

State Facilities Modifications

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Walt Brooks

Senate Sponsor:

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;
- 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;
- 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;
- aligns revocation authority for delegated projects by allowing the director of the division

to revoke delegation to address inspection-based deficiencies;

- 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;
- 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;
- authorizes the Legislature to transfer excess funds from the statewide contingency reserve to the General Fund or the Income Tax Fund;
- requires the division to submit an annual request for appropriation to the Legislature for each year covered by the five-year building plan;
- 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
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53H-1-402 (Effective 05/06/26) (Partially Repealed 07/01/27), as renumbered and amended by Laws of Utah 2025, First Special Session, Chapter 8

53H-9-402 (Effective 05/06/26), as renumbered and amended by Laws of Utah 2025, First Special Session, Chapter 8

53H-9-504 (Effective 05/06/26), as renumbered and amended by Laws of Utah 2025, First Special Session, Chapter 8

53H-9-604 (Effective 05/06/26), as renumbered and amended by Laws of Utah 2025, First Special Session, Chapter 8

63A-5b-402 (Effective 05/06/26), as last amended by Laws of Utah 2022, Chapter 421

63A-5b-602 (Effective 05/06/26), as enacted by Laws of Utah 2020, Chapter 152

63A-5b-604 (Effective 05/06/26), as last amended by Laws of Utah 2025, First Special Session, Chapter 15

63A-5b-609 (Effective 05/06/26), as last amended by Laws of Utah 2024, Chapter 368

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

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

53H-1-402 (Effective 05/06/26) (Partially Repealed 07/01/27). Reports to and actions of the Higher Education Appropriations Subcommittee.

- (1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Higher Education Appropriations Subcommittee:
- (a) the reports described in Sections 53H-1-502, 53H-1-503, and 53H-1-504;
 - (b) the reports described in Section 53H-1-203 by the board on:
 - (i) system wide responses to changing demographics and workforce; and
 - (ii) the board's activities and performance against the board's goals and metrics;
 - (c) the report described in Section 53H-5-205;
 - (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;
 - (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;
 - (f) the reports described in Section 53H-8-303 by the board on performance;
 - (g) the report described in Section 53H-11-402 by the board on the Opportunity Scholarship Program;
 - (h) the report described in Section 53H-13-309 regarding the talent advisory councils;
 - (i) the report described in Section 53H-11-414 by the board on the Utah Promise Program;
 - (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;
 - (k) the report described in Section 53H-1-604 regarding the Higher Education and Corrections Council; and
 - (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.
- (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.
- (3) In accordance with applicable provisions, the Higher Education Appropriations Subcommittee shall complete the following:

- (a) an appropriation recommendation described in Section 53H-1-504 regarding compliance with Subsections 53H-1-504(5) and (14); and
- (b) as required by Section 53H-8-304, the review of performance funding described in Section 53H-8-304.

(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.

~~[(4)]~~ (5) In consultation with the board, the Higher Education Appropriations Subcommittee shall study a re-design of:

- (a) the performance funding model described in Chapter 8, Part 3, Performance Funding, to better ensure:
- (i) institutional alignment with the statewide system of higher education and the institution's mission within the statewide system; and
 - (ii) investment in meeting localized and statewide workforce demands and securing post-graduation employment outcomes; and
- (b) enrollment-based funding, including, for technical colleges, funding distribution models that:
- (i) include equivalent funding value for secondary and adult students; and
 - (ii) reflect the full responsibility of the technical college's statutorily-required services.

Section 2. Section **53H-9-402** is amended to read:

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

- (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.
- (2) An institution may not~~[-]~~ :
- (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
 - (b) request state funding for capital facilities except as provided in Title 53H, Chapter 9, Part 5, General Capital Developments.

- 133 (3) The board shall make rules establishing the conditions under which facilities may be
134 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
137 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
139 than \$100,000, notify the speaker of the House, the president of the Senate, and the
140 cochairs of the Transportation and Infrastructure Appropriations Subcommittee.

141 Section 3. Section **53H-9-504** is amended to read:

142 **53H-9-504 (Effective 05/06/26). Funding request for capital development project**
143 **-- Legislative approval -- Board prioritization, approval, and review.**

- 144 (1) In accordance with this section, a degree-granting institution is required to receive
145 legislative approval in an appropriations act for a dedicated project or a nondedicated
146 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
149 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
153 non-dedicated project;
- 154 (iii) the projected cost of the project and the sources of funding, including internal
155 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;
- 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;
- 166 (v) a rendering of the project;

- (vi) a narrative explaining the use of the facility, including the facility's expected life span;
- (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
- (viii) the amount of square feet of the project, including a breakdown of the uses of the space by square footage, including any:
- (A) classroom space;
 - (B) lab space;
 - (C) office space;
 - (D) meeting room space;
 - (E) entertainment space;
 - (F) residential space;
 - (G) garage or storage space;
 - (H) mechanical space; and
 - (I) common areas, including any atrium, stairway, restroom, or commons.

(3) The board shall:

- (a) review each proposal submitted under Subsection (2) to ensure the proposal:
 - (i) is cost effective and an efficient use of resources;
 - (ii) is consistent with the degree-granting institution's mission and master plan; and
 - (iii) fulfills a critical institutional facility need;
- (b) based on the results of the board's review under Subsection (3)(a), create:
 - (i) a list of approved dedicated projects; and
 - (ii) a list of approved nondedicated projects, prioritized in accordance with Subsection (5); and
- (c) submit the lists described in Subsection (3)(b), including the relevant proposals, to:
 - (i) the governor;
 - ~~[(ii) the Transportation and Infrastructure Appropriations Subcommittee;]~~
 - ~~[(iii)]~~ (ii) the Higher Education Appropriations Subcommittee; and
 - ~~[(iv)]~~ (iii) the Division of Facilities Construction and Management for a:
 - (A) recommendation, for the list described in Subsection (3)(b)(i); or
 - (B) recommendation and prioritization, for the list described in Subsection (3)(b)(ii).

(4) A dedicated project:

(a) is subject to the recommendation of the Division of Facilities Construction and Management as described in Section 63A-5b-403; and

(b) is not subject to the prioritization of the Division of Facilities Construction and Management as described in Section 63A-5b-403.

(5)(a) Subject to Subsection (6), the board shall prioritize institution requests for funding for nondedicated projects based on:

(i) capital facility need;

(ii) utilization of facilities;

(iii) maintenance and condition of facilities; and

(iv) any other factor determined by the board.

(b) The board shall establish how the board will prioritize institution requests for funding for nondedicated projects, including:

(i) how the board will measure each factor described in Subsection (5)(a); and

(ii) procedures for prioritizing requests.

(6)(a) Subject to Subsection (6)(b), and in accordance with Subsection (5), the board may annually prioritize:

(i) up to three nondedicated projects if the ongoing appropriation to the fund is less than \$50,000,000;

(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

(iii) one nondedicated project if the ongoing appropriation to the fund is at least \$100,000,000.

(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:

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

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

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

(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).

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

(8) After a degree-granting institution completes a capital development project described in

235 this section, the board shall review the capital development project, including the costs
236 and design of the capital development project.

237 Section 4. Section **53H-9-604** is amended to read:

238 **53H-9-604 (Effective 05/06/26). Legislative approval -- Capital development**
239 **projects -- Prioritization.**

240 (1) As used in this section:

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

244 (b) "Fund" means the Technical Colleges Capital Projects Fund created in Section
245 53H-9-605.

246 (2) In accordance with this section, a technical college is required to receive legislative
247 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
250 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
254 non-dedicated project;

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

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

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;

267 (v) a rendering of the project;

268 (vi) a narrative explaining the use of the facility, including the facility's expected life

- 269 span;
- 270 (vii) a facility utilization analysis demonstrating that the existing facilities are
- 271 inadequate to serve the program or function for which the institution is seeking
- 272 funding; and
- 273 (viii) the amount of square feet of the project, including a breakdown of the uses of
- 274 the space by square footage, including any:
- 275 (A) classroom space;
- 276 (B) lab space;
- 277 (C) office space;
- 278 (D) meeting room space;
- 279 (E) entertainment space;
- 280 (F) residential space;
- 281 (G) garage or storage space;
- 282 (H) mechanical space; and
- 283 (I) common areas, including any atrium, stairway, restroom, or commons.
- 284 (4) The board shall:
- 285 (a) review each proposal submitted under Subsection (3) to ensure that the proposal
- 286 complies with Section 53H-9-603;
- 287 (b) based on the results of the board's review under Subsection (4)(a), create:
- 288 (i) a list of approved dedicated projects, prioritized in accordance with Subsection (6);
- 289 and
- 290 (ii) a list of approved nondedicated projects, prioritized in accordance with
- 291 Subsection (6); and
- 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
- 299 (4)(b)(ii).
- 300 (5) A dedicated project:
- 301 (a) is subject to the recommendation of the Division of Facilities Construction and
- 302 Management as described in Section 63A-5b-403; and

(b) is not subject to the prioritization of the Division of Facilities Construction and Management as described in Section 63A-5b-403.

(6)(a) Subject to Subsection (7), the board shall prioritize funding requests for capital development projects described in this section based on:

- (i) growth and capacity;
- (ii) effectiveness and support of critical programs;
- (iii) cost effectiveness;
- (iv) building deficiencies and life safety concerns; and
- (v) alternative funding sources.

(b) The board shall establish:

- (i) how the board will measure each factor described in Subsection (6)(a); and
- (ii) procedures for prioritizing funding requests for capital development projects described in this section.

(7)(a) Subject to Subsection (7)(b), and in accordance with Subsection (6), the board may annually prioritize:

- (i) up to three nondedicated projects if the ongoing appropriation to the fund is less than \$7,000,000;
- (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
- (iii) one nondedicated project if the ongoing appropriation to the fund is at least \$14,000,000.

(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:

- (i) the Consumer Price Index for the 2019 calendar year; and
- (ii) the Consumer Price Index for the previous calendar year.

(8)(a) A technical college may request operations and maintenance funds for a capital development project approved under this section.

(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).

(c) The Legislature shall consider a technical college's request described in Subsection (8)(a).

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

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

(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.

~~[(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.]~~

(2)(a) An agency may request an appropriation for architectural programming for a capital development project by submitting the request to the division for transmission to the Legislature.

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

(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 to the division for transmission to the Legislature.

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

~~[(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.

(b) The rules shall include:

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

(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

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

(A) the need for the capital development project;

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

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

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

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

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

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

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

Section 6. Section **63A-5b-602** is amended to read:

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

(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:

- (a) the need for the facility;
- (b) the effectiveness of the facility's design;
- (c) the efficiency of energy use; and
- (d) the usefulness of the facility over the facility's lifetime.

(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.

(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.

(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:

- (a) complies with any restrictions placed on the project by the director; and
- (b) is appropriate for the purpose and setting of the project.

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

- (a) accelerate the design of a project funded by an appropriation act passed by the Legislature in the Legislature's annual general session;
- (b) use an unencumbered existing account balance to fund that design work; and
- (c) reimburse the account balance from the amount funded for the project when the appropriation act funding the project becomes effective.

(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:

(a) appropriate for the intended use and setting of the facility; and

(b) cost-effective over the expected useful life of the facility.

Section 7. Section **63A-5b-604** is amended to read:

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

(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.

(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:

(i) the total project construction cost, regardless of the funding sources, is [\$100,000] \$1,500,000 or less; and

(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.

(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:

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

(ii) other matters the division considers necessary and appropriate to facilitate the state entity's supervision of the project.

(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.

(2) The director may enter into a capital improvement partnering agreement with an institution of higher education that permits the institution of higher education to exercise direct supervision for a capital improvement project with oversight from the division.

(3)(a) Subject to Subsection (3)(b), the director may delegate control over design,

439 construction, and other aspects of any project to entities of state government on a
440 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
443 necessary or advisable to protect the interests of the state; and
- 444 (ii) revoke the delegation and assume control of the design, construction, or other
445 aspect of a delegated project if the director considers the revocation and
446 assumption of control to be necessary to;

447 (A) address a circumstance described in Subsection (1)(d); or

448 (B) otherwise protect the interests of the state.

449 (4)(a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
450 the director may delegate control over design, construction, and all other aspects of
451 any project to entities of state government on a categorical basis for projects within a
452 particular dollar range and a particular 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
455 considers necessary or advisable to protect the interests of the state;
- 456 (ii) provide for the revocation of the delegation on a categorical basis and for the
457 division to assume control of the design, construction, or other aspect of a
458 category of delegated projects or a specific delegated project if the director
459 considers revocation of the delegation and assumption of control to be necessary
460 to protect the interests of the state;
- 461 (iii) require that a categorical delegation be renewed by the director on an annual
462 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
468 contained in the appropriated project budget.

469 (b) Notwithstanding a delegation of project control under this section, a state entity to
470 which control is delegated is required to comply with the division's codes and
471 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.

(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.

(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:

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

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

(iii) occurs within the boundaries of This is the Place State Park and is administered by This is the Place Foundation; or

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

(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.

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

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

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

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

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

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

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

(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.

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

- (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
- (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.

(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.

- (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.

Section 8. Section **63A-5b-609** is amended to read:

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

(1) The director shall:

- (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
- (ii) specifically allocate money appropriated if more than one project is included in any single appropriation without legislative directive;
- (b)(i) expend the amount necessary from appropriations for planning, engineering, and architectural work; and
- (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
- (B) return the amounts described in Subsection (1)(b)(ii)(A) to the planning fund; and
- (c) hold in a statewide contingency reserve the amount budgeted for contingencies:
 - (i) in appropriations for the construction or remodeling of facilities; and
 - (ii) that are over and above all amounts obligated by contract for planning, engineering, architectural work, sites, and construction contracts.

(2)(a) The director shall base the amount budgeted for contingencies on a sliding scale

percentage of the construction cost ranging from:

(i) 4.5% to 6.5% for new construction; and

(ii) 6% to 9.5% for remodeling projects.

(b) The director shall hold the statewide contingency funds to cover:

(i) costs of change orders; and

(ii) unforeseen, necessary costs beyond those specifically budgeted for the project.

(c)(i) The Legislature shall annually review the percentage and the amount held in the statewide contingency reserve.

(ii) The Legislature may:

(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[-] ; or

(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.

(iii) The division shall, for each year of the five-year building plan, submit an annual request for appropriation to the Legislature.

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

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

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

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

(c) The director may use project reserve funds in the account described in Subsection

(3)(b)(i) for a capital improvement project:

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

(ii) for which funds are not allocated.

(d) The director may:

(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
576 described in Subsection (3)(b)(ii) if a capital development project has exceeded its
577 construction budget; and
- 578 (iii) use project reserve funds for any emergency capital improvement project,
579 whether or not the emergency capital improvement project is related to a project
580 that has exceeded its construction budget.
- 581 (e) The director shall report to the Office of the Legislative Fiscal Analyst within 30
582 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
586 possible reallocation by the Legislature to other building needs, including the cost of
587 administering building projects.
- 588 (4) If any part of the appropriation for a building project, other than the part set aside for the
589 Utah Percent-for-Art Program under Title 9, Chapter 6, Part 4, Utah Percent-for-Art Act,
590 remains unencumbered after the award of construction and professional service contracts
591 and establishing a reserve for fixed and moveable equipment, the balance of the
592 appropriation is dedicated to the project reserve and does not revert to the General Fund.
- 593 (5)(a)(i) One percent of the amount appropriated for the construction of any new state
594 building or facility may be appropriated and set aside for the Utah Percent-for-Art
595 Program administered by the Division of Fine Arts under Title 9, Chapter 6, Part 4,
596 Utah Percent-for-Art Act.
- 597 (ii) The total amount appropriated and set aside under Subsection (5)(a)(i) may not
598 exceed:
- 599 (A) \$200,000, if the new state building or facility is not located in a county of the
600 first class; and
- 601 (B) \$250,000, if the new state building or facility is located in a county of the first
602 class.
- 603 (b) The director shall release to the Division of Fine Arts any funds included in an
604 appropriation to the division that are designated by the Legislature for the Utah
605 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.

(6)(a) After funds are appropriated for a capital development project of an institution of higher education, but before construction begins, the director may approve a modification to the design of the project if:

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

(ii) the modification does not result in a material reduction in the scope or intended use of the project.

(b) If a modification approved under Subsection (6)(a) results in a reduction to the amount appropriated for construction, the director shall allocate the resulting cost savings as follows:

(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

(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.

(c) Cost savings allocated under Subsection (6)(b) are not bid savings or project residual under Subsection (3).

Section 9. **Effective Date.**

This bill takes effect on May 6, 2026.