

HB0508S03 compared with HB0508

~~{Omitted text}~~ shows text that was in HB0508 but was omitted in HB0508S03

inserted text shows text that was not in HB0508 but was inserted into HB0508S03

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1 **State Facilities Modifications**

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Walt Brooks

Senate Sponsor: Don L. Ipson

2

3 **LONG TITLE**

4 **General Description:**

5 This bill addresses state facilities.

6 **Highlighted Provisions:**

7 This bill:

8 ▶ 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;

11 ▶ establishes requirements for the proposal of a technical college or degree-granting institution for a capital facility project funding request;

13 ▶ requires compliance with the dedicated and non-dedicated project approval process for higher education capital facility projects;

15 ▶ clarifies the process for requesting capital development appropriations by distinguishing between architectural programming and design-and-construction phases;

17 ▶ authorizes an agency to request funding for architectural programming without requiring the submission of a feasibility study;

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- 19 ▶ requires an agency to complete architectural programming before requesting an appropriation for
the design and construction of a capital development project;
- 21 ▶ 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;
- 23 ▶ requires a state entity that elects to directly supervise the design and construction of a
state facility project to enter into a memorandum of understanding with the Division of Facilities
Construction and Management (division) that addresses compliance with division standards;
- 29 ▶ prohibits a state entity described above from accessing the division's statewide contingency
reserve or project reserve for the state facility project;
- 27 ▶ authorizes the director of the division to assume control of a project described above when
division inspection or review determines that the work is deficient or noncompliant with division design,
construction, or code inspection standards;
- 30 ▶ aligns revocation authority for delegated projects by allowing the director of the division to
revoke delegation to address inspection-based deficiencies;
- 32 ▶ requires that design criteria exceeding the state construction code to be appropriate for the
facility's intended use and cost-effective over the facility's expected useful life;
- 34 ▶ adds required components to a capital development feasibility study by requiring inclusion of a
space utilization plan and capital budget estimate approved by the division;
- 36 ▶ authorizes the Legislature to transfer { ~~excess funds~~ } any excess amount from the statewide
contingency 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
college capital project, requires the Legislature to transfer the excess amount to the applicable
capital project fund;
- 38 ▶ requires the division to submit an annual request for appropriation to the Legislature for each
year covered by the five-year building plan;
- 40 ▶ authorizes the director of the division to approve certain design modifications for capital
development projects of institutions of higher education and to allocate resulting construction cost
savings between the institution and the state; { ~~and~~ }
- 50 ▶ exempts construction contracts administered by the division from statutory performance
and payment bond requirements;

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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

43 ▶ 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 upon governor's approval), as last amended by Laws of Utah 2012,**
62 **Chapter 330**

63

**53H-1-402 ~~{(Effective 05/06/26)}~~ ~~{(Partially Repealed 07/01/27)}~~ (Effective upon governor's
64 approval) (Partially Repealed 07/01/27), as renumbered and amended by Laws of Utah 2025,
65 First Special Session, Chapter 8**

65 **53H-9-402 ~~{(Effective 05/06/26)}~~ (Effective upon governor's approval)**, as renumbered and
66 amended by Laws of Utah 2025, First Special Session, Chapter 8

67 **53H-9-504 ~~{(Effective 05/06/26)}~~ (Effective upon governor's approval)**, as renumbered and
68 amended by Laws of Utah 2025, First Special Session, Chapter 8

69 **53H-9-604 ~~{(Effective 05/06/26)}~~ (Effective upon governor's approval)**, as renumbered and
70 amended by Laws of Utah 2025, First Special Session, Chapter 8

71 **63A-5b-102 (Effective upon governor's approval), as last amended by Laws of Utah 2025,**
72 **First Special Session, Chapter 9**

73

63A-5b-402 ~~{(Effective 05/06/26)}~~ (Effective upon governor's approval), as last amended by
74 Laws of Utah 2022, Chapter 421

75 **63A-5b-501 (Effective upon governor's approval), as enacted by Laws of Utah 2020,**
76 **Chapter 152**

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63A-5b-502 (Effective upon governor's approval), as enacted by Laws of Utah 2020,
78 **Chapter 152**

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63A-5b-602 ~~{(Effective 05/06/26)}~~ (Effective upon governor's approval), as enacted by Laws of
80 Utah 2020, Chapter 152

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63A-5b-604 ~~{(Effective 05/06/26)}~~{(Effective upon governor's approval)}, as last amended by
Laws of Utah 2025, First Special Session, Chapter 15

83 63A-5b-609 ~~{(Effective 05/06/26)}~~{(Effective upon governor's approval)}, as last amended by
Laws of Utah 2024, Chapter 368

85 **63G-6a-1103 (Effective upon governor's approval), as last amended by Laws of Utah 2020,
Chapter 257**

87

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

89 Section 1. Section 14-1-19 is amended to read:

90 **14-1-19. Failure of government entity to obtain payment bond -- Right of action -- Notice.**

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

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

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

102 (b) shall state in the notice a designation of the construction project and its location, the amount
claimed, and the name of the party for whom the labor was performed or to whom the material was
supplied; and

105 (c) shall serve the notice by registered or certified mail, postage prepaid, on the state agency or political
subdivision that is a party to the contract.

107 (3) An action described in this section may not be commenced later than one year after the day on
which the last of the labor was performed or material was supplied by the person bringing the
action.

110 (4) Unless otherwise specified in a lawful contract between the state or the political subdivision against
which the claim is made and the person demanding payment, the interest rate applicable to the
payment or claim is the rate described in Subsection 15-1-1(2).

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(5) This section does not apply to a construction contract administered by the Division of Facilities Construction and Management.

116 (6) Subsection (5) does not affect a right of action that accrued under this section with respect to a construction contract executed before the effective date of this bill.

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

119 **53H-1-402.** ~~{(Effective 05/06/26)}~~ ~~{(Partially Repealed 07/01/27)}~~ **(Effective upon governor's approval) (Partially Repealed 07/01/27) Reports to and actions of the Higher Education Appropriations Subcommittee.**

68 (1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Higher Education Appropriations Subcommittee:

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

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

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

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

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

75 (d) the report described in Section 53H-8-202 by the board on recommended appropriations for higher education institutions and the board, including the report described in Section 53H-11-406 by the board on the effects of offering nonresident partial tuition scholarships;

79 (e) the report described in Section 53H-8-306 by the Department of Workforce Services and the Governor's Office of Economic Opportunity on targeted jobs;

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

82 (g) the report described in Section 53H-11-402 by the board on the Opportunity Scholarship Program;

84 (h) the report described in Section 53H-13-309 regarding the talent advisory councils;

85 (i) the report described in Section 53H-11-414 by the board on the Utah Promise Program;

87 (j) the report described in Section 53H-6-202 by the board on an institution compensating a student athlete for the use of the student athlete's name, image, or likeness;

90 (k) the report described in Section 53H-1-604 regarding the Higher Education and Corrections Council; and

92 (l) the report described in Section 53E-10-308 by the State Board of Education and board on student participation in the concurrent enrollment program.

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- (2) In accordance with applicable provisions and Section 68-3-14, the following occasional report is due to the Higher Education Appropriations Subcommittee: the board's report regarding each institution's strategic reinvestment plan described in Section 53H-8-210.
- 97 (3) In accordance with applicable provisions, the Higher Education Appropriations Subcommittee shall complete the following:
- 99 (a) an appropriation recommendation described in Section 53H-1-504 regarding compliance with Subsections 53H-1-504(5) and (14); and
- 101 (b) as required by Section 53H-8-304, the review of performance funding described in Section 53H-8-304.
- 103 (4) The Higher Education Appropriations Subcommittee shall hear and prioritize any requests for capital facilities within the Utah System of Higher Education described in Section 53H-1-102, in accordance with {[Title 53H,](#)} Chapter 9, Part 5, General Capital Developments, [and Chapter 9, Part 6, Technical College Leasing and Capital Development.](#)
- 107 [(4)] (5) In consultation with the board, the Higher Education Appropriations Subcommittee shall study a re-design of:
- 109 (a) the performance funding model described in Chapter 8, Part 3, Performance Funding, to better ensure:
- 111 (i) institutional alignment with the statewide system of higher education and the institution's mission within the statewide system; and
- 113 (ii) investment in meeting localized and statewide workforce demands and securing post-graduation employment outcomes; and
- 115 (b) enrollment-based funding, including, for technical colleges, funding distribution models that:
- 117 (i) include equivalent funding value for secondary and adult students; and
- 118 (ii) reflect the full responsibility of the technical college's statutorily-required services.
- 174 Section 3. Section **53H-9-402** is amended to read:
- 175 **53H-9-402. ~~{(Effective 05/06/26)}~~[\(Effective upon governor's approval\)](#)Buildings and facilities -- Board approval of construction and purchases -- Rules.**
- 123 (1) The board shall approve all new construction, repair, or purchase of educational and general buildings and facilities financed from any source at all institutions subject to the jurisdiction of the board.
- 126 (2) An institution may not[-] :

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- 127 (a) submit plans or specifications to the Division of Facilities Construction and Management for the
construction or alteration of buildings, structures, or facilities or for the purchases of equipment or
fixtures for the structure without the authorization of the board[-] ; or
- 131 (b) request state funding for {~~capital facilities~~} a dedicated or non-dedicated project except as provided
in {~~Title 53H, Chapter 9,~~} Part 5, General Capital Developments, and Part 6, Technical College
Leasing and Capital Development.
- 133 (3) The board shall make rules establishing the conditions under which facilities may be eligible to
request state funds for operations and maintenance.
- 135 (4) Before approving the purchase of a building, the board shall:
- 136 (a) determine whether or not the building will be eligible for state funds for operations and maintenance
by applying the rules adopted under Subsection (3); and
- 138 (b) if the annual request for state funding for operations and maintenance will be greater than \$100,000,
notify the speaker of the House, the president of the Senate, and the cochairs of the Transportation
and Infrastructure Appropriations Subcommittee.
- 196 Section 4. Section **53H-9-504** is amended to read:
- 197 **53H-9-504.** ~~{(Effective 05/06/26)}~~{(Effective upon governor's approval)}**Funding request for
capital development project -- Legislative approval -- Board prioritization, approval, and review.**
- 144 (1) In accordance with this section, a degree-granting institution is required to receive legislative
approval in an appropriations act for a dedicated project or a nondedicated project.
- 147 (2) A degree-granting institution shall[-] :
- 148 (a) submit to the board a proposal for a funding request for each dedicated project or nondedicated
project for which the institution seeks legislative approval[-] ; and
- 150 (b) ensure that the proposal described in Subsection (2)(a) includes:
- 151 (i) the name of the project;
- 152 (ii) a specification of the intent of the project as a dedicated project or a non-dedicated project;
- 154 (iii) the projected cost of the project and the sources of funding, including internal funds, requested
legislative appropriations, matching funds, or debt;
- 156 (iv) a budget for the project, including:
- 157 (A) any land cost;
- 158 (B) architecture and engineering costs;
- 159 (C) any impact fees;

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- 160 (D) horizontal development costs, including infrastructure and site work;
161 (E) vertical construction costs;
162 (F) furniture costs;
163 (G) any plan to fund future operations, maintenance, and staffing costs;
164 (H) financing costs; {and}
165 (I) construction management, project management, or other administrative costs;and
222 (J) costs associated with the demolition or remodeling of existing space;
166 (v) a rendering of the project;
167 (vi) a narrative explaining the use of the facility, including the facility's expected life span;
169 (vii) a facility utilization analysis demonstrating that the existing facilities are inadequate to serve the
program or function for which the institution is seeking funding; and
172 (viii) the amount of square feet of the project, including a breakdown of the uses of the space by square
footage, including any:
174 (A) classroom space;
175 (B) lab space;
176 (C) office space;
177 (D) meeting room space;
178 (E) entertainment space;
179 (F) residential space;
180 (G) garage or storage space;
181 (H) mechanical space; and
182 (I) common areas, including any atrium, stairway, restroom, or commons.
183 (3) The board shall:
184 (a) review each proposal submitted under Subsection (2) to ensure the proposal:
185 (i) is cost effective and an efficient use of resources;
186 (ii) is consistent with the degree-granting institution's mission and master plan; and
187 (iii) fulfills a critical institutional facility need;
188 (b) based on the results of the board's review under Subsection (3)(a), create:
189 (i) a list of approved dedicated projects; and
190 (ii) a list of approved nondedicated projects, prioritized in accordance with Subsection (5); and
192 (c) submit the lists described in Subsection (3)(b), including the relevant proposals, to:

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- 193 (i) the governor;
- 194 [~~(ii) the Transportation and Infrastructure Appropriations Subcommittee;~~]
- 195 [~~(iii)~~ (ii) the Higher Education Appropriations Subcommittee; and
- 196 [~~(iv)~~ (iii) the Division of Facilities Construction and Management for a:
- 197 (A) recommendation, for the list described in Subsection (3)(b)(i); or
- 198 (B) recommendation and prioritization, for the list described in Subsection (3)(b)(ii).
- 200 (4) A dedicated project:
- 201 (a) is subject to the recommendation of the Division of Facilities Construction and Management as
- described in Section 63A-5b-403; and
- 203 (b) is not subject to the prioritization of the Division of Facilities Construction and Management as
- described in Section 63A-5b-403.
- 205 (5)
- (a) Subject to Subsection (6), the board shall prioritize institution requests for funding for nondedicated
- projects based on:
- 207 (i) capital facility need;
- 208 (ii) utilization of facilities;
- 209 (iii) maintenance and condition of facilities; and
- 210 (iv) any other factor determined by the board.
- 211 (b) The board shall establish how the board will prioritize institution requests for funding for
- nondedicated projects, including:
- 213 (i) how the board will measure each factor described in Subsection (5)(a); and
- 214 (ii) procedures for prioritizing requests.
- 215 (6)
- (a) Subject to Subsection (6)(b), and in accordance with Subsection (5), the board may annually
- prioritize:
- 217 (i) up to three nondedicated projects if the ongoing appropriation to the fund is less than
- \$50,000,000;
- 219 (ii) up to two nondedicated projects if the ongoing appropriation to the fund is at least \$50,000,000
- but less than \$100,000,000; or
- 221 (iii) one nondedicated project if the ongoing appropriation to the fund is at least \$100,000,000.
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(b) For each calendar year, the dollar amounts described in Subsection (6)(a) shall be adjusted by an amount equal to the percentage difference between:

225 (i) the Consumer Price Index for the 2019 calendar year; and

226 (ii) the Consumer Price Index for the previous calendar year.

227 (7)

(a) A degree-granting institution may request operations and maintenance funds for a capital development project approved under this section.

229 (b) A degree-granting institution shall make the request described in Subsection (7)(a) at the same time the degree-granting institution submits the proposal described in Subsection (2).

232 (c) The Legislature shall consider a degree-granting institution's request described in Subsection (7)(a).

234 (8) After a degree-granting institution completes a capital development project described in this section, the board shall review the capital development project, including the costs and design of the capital development project.

294 Section 5. Section 53H-9-604 is amended to read:

295 **53H-9-604. ~~{(Effective 05/06/26)}~~(Effective upon governor's approval)Legislative approval**
-- Capital development projects -- Prioritization.

240 (1) As used in this section:

241 (a) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor.

244 (b) "Fund" means the Technical Colleges Capital Projects Fund created in Section 53H-9-605.

246 (2) In accordance with this section, a technical college is required to receive legislative approval in an appropriations act for a dedicated project or a nondedicated project.

248 (3) In accordance with Section 53H-9-603, a technical college shall[-] :

249 (a) submit to the board a proposal for a funding request for each dedicated project or nondedicated project for which the technical college seeks legislative approval[-] ; and

251 (b) ensure that the proposal described in Subsection (3)(a) includes:

252 (i) the name of the project;

253 (ii) a specification of the intent of the project as a dedicated project or a non-dedicated project;

255 (iii) the projected cost of the project and the sources of funding, including internal funds, requested legislative appropriations, matching funds, or debt;

257 (iv) a budget for the project, including:

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- 258 (A) any land cost;
259 (B) architecture and engineering costs;
260 (C) any impact fees;
261 (D) horizontal development costs, including infrastructure and site work;
262 (E) vertical construction costs;
263 (F) furniture costs;
264 (G) any plan to fund future operations, maintenance, and staffing costs;
265 (H) financing costs; {and}
266 (I) construction management, project management, or other administrative costs;and
267 (J) costs associated with the demolition or remodeling of existing space;
268 (v) a rendering of the project;
269 (vi) a narrative explaining the use of the facility, including the facility's expected life span;
270 (vii) a facility utilization analysis demonstrating that the existing facilities are inadequate to serve the
271 program or function for which the institution is seeking funding; and
272 (viii) the amount of square feet of the project, including a breakdown of the uses of the space by square
273 footage, including any:
274 (A) classroom space;
275 (B) lab space;
276 (C) office space;
277 (D) meeting room space;
278 (E) entertainment space;
279 (F) residential space;
280 (G) garage or storage space;
281 (H) mechanical space; and
282 (I) common areas, including any atrium, stairway, restroom, or commons.
283 (4) The board shall:
284 (a) review each proposal submitted under Subsection (3) to ensure that the proposal complies with
285 Section 53H-9-603;
286 (b) based on the results of the board's review under Subsection (4)(a), create:
287 (i) a list of approved dedicated projects, prioritized in accordance with Subsection (6); and
288 (ii) a list of approved nondedicated projects, prioritized in accordance with Subsection (6); and
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- 292 (c) submit the lists described in Subsection (4)(b), including the relevant proposals, to:
- 293 (i) the governor;
- 294 [~~(ii) the Transportation and Infrastructure Appropriations Subcommittee;~~]
- 295 [(~~iii~~) (ii) the Higher Education Appropriations Subcommittee; and
- 296 [(~~iv~~) (iii) the Division of Facilities Construction and Management for a:
- 297 (A) recommendation, for the list described in Subsection (4)(b)(i); or
- 298 (B) recommendation and prioritization, for the list described in Subsection (4)(b)(ii).
- 300 (5) A dedicated project:
- 301 (a) is subject to the recommendation of the Division of Facilities Construction and Management as
- described in Section 63A-5b-403; and
- 303 (b) is not subject to the prioritization of the Division of Facilities Construction and Management as
- described in Section 63A-5b-403.
- 305 (6)
- (a) Subject to Subsection (7), the board shall prioritize funding requests for capital development
- projects described in this section based on:
- 307 (i) growth and capacity;
- 308 (ii) effectiveness and support of critical programs;
- 309 (iii) cost effectiveness;
- 310 (iv) building deficiencies and life safety concerns; and
- 311 (v) alternative funding sources.
- 312 (b) The board shall establish:
- 313 (i) how the board will measure each factor described in Subsection (6)(a); and
- 314 (ii) procedures for prioritizing funding requests for capital development projects described in this
- section.
- 316 (7)
- (a) Subject to Subsection (7)(b), and in accordance with Subsection (6), the board may annually
- prioritize:
- 318 (i) up to three nondedicated projects if the ongoing appropriation to the fund is less than
- \$7,000,000;
- 320 (ii) up to two nondedicated projects if the ongoing appropriation to the fund is at least \$7,000,000
- but less than \$14,000,000; or

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- 322 (iii) one nondedicated project if the ongoing appropriation to the fund is at least \$14,000,000.
- 324 (b) For each calendar year, the dollar amounts described in Subsection (7)(a) shall be adjusted by an amount equal to the percentage difference between:
- 326 (i) the Consumer Price Index for the 2019 calendar year; and
- 327 (ii) the Consumer Price Index for the previous calendar year.
- 328 (8)
- (a) A technical college may request operations and maintenance funds for a capital development project approved under this section.
- 330 (b) A technical college shall make the request described in Subsection (8)(a) at the same time the technical college submits the proposal described in Subsection (3).
- 332 (c) The Legislature shall consider a technical college's request described in Subsection (8)(a).

333 Section 6. Section 63A-5b-102 is amended to read:

334 **63A-5b-102. Definitions.**

As used in this chapter:

- 396 (1) "Capitol hill" means the same as that term is defined in Section 63O-1-101.
- 397 (2) "Compliance agency" means the same as that term is defined in Section 15A-1-202.
- 398 (3) "Director" means the division director, appointed under Section 63A-5b-302.
- 399 (4) "Division" means the Division of Facilities Construction and Management created in Section 63A-5b-301.
- 401 (5) "Institution of higher education" means the same as that term is defined in Section 53H-1-101.
- 403 (6) "Program document" means a final document that contains programming information.
- 404 (7) "Programming" means services to define the scope and purpose of an anticipated project, and may include:
- 406 (a) researching criteria applicable to the scope and purpose of an anticipated project;
- 407 (b) identifying the scale of the project and the type of facilities and the level of specialized functions that will be required;
- 409 (c) identifying and prioritizing values and goals that will impact the project, including institutional purposes, growth objectives, and cultural, technological, temporal, aesthetic, symbolic, economic, environmental, safety, sustainability, and other relevant criteria;
- 413 (d) evaluating functional efficiency, user comfort, building economics, environmental sustainability, and visual quality;

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- 415 (e) identifying objectives for the project, including such elements as image, efficiencies, functionality,
cost, and schedule;
- 417 (f) identifying and evaluating the constraints that will have an impact on the project such as legal
requirements, financial constraints, location, access, visibility, and building services;
- 420 (g) developing standards such as area allowances, space allocation, travel distances, and furniture and
equipment requirements;
- 422 (h) establishing general space quality standards related to such elements as lighting levels, equipment
performance, acoustical requirements, security, and aesthetics;
- 424 (i) identifying required spaces;
- 425 (j) establishing sizes and relationships;
- 426 (k) establishing space efficiency factors or the ratio of net square footage to gross square footage; and
- 428 (l) documenting particular space requirements such as special HVAC, plumbing, power, lighting,
acoustical, furnishings, equipment, or security needs.

430 [(6)] (8) "Trust lands administration" means the School and Institutional Trust Lands Administration
established in Section 53C-1-201.

432 [(7)] (9) "Utah Board of Higher Education" means the Utah Board of Higher Education established in
Section 53H-1-203.

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

435 **63A-5b-402. ~~{(Effective 05/06/26)}~~{Effective upon governor's approval}Capital**
development process -- Approval requirements.

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

340 [(2) An agency that requests an appropriation for a capital development project shall submit to the
division for transmission to the Legislature a capital development project request and a feasibility
study relating to the capital development project.]

343 (2)

(a) An agency may request an appropriation for {architectural} the programming {for} of a capital
development project by submitting the request to the division for {transmission-} transmittal to the
Legislature.

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

348 (c) An agency may request an appropriation for the design and construction of a capital development project by submitting the request and a {~~completed architectural~~} program document to the division for {~~transmission~~} transmittal to the Legislature.

351 (3) The division may not transmit to the Legislature a request described in Subsection (2)(c) unless the agency {~~has completed architectural programming~~} submits a program document for the capital development project.

354 [(3)] (4)

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

456 (i) a capital development project; and

457 (ii) if submitted, a feasibility study.

358 (b) The rules shall include:

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

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

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

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

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

367 (C) any private funding for the capital development project; [{-{f} and]

368 (D) the economic and community impacts of the capital development project[-:] ;

369 (E) a space utilization plan developed in accordance with rules made by the division under Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

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

372 [(4)] (5) The division shall verify the completion and accuracy of a feasibility study or {~~architectural~~} program document that an agency submits under Subsection (2) prior to submitting capital development project recommendations and priorities under Subsection (1).

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

476 **63A-5b-501. Five-year building plan.**

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- 477 (1) The director shall:
- 478 (a) in cooperation with agencies, prepare a master plan of structures built or contemplated;
- 480 (b) submit to the governor and the Legislature a comprehensive five-year building plan for the state
containing the information required by Subsection (2);
- 482 (c) amend and keep current the five-year building plan that complies with the requirements described in
Subsection (2), for submission to the governor and subsequent legislatures;~~and~~
- 485 (d) as part of the long-range plan, recommend to the governor and Legislature any changes in the law
that are necessary to ensure an effective, well-coordinated building program for all agencies~~[-]~~ ; and
- 488 (e) for each fiscal year covered by the five-year building plan, submit to the Legislature a request for
appropriation for that fiscal year.
- 490 (2)
- (a) The director shall ensure that the five-year building plan required by Subsection (1)(b) includes:
- 492 (i) a list that prioritizes construction of new buildings for all structures built or contemplated based
upon each agency's present and future needs;
- 494 (ii) information and space use data for all state-owned and leased facilities;
- 495 (iii) substantiating data to support the adequacy of any projected plans;
- 496 (iv) a summary of all statewide contingency reserve and project reserve balances as of the end of
the most recent fiscal year;
- 498 (v) a list of buildings that have completed a comprehensive facility evaluation by an architect or
engineer or are scheduled to have an evaluation;
- 500 (vi) for those buildings that have completed the evaluation, the estimated costs of needed
improvements; and
- 502 (vii) for projects recommended in the first two years of the five-year building plan:
- 503 (A) detailed estimates of the cost of each project;
- 504 (B) the estimated cost to operate and maintain the building or facility on an annual basis;
- 506 (C) the cost of capital improvements to the building or facility, estimated at 1.1% of the replacement
cost of the building or facility, on an annual basis;
- 508 (D) the estimated number of new agency full-time employees expected to be housed in the building or
facility;
- 510 (E) the estimated cost of new or expanded programs and personnel expected to be housed in the
building or facility;

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- 512 (F) the estimated lifespan of the building with associated costs for major component replacement over
the life of the building; and
- 514 (G) the estimated cost of any required support facilities.
- 515 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director may
make rules prescribing the format for submitting the information required by this Subsection (2).
- 518 (3) To provide adequate information to enable the director to make a recommendation described in
Subsection (1), an agency requesting new full-time employees for the next fiscal year shall report
those anticipated requests to the director at least 90 days before the annual general session in which
the request is made.

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

523 **63A-5b-502. Programming.**

- 524 [~~(1) As used in this section:~~]
- 525 [~~(a) "Program document" means a final document that contains programming information.]~~]
- 527 [~~(b) "Programming" means services to define the scope and purpose of an anticipated project, and may
include:~~]
- 529 [~~(i) researching criteria applicable to the scope and purpose of an anticipated project;~~]
- 530 [~~(ii) identifying the scale of the project and the type of facilities and the level of specialized functions
that will be required;~~]
- 532 [~~(iii) identifying and prioritizing values and goals that will impact the project, including institutional
purposes, growth objectives, and cultural, technological, temporal, aesthetic, symbolic, economic,
environmental, safety, sustainability, and other relevant criteria;~~]
- 536 [~~(iv) evaluating functional efficiency, user comfort, building economics, environmental sustainability,
and visual quality;~~]
- 538 [~~(v) identifying objectives for the project, including such elements as image, efficiencies, functionality,
cost, and schedule;~~]
- 540 [~~(vi) identifying and evaluating the constraints that will have an impact on the project such as legal
requirements, financial constraints, location, access, visibility, and building services;~~]
- 543 [~~(vii) developing standards such as area allowances, space allocation, travel distances, and furniture and
equipment requirements;~~]
- 545 [~~(viii) establishing general space quality standards related to such elements as lighting levels, equipment
performance, acoustical requirements, security, and aesthetics;~~]

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- 548 [~~(ix) identifying required spaces;~~]
549 [~~(x) establishing sizes and relationships;~~]
550 [~~(xi) establishing space efficiency factors or the ratio of net square footage to gross square footage; and~~]
552 [~~(xii) documenting particular space requirements such as special HVAC, plumbing, power, lighting,
acoustical, furnishings, equipment, or security needs.]~~]
554 [(2)] (1) A program document may:
555 (a) incorporate written and graphic materials; and
556 (b) include:
557 (i) an executive summary;
558 (ii) documentation of the methodology used to develop the programming;
559 (iii) value and goal statements;
560 (iv) relevant facts upon which the programming was based;
561 (v) conclusions derived from data analysis;
562 (vi) relationship diagrams;
563 (vii) flow diagrams;
564 (viii) matrices identifying space allocations and relationships;
565 (ix) space listings by function and size; and
566 (x) space program sheets, including standard requirements and special HVAC, plumbing, power,
lighting, acoustical, furnishings, equipment, or security needs.
568 [(3)] (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director
may make rules:
570 (a) establishing the types of projects for which programming and a program document are required;
572 (b) establishing the scope of programming required for defined categories of projects;
573 (c) establishing the circumstances under which an agency must obtain authorization from the director to
engage in programming;
575 (d) governing the funding of programming;
576 (e) relating to the administration of programming; and
577 (f) regarding any restrictions that may be imposed on a person involved in programming from
participating in the preparation of construction documents for a project that is the subject of the
programming.
580 Section 10. Section **63A-5b-602** is amended to read:

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- 581 **63A-5b-602. ~~{(Effective 05/06/26)}~~(Effective upon governor's approval)Design criteria,**
standards, and procedures.
- 377 (1) The director shall establish design criteria, standards, and procedures for the planning, design, and
construction of a new facility and for improvements to an existing facility, including life-cycle
costing, cost-effectiveness studies, and other methods and procedures that address:
- 381 (a) the need for the facility;
- 382 (b) the effectiveness of the facility's design;
- 383 (c) the efficiency of energy use; and
- 384 (d) the usefulness of the facility over the facility's lifetime.
- 385 (2) Before proceeding with construction, the director and the officials charged with the administration
of the affairs of the particular agency shall approve the location, design, plans, and specifications.
- 388 (3) The director shall prepare or have prepared by one or more private persons the designs, plans, and
specifications for the projects administered by the division.
- 390 (4) Before construction may begin, the director shall review the design of projects exempted from the
division's administration under Section 63A-5b-604 to determine if the design:
- 393 (a) complies with any restrictions placed on the project by the director; and
- 394 (b) is appropriate for the purpose and setting of the project.
- 395 (5) Notwithstanding the requirements of Title 63J, Chapter 1, Budgetary Procedures Act, the director
may:
- 397 (a) accelerate the design of a project funded by an appropriation act passed by the Legislature in the
Legislature's annual general session;
- 399 (b) use an unencumbered existing account balance to fund that design work; and
- 400 (c) reimburse the account balance from the amount funded for the project when the appropriation act
funding the project becomes effective.
- 402 (6) If the director establishes design criteria or standards that exceed the minimum requirements of
the State Construction Code adopted under Title 15A, State Construction and Fire Codes Act, the
director shall ensure that the additional criteria or standards are:
- 406 (a) appropriate for the intended use and setting of the facility; and
- 407 (b) cost-effective over the expected useful life of the facility.

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

615

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63A-5b-604. ~~{(Effective 05/06/26)}~~{Effective upon governor's approval} Construction, alteration, and repair of state facilities -- Powers of director -- Exceptions -- Expenditure of appropriations -- Compliance agency role.

- 412 (1)
- (a) Except as provided in this section and Section 63A-5b-1101, the director shall exercise direct supervision over the design and construction of all new facilities, and all alterations, repairs, and improvements to existing facilities, if the total project construction cost, regardless of the funding source, is greater than ~~[\$100,000]~~ \$1,500,000.
- 417 (b) ~~[A]~~ Subject to Subsections (1)(c) and (d), a state entity may exercise direct supervision over the design and construction of all new facilities, and over all alterations, repairs, and improvements to existing facilities, if:
- 420 (i) except as provided in Subsection (1)(e), the total project construction cost, regardless of the funding sources, is ~~[\$100,000]~~ \$1,500,000 or less; and
- 422 (ii) the state entity assures compliance with the division's forms and contracts and the division's design, construction, alteration, repair, improvement, and code inspection standards.
- 425 (c) Before exercising direct supervision under Subsection (1)(b), a state entity shall enter into a memorandum of understanding with the division, in a form developed by the division, that addresses:
- 428 (i) the state entity's compliance with Subsection (1)(b)(ii); and
- 429 (ii) other matters the division considers necessary and appropriate to facilitate the state entity's supervision of the project, including provisions governing the use of capital improvement funds to ensure expenditures are consistent with legislative appropriations and the five-year building plan.
- 431 (d) The director may assume direct supervision over the design and construction of a project described in Subsection (1)(b) if the division determines, through inspection or review conducted in accordance with the division's design, construction, or code inspection standards, that the work is deficient, substandard, or noncompliant.
- 435 ~~{(2)}~~ For purposes of Subsection (1)(b)(i), a state entity that is an institution of higher education described in Subsection 53H-1-102(1)(a) or (b) may exercise direct supervision if the total project construction cost is:
- 646 (i) \$30,000,000 or less for the University of Utah;
- 647 (ii) \$10,000,000 or less for Utah State University;

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- 648 (iii) \$2,500,000 or less for a university described in Subsections 53H-1-102(1)(a)(iii), (iv), (vi), or (vii);
649 or
- 650 (iv) \$1,000,000 or less for:
- 651 (A) Snow College;
- 652 (B) Salt Lake Community College; or
- 653 (C) a technical college described in Subsection 53H-1-102(1)(b).
- 654 (f) A state entity that exercises direct supervision under Subsection (1)(b) may not access, for the
655 supervised project, the division's statewide contingency reserve or project reserve authorized in
656 Section 63A-5b-609.
- 657 (2) The director may enter into a capital improvement partnering agreement with an institution of higher
658 education that permits the institution of higher education to exercise direct supervision for a capital
659 improvement project with oversight from the division.
- 438 (3)
- 439 (a) Subject to Subsection (3)(b), the director may delegate control over design, construction, and other
- 440 aspects of any project to entities of state government on a project-by-project basis.
- 441 (b) With respect to a delegation of control under Subsection (3)(a), the director may:
- 442 (i) impose terms and conditions on the delegation that the director considers necessary or advisable to
- 443 protect the interests of the state; and
- 444 (ii) revoke the delegation and assume control of the design, construction, or other aspect of a delegated
- 445 project if the director considers the revocation and assumption of control to be necessary to:
- 446 (A) address a circumstance described in Subsection (1)(d); or
- 447 (B) otherwise protect the interests of the state.
- 448 (4)
- 449 (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director may
- 450 delegate control over design, construction, and all other aspects of any project to entities of state
- 451 government on a categorical basis for projects within a particular dollar range and a particular
- 452 project type.
- 453 (b) Rules adopted by the director under Subsection (4)(a) may:
- 454 (i) impose the terms and conditions on categorical delegation that the director considers necessary or
- 455 advisable to protect the interests of the state;
- 456

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- (ii) provide for the revocation of the delegation on a categorical basis and for the division to assume control of the design, construction, or other aspect of a category of delegated projects or a specific delegated project if the director considers revocation of the delegation and assumption of control to be necessary to protect the interests of the state;
- 461 (iii) require that a categorical delegation be renewed by the director on an annual basis; and
463 (iv) require the division's oversight of delegated projects.
464 (5)
- (a) A state entity to which project control is delegated under this section shall:
- 465 (i) assume fiduciary control over project finances;
466 (ii) assume all responsibility for project budgets and expenditures; and
467 (iii) receive all funds appropriated for the project, including any contingency funds contained in the appropriated project budget.
- 469 (b) Notwithstanding a delegation of project control under this section, a state entity to which control is delegated is required to comply with the division's codes and guidelines for design and construction.
- 472 (c) A state entity to which project control is delegated under this section may not access, for the delegated project, the division's statewide contingency reserve and project reserve authorized in Section 63A-5b-609.
- 475 (d) For a facility that will be owned, operated, maintained, and repaired by an entity that is not an agency and that is located on property that the state owns or leases as a tenant, the director may authorize the facility's owner to administer the design and construction of the project relating to that facility.
- 479 (6)
- (a) A project for the construction of a new facility and a project for alterations, repairs, and improvements to an existing facility are not subject to Subsection (1) if the project:
- 482 (i) occurs on property under the jurisdiction of the State Capitol Preservation Board;
483 (ii) is within a designated research park at the University of Utah or Utah State University;
485 (iii) occurs within the boundaries of This is the Place State Park and is administered by This is the Place Foundation; or
487 (iv) is for the creation and installation of art under Title 9, Chapter 6, Part 4, Utah Percent-for-Art Act.

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(b) Notwithstanding Subsection (6)(a)(iii), the This is the Place Foundation may request the director to administer the design and construction of a project within the boundaries of This is the Place State Park.

492 (7)

(a) The role of compliance agency under Title 15A, State Construction and Fire Codes Act, shall be filled by:

494 (i) the director, for a project administered by the division;

495 (ii) the entity designated by the State Capitol Preservation Board, for a project under Subsection (6)(a)(i);

497 (iii) the local government, for a project that is:

498 (A) not subject to the division's administration under Subsection (6)(a)(ii); or

499 (B) administered by This is the Place Foundation under Subsection (6)(a)(iii);

500 (iv) the compliance agency designated by the director, for a project under Subsection (2), (3), (4), or (5)(d); and

502 (v) for the installation of art under Subsection (6)(a)(iv), the entity that is acting as the compliance officer for the balance of the project for which the art is being installed.

505 (b) A local government acting as the compliance agency under Subsection (7)(a)(iii) may:

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

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

512 (8)

(a) The zoning authority of a local government under Title 10, Chapter 20, Municipal Land Use, Development, and Management Act, or Title 17, Chapter 79, County Land Use, Development, and Management Act, does not apply to the use of property that the state owns or any improvements constructed on property that the state owns, including improvements constructed by an entity other than a state entity.

517 (b) A state entity controlling the use of property that the state owns shall consider any input received from a local government in determining how the property is to be used.

741 Section 12. Section **63A-5b-609** is amended to read:

742

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63A-5b-609. ~~{(Effective 05/06/26)}~~(Effective upon governor's approval)Expenditure of appropriated funds supervised by director -- Contingencies -- Disposition of project reserve funds -- Set aside for Utah Percent-for-Art Program.

- 523 (1) The director shall:
- 524 (a)
- (i) supervise the expenditure of funds in providing plans, engineering specifications, sites, and construction of the buildings for which legislative appropriations are made; and
- 527 (ii) specifically allocate money appropriated if more than one project is included in any single appropriation without legislative directive;
- 529 (b)
- (i) expend the amount necessary from appropriations for planning, engineering, and architectural work; and
- 531 (ii)
- (A) allocate amounts from appropriations necessary to cover expenditures previously made from the planning fund under Section 63A-5b-503 in the preparation of plans, engineering, and specifications; and
- 534 (B) return the amounts described in Subsection (1)(b)(ii)(A) to the planning fund; and
- 536 (c) hold in a statewide contingency reserve the amount budgeted for contingencies:
- 537 (i) in appropriations for the construction or remodeling of facilities; and
- 538 (ii) that are over and above all amounts obligated by contract for planning, engineering, architectural work, sites, and construction contracts.
- 540 (2)
- (a) The director shall base the amount budgeted for contingencies on a sliding scale percentage of the construction cost ranging from:
- 542 (i) 4.5% to 6.5% for new construction; and
- 543 (ii) 6% to 9.5% for remodeling projects.
- 544 (b) The director shall hold the statewide contingency funds to cover:
- 545 (i) costs of change orders; and
- 546 (ii) unforeseen, necessary costs beyond those specifically budgeted for the project.
- 547 (c)

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- ~~(i)~~ The Legislature shall annually review the percentage and the amount held in the statewide contingency reserve.
- 549 ~~(ii) The Legislature may { :~~
- 550 ~~{(A) reappropriate to other building needs, including the cost of administering building projects, any amount from the statewide contingency reserve that is in excess of the reserve required to meet future contingency needs {f} :}~~
- 774 (d) If any amount from the statewide contingency reserve is in excess of the amount required to meet future contingency needs, the Legislature:
- 776 (i) may reappropriate the excess amount to other building needs, including the cost of administering building projects;
- 778 (ii) may transfer the excess amount to the General Fund or the Income Tax Fund, in proportion to the amounts originally appropriated from each fund for the projects to which the excess amount is attributable; or
- 781 (iii) if the excess amount is attributable to an appropriation for the programming or design and construction of a project described in Title 53H, Chapter 9, Part 5, General Capital Developments, or Title 53H, Chapter 9, Part 6, Technical College Leasing and Capital Development, shall, instead of taking the action described in Subsection (2)(d)(i) or (ii), transfer the excess amount, as applicable, to:
- 786 (A) the Higher Education Capital Projects Fund, created in Section 53H-9-502; or
- 787 (B) the Technical Colleges Capital Projects Fund, created in Section 53H-9-605.
- 788 (3)
- (a) { ; or }
- 553 ~~{(B) transfer any excess amounts described in Subsection (2)(c)(ii)(A) to the General Fund or the Income Tax Fund, in proportion to the amounts originally appropriated from each fund for the projects to which the excess amount is attributable.}~~
- 557 ~~{(iii) {The division shall, for each year of the five-year building plan, submit an annual request for appropriation to the Legislature.}}~~
- 559 ~~{(3)}~~
- ~~{(a)}~~ The director shall hold in a separate project reserve state appropriated funds accrued through bid savings and project residual.

561

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- (b) The director shall account for the funds accrued under Subsection (3)(a) in separate accounts as follows:
- 563 (i) bid savings and project residual from a capital improvement project, as defined in Section
63A-5b-401; and
- 565 (ii) bid savings and project residual from a capital development project, as defined in Section
63A-5b-401.
- 567 (c) The director may use project reserve funds in the account described in Subsection (3)(b)(i) for a
capital improvement project:
- 569 (i) approved under Section 63A-5b-405; and
- 570 (ii) for which funds are not allocated.
- 571 (d) The director may:
- 572 (i) authorize the use of project reserve funds in the accounts described in Subsection (3)(b) for the
award of contracts in excess of a project's construction budget if the use is required to meet the
intent of the project;
- 575 (ii) transfer money from the account described in Subsection (3)(b)(i) to the account described in
Subsection (3)(b)(ii) if a capital development project has exceeded its construction budget; and
- 578 (iii) use project reserve funds for any emergency capital improvement project, whether or not the
emergency capital improvement project is related to a project that has exceeded its construction
budget.
- 581 (e) The director shall report to the Office of the Legislative Fiscal Analyst within 30 days:
- 583 (i) an expenditure under Subsection (3)(c); or
- 584 (ii) a transfer under Subsection (3)(d).
- 585 (f) The Legislature shall annually review the amount held in the project reserve for possible reallocation
by the Legislature to other building needs, including the cost of administering building projects.
- 588 (4) If any part of the appropriation for a building project, other than the part set aside for the Utah
Percent-for-Art Program under Title 9, Chapter 6, Part 4, Utah Percent-for-Art Act, remains
unencumbered after the award of construction and professional service contracts and establishing
a reserve for fixed and moveable equipment, the balance of the appropriation is dedicated to the
project reserve and does not revert to the General Fund.
- 593 (5)
- (a)

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(i) One percent of the amount appropriated for the construction of any new state building or facility may be appropriated and set aside for the Utah Percent-for-Art Program administered by the Division of Fine Arts under Title 9, Chapter 6, Part 4, Utah Percent-for-Art Act.

597 (ii) The total amount appropriated and set aside under Subsection (5)(a)(i) may not exceed:

599 (A) \$200,000, if the new state building or facility is not located in a county of the first class; and

601 (B) \$250,000, if the new state building or facility is located in a county of the first class.

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

606 (c) Funds from appropriations for a state building or facility may not be set aside:

607 (i) if any part of the funds is derived from the issuance of bonds; and

608 (ii) to the extent the set aside of funds would jeopardize the federal income tax exemption otherwise allowed for interest paid on bonds.

610 (6)

(a) After funds are appropriated for a ~~{capital development}~~ non-dedicated project of an institution of higher education, ~~{but before construction begins,}~~ the director may approve a modification to the design of the project before final project closeout if:

613 (i) the modification is requested by the institution of higher education; and

843 (ii) the modification does not:

614 (ii) {(A)} {the modification does not} result in a material reduction in the {scope} legislatively approved program scope, capacity, performance standards, durability, intended useful life, or intended use of the project{:}; or

847 (B) eliminate or defer legislatively approved program elements, including through downsizing or removal of project components.

616 (b) If a modification approved under Subsection (6)(a) results in a ~~{reduction to the amount appropriated for}~~ documented reduction in the total project cost attributable to efficiencies in design refinement, engineering optimization, procurement strategy, material selection, scheduling, or construction methodology, the director shall ~~{allocate}~~ distribute the resulting cost savings as follows:

619 (i) an amount, as determined by the director, not to exceed 50% of the cost savings{, to the institution of higher education for use on a capital improvement project; and} :

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- 857 (A) for a degree-granting institution described in Subsection 53H-1-102(1)(a), to the institution's allocation within the Higher Education Capital Projects Fund; or
- 861 (B) for a technical college described in Subsection 53H-1-102(1)(b), to the technical college for use on a capital improvement project; and
- 621 (ii) the remaining amount to the state, to be deposited into the General Fund or the Income Tax Fund in proportion to the amounts originally appropriated from each fund for the project.
- 624 (c) Cost savings allocated under Subsection (6)(b) are not bid savings, including bid savings that result from competitive procurement, or project residual under Subsection (3).
- 865 Section 13. Section 63G-6a-1103 is amended to read:
- 866 **63G-6a-1103. Bonds or security necessary when contract is awarded -- Waiver -- Action -- Attorney fees.**
- 868 (1) [When] Except as provided in Subsection (5), if a construction contract is awarded under this chapter, the contractor to whom the contract is awarded shall deliver the following bonds or security to the procurement unit, which shall become binding on the parties upon the execution of the contract:
- 872 (a) a performance bond satisfactory to the procurement unit that is in an amount equal to 100% of the price specified in the contract and is executed by a surety company authorized to do business in the state or any other form satisfactory to the procurement unit; and
- 876 (b) a payment bond satisfactory to the procurement unit that is in an amount equal to 100% of the price specified in the contract and is executed by a surety company authorized to do business in the state or any other form satisfactory to the procurement unit, which is for the protection of each person supplying labor, service, equipment, or material for the performance of the work provided for in the contract.
- 881 (2)
- (a) When a construction contract is awarded under this chapter, the procurement official responsible for carrying out the construction project may not require a contractor to whom a contract is awarded to obtain a bond of the types [~~referred to~~] described in Subsection (1) from a specific insurance or surety company, producer, agent, or broker.
- 886 (b) A person who violates Subsection (2)(a) is guilty of an infraction.
- 887

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

890 (4)

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

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

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

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

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

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

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

907 (5)

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

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

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

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

918 Section 14. **Effective date.**

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Effective Date.

This bill takes effect {on May 6, 2026.}:

- 920 (1) except as provided in Subsection (2), May 6, 2026; or
921 (2) if approved by two-thirds of all members elected to each house:
922 (a) upon approval by the governor;
923 (b) without the governor's signature, the day following the constitutional time limit of Utah
Constitution, Article VII, Section 8; or
925 (c) in the case of a veto, the date of veto override.

3-1-26 7:00 PM