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State Facilities Modifications
2026 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Walt Brooks
Senate Sponsor: Don L. Ipson

Cosponsor:

Jill Koford

LONG TITLE

General Description:

This bill addresses state facilities.

Highlighted Provisions:

This bill:

- ▶ establishes the Higher Education Appropriations Subcommittee as the subcommittee to hear and prioritize requests for state funding of capital facility projects within the Utah System of Higher Education;
- ▶ establishes requirements for the proposal of a technical college or degree-granting institution for a capital facility project funding request;
- ▶ requires compliance with the dedicated and non-dedicated project approval process for higher education capital facility projects;
- ▶ clarifies the process for requesting capital development appropriations by distinguishing between architectural programming and design-and-construction phases;
- ▶ authorizes an agency to request funding for architectural programming without requiring the submission of a feasibility study;
- ▶ requires an agency to complete architectural programming before requesting an appropriation for the design and construction of a capital development project;
- ▶ increases, from \$100,000 to \$1,500,000, the maximum project cost for which a state entity may directly supervise the design and construction of a state facility and establishes higher supervisory thresholds for certain institutions within the Utah System of Higher Education;
- ▶ requires a state entity that elects to directly supervise the design and construction of a

26 state facility project to enter into a memorandum of understanding with the Division of
27 Facilities Construction and Management (division) that addresses compliance with
28 division standards;

- 29 ▶ prohibits a state entity described above from accessing the division's statewide
30 contingency reserve or project reserve for the state facility project;
- 31 ▶ authorizes the director of the division to assume control of a project described above
32 when division inspection or review determines that the work is deficient or
33 noncompliant with division design, construction, or code inspection standards;
- 34 ▶ aligns revocation authority for delegated projects by allowing the director of the division
35 to revoke delegation to address inspection-based deficiencies;
- 36 ▶ requires that design criteria exceeding the state construction code to be appropriate for the
37 facility's intended use and cost-effective over the facility's expected useful life;
- 38 ▶ adds required components to a capital development feasibility study by requiring
39 inclusion of a space utilization plan and capital budget estimate approved by the division;
- 40 ▶ authorizes the Legislature to transfer any excess amount from the statewide contingency
41 reserve to the General Fund or the Income Tax Fund;
- 42 ▶ if the excess amount described above is attributable to a higher education or technical
43 college capital project, requires the Legislature to transfer the excess amount to the
44 applicable capital project fund;
- 45 ▶ requires the division to submit an annual request for appropriation to the Legislature for
46 each year covered by the five-year building plan;
- 47 ▶ authorizes the director of the division to approve certain design modifications for capital
48 development projects of institutions of higher education and to allocate resulting
49 construction cost savings between the institution and the state;
- 50 ▶ exempts construction contracts administered by the division from statutory performance
51 and payment bond requirements;
- 52 ▶ authorizes the division to require a performance or payment bond when necessary to
53 protect the division from financial loss or performance risk; and
- 54 ▶ makes technical and conforming changes.

55 **Money Appropriated in this Bill:**

56 None

57 **Other Special Clauses:**

58 This bill provides a special effective date.

59 **Utah Code Sections Affected:**

60 AMENDS:

61 **14-1-19 (Effective 05/06/26)**, as last amended by Laws of Utah 2012, Chapter 330
 62 **53H-1-402 (Effective 05/06/26) (Partially Repealed 07/01/27)**, as renumbered and
 63 amended by Laws of Utah 2025, First Special Session, Chapter 8
 64 **53H-9-402 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
 65 First Special Session, Chapter 8
 66 **53H-9-504 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
 67 First Special Session, Chapter 8
 68 **53H-9-604 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
 69 First Special Session, Chapter 8
 70 **63A-5b-102 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, First Special
 71 Session, Chapter 9
 72 **63A-5b-402 (Effective 05/06/26)**, as last amended by Laws of Utah 2022, Chapter 421
 73 **63A-5b-501 (Effective 05/06/26)**, as enacted by Laws of Utah 2020, Chapter 152
 74 **63A-5b-502 (Effective 05/06/26)**, as enacted by Laws of Utah 2020, Chapter 152
 75 **63A-5b-602 (Effective 05/06/26)**, as enacted by Laws of Utah 2020, Chapter 152
 76 **63A-5b-604 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, First Special
 77 Session, Chapter 15
 78 **63A-5b-609 (Effective 05/06/26)**, as last amended by Laws of Utah 2024, Chapter 368
 79 **63G-6a-1103 (Effective 05/06/26)**, as last amended by Laws of Utah 2020, Chapter 257

80

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

82 Section 1. Section **14-1-19** is amended to read:

83 **14-1-19 (Effective 05/06/26). Failure of government entity to obtain payment**
 84 **bond -- Right of action -- Notice -- Exception.**

85 (1) If the state or a political subdivision fails to obtain a payment bond, it shall, upon
 86 demand by a person who has furnished labor or supplied materials to the contractor or
 87 subcontractor for the work provided for in a contract which is subject to Section 14-1-18,
 88 promptly make payment to that person.

89 (2) A person described in Subsection (1):

90 (a) shall have a direct right of action against the state or the political subdivision in any
 91 court having jurisdiction in any county in which the contract was to be performed,
 92 upon giving written notice to the state or political subdivision within 90 days from
 93 the date on which such person performed the last of the labor or supplied the last of

94 the material for which claim is made;

95 (b) shall state in the notice a designation of the construction project and its location, the

96 amount claimed, and the name of the party for whom the labor was performed or to

97 whom the material was supplied; and

98 (c) shall serve the notice by registered or certified mail, postage prepaid, on the state

99 agency or political subdivision that is a party to the contract.

100 (3) An action described in this section may not be commenced later than one year after the

101 day on which the last of the labor was performed or material was supplied by the person

102 bringing the action.

103 (4) Unless otherwise specified in a lawful contract between the state or the political

104 subdivision against which the claim is made and the person demanding payment, the

105 interest rate applicable to the payment or claim is the rate described in Subsection

106 15-1-1(2).

107 (5) This section does not apply to a construction contract administered by the Division of

108 Facilities Construction and Management.

109 (6) Subsection (5) does not affect a right of action that accrued under this section with

110 respect to a construction contract executed before the effective date of this bill.

111 Section 2. Section **53H-1-402** is amended to read:

112 **53H-1-402 (Effective 05/06/26) (Partially Repealed 07/01/27). Reports to and**

113 **actions of the Higher Education Appropriations Subcommittee.**

114 (1) In accordance with applicable provisions and Section 68-3-14, the following recurring

115 reports are due to the Higher Education Appropriations Subcommittee:

116 (a) the reports described in Sections 53H-1-502, 53H-1-503, and 53H-1-504;

117 (b) the reports described in Section 53H-1-203 by the board on:

118 (i) system wide responses to changing demographics and workforce; and

119 (ii) the board's activities and performance against the board's goals and metrics;

120 (c) the report described in Section 53H-5-205;

121 (d) the report described in Section 53H-8-202 by the board on recommended

122 appropriations for higher education institutions and the board, including the report

123 described in Section 53H-11-406 by the board on the effects of offering nonresident

124 partial tuition scholarships;

125 (e) the report described in Section 53H-8-306 by the Department of Workforce Services

126 and the Governor's Office of Economic Opportunity on targeted jobs;

127 (f) the reports described in Section 53H-8-303 by the board on performance;

- 128 (g) the report described in Section 53H-11-402 by the board on the Opportunity
129 Scholarship Program;
- 130 (h) the report described in Section 53H-13-309 regarding the talent advisory councils;
- 131 (i) the report described in Section 53H-11-414 by the board on the Utah Promise
132 Program;
- 133 (j) the report described in Section 53H-6-202 by the board on an institution
134 compensating a student athlete for the use of the student athlete's name, image, or
135 likeness;
- 136 (k) the report described in Section 53H-1-604 regarding the Higher Education and
137 Corrections Council; and
- 138 (l) the report described in Section 53E-10-308 by the State Board of Education and
139 board on student participation in the concurrent enrollment program.
- 140 (2) In accordance with applicable provisions and Section 68-3-14, the following occasional
141 report is due to the Higher Education Appropriations Subcommittee: the board's report
142 regarding each institution's strategic reinvestment plan described in Section 53H-8-210.
- 143 (3) In accordance with applicable provisions, the Higher Education Appropriations
144 Subcommittee shall complete the following:
- 145 (a) an appropriation recommendation described in Section 53H-1-504 regarding
146 compliance with Subsections 53H-1-504(5) and (14); and
- 147 (b) as required by Section 53H-8-304, the review of performance funding described in
148 Section 53H-8-304.
- 149 (4) The Higher Education Appropriations Subcommittee shall hear and prioritize any
150 requests for capital facilities within the Utah System of Higher Education described in
151 Section 53H-1-102, in accordance with Chapter 9, Part 5, General Capital
152 Developments, and Chapter 9, Part 6, Technical College Leasing and Capital
153 Development.
- 154 [(4)] (5) In consultation with the board, the Higher Education Appropriations Subcommittee
155 shall study a re-design of:
- 156 (a) the performance funding model described in Chapter 8, Part 3, Performance Funding,
157 to better ensure:
- 158 (i) institutional alignment with the statewide system of higher education and the
159 institution's mission within the statewide system; and
- 160 (ii) investment in meeting localized and statewide workforce demands and securing
161 post-graduation employment outcomes; and

162 (b) enrollment-based funding, including, for technical colleges, funding distribution
163 models that:

164 (i) include equivalent funding value for secondary and adult students; and

165 (ii) reflect the full responsibility of the technical college's statutorily-required
166 services.

167 Section 3. Section **53H-9-402** is amended to read:

168 **53H-9-402 (Effective 05/06/26). Buildings and facilities -- Board approval of**
169 **construction and purchases -- Rules.**

170 (1) The board shall approve all new construction, repair, or purchase of educational and
171 general buildings and facilities financed from any source at all institutions subject to the
172 jurisdiction of the board.

173 (2) An institution may not[-] :

174 (a) submit plans or specifications to the Division of Facilities Construction and
175 Management for the construction or alteration of buildings, structures, or facilities or
176 for the purchases of equipment or fixtures for the structure without the authorization
177 of the board[-] ; or

178 (b) request state funding for a dedicated or non-dedicated project except as provided in
179 Part 5, General Capital Developments, and Part 6, Technical College Leasing and
180 Capital Development.

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

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

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

186 (b) if the annual request for state funding for operations and maintenance will be greater
187 than \$100,000, notify the speaker of the House, the president of the Senate, and the
188 cochairs of the Transportation and Infrastructure Appropriations Subcommittee.

189 Section 4. Section **53H-9-504** is amended to read:

190 **53H-9-504 (Effective 05/06/26). Funding request for capital development project**
191 **-- Legislative approval -- Board prioritization, approval, and review.**

192 (1) In accordance with this section, a degree-granting institution is required to receive
193 legislative approval in an appropriations act for a dedicated project or a nondedicated
194 project.

195 (2) A degree-granting institution shall[-] :

- 196 (a) submit to the board a proposal for a funding request for each dedicated project or
197 nondedicated project for which the institution seeks legislative approval[-] ; and
- 198 (b) ensure that the proposal described in Subsection (2)(a) includes:
- 199 (i) the name of the project;
- 200 (ii) a specification of the intent of the project as a dedicated project or a
201 non-dedicated project;
- 202 (iii) the projected cost of the project and the sources of funding, including internal
203 funds, requested legislative appropriations, matching funds, or debt;
- 204 (iv) a budget for the project, including:
- 205 (A) any land cost;
- 206 (B) architecture and engineering costs;
- 207 (C) any impact fees;
- 208 (D) horizontal development costs, including infrastructure and site work;
- 209 (E) vertical construction costs;
- 210 (F) furniture costs;
- 211 (G) any plan to fund future operations, maintenance, and staffing costs;
- 212 (H) financing costs;
- 213 (I) construction management, project management, or other administrative costs;
214 and
- 215 (J) costs associated with the demolition or remodeling of existing space;
- 216 (v) a rendering of the project;
- 217 (vi) a narrative explaining the use of the facility, including the facility's expected life
218 span;
- 219 (vii) a facility utilization analysis demonstrating that the existing facilities are
220 inadequate to serve the program or function for which the institution is seeking
221 funding; and
- 222 (viii) the amount of square feet of the project, including a breakdown of the uses of
223 the space by square footage, including any:
- 224 (A) classroom space;
- 225 (B) lab space;
- 226 (C) office space;
- 227 (D) meeting room space;
- 228 (E) entertainment space;
- 229 (F) residential space;

- 230 (G) garage or storage space;
 231 (H) mechanical space; and
 232 (I) common areas, including any atrium, stairway, restroom, or commons.
- 233 (3) The board shall:
- 234 (a) review each proposal submitted under Subsection (2) to ensure the proposal:
- 235 (i) is cost effective and an efficient use of resources;
- 236 (ii) is consistent with the degree-granting institution's mission and master plan; and
- 237 (iii) fulfills a critical institutional facility need;
- 238 (b) based on the results of the board's review under Subsection (3)(a), create:
- 239 (i) a list of approved dedicated projects; and
- 240 (ii) a list of approved nondedicated projects, prioritized in accordance with
- 241 Subsection (5); and
- 242 (c) submit the lists described in Subsection (3)(b), including the relevant proposals, to:
- 243 (i) the governor;
- 244 [~~(ii) the Transportation and Infrastructure Appropriations Subcommittee;~~]
- 245 [~~(iii)~~] (ii) the Higher Education Appropriations Subcommittee; and
- 246 [~~(iv)~~] (iii) the Division of Facilities Construction and Management for a:
- 247 (A) recommendation, for the list described in Subsection (3)(b)(i); or
- 248 (B) recommendation and prioritization, for the list described in Subsection
- 249 (3)(b)(ii).
- 250 (4) A dedicated project:
- 251 (a) is subject to the recommendation of the Division of Facilities Construction and
- 252 Management as described in Section 63A-5b-403; and
- 253 (b) is not subject to the prioritization of the Division of Facilities Construction and
- 254 Management as described in Section 63A-5b-403.
- 255 (5)(a) Subject to Subsection (6), the board shall prioritize institution requests for funding
- 256 for nondedicated projects based on:
- 257 (i) capital facility need;
- 258 (ii) utilization of facilities;
- 259 (iii) maintenance and condition of facilities; and
- 260 (iv) any other factor determined by the board.
- 261 (b) The board shall establish how the board will prioritize institution requests for
- 262 funding for nondedicated projects, including:
- 263 (i) how the board will measure each factor described in Subsection (5)(a); and

- 264 (ii) procedures for prioritizing requests.
- 265 (6)(a) Subject to Subsection (6)(b), and in accordance with Subsection (5), the board
 266 may annually prioritize:
- 267 (i) up to three nondedicated projects if the ongoing appropriation to the fund is less
 268 than \$50,000,000;
- 269 (ii) up to two nondedicated projects if the ongoing appropriation to the fund is at least
 270 \$50,000,000 but less than \$100,000,000; or
- 271 (iii) one nondedicated project if the ongoing appropriation to the fund is at least
 272 \$100,000,000.
- 273 (b) For each calendar year, the dollar amounts described in Subsection (6)(a) shall be
 274 adjusted by an amount equal to the percentage difference between:
- 275 (i) the Consumer Price Index for the 2019 calendar year; and
 276 (ii) the Consumer Price Index for the previous calendar year.
- 277 (7)(a) A degree-granting institution may request operations and maintenance funds for a
 278 capital development project approved under this section.
- 279 (b) A degree-granting institution shall make the request described in Subsection (7)(a) at
 280 the same time the degree-granting institution submits the proposal described in
 281 Subsection (2).
- 282 (c) The Legislature shall consider a degree-granting institution's request described in
 283 Subsection (7)(a).
- 284 (8) After a degree-granting institution completes a capital development project described in
 285 this section, the board shall review the capital development project, including the costs
 286 and design of the capital development project.
- 287 Section 5. Section **53H-9-604** is amended to read:
- 288 **53H-9-604 (Effective 05/06/26). Legislative approval -- Capital development**
 289 **projects -- Prioritization.**
- 290 (1) As used in this section:
- 291 (a) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers
 292 as published by the Bureau of Labor Statistics of the United States Department of
 293 Labor.
- 294 (b) "Fund" means the Technical Colleges Capital Projects Fund created in Section
 295 53H-9-605.
- 296 (2) In accordance with this section, a technical college is required to receive legislative
 297 approval in an appropriations act for a dedicated project or a nondedicated project.

- 298 (3) In accordance with Section 53H-9-603, a technical college shall[-] ;
- 299 (a) submit to the board a proposal for a funding request for each dedicated project or
- 300 nondedicated project for which the technical college seeks legislative approval[-] ; and
- 301 (b) ensure that the proposal described in Subsection (3)(a) includes:
- 302 (i) the name of the project;
- 303 (ii) a specification of the intent of the project as a dedicated project or a
- 304 non-dedicated project;
- 305 (iii) the projected cost of the project and the sources of funding, including internal
- 306 funds, requested legislative appropriations, matching funds, or debt;
- 307 (iv) a budget for the project, including:
- 308 (A) any land cost;
- 309 (B) architecture and engineering costs;
- 310 (C) any impact fees;
- 311 (D) horizontal development costs, including infrastructure and site work;
- 312 (E) vertical construction costs;
- 313 (F) furniture costs;
- 314 (G) any plan to fund future operations, maintenance, and staffing costs;
- 315 (H) financing costs;
- 316 (I) construction management, project management, or other administrative costs;
- 317 and
- 318 (J) costs associated with the demolition or remodeling of existing space;
- 319 (v) a rendering of the project;
- 320 (vi) a narrative explaining the use of the facility, including the facility's expected life
- 321 span;
- 322 (vii) a facility utilization analysis demonstrating that the existing facilities are
- 323 inadequate to serve the program or function for which the institution is seeking
- 324 funding; and
- 325 (viii) the amount of square feet of the project, including a breakdown of the uses of
- 326 the space by square footage, including any:
- 327 (A) classroom space;
- 328 (B) lab space;
- 329 (C) office space;
- 330 (D) meeting room space;
- 331 (E) entertainment space;

- 332 (F) residential space;
333 (G) garage or storage space;
334 (H) mechanical space; and
335 (I) common areas, including any atrium, stairway, restroom, or commons.
- 336 (4) The board shall:
- 337 (a) review each proposal submitted under Subsection (3) to ensure that the proposal
338 complies with Section 53H-9-603;
- 339 (b) based on the results of the board's review under Subsection (4)(a), create:
- 340 (i) a list of approved dedicated projects, prioritized in accordance with Subsection (6);
341 and
342 (ii) a list of approved nondedicated projects, prioritized in accordance with
343 Subsection (6); and
- 344 (c) submit the lists described in Subsection (4)(b), including the relevant proposals, to:
- 345 (i) the governor;
346 ~~[(ii) the Transportation and Infrastructure Appropriations Subcommittee;]~~
347 ~~[(iii)]~~ (ii) the Higher Education Appropriations Subcommittee; and
348 ~~[(iv)]~~ (iii) the Division of Facilities Construction and Management for a:
- 349 (A) recommendation, for the list described in Subsection (4)(b)(i); or
350 (B) recommendation and prioritization, for the list described in Subsection
351 (4)(b)(ii).
- 352 (5) A dedicated project:
- 353 (a) is subject to the recommendation of the Division of Facilities Construction and
354 Management as described in Section 63A-5b-403; and
- 355 (b) is not subject to the prioritization of the Division of Facilities Construction and
356 Management as described in Section 63A-5b-403.
- 357 (6)(a) Subject to Subsection (7), the board shall prioritize funding requests for capital
358 development projects described in this section based on:
- 359 (i) growth and capacity;
360 (ii) effectiveness and support of critical programs;
361 (iii) cost effectiveness;
362 (iv) building deficiencies and life safety concerns; and
363 (v) alternative funding sources.
- 364 (b) The board shall establish:
- 365 (i) how the board will measure each factor described in Subsection (6)(a); and

- 366 (ii) procedures for prioritizing funding requests for capital development projects
 367 described in this section.
- 368 (7)(a) Subject to Subsection (7)(b), and in accordance with Subsection (6), the board
 369 may annually prioritize:
- 370 (i) up to three nondedicated projects if the ongoing appropriation to the fund is less
 371 than \$7,000,000;
- 372 (ii) up to two nondedicated projects if the ongoing appropriation to the fund is at least
 373 \$7,000,000 but less than \$14,000,000; or
- 374 (iii) one nondedicated project if the ongoing appropriation to the fund is at least
 375 \$14,000,000.
- 376 (b) For each calendar year, the dollar amounts described in Subsection (7)(a) shall be
 377 adjusted by an amount equal to the percentage difference between:
- 378 (i) the Consumer Price Index for the 2019 calendar year; and
 379 (ii) the Consumer Price Index for the previous calendar year.
- 380 (8)(a) A technical college may request operations and maintenance funds for a capital
 381 development project approved under this section.
- 382 (b) A technical college shall make the request described in Subsection (8)(a) at the same
 383 time the technical college submits the proposal described in Subsection (3).
- 384 (c) The Legislature shall consider a technical college's request described in Subsection
 385 (8)(a).
- 386 Section 6. Section **63A-5b-102** is amended to read:
- 387 **63A-5b-102 (Effective 05/06/26). Definitions.**
- 388 As used in this chapter:
- 389 (1) "Capitol hill" means the same as that term is defined in Section 63O-1-101.
- 390 (2) "Compliance agency" means the same as that term is defined in Section 15A-1-202.
- 391 (3) "Director" means the division director, appointed under Section 63A-5b-302.
- 392 (4) "Division" means the Division of Facilities Construction and Management created in
 393 Section 63A-5b-301.
- 394 (5) "Institution of higher education" means the same as that term is defined in Section
 395 53H-1-101.
- 396 (6) "Program document" means a final document that contains programming information.
- 397 (7) "Programming" means services to define the scope and purpose of an anticipated
 398 project, and may include:
- 399 (a) researching criteria applicable to the scope and purpose of an anticipated project;

- 400 (b) identifying the scale of the project and the type of facilities and the level of
 401 specialized functions that will be required;
- 402 (c) identifying and prioritizing values and goals that will impact the project, including
 403 institutional purposes, growth objectives, and cultural, technological, temporal,
 404 aesthetic, symbolic, economic, environmental, safety, sustainability, and other
 405 relevant criteria;
- 406 (d) evaluating functional efficiency, user comfort, building economics, environmental
 407 sustainability, and visual quality;
- 408 (e) identifying objectives for the project, including such elements as image, efficiencies,
 409 functionality, cost, and schedule;
- 410 (f) identifying and evaluating the constraints that will have an impact on the project such
 411 as legal requirements, financial constraints, location, access, visibility, and building
 412 services;
- 413 (g) developing standards such as area allowances, space allocation, travel distances, and
 414 furniture and equipment requirements;
- 415 (h) establishing general space quality standards related to such elements as lighting
 416 levels, equipment performance, acoustical requirements, security, and aesthetics;
- 417 (i) identifying required spaces;
- 418 (j) establishing sizes and relationships;
- 419 (k) establishing space efficiency factors or the ratio of net square footage to gross square
 420 footage; and
- 421 (l) documenting particular space requirements such as special HVAC, plumbing, power,
 422 lighting, acoustical, furnishings, equipment, or security needs.

423 [(6)] (8) "Trust lands administration" means the School and Institutional Trust Lands
 424 Administration established in Section 53C-1-201.

425 [(7)] (9) "Utah Board of Higher Education" means the Utah Board of Higher Education
 426 established in Section 53H-1-203.

427 Section 7. Section **63A-5b-402** is amended to read:

428 **63A-5b-402 (Effective 05/06/26). Capital development process -- Approval**
 429 **requirements.**

430 (1) Except as provided in Section 63A-5b-404, the division shall, on behalf of all agencies,
 431 submit capital development project recommendations and priorities to the Legislature
 432 for approval and prioritization.

433 [(2) An agency that requests an appropriation for a capital development project shall submit

434 to the division for transmission to the Legislature a capital development project request
 435 and a feasibility study relating to the capital development project.]

436 (2)(a) An agency may request an appropriation for the programming of a capital
 437 development project by submitting the request to the division for transmittal to the
 438 Legislature.

439 (b) An agency may, but is not required to, submit a completed feasibility study in
 440 connection with a request described in Subsection (2)(a).

441 (c) An agency may request an appropriation for the design and construction of a capital
 442 development project by submitting the request and a program document to the
 443 division for transmittal to the Legislature.

444 (3) The division may not transmit to the Legislature a request described in Subsection (2)(c)
 445 unless the agency submits a program document for the capital development project.

446 [(3)] (4)(a) The division shall, in accordance with Title 63G, Chapter 3, Utah
 447 Administrative Rulemaking Act, make rules that establish standards and
 448 requirements for[~~a capital development project request and feasibility study.~~] :

449 (i) a capital development project; and

450 (ii) if submitted, a feasibility study.

451 (b) The rules shall include:

452 (i) a deadline by which an agency is required to submit a capital development project
 453 request;

454 (ii) conditions under which an agency may modify the agency's capital development
 455 project request after the agency submits the request, and requirements applicable
 456 to a modification; and

457 (iii) requirements for the contents of a feasibility study, including:

458 (A) the need for the capital development project;

459 (B) the appropriateness of the scope of the capital development project;

460 (C) any private funding for the capital development project;[~~and]~~

461 (D) the economic and community impacts of the capital development project[~~;~~] ;

462 (E) a space utilization plan developed in accordance with rules made by the

463 division under Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

464 (F) a capital budget estimate approved by the division.

465 [(4)] (5) The division shall verify the completion and accuracy of a feasibility study or
 466 program document that an agency submits under Subsection (2) prior to submitting
 467 capital development project recommendations and priorities under Subsection (1).

468 Section 8. Section **63A-5b-501** is amended to read:

469 **63A-5b-501 (Effective 05/06/26). Five-year building plan.**

470 (1) The director shall:

471 (a) in cooperation with agencies, prepare a master plan of structures built or
472 contemplated;

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

475 (c) amend and keep current the five-year building plan that complies with the
476 requirements described in Subsection (2), for submission to the governor and
477 subsequent legislatures;~~and~~

478 (d) as part of the long-range plan, recommend to the governor and Legislature any
479 changes in the law that are necessary to ensure an effective, well-coordinated
480 building program for all agencies~~[-]~~ ; and

481 (e) for each fiscal year covered by the five-year building plan, submit to the Legislature
482 a request for appropriation for that fiscal year.

483 (2)(a) The director shall ensure that the five-year building plan required by Subsection

484 (1)(b) includes:

485 (i) a list that prioritizes construction of new buildings for all structures built or
486 contemplated based upon each agency's present and future needs;

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

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

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

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

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

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

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

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

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

501 (D) the estimated number of new agency full-time employees expected to be

- 502 housed in the building or facility;
- 503 (E) the estimated cost of new or expanded programs and personnel expected to be
- 504 housed in the building or facility;
- 505 (F) the estimated lifespan of the building with associated costs for major
- 506 component replacement over the life of the building; and
- 507 (G) the estimated cost of any required support facilities.

508 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

509 director may make rules prescribing the format for submitting the information

510 required by this Subsection (2).

511 (3) To provide adequate information to enable the director to make a recommendation

512 described in Subsection (1), an agency requesting new full-time employees for the next

513 fiscal year shall report those anticipated requests to the director at least 90 days before

514 the annual general session in which the request is made.

515 Section 9. Section **63A-5b-502** is amended to read:

516 **63A-5b-502 (Effective 05/06/26). Programming.**

517 ~~[(1) As used in this section:]~~

518 ~~[(a) "Program document" means a final document that contains programming~~

519 ~~information.]~~

520 ~~[(b) "Programming" means services to define the scope and purpose of an anticipated~~

521 ~~project, and may include:]~~

522 ~~[(i) researching criteria applicable to the scope and purpose of an anticipated project;]~~

523 ~~[(ii) identifying the scale of the project and the type of facilities and the level of~~

524 ~~specialized functions that will be required;]~~

525 ~~[(iii) identifying and prioritizing values and goals that will impact the project,~~

526 ~~including institutional purposes, growth objectives, and cultural, technological,~~

527 ~~temporal, aesthetic, symbolic, economic, environmental, safety, sustainability, and~~

528 ~~other relevant criteria;]~~

529 ~~[(iv) evaluating functional efficiency, user comfort, building economics,~~

530 ~~environmental sustainability, and visual quality;]~~

531 ~~[(v) identifying objectives for the project, including such elements as image,~~

532 ~~efficiencies, functionality, cost, and schedule;]~~

533 ~~[(vi) identifying and evaluating the constraints that will have an impact on the project~~

534 ~~such as legal requirements, financial constraints, location, access, visibility, and~~

535 ~~building services;]~~

- 536 ~~[(vii) developing standards such as area allowances, space allocation, travel~~
537 ~~distances, and furniture and equipment requirements;]~~
- 538 ~~[(viii) establishing general space quality standards related to such elements as~~
539 ~~lighting levels, equipment performance, acoustical requirements, security, and~~
540 ~~aesthetics;]~~
- 541 ~~[(ix) identifying required spaces;]~~
- 542 ~~[(x) establishing sizes and relationships;]~~
- 543 ~~[(xi) establishing space efficiency factors or the ratio of net square footage to gross~~
544 ~~square footage; and]~~
- 545 ~~[(xii) documenting particular space requirements such as special HVAC, plumbing,~~
546 ~~power, lighting, acoustical, furnishings, equipment, or security needs.]~~
- 547 ~~[(2)]~~ (1) A program document may:
- 548 (a) incorporate written and graphic materials; and
- 549 (b) include:
- 550 (i) an executive summary;
- 551 (ii) documentation of the methodology used to develop the programming;
- 552 (iii) value and goal statements;
- 553 (iv) relevant facts upon which the programming was based;
- 554 (v) conclusions derived from data analysis;
- 555 (vi) relationship diagrams;
- 556 (vii) flow diagrams;
- 557 (viii) matrices identifying space allocations and relationships;
- 558 (ix) space listings by function and size; and
- 559 (x) space program sheets, including standard requirements and special HVAC,
560 plumbing, power, lighting, acoustical, furnishings, equipment, or security needs.
- 561 ~~[(3)]~~ (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
562 director may make rules:
- 563 (a) establishing the types of projects for which programming and a program document
564 are required;
- 565 (b) establishing the scope of programming required for defined categories of projects;
- 566 (c) establishing the circumstances under which an agency must obtain authorization
567 from the director to engage in programming;
- 568 (d) governing the funding of programming;
- 569 (e) relating to the administration of programming; and

570 (f) regarding any restrictions that may be imposed on a person involved in programming
571 from participating in the preparation of construction documents for a project that is
572 the subject of the programming.

573 Section 10. Section **63A-5b-602** is amended to read:

574 **63A-5b-602 (Effective 05/06/26). Design criteria, standards, and procedures.**

575 (1) The director shall establish design criteria, standards, and procedures for the planning,
576 design, and construction of a new facility and for improvements to an existing facility,
577 including life-cycle costing, cost-effectiveness studies, and other methods and
578 procedures that address:

579 (a) the need for the facility;

580 (b) the effectiveness of the facility's design;

581 (c) the efficiency of energy use; and

582 (d) the usefulness of the facility over the facility's lifetime.

583 (2) Before proceeding with construction, the director and the officials charged with the
584 administration of the affairs of the particular agency shall approve the location, design,
585 plans, and specifications.

586 (3) The director shall prepare or have prepared by one or more private persons the designs,
587 plans, and specifications for the projects administered by the division.

588 (4) Before construction may begin, the director shall review the design of projects
589 exempted from the division's administration under Section 63A-5b-604 to determine if
590 the design:

591 (a) complies with any restrictions placed on the project by the director; and

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

593 (5) Notwithstanding the requirements of Title 63J, Chapter 1, Budgetary Procedures Act,
594 the director may:

595 (a) accelerate the design of a project funded by an appropriation act passed by the
596 Legislature in the Legislature's annual general session;

597 (b) use an unencumbered existing account balance to fund that design work; and

598 (c) reimburse the account balance from the amount funded for the project when the
599 appropriation act funding the project becomes effective.

600 (6) If the director establishes design criteria or standards that exceed the minimum
601 requirements of the State Construction Code adopted under Title 15A, State
602 Construction and Fire Codes Act, the director shall ensure that the additional criteria or
603 standards are:

- 604 (a) appropriate for the intended use and setting of the facility; and
605 (b) cost-effective over the expected useful life of the facility.

606 Section 11. Section **63A-5b-604** is amended to read:

607 **63A-5b-604 (Effective 05/06/26). Construction, alteration, and repair of state**
608 **facilities -- Powers of director -- Exceptions -- Expenditure of appropriations --**
609 **Compliance agency role.**

610 (1)(a) Except as provided in this section and Section 63A-5b-1101, the director shall
611 exercise direct supervision over the design and construction of all new facilities, and
612 all alterations, repairs, and improvements to existing facilities, if the total project
613 construction cost, regardless of the funding source, is greater than [~~\$100,000~~]
614 \$1,500,000.

615 (b) ~~[A]~~ Subject to Subsections (1)(c) and (d), a state entity may exercise direct
616 supervision over the design and construction of all new facilities, and over all
617 alterations, repairs, and improvements to existing facilities, if:

618 (i) except as provided in Subsection (1)(e), the total project construction cost,
619 regardless of the funding sources, is [~~\$100,000~~] \$1,500,000 or less; and

620 (ii) the state entity assures compliance with the division's forms and contracts and the
621 division's design, construction, alteration, repair, improvement, and code
622 inspection standards.

623 (c) Before exercising direct supervision under Subsection (1)(b), a state entity shall enter
624 into a memorandum of understanding with the division, in a form developed by the
625 division, that addresses:

626 (i) the state entity's compliance with Subsection (1)(b)(ii); and

627 (ii) other matters the division considers necessary and appropriate to facilitate the
628 state entity's supervision of the project, including provisions governing the use of
629 capital improvement funds to ensure expenditures are consistent with legislative
630 appropriations and the five-year building plan.

631 (d) The director may assume direct supervision over the design and construction of a
632 project described in Subsection (1)(b) if the division determines, through inspection
633 or review conducted in accordance with the division's design, construction, or code
634 inspection standards, that the work is deficient, substandard, or noncompliant.

635 (e) For purposes of Subsection (1)(b)(i), a state entity that is an institution of higher
636 education described in Subsection 53H-1-102(1)(a) or (b) may exercise direct
637 supervision if the total project construction cost is:

- 638 (i) \$30,000,000 or less for the University of Utah;
 639 (ii) \$10,000,000 or less for Utah State University;
 640 (iii) \$2,500,000 or less for a university described in Subsections 53H-1-102(1)(a)(iii),
 641 (iv), (vi), or (vii); or
 642 (iv) \$1,000,000 or less for:
 643 (A) Snow College;
 644 (B) Salt Lake Community College; or
 645 (C) a technical college described in Subsection 53H-1-102(1)(b).
 646 (f) A state entity that exercises direct supervision under Subsection (1)(b) may not
 647 access, for the supervised project, the division's statewide contingency reserve or
 648 project reserve authorized in Section 63A-5b-609.
- 649 (2) The director may enter into a capital improvement partnering agreement with an
 650 institution of higher education that permits the institution of higher education to exercise
 651 direct supervision for a capital improvement project with oversight from the division.
- 652 (3)(a) Subject to Subsection (3)(b), the director may delegate control over design,
 653 construction, and other aspects of any project to entities of state government on a
 654 project-by-project basis.
- 655 (b) With respect to a delegation of control under Subsection (3)(a), the director may:
 656 (i) impose terms and conditions on the delegation that the director considers
 657 necessary or advisable to protect the interests of the state; and
 658 (ii) revoke the delegation and assume control of the design, construction, or other
 659 aspect of a delegated project if the director considers the revocation and
 660 assumption of control to be necessary to:
 661 (A) address a circumstance described in Subsection (1)(d); or
 662 (B) otherwise protect the interests of the state.
- 663 (4)(a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
 664 the director may delegate control over design, construction, and all other aspects of
 665 any project to entities of state government on a categorical basis for projects within a
 666 particular dollar range and a particular project type.
- 667 (b) Rules adopted by the director under Subsection (4)(a) may:
 668 (i) impose the terms and conditions on categorical delegation that the director
 669 considers necessary or advisable to protect the interests of the state;
 670 (ii) provide for the revocation of the delegation on a categorical basis and for the
 671 division to assume control of the design, construction, or other aspect of a

- 672 category of delegated projects or a specific delegated project if the director
673 considers revocation of the delegation and assumption of control to be necessary
674 to protect the interests of the state;
- 675 (iii) require that a categorical delegation be renewed by the director on an annual
676 basis; and
- 677 (iv) require the division's oversight of delegated projects.
- 678 (5)(a) A state entity to which project control is delegated under this section shall:
- 679 (i) assume fiduciary control over project finances;
- 680 (ii) assume all responsibility for project budgets and expenditures; and
- 681 (iii) receive all funds appropriated for the project, including any contingency funds
682 contained in the appropriated project budget.
- 683 (b) Notwithstanding a delegation of project control under this section, a state entity to
684 which control is delegated is required to comply with the division's codes and
685 guidelines for design and construction.
- 686 (c) A state entity to which project control is delegated under this section may not access,
687 for the delegated project, the division's statewide contingency reserve and project
688 reserve authorized in Section 63A-5b-609.
- 689 (d) For a facility that will be owned, operated, maintained, and repaired by an entity that
690 is not an agency and that is located on property that the state owns or leases as a
691 tenant, the director may authorize the facility's owner to administer the design and
692 construction of the project relating to that facility.
- 693 (6)(a) A project for the construction of a new facility and a project for alterations,
694 repairs, and improvements to an existing facility are not subject to Subsection (1) if
695 the project:
- 696 (i) occurs on property under the jurisdiction of the State Capitol Preservation Board;
- 697 (ii) is within a designated research park at the University of Utah or Utah State
698 University;
- 699 (iii) occurs within the boundaries of This is the Place State Park and is administered
700 by This is the Place Foundation; or
- 701 (iv) is for the creation and installation of art under Title 9, Chapter 6, Part 4, Utah
702 Percent-for-Art Act.
- 703 (b) Notwithstanding Subsection (6)(a)(iii), the This is the Place Foundation may request
704 the director to administer the design and construction of a project within the
705 boundaries of This is the Place State Park.

- 706 (7)(a) The role of compliance agency under Title 15A, State Construction and Fire
 707 Codes Act, shall be filled by:
- 708 (i) the director, for a project administered by the division;
 - 709 (ii) the entity designated by the State Capitol Preservation Board, for a project under
 710 Subsection (6)(a)(i);
 - 711 (iii) the local government, for a project that is:
 - 712 (A) not subject to the division's administration under Subsection (6)(a)(ii); or
 - 713 (B) administered by This is the Place Foundation under Subsection (6)(a)(iii);
 - 714 (iv) the compliance agency designated by the director, for a project under Subsection
 715 (2), (3), (4), or (5)(d); and
 - 716 (v) for the installation of art under Subsection (6)(a)(iv), the entity that is acting as
 717 the compliance officer for the balance of the project for which the art is being
 718 installed.
- 719 (b) A local government acting as the compliance agency under Subsection (7)(a)(iii)
 720 may:
- 721 (i) only review plans and inspect construction to enforce the state construction code
 722 or an approved code under Title 15A, State Construction and Fire Codes Act; and
 - 723 (ii) charge a building permit fee of no more than the amount the local government
 724 could have charged if the land upon which the improvements are located were not
 725 owned by the state.
- 726 (8)(a) The zoning authority of a local government under Title 10, Chapter 20, Municipal
 727 Land Use, Development, and Management Act, or Title 17, Chapter 79, County Land
 728 Use, Development, and Management Act, does not apply to the use of property that
 729 the state owns or any improvements constructed on property that the state owns,
 730 including improvements constructed by an entity other than a state entity.
- 731 (b) A state entity controlling the use of property that the state owns shall consider any
 732 input received from a local government in determining how the property is to be used.
- 733 Section 12. Section **63A-5b-609** is amended to read:
- 734 **63A-5b-609 (Effective 05/06/26). Expenditure of appropriated funds supervised**
 735 **by director -- Contingencies -- Disposition of project reserve funds -- Set aside for Utah**
 736 **Percent-for-Art Program -- Distribution of cost savings.**
- 737 (1) The director shall:
- 738 (a)(i) supervise the expenditure of funds in providing plans, engineering
 739 specifications, sites, and construction of the buildings for which legislative

- 740 appropriations are made; and
- 741 (ii) specifically allocate money appropriated if more than one project is included in
- 742 any single appropriation without legislative directive;
- 743 (b)(i) expend the amount necessary from appropriations for planning, engineering,
- 744 and architectural work; and
- 745 (ii)(A) allocate amounts from appropriations necessary to cover expenditures
- 746 previously made from the planning fund under Section 63A-5b-503 in the
- 747 preparation of plans, engineering, and specifications; and
- 748 (B) return the amounts described in Subsection (1)(b)(ii)(A) to the planning fund;
- 749 and
- 750 (c) hold in a statewide contingency reserve the amount budgeted for contingencies:
- 751 (i) in appropriations for the construction or remodeling of facilities; and
- 752 (ii) that are over and above all amounts obligated by contract for planning,
- 753 engineering, architectural work, sites, and construction contracts.
- 754 (2)(a) The director shall base the amount budgeted for contingencies on a sliding scale
- 755 percentage of the construction cost ranging from:
- 756 (i) 4.5% to 6.5% for new construction; and
- 757 (ii) 6% to 9.5% for remodeling projects.
- 758 (b) The director shall hold the statewide contingency funds to cover:
- 759 (i) costs of change orders; and
- 760 (ii) unforeseen, necessary costs beyond those specifically budgeted for the project.
- 761 (c)[(†)] The Legislature shall annually review the percentage and the amount held in
- 762 the statewide contingency reserve.
- 763 [~~(ii) The Legislature may reappropriate to other building needs, including the cost of~~
- 764 ~~administering building projects, any amount from the statewide contingency~~
- 765 ~~reserve that is in excess of the reserve required to meet future contingency needs.]~~
- 766 (d) If any amount from the statewide contingency reserve is in excess of the amount
- 767 required to meet future contingency needs, the Legislature:
- 768 (i) may reappropriate the excess amount to other building needs, including the cost of
- 769 administering building projects;
- 770 (ii) may transfer the excess amount to the General Fund or the Income Tax Fund, in
- 771 proportion to the amounts originally appropriated from each fund for the projects
- 772 to which the excess amount is attributable; or
- 773 (iii) if the excess amount is attributable to an appropriation for the programming or

774 design and construction of a project described in Title 53H, Chapter 9, Part 5,
775 General Capital Developments, or Title 53H, Chapter 9, Part 6, Technical College
776 Leasing and Capital Development, shall, instead of taking the action described in
777 Subsection (2)(d)(i) or (ii), transfer the excess amount, as applicable, to:
778 (A) the Higher Education Capital Projects Fund, created in Section 53H-9-502; or
779 (B) the Technical Colleges Capital Projects Fund, created in Section 53H-9-605.

780 (3)(a) The director shall hold in a separate project reserve state appropriated funds
781 accrued through bid savings and project residual.

782 (b) The director shall account for the funds accrued under Subsection (3)(a) in separate
783 accounts as follows:

784 (i) bid savings and project residual from a capital improvement project, as defined in
785 Section 63A-5b-401; and

786 (ii) bid savings and project residual from a capital development project, as defined in
787 Section 63A-5b-401.

788 (c) The director may use project reserve funds in the account described in Subsection
789 (3)(b)(i) for a capital improvement project:

790 (i) approved under Section 63A-5b-405; and

791 (ii) for which funds are not allocated.

792 (d) The director may:

793 (i) authorize the use of project reserve funds in the accounts described in Subsection
794 (3)(b) for the award of contracts in excess of a project's construction budget if the
795 use is required to meet the intent of the project;

796 (ii) transfer money from the account described in Subsection (3)(b)(i) to the account
797 described in Subsection (3)(b)(ii) if a capital development project has exceeded its
798 construction budget; and

799 (iii) use project reserve funds for any emergency capital improvement project,
800 whether or not the emergency capital improvement project is related to a project
801 that has exceeded its construction budget.

802 (e) The director shall report to the Office of the Legislative Fiscal Analyst within 30
803 days:

804 (i) an expenditure under Subsection (3)(c); or

805 (ii) a transfer under Subsection (3)(d).

806 (f) The Legislature shall annually review the amount held in the project reserve for
807 possible reallocation by the Legislature to other building needs, including the cost of

- 808 administering building projects.
- 809 (4) If any part of the appropriation for a building project, other than the part set aside for the
810 Utah Percent-for-Art Program under Title 9, Chapter 6, Part 4, Utah Percent-for-Art Act,
811 remains unencumbered after the award of construction and professional service contracts
812 and establishing a reserve for fixed and moveable equipment, the balance of the
813 appropriation is dedicated to the project reserve and does not revert to the General Fund.
- 814 (5)(a)(i) One percent of the amount appropriated for the construction of any new state
815 building or facility may be appropriated and set aside for the Utah Percent-for-Art
816 Program administered by the Division of Fine Arts under Title 9, Chapter 6, Part
817 4, Utah Percent-for-Art Act.
- 818 (ii) The total amount appropriated and set aside under Subsection (5)(a)(i) may not
819 exceed:
- 820 (A) \$200,000, if the new state building or facility is not located in a county of the
821 first class; and
- 822 (B) \$250,000, if the new state building or facility is located in a county of the first
823 class.
- 824 (b) The director shall release to the Division of Fine Arts any funds included in an
825 appropriation to the division that are designated by the Legislature for the Utah
826 Percent-for-Art Program.
- 827 (c) Funds from appropriations for a state building or facility may not be set aside:
- 828 (i) if any part of the funds is derived from the issuance of bonds; and
- 829 (ii) to the extent the set aside of funds would jeopardize the federal income tax
830 exemption otherwise allowed for interest paid on bonds.
- 831 (6)(a) After funds are appropriated for a non-dedicated project of an institution of higher
832 education, the director may approve a modification to the design of the project before
833 final project closeout if:
- 834 (i) the modification is requested by the institution of higher education; and
- 835 (ii) the modification does not:
- 836 (A) result in a material reduction in the legislatively approved program scope,
837 capacity, performance standards, durability, intended useful life, or intended
838 use of the project; or
- 839 (B) eliminate or defer legislatively approved program elements, including through
840 downsizing or removal of project components.
- 841 (b) If a modification approved under Subsection (6)(a) results in a documented reduction

- 842 in the total project cost attributable to efficiencies in design refinement, engineering
 843 optimization, procurement strategy, material selection, scheduling, or construction
 844 methodology, the director shall distribute the resulting cost savings as follows:
 845 (i) an amount, as determined by the director, not to exceed 50% of the cost savings:
 846 (A) for a degree-granting institution described in Subsection 53H-1-102(1)(a), to
 847 the institution's allocation within the Higher Education Capital Projects Fund;
 848 or
 849 (B) for a technical college described in Subsection 53H-1-102(1)(b), to the
 850 technical college for use on a capital improvement project; and
 851 (ii) the remaining amount to the state, to be deposited into the General Fund or the
 852 Income Tax Fund in proportion to the amounts originally appropriated from each
 853 fund for the project.
 854 (c) Cost savings allocated under Subsection (6)(b) are not bid savings, including bid
 855 savings that result from competitive procurement, or project residual under
 856 Subsection (3).

857 Section 13. Section **63G-6a-1103** is amended to read:

858 **63G-6a-1103 (Effective 05/06/26). Bonds or security necessary when contract is**
 859 **awarded -- Waiver -- Action -- Attorney fees -- Exception.**

860 (1) [When] Except as provided in Subsection (5), if a construction contract is awarded under
 861 this chapter, the contractor to whom the contract is awarded shall deliver the following
 862 bonds or security to the procurement unit, which shall become binding on the parties
 863 upon the execution of the contract:

- 864 (a) a performance bond satisfactory to the procurement unit that is in an amount equal to
 865 100% of the price specified in the contract and is executed by a surety company
 866 authorized to do business in the state or any other form satisfactory to the
 867 procurement unit; and
 868 (b) a payment bond satisfactory to the procurement unit that is in an amount equal to
 869 100% of the price specified in the contract and is executed by a surety company
 870 authorized to do business in the state or any other form satisfactory to the
 871 procurement unit, which is for the protection of each person supplying labor, service,
 872 equipment, or material for the performance of the work provided for in the contract.

873 (2)(a) When a construction contract is awarded under this chapter, the procurement
 874 official responsible for carrying out the construction project may not require a
 875 contractor to whom a contract is awarded to obtain a bond of the types [referred to]

876 described in Subsection (1) from a specific insurance or surety company, producer,
877 agent, or broker.

878 (b) A person who violates Subsection (2)(a) is guilty of an infraction.

879 (3) Rules of a rulemaking authority may provide for waiver of the requirement of a bid,
880 performance, or payment bond for circumstances in which the procurement official
881 considers any or all of the bonds to be unnecessary to protect the procurement unit.

882 (4)(a) ~~[A]~~ If a payment bond is required to be delivered under Subsection (1)(b) or (5)(c),
883 a person has a right of action on [a] the payment bond under this section for any
884 unpaid amount due to the person if:

885 ~~[(a)]~~ (i) the person has furnished labor, service, equipment, or material for the work
886 provided for in the contract for which the payment bond is furnished under this
887 section; and

888 ~~[(b)]~~ (ii) the person has not been paid in full within 90 days after the last day on which
889 the person performed the labor or service or supplied the equipment or material
890 for which the claim is made.

891 ~~[(5)]~~ (b) An action upon a payment bond may only be brought in a court of competent
892 jurisdiction in a county where the construction contract was to be performed.

893 (c) The action is barred if not commenced within one year after the last day on which the
894 claimant performed the labor or service or supplied the equipment or material on
895 which the claim is based.

896 (d) The obligee named in the bond need not be joined as a party to the action.

897 ~~[(6)]~~ (e) In any suit upon a payment bond, the court shall award reasonable attorney fees
898 to the prevailing party, which fees shall be taxed as costs in the action.

899 (5)(a) As used in this Subsection (5), "division" means the Division of Facilities
900 Construction and Management created in Section 63A-5b-301.

901 (b) The division is not required to obtain from a contractor a performance bond or
902 payment bond for a construction contract administered by the division.

903 (c) Subject to Subsection (2), the division may require a performance bond, payment
904 bond, or both for a construction contract administered by the division if the division
905 determines that the bond is necessary to protect the division from financial loss or
906 performance risk.

907 (6) Subsection (5)(b) does not affect the validity or enforceability of a performance bond or
908 payment bond required under this section with respect to a construction contract
909 executed before the effective date of this bill.

- 910 Section 14. **Effective Date.**
- 911 This bill takes effect:
- 912 (1) except as provided in Subsection (2), May 6, 2026; or
- 913 (2) if approved by two-thirds of all members elected to each house:
- 914 (a) upon approval by the governor;
- 915 (b) without the governor's signature, the day following the constitutional time limit of
- 916 Utah Constitution, Article VII, Section 8; or
- 917 (c) in the case of a veto, the date of veto override.