts health and safety;
- 493 (ii) projects that upgrade:
- 494 (A) an HVAC system;
- 495 (B) an electrical system;
- 496 (C) essential equipment;
- 497 (D) an essential building component; or
- 498 (E) infrastructure, including a utility tunnel, water line, gas line, sewer line, roof,
- 499 parking lot, or road; or
- 500 (iii) projects that demolish and replace an existing building that is in extensive
- 501 disrepair and cannot be fixed by repair or maintenance.
- 502 (e) Beginning on July 1, 2013, in prioritizing capital improvements, the State Building
- 503 Board shall allocate no more than 20% of the funds that the Legislature appropriates for capital
- 504 improvements to:
- 505 (i) remodeling and aesthetic upgrades to meet state programmatic needs; or
- 506 (ii) construct an addition to an existing building or facility.
- 507 (f) The State Building Board may require an entity that benefits from a capital
- 508 improvement project to repay the capital improvement funds from savings that result from the
- 509 project.
- 510 (g) The State Building Board may provide capital improvement funding to a single
- 511 project, or to multiple projects within a single building or facility, even if the total cost of the
- 512 project or multiple projects is ~~[\$2,500,000]~~ \$3,500,000 or more, if:
- 513 (i) the capital improvement project ~~[or multiple projects require more than one year to~~
- 514 ~~complete]~~ is a project described in Subsection (1)(b)(iii); and
- 515 (ii) the Legislature has ~~[affirmatively authorized the capital improvement project or~~
- 516 ~~multiple projects to be funded in phases]~~ not refused to fund the project with capital
- 517 improvement funds.
- 518 (h) In prioritizing and allocating capital improvement funding, the State Building
- 519 Board shall comply with the requirement in Subsection [63B-23-101\(2\)\(f\)](#).
- 520 (5) The Legislature may authorize:
- 521 (a) the total square feet to be occupied by each state agency; and
- 522 (b) the total square feet and total cost of lease space for each agency.

523 (6) If construction of a new building or facility [~~will be paid for by nonstate funds, but~~
524 will require an immediate or future increase in state funding for operations and maintenance or
525 for capital improvements, the Legislature may not authorize the new building or facility until
526 the Legislature appropriates funds for:

527 (a) the portion of operations and maintenance, if any, that will require an immediate or
528 future increase in state funding; and

529 (b) the portion of capital improvements, if any, that will require an immediate or future
530 increase in state funding.

531 (7) (a) Except as provided in Subsection (7)(b) [~~or (c)~~], the Legislature may not fund
532 the design or construction of any new capital development projects, except to complete the
533 funding of projects for which partial funding has been previously provided, until the
534 Legislature has appropriated [~~1.1%~~] 1.3% of the replacement cost of existing state facilities and
535 infrastructure to capital improvements.

536 (b) (i) As used in this Subsection (7)(b):

537 (A) "Education Fund budget deficit" is as defined in Section [63J-1-312](#); and

538 (B) "General Fund budget deficit" is as defined in Section [63J-1-312](#).

539 (ii) If the Legislature determines that an Education Fund budget deficit or a General
540 Fund budget deficit exists, the Legislature may, in eliminating the deficit, reduce the amount
541 appropriated to capital improvements to 0.9% of the replacement cost of state buildings and
542 infrastructure.

543 [~~(c) (i) The requirements under Subsections (6)(a) and (b) do not apply to the 2008-09,
544 2009-10, 2010-11, 2011-12, and 2012-13 fiscal years.]~~

545 [~~(ii) For the 2013-14 fiscal year, the amount appropriated to capital improvements shall
546 be reduced to 0.9% of the replacement cost of state facilities.]~~

547 (8) It is the policy of the Legislature that a new building or facility be approved and
548 funded for construction in a single budget action, therefore the Legislature may not fund the
549 programming, design, and construction of a new building or facility in phases over more than
550 one year unless the Legislature has approved each phase of the funding for the construction of
551 the new building or facility by the affirmative vote of two-thirds of all the members elected to
552 each house.

553 (9) (a) If, after approval of capital development and capital improvement priorities by

554 the Legislature under this section, emergencies arise that create unforeseen critical capital
555 improvement projects, the State Building Board may, notwithstanding the requirements of Title
556 63J, Chapter 1, Budgetary Procedures Act, reallocate capital improvement funds to address
557 those projects.

558 (b) The State Building Board shall report any changes it makes in capital improvement
559 allocations approved by the Legislature to:

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

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

562 (10) (a) The State Building Board may adopt a rule allocating to institutions and
563 agencies their proportionate share of capital improvement funding.

564 (b) The State Building Board shall ensure that the rule:

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

567 (ii) allows the delegation of projects to some institutions and agencies with the
568 requirement that a report of expenditures will be filed annually with the Division of Facilities
569 Construction and Management and appropriate governing bodies.

570 (11) It is the intent of the Legislature that in funding capital improvement requirements
571 under this section the General Fund be considered as a funding source for at least half of those
572 costs.

573 (12) (a) Subject to Subsection (12)(b), at least 80% of the state funds appropriated for
574 capital improvements shall be used for maintenance or repair of the existing building or
575 facility.

576 (b) The State Building Board may modify the requirement described in Subsection
577 (12)(a) if the State Building Board determines that a different allocation of capital
578 improvements funds is in the best interest of the state.

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

580 **63A-5-204. Specific powers and duties of director.**

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

583 (2) (a) The director shall:

584 (i) recommend rules to the executive director for the use and management of facilities

585 and grounds owned or occupied by the state for the use of its departments and agencies;
586 (ii) supervise and control the allocation of space, in accordance with legislative
587 directive through annual appropriations acts or other specific legislation, to the various
588 departments, commissions, institutions, and agencies in all buildings or space owned, leased, or
589 rented by or to the state, except capitol hill facilities and capitol hill grounds and except as
590 otherwise provided by law;
591 (iii) comply with the procedures and requirements of Title 63A, Chapter 5, Part 3,
592 Division of Facilities Construction and Management Leasing;
593 (iv) except as provided in Subsection (2)(b), acquire, as authorized by the Legislature
594 through the appropriations act or other specific legislation, and hold title to, in the name of the
595 division, all real property, buildings, fixtures, or appurtenances owned by the state or any of its
596 agencies;
597 (v) adopt and use a common seal, of a form and design determined by the director, and
598 of which courts shall take judicial notice;
599 (vi) file a description and impression of the seal with the Division of Archives;
600 (vii) collect and maintain all deeds, abstracts of title, and all other documents
601 evidencing title to or interest in property belonging to the state or any of its departments, except
602 institutions of higher education and the School and Institutional Trust Lands Administration;
603 (viii) report all properties acquired by the state, except those acquired by institutions of
604 higher education, to the director of the Division of Finance for inclusion in the state's financial
605 records;
606 (ix) before charging a rate, fee, or other amount for services provided by the division's
607 internal service fund to an executive branch agency, or to a subscriber of services other than an
608 executive branch agency:
609 (A) submit the proposed rates, fees, and cost analysis to the Rate Committee
610 established in Section [63A-1-114](#); and
611 (B) obtain the approval of the Legislature as required by Section [63J-1-410](#);
612 (x) conduct a market analysis by July 1, 2005, and periodically thereafter, of proposed
613 rates and fees, which analysis shall include a comparison of the division's rates and fees with
614 the fees of other public or private sector providers where comparable services and rates are
615 reasonably available;

- 616 (xi) implement the State Building Energy Efficiency Program under Section
617 63A-5-701; and
- 618 (xii) take all other action necessary for carrying out the purposes of this chapter.
- 619 (b) Legislative approval is not required for acquisitions by the division that cost less
620 than \$250,000.
- 621 (3) (a) The director shall direct or delegate maintenance and operations, preventive
622 maintenance, and facilities inspection programs and activities for any [~~department,~~
623 ~~commission, institution, or~~] agency, except:
- 624 (i) the State Capitol Preservation Board; and
625 (ii) state institutions of higher education.
- 626 (b) The director may choose to delegate responsibility for these functions only when
627 the director determines that:
- 628 (i) the [~~department or~~] agency has requested the responsibility;
629 (ii) the [~~department or~~] agency has the necessary resources and skills to comply with
630 facility maintenance standards approved by the State Building Board; and
631 (iii) the delegation would result in net cost savings to the state as a whole.
- 632 (c) The State Capitol Preservation Board and state institutions of higher education are
633 exempt from Division of Facilities Construction and Management oversight.
- 634 (d) Each state institution of higher education shall comply with the facility
635 maintenance standards approved by the State Building Board.
- 636 (e) Except for the State Capitol Preservation Board, agencies and institutions that are
637 exempt from division oversight shall annually report their compliance with the facility
638 maintenance standards to the division in the format required by the division.
- 639 (f) The division shall:
- 640 (i) prescribe a standard format for reporting compliance with the facility maintenance
641 standards;
642 (ii) report agency [~~and institution~~] compliance or noncompliance with the standards to
643 the Legislature; and
644 (iii) conduct periodic audits of exempt agencies and institutions to ensure that they are
645 complying with the standards.
- 646 (4) (a) In making any allocations of space under Subsection (2), the director shall:

647 (i) conduct studies to determine the actual needs of each [~~department, commission,~~
648 ~~institution, or~~] agency; and

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

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

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

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

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

657 (5) The director may:

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

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

663 (c) hold, buy, lease, and acquire by exchange or otherwise, as authorized by the
664 Legislature, whatever real or personal property that is necessary for the discharge of the
665 director's duties.

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

669 (a) the Office of Trust Administrator;

670 (b) the Department of Transportation;

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

672 (d) the Department of Natural Resources;

673 (e) the Utah National Guard;

674 (f) any area vocational center or other institution administered by the State Board of
675 Education;

676 (g) any institution of higher education; and

677 (h) the Utah Science Technology and Research Governing Authority.

678 (7) The director shall ensure that any firm performing testing and inspection work
679 governed by the American Society for Testing Materials Standard E-329 on public buildings
680 under the director's supervision shall:

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

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

685 (8) Notwithstanding Subsections (2)(a)(iii) and (iv), the School and Institutional Trust
686 Lands Administration may hold title to any real property, buildings, fixtures, and appurtenances
687 held by it that are under its control.

688 Section 12. Section **63A-5-206** is amended to read:

689 **63A-5-206. Construction, alteration, and repair of state facilities -- Powers of**
690 **director -- Exceptions -- Expenditure of appropriations -- Notification to local**
691 **governments for construction or modification of certain facilities.**

692 (1) As used in this section:

693 (a) "Capital developments" and "capital improvements" have the same meaning as
694 provided in Section [63A-5-104](#).

695 (b) "Compliance agency" has the same meaning as provided in Section [15A-1-202](#).

696 (c) (i) "Facility" means any building, structure, or other improvement that is
697 constructed on property owned by the state, its departments, commissions, institutions, or
698 agencies.

699 (ii) "Facility" does not mean an unoccupied structure that is a component of the state
700 highway system.

701 (d) "Life cycle cost-effective" means, as provided for in rules adopted by the State
702 Building Board, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
703 Act, the most prudent cost of owning and operating a facility, including the initial cost, energy
704 costs, operation and maintenance costs, repair costs, and the costs of energy conservation and
705 renewable energy systems.

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

709 (f) "Renewable energy system" means a system designed to use solar, wind, geothermal
710 power, wood, or other replenishable energy source to heat, cool, or provide electricity to a
711 building.

712 (2) (a) (i) Except as provided in Subsections (3) and (4), the director shall exercise
713 direct supervision over the design and construction of all new facilities, and all alterations,
714 repairs, and improvements to existing facilities if the total project construction cost, regardless
715 of the funding source, is greater than \$100,000, unless there is memorandum of understanding
716 between the director and an institution of higher education that permits the institution of higher
717 education to exercise direct supervision for a project with a total project construction cost of
718 not greater than \$250,000.

719 (ii) A state entity may exercise direct supervision over the design and construction of
720 all new facilities, and all alterations, repairs, and improvements to existing facilities if:

721 (A) the total project construction cost, regardless of the funding sources, is \$100,000 or
722 less; and

723 (B) the state entity assures compliance with the division's forms and contracts and the
724 division's design, construction, alteration, repair, improvements, and code inspection standards.

725 (b) The director shall prepare or have prepared by private firms or individuals designs,
726 plans, and specifications for the projects administered by the division.

727 (c) Before proceeding with construction, the director and the officials charged with the
728 administration of the affairs of the particular [~~department, commission, institution, or~~] agency
729 shall approve the location, design, plans, and specifications.

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

732 (a) occurs on property under the jurisdiction of the State Capitol Preservation Board;

733 (b) is within a designated research park at the University of Utah or Utah State
734 University;

735 (c) occurs within the boundaries of This is the Place State Park and is administered by
736 This is the Place Foundation except that This is the Place Foundation may request the director
737 to administer the design and construction; or

738 (d) is for the creation and installation of art under Title 9, Chapter 6, Part 4, Utah
739 Percent-for-Art Act.

740 (4) (a) (i) The State Building Board may authorize the delegation of control over
741 design, construction, and all other aspects of any project to entities of state government on a
742 project-by-project basis or for projects within a particular dollar range and a particular project
743 type.

744 (ii) The state entity to whom control is delegated shall assume fiduciary control over
745 project finances, shall assume all responsibility for project budgets and expenditures, and shall
746 receive all funds appropriated for the project, including any contingency funds contained in the
747 appropriated project budget.

748 (iii) Delegation of project control does not exempt the state entity from complying with
749 the codes and guidelines for design and construction adopted by the division and the State
750 Building Board.

751 (iv) State entities that receive a delegated project may not access, for the delegated
752 project, the division's statewide contingency reserve and project reserve authorized in Section
753 [63A-5-209](#).

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

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

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

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

766 (6) (a) The role of compliance agency as provided in Title 15A, State Construction and
767 Fire Codes Act, shall be provided by:

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

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

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

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

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

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

780 (c) The local government acting as the compliance agency under Subsection (6)(a)(iii)
781 may:

782 (i) only review plans and inspect construction to enforce the State Construction Code
783 or an approved code under Title 15A, State Construction and Fire Codes Act; and

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

786 (d) (i) The use of state property and any improvements constructed on state property,
787 including improvements constructed by nonstate entities, is not subject to the zoning authority
788 of local governments as provided in Sections [10-9a-304](#) and [17-27a-304](#).

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

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

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

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

796 (8) The director shall ensure that state-owned facilities, except for facilities under the
797 control of the State Capitol Preservation Board, are life cycle cost-effective.

798 (9) The director may expend appropriations for statewide projects from funds provided
799 by the Legislature for those specific purposes and within guidelines established by the State
800 Building Board.

801 (10) (a) The director, with the approval of the Office of Legislative Fiscal Analyst,

802 shall develop standard forms to present capital development and capital improvement cost
803 summary data.

804 (b) The director shall:

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

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

810 (11) Notwithstanding the requirements of Title 63J, Chapter 1, Budgetary Procedures
811 Act, the director may:

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

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

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

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

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

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

824 (iii) the project is new construction.

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

828 (13) (a) (i) Before beginning the construction of student housing on property owned by
829 the state or a public institution of higher education, the director shall provide written notice of
830 the proposed construction, as provided in Subsection (13)(a)(ii), if any of the proposed student
831 housing buildings is within 300 feet of privately owned residential property.

832 (ii) Each notice under Subsection (13)(a)(i) shall be provided to the legislative body

833 and, if applicable, the mayor of:

834 (A) the county in whose unincorporated area the privately owned residential property is
835 located; or

836 (B) the municipality in whose boundaries the privately owned residential property is
837 located.

838 (b) (i) Within 21 days after receiving the notice required by Subsection (13)(a)(i), a
839 county or municipality entitled to the notice may submit a written request to the director for a
840 public hearing on the proposed student housing construction.

841 (ii) If a county or municipality requests a hearing under Subsection (13)(b)(i), the
842 director and the county or municipality shall jointly hold a public hearing to provide
843 information to the public and to allow the director and the county or municipality to receive
844 input from the public about the proposed student housing construction.

845 Section 13. Section **63A-5-215** is amended to read:

846 **63A-5-215. Disposition of proceeds received by division from sale of property.**

847 (1) The money received by the division from the sale or other disposition of property
848 shall be paid into the state treasury and becomes a part of the funds provided by law for
849 carrying out the building program of the state, and are appropriated for that purpose.

850 (2) The proceeds from sales of property belonging to or used by a particular state
851 [~~institution or~~] agency shall, to the extent practicable, be expended for the construction of
852 buildings or in the performance of other work for the benefit of that [~~institution or~~] agency.

853 Section 14. Section **63A-5-226** is enacted to read:

854 **63A-5-226. Report to Infrastructure and General Government Appropriations**
855 **Subcommittee.**

856 The division shall, beginning in 2016, and in every even-numbered year after 2016, on
857 or before the third Wednesday in November, present a written report to the Infrastructure and
858 General Government Appropriations Subcommittee that identifies state land and buildings that
859 are no longer needed and can be sold by the state.

860 Section 15. Section **63J-1-201** is amended to read:

861 **63J-1-201. Governor's proposed budget to Legislature -- Contents -- Preparation**
862 **-- Appropriations based on current tax laws and not to exceed estimated revenues.**

863 (1) The governor shall deliver, not later than 30 days before the date the Legislature

864 convenes in the annual general session, a confidential draft copy of the governor's proposed
865 budget recommendations to the Office of the Legislative Fiscal Analyst according to the
866 requirements of this section.

867 (2) (a) When submitting a proposed budget, the governor shall, within the first three
868 days of the annual general session of the Legislature, submit to the presiding officer of each
869 house of the Legislature:

870 (i) a proposed budget for the ensuing fiscal year;

871 (ii) a schedule for all of the proposed changes to appropriations in the proposed budget,
872 with each change clearly itemized and classified; and

873 (iii) as applicable, a document showing proposed changes in estimated revenues that
874 are based on changes in state tax laws or rates.

875 (b) The proposed budget shall include:

876 (i) a projection of:

877 (A) estimated revenues by major tax type;

878 (B) 15-year trends for each major tax type;

879 (C) estimated receipts of federal funds; and

880 (D) appropriations for the next fiscal year;

881 (ii) the source of changes to all direct, indirect, and in-kind matching funds for all
882 federal grants or assistance programs included in the budget;

883 (iii) changes to debt service;

884 (iv) a plan of proposed changes to appropriations and estimated revenues for the next
885 fiscal year that is based upon the current fiscal year state tax laws and rates and considers
886 projected changes in federal grants or assistance programs included in the budget;

887 (v) an itemized estimate of the proposed changes to appropriations for:

888 (A) the Legislative Department as certified to the governor by the president of the
889 Senate and the speaker of the House;

890 (B) the Executive Department;

891 (C) the Judicial Department as certified to the governor by the state court
892 administrator;

893 (D) changes to salaries payable by the state under the Utah Constitution or under law
894 for lease agreements planned for the next fiscal year; and

895 (E) all other changes to ongoing or one-time appropriations, including dedicated
896 credits, restricted funds, nonlapsing balances, grants, and federal funds;

897 (vi) for each line item, the average annual dollar amount of staff funding associated
898 with all positions that were vacant during the last fiscal year;

899 (vii) deficits or anticipated deficits;

900 (viii) the recommendations for each state agency for new full-time employees for the
901 next fiscal year, which shall also be provided to the State Building Board as required by
902 Subsection [63A-5-103](#)~~(2)~~(3);

903 (ix) a written description and itemized report submitted by a state agency to the
904 Governor's Office of Management and Budget under Section [63J-1-220](#), including:

905 (A) a written description and an itemized report provided at least annually detailing the
906 expenditure of the state money, or the intended expenditure of any state money that has not
907 been spent; and

908 (B) a final written itemized report when all the state money is spent;

909 (x) any explanation that the governor may desire to make as to the important features
910 of the budget and any suggestion as to methods for the reduction of expenditures or increase of
911 the state's revenue; and

912 (xi) information detailing certain fee increases as required by Section [63J-1-504](#).

913 (3) For the purpose of preparing and reporting the proposed budget:

914 (a) The governor shall require the proper state officials, including all public and higher
915 education officials, all heads of executive and administrative departments and state institutions,
916 bureaus, boards, commissions, and agencies expending or supervising the expenditure of the
917 state money, and all institutions applying for state money and appropriations, to provide
918 itemized estimates of changes in revenues and appropriations.

919 (b) The governor may require the persons and entities subject to Subsection (3)(a) to
920 provide other information under these guidelines and at times as the governor may direct,
921 which may include a requirement for program productivity and performance measures, where
922 appropriate, with emphasis on outcome indicators.

923 (c) The governor may require representatives of public and higher education, state
924 departments and institutions, and other institutions or individuals applying for state
925 appropriations to attend budget meetings.

926 (4) (a) The Governor's Office of Management and Budget shall provide to the Office of
927 Legislative Fiscal Analyst, as soon as practicable, but no later than 30 days before the date the
928 Legislature convenes in the annual general session, data, analysis, or requests used in preparing
929 the governor's budget recommendations, notwithstanding the restrictions imposed on such
930 recommendations by available revenue.

931 (b) The information under Subsection (4)(a) shall include:

932 (i) actual revenues and expenditures for the fiscal year ending the previous June 30;

933 (ii) estimated or authorized revenues and expenditures for the current fiscal year;

934 (iii) requested revenues and expenditures for the next fiscal year;

935 (iv) detailed explanations of any differences between the amounts appropriated by the
936 Legislature in the current fiscal year and the amounts reported under Subsections (4)(b)(ii) and
937 (iii);

938 (v) a statement of agency and program objectives, effectiveness measures, and program
939 size indicators; and

940 (vi) other budgetary information required by the Legislature in statute.

941 (c) The budget information under Subsection (4)(a) shall cover:

942 (i) all items of appropriation, funds, and accounts included in appropriations acts for
943 the current and previous fiscal years; and

944 (ii) any new appropriation, fund, or account items requested for the next fiscal year.

945 (d) The information provided under Subsection (4)(a) may be provided as a shared
946 record under Section [63G-2-206](#) as considered necessary by the Governor's Office of
947 Management and Budget.

948 (5) (a) In submitting the budget for the Department of Public Safety, the governor shall
949 include a separate recommendation in the governor's budget for maintaining a sufficient
950 number of alcohol-related law enforcement officers to maintain the enforcement ratio equal to
951 or below the number specified in Subsection [32B-1-201\(2\)](#).

952 (b) If the governor does not include in the governor's budget an amount sufficient to
953 maintain the number of alcohol-related law enforcement officers described in Subsection
954 (5)(a), the governor shall include a message to the Legislature regarding the governor's reason
955 for not including that amount.

956 (6) (a) The governor may revise all estimates, except those relating to the Legislative

957 Department, the Judicial Department, and those providing for the payment of principal and
958 interest to the state debt and for the salaries and expenditures specified by the Utah
959 Constitution or under the laws of the state.

960 (b) The estimate for the Judicial Department, as certified by the state court
961 administrator, shall also be included in the budget without revision, but the governor may make
962 separate recommendations on the estimate.

963 (7) The total appropriations requested for expenditures authorized by the budget may
964 not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing
965 fiscal year.

966 (8) If any item of the budget as enacted is held invalid upon any ground, the invalidity
967 does not affect the budget itself or any other item in it.

968 **Section 16. Study by State Board of Regents.**

969 (1) The State Board of Regents shall:

970 (a) before November 16, 2016, conduct a study to identify the best method to
971 determine the amount or percentage of money received from research and development
972 activities that should be spent on operations and maintenance costs;

973 (b) consult with stakeholders to make the identification described in Subsection (1)(a);
974 and

975 (c) on or before November 16, 2016, present a written report of the study and the
976 method identified to the Infrastructure and General Government Appropriations Subcommittee.

977 (2) This section is repealed on January 1, 2017.

Legislative Review Note
Office of Legislative Research and General Counsel