

**Effective 10/14/2025**

**Chapter 9  
Property and Facilities**

**Part 1  
General Provisions**

**53H-9-101 Definitions.**

Reserved.

Enacted by Chapter 8, 2025 Special Session 1

**Part 2  
Property Rights**

**53H-9-201 General provisions -- Definitions.**

Reserved.

Enacted by Chapter 8, 2025 Special Session 1

**53H-9-202 Property of institutions to vest in state board.**

The Utah Board of Higher Education is the successor to, and vested with, all the powers and authority relating to all properties, real and personal, tangible and intangible, and to the control and management of the property which was held by the governing board of each institution prior to the creation of the board.

Renumbered and Amended by Chapter 8, 2025 Special Session 1

**53H-9-203 Vesting of rights, claims, and causes of action in higher education institutions --  
Right to sue in corporate name.**

- (1) All rights, claims, and causes of action to or for any property vested in an institution of higher education prior to the effective date of this chapter, or the use of or income from the property, or for any conversion, disposition, and withholding of the property, or for any damage or injury to the property vests in the institution.
- (2) The institution may bring and maintain actions in the institution's corporate name to recover, protect, and preserve all property and rights of the institution and enforce any contract relating to those rights and property.

Renumbered and Amended by Chapter 8, 2025 Special Session 1

**53H-9-204 Institutional right to receive and convert grants, gifts, devises, or bequests.**

- (1) Each institution may convert property received by gift, grant, devise, or bequest, and not suitable for its use, into other property or into money. All property received or converted under this subsection shall be held, invested, and managed and the proceeds used for the purposes and under the conditions prescribed in the grant or donation.

- (2) If a condition is imposed by the terms of a grant, gift, devise, or bequest which is impracticable under the law, the grant is still valid. However, the condition must be rejected and the intent of the grantor carried out as nearly as may be possible.
- (3) A grant, gift, devise, or bequest for the benefit of the institution is not defeated or prejudiced by any misnomer, misdescription, or informality, if the intent of the grantor or donor can be shown or ascertained with reasonable certainty.

Renumbered and Amended by Chapter 8, 2025 Special Session 1

**53H-9-205 Property exempt from taxes and assessments.**

The property of the institutions governed by the board is exempt from all taxes and assessments.

Renumbered and Amended by Chapter 8, 2025 Special Session 1

**53H-9-206 Development of university property.**

(1) As used in this section:

- (a) "Board of trustees" means the board of trustees of an eligible university.
- (b) "Conflict" means a situation in which a board of trustees member or a family member of a board of trustees member will or is likely to receive a direct financial benefit because of the development of eligible university property within a development area.
- (c) "Designation resolution" means a board of trustees' resolution designating eligible university property as a development area.
- (d) "Development action" means:
  - (i) a board of trustees' deliberations on whether to adopt a designation resolution;
  - (ii) a board of trustees' adoption of a designation resolution;
  - (iii) a board of trustees' deliberations on whether to approve a development agreement; or
  - (iv) a board of trustees' approval of a development agreement.
- (e) "Development agreement" means an agreement between an eligible university and a development partner that governs the development of eligible university property within a development area.
- (f) "Development area" means a single, contiguous area that:
  - (i) consists only of eligible university property;
  - (ii) is no larger than 75 acres; and
  - (iii) the board of trustees designates for development or redevelopment in a designation resolution under this section.
- (g) "Development fund" means the fund described in and established under Subsection (4).
- (h) "Development partner" means a person who enters into a development agreement with an eligible university to develop or redevelop eligible university property within a development area.
- (i) "Direct financial benefit":
  - (i) means any form of financial benefit that accrues to an individual directly, including:
    - (A) compensation, commission, or any other form of a payment or increase of money; and
    - (B) an increase in the value of a business or property; and
  - (ii) does not include a financial benefit that accrues to the public generally.
- (j) "Eligible university" means an institution of higher education listed in Subsection 53H-1-102(1)
  - (a).

- (k) "Eligible university property" means real property owned by an eligible university as of January 1, 2025.
  - (l) "Family member" means a parent, spouse, sibling, child, or grandchild.
  - (m) "Leased property" means eligible university property that:
    - (i) is within a development area; and
    - (ii) an eligible university leases to a private person.
  - (n) "Privilege tax" means a tax imposed under Section 59-4-101.
- (2)
- (a) Except as provided in Subsection (2)(f), before January 1, 2035, an eligible university may, by resolution of the eligible university's board of trustees, designate eligible university property as a development area.
  - (b) Before adopting a designation resolution, a board of trustees shall:
    - (i) obtain approval from the Utah Board of Higher Education of the geographic area proposed to be designated as a development area; and
    - (ii) after obtaining approval from the Utah Board of Higher Education under Subsection (2)(b)(i):
      - (A) provide notice of the public hearing required under Subsection (2)(b)(ii)(B), as required for a class A notice under Section 63G-30-102, for at least seven days before the day of the public hearing; and
      - (B) hold a public hearing on the proposed adoption of a designation resolution.
  - (c) A notice under Subsection (2)(b)(ii)(A) shall include a copy of the proposed designation resolution.
  - (d) A designation resolution, including a proposed designation resolution that accompanies a notice under Subsection (2)(b)(ii)(A), shall:
    - (i) accurately describe the boundary of the proposed development area;
    - (ii) describe the development that is proposed to occur in the proposed development area; and
    - (iii) estimate the amount and sources of revenue the eligible university expects to receive from the development area.
  - (e) Before adopting a designation resolution, a board of trustees may modify the proposed designation resolution to:
    - (i) address concerns raised in a public hearing held under Subsection (2)(b)(ii)(B); or
    - (ii) clarify or adjust provisions of the proposed designation resolution, as the board of trustees considers appropriate.
  - (f) A board of trustees may not adopt a designation resolution if:
    - (i) the board of trustees has previously adopted a designation resolution; or
    - (ii) the area in the proposed development area would overlap with part or all of:
      - (A) a community reinvestment project area created under Title 17C, Chapter 5, Part 1, Community Reinvestment Project Area Plan, as that project area exists on January 1, 2025; or
      - (B) a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, as that zone exists on January 1, 2025.
- (3) Within 30 days after a board of trustees' adoption of a designation resolution, the board of trustees or the board of trustees' delegee shall deliver a copy of the designation resolution to:
- (a) the clerk of the municipality in which the development area that is the subject of the designation resolution is located; and
  - (b) the assessor, treasurer, and auditor of the county in which the development area that is the subject of the designation resolution is located.
- (4)

- (a) Upon adoption of a designation resolution, a board of trustees shall establish a separate fund related to the development area that is the subject of the designation resolution.
- (b) An eligible university shall deposit into a development fund all money the eligible university receives from the development and lease of eligible university property within a development area.
- (c) Money in a development fund shall be accounted for separately from any other fund of the eligible university.
- (d) An eligible university may use money in a development fund for:
  - (i) expenses associated with the development of the development area;
  - (ii) capital facility projects of the eligible university;
  - (iii) operation and maintenance costs associated with capital facilities of the eligible university;
  - or
  - (iv) any other eligible university-related purpose.
- (5) An eligible university may enter into a development agreement.
- (6)
  - (a) A board of trustees member may not participate in a development action if the board of trustees member or a family member of the board of trustees member owns an interest in, is directly affiliated with, or is an employee or officer of a private firm, private company, or other private entity that the board of trustees member reasonably believes is likely to participate in or receive a direct financial benefit from the development of land that is the subject of a development agreement.
  - (b) Before the board of trustees approves a development agreement, the board of trustees shall require any member with a conflict to disclose the conflict in writing to the board of trustees.
  - (c) Nothing in this Subsection (6) affects the application or effect of any other code provision applicable to a board of trustees member relating to ethics or conflicts of interest.
- (7)
  - (a) Beginning January 1 of the year immediately following the execution of a development agreement, the possession or other beneficial use enjoyed by a person of leased property that is located within the development area subject to the development agreement shall be subject to Title 59, Chapter 4, Privilege Tax, if that leased property is used in connection with a business conducted for profit.
  - (b) The treasurer of the county in which the leased property described in Subsection (7)(a) is located shall, in the manner and at the time provided in Section 59-2-1365:
    - (i) collect privilege tax from a lessee of the leased property; and
    - (ii) distribute 80% of the privilege tax revenue to the eligible university.
- (8)
  - (a) A board of trustees shall present a written report to the Higher Education Appropriations Subcommittee no later than September 30 of each year after the board of trustees' adoption of a designation resolution.
  - (b) A report under Subsection (8)(a) shall:
    - (i) describe the development taking place or expected to take place within the development area; and
    - (ii) provide a summary of money deposited into and expended from the development fund for that development area.

Renumbered and Amended by Chapter 8, 2025 Special Session 1

## Part 3 Revenue Bonds

### **53H-9-301 General provisions -- Definitions.**

Reserved.

Enacted by Chapter 8, 2025 Special Session 1

### **53H-9-302 Financing of projects or buildings -- Issuance of bonds -- Sale price determined by board -- Payment of bonds -- Bonds exempt from income taxation.**

- (1) To pay all or part of the cost of the acquisition, purchase, construction, improvement, remodeling, addition to, extension, equipment, and furnishing of any project or building, including the acquisition of all necessary land, the board, on behalf of the institution for which this is to be done, may do the following:
  - (a) borrow money on the credit of the income and revenues to be derived from the operation of the building, the imposition of student building fees, land grant interest, and net profits from proprietary activities, or from sources other than by appropriations by the Legislature to issuing institutions and, in anticipation of the collection of this income and revenues, issue negotiable bonds of the institution in an amount as the board determines is necessary for these purposes; and
  - (b) provide for the payment of these bonds and the rights of the bond's holders as provided in this part.
- (2) Bonds may:
  - (a) be issued in one or more series;
  - (b) bear any date or dates;
  - (c) mature at any time or times not exceeding 40 years from the bond's date;
  - (d) be in any denominations;
  - (e) be in any form, either coupon or registered;
  - (f) carry registration and conversion privileges;
  - (g) be executed in any manner;
  - (h) be payable in any medium of payment at any place;
  - (i) be subject to any terms of redemption with or without premium; and
  - (j) bear interest at any rate or rates as provided by resolution adopted by the board at or before the sale of the bonds.
- (3)
  - (a) The bonds may be sold in a manner, at the lowest obtainable rate or rates of interest, and at a price or prices as determined by the board.
  - (b) The determinations described in Subsection (3)(a) are conclusive.
- (4)
  - (a) The board may authorize one issue of bonds for the acquisition, purchase, construction, improvement, remodeling, adding to, extending, furnishing, or equipping of more than one building.
  - (b) Subsection (4)(a) includes the acquisition of all necessary land, and the board may make the bonds payable from the combined revenues of all the buildings as well as from:
    - (i) student building fees;
    - (ii) land grant interest;
    - (iii) net profits from proprietary activities; and

- (iv) sources other than those derived from appropriations from the Legislature.
- (5) The bonds issued under this part have all of the qualities and incidents of negotiable paper and are not subject to state or local income taxation.
- (6) This section does not apply to a technical college.

Renumbered and Amended by Chapter 8, 2025 Special Session 1

**53H-9-303 Bonds do not create state indebtedness -- Special obligations -- Discharge of bonded indebtedness -- Agreements and covenants by the board regarding bonds -- Enforcement by court action.**

- (1)
  - (a) The bonds issued under this part are not an indebtedness of the state, of the institution for which they are issued, or of the board.
  - (b) They are special obligations payable solely from the revenues derived from the operation of the building and student building fees, land grant interest, net profits from proprietary activities, and any other revenues pledged other than appropriations by the Legislature as provided in Sections 53H-9-302 and 53H-9-312.
  - (c)
    - (i) Notwithstanding any other provision of law, the chair of the board shall certify annually by December 1 any amount required to:
      - (A) restore any debt service reserve funds established by the board for bonds issued under this part to the amount required by the related authorizing proceedings; or
      - (B) meet projected shortfalls of payment of principal or interest or both for the following year on any bonds issued under this part.
    - (ii) The governor may request from the Legislature an appropriation of the amount certified under Subsection (1)(c)(i) to restore the debt service reserve funds to the debt service reserve fund's required amounts or to meet any projected principal or interest payment deficiency.
  - (d)
    - (i) The state may not alter, impair, or limit the rights of bondholders or persons contracting with the board until the bonds, including interest and other contractual obligations, are fully met and discharged.
    - (ii) Nothing in this part precludes an alteration, impairment, or limitation if provision is made by law for the protection of bondholders or persons entering into contracts with the board.
- (2) The board shall pledge all or any part of the revenues to the payment of principal of and interest on the bonds.
- (3) In order to secure the prompt payment of principal and interest and the proper application of the revenues pledged, the board may, by appropriate provisions in the resolution authorizing the bonds:
  - (a) covenant as to the use and disposition of the proceeds of the sale of the bonds;
  - (b) covenant as to the operation of the building and the collection and disposition of the revenues derived from the operation;
  - (c) collect student building fees from all students, and pledge the fees to the payment of building bonds;
  - (d) covenant as to the rights, liabilities, powers, and duties arising from the breach of any covenant or agreement into which it may enter in authorizing and issuing the bonds;
  - (e) covenant and agree to carry insurance on the building, and the building's use and occupancy, and provide that the cost of any insurance is part of the expense of operating the building;

- (f) vest in a trustee:
  - (i) the right to receive all or any part of the income and revenues pledged and assigned to or for the benefit of the holder or holders of the bonds issued under this part, and to hold, apply, and dispose of the income and revenue; and
  - (ii) the right to:
    - (A) enforce any covenant made to secure the bonds;
    - (B) execute and deliver a trust agreement which sets forth the powers and duties and the remedies available to the trustee and limits the trustee's liabilities; and
    - (C) prescribe the terms and conditions upon which the trustee or the holders of the bonds in any specified amount or percentage may exercise such rights and enforce any or all covenants and resort to any appropriate remedies;
- (g)
  - (i) fix rents, charges, and fees, including student building fees, to be imposed in connection with and for the use of the building and the building's facilities, which are:
    - (A) income and revenues derived from the operation of the building; and
    - (B) expressly required to be fully sufficient either by themselves or with land grant interest and net profits from proprietary activities, or from sources other than by appropriations by the Legislature to such issuing institutions to assure the prompt payment of principal of and interest on the bonds as each becomes due; and
  - (ii) make and enforce rules with reference to the use of the building and with reference to requiring any class or classes of students to use the building as desirable for the welfare of the institution and the institution's students or for the accomplishment of the purposes of this part;
- (h) covenant to maintain a maximum percentage of occupancy of the building;
- (i) covenant against the issuance of any other obligations payable from the revenues to be derived from the building, unless subordinated;
- (j) make provision for refunding;
- (k) covenant as to the use and disposition of sources of revenue other than those derived from appropriations by the Legislature, and pledge those sources of revenues to the payment of bonds issued under this part;
- (l) make other covenants considered necessary or advisable to effect the purposes of this part; and
- (m) delegate to the chair, vice-chair, or chair of the Budget and Finance Subcommittee the authority:
  - (i) to approve any changes with respect to interest rate, price, amount, redemption features, and other terms of the bonds as are within reasonable parameters set forth in the resolution; and
  - (ii) to approve and execute all documents relating to the issuance of the bonds.
- (4)
  - (a) The agreements and covenants entered into by the board under this section are binding in all respects upon the board and the board's officials, agents, and employees, and upon the board's successors.
  - (b) They are enforceable by appropriate action or suit at law or in equity brought by any holder or holders of bonds issued under this part.

Renumbered and Amended by Chapter 8, 2025 Special Session 1

**53H-9-304 Agreements with federal government for funds.**

The board may enter into an agreement with the federal government in order to obtain funds for the following purposes:

- (1) to supplement bond proceeds used to pay for the projects referred to in Section 53H-9-302; and
- (2) to supplement income and revenues which, under this part, are used to pay debt service on bonds issued under this part.

Renumbered and Amended by Chapter 8, 2025 Special Session 1

**53H-9-305 Deposit of bond proceeds -- Division of Facilities Construction and Management responsibilities and approval.**

- (1) The board treasurer or other fiscal officer, with the approval of the state treasurer, deposits the proceeds from the sale of bonds under this part into a special Construction Trust Fund Account established in compliance with Title 51, Chapter 7, State Money Management Act.
- (2) The proceeds are credited to the board on behalf of the institution of higher education for which the bonds were issued.
- (3) The proceeds are kept in a separate fund and used solely for the purpose for which they were authorized by the board.
- (4) The Division of Facilities Construction and Management makes all contracts and executes all instruments which it considers necessary to provide for the projects referred to in Section 53H-9-302.
- (5) The proceeds in the special Construction Trust Fund Account shall be disbursed only upon receipt of written statements supported by itemized estimates and claims presented to the Division of Facilities Construction and Management as provided in the resolution authorizing the issuance of the bonds.

Renumbered and Amended by Chapter 8, 2025 Special Session 1

**53H-9-306 Disposition and use of income from operation of buildings -- Payment of principal and interest on bonds.**

- (1) Except for the revenues paid directly to a trustee under Subsection 53H-9-303(3)(f), all income and revenues from the operation of the buildings under this part are deposited as collected in a fund established in compliance with Title 51, Chapter 7, State Money Management Act.
- (2)
  - (a) This money is for the payment of the principal and interest on the bonds authorized under this part.
  - (b) The money shall also be used, to the extent provided in the resolution authorizing the bonds, to pay for the cost of maintaining and operating the building and to establish reserves for that purpose.
- (3) The board treasurer or other designated fiscal officer shall, not less than 15 days prior to the date interest and principal payments are due, transmit to the paying agent sufficient money from the fund to pay the obligation.

Renumbered and Amended by Chapter 8, 2025 Special Session 1

**53H-9-307 Examination and certification of bonds by attorney general -- Recital of certification -- Incontestability of bonds.**

- (1) The resolutions and proceedings authorizing the issuance and confirming sale of bonds under this part are submitted to the attorney general for examination.

- (2) When the resolutions and proceedings have been examined and the bonds certified as legal obligations by the attorney general, the bonds are incontestable in any court in the state unless suit is brought within 30 days from the date of the approval.
- (3) A bond authorized under this section shall contain a recital on the bond's face in substantially the following form: "This bond is one of a series of bonds which were certified as legal obligations by the attorney general of the state of Utah on \_\_\_\_."
- (4) Bonds authorized, issued, and sold under resolutions and proceedings approved by the attorney general are prima facie valid and binding obligations according to the bond's terms.
- (5) The only defense which may be offered in any suit instituted after the 30-day period has expired is forgery, fraud, or violation of the Utah Constitution.

Renumbered and Amended by Chapter 8, 2025 Special Session 1

**53H-9-308 Investment in bonds by private and public entities -- Approval as collateral security.**

- (1) Any bank, savings and loan association, trust, or insurance company organized under the laws of this state or federal law may invest the bank's capital and surplus in bonds issued under this part.
- (2) The officers having charge of a sinking fund or any county, city, town, or school district may invest the sinking fund in bonds issued under this part.
- (3) The bonds shall also be approved as collateral security for the deposit of any public funds and for the investment of trust funds.

Renumbered and Amended by Chapter 8, 2025 Special Session 1

**53H-9-309 Financing project by contract or lease agreement instead of by bond issue -- Authority of board -- Term of lease -- Terms of agreement -- Board covenants.**

- (1) Whenever the board, by resolution, finds and declares it preferable to acquire a project under this part by purchase or lease of the facilities constituting the project under an agreement which provides the consideration for the purchase or lease to be paid in installments during a period not exceeding 99 years, rather than through the issuance of revenue bonds by the board in the manner provided in this part, it may do so upon compliance with this section.
- (2) The board may lease, to any person, any portion of the campus of the institution necessary as a site for a project which the board is authorized to acquire under Section 53H-9-403, for a term not exceeding 99 years.
- (3) The agreement authorized to be entered into by the board shall provide that the person shall construct, improve, remodel, add to, or extend a project of the type and construction described in the agreement on the part of the campus to be leased to the person, or on such real property as may be acquired for that purpose by the person.
- (4) The agreement shall further provide for the leasing of the project, including necessary equipment, furnishings, and land, from the person to the board executing the agreement, for a period not exceeding 99 years.
- (5) Prior to the execution of the agreement, the person proposing to lease the project, including the necessary equipment, furnishings, and land, to the board shall submit to the board all plans, specifications, and estimates for the project.
- (6) The plans, specifications, and estimates shall be approved by resolution of the board prior to the execution of the agreement.
- (7) The board may, by appropriate provisions in the agreement:

- (a) covenant as to the use which will be made of the project;
  - (b) covenant as to the operation, maintenance, and supervision of the project;
  - (c) covenant to collect fees and charges from all students and other persons availing themselves of the use of the accommodations and facilities of the project;
  - (d) covenant to levy and collect student building fees from all regular and part-time students enrolled in the institution for the use and availability of the project;
  - (e) covenant as to the collection, use, and disposition of the proceeds arising from the collection of all the revenues, fees, and charges;
  - (f) covenant to impose and collect fees and charges in amounts adequate to pay all costs incurred in maintaining and operating the project and to pay the amortization of the acquisition cost of the project, including necessary equipment and furnishings, and interest on the unpaid part of the acquisition cost, whether represented by rental installments or otherwise;
  - (g) covenant to pledge all revenues, fees, and charges, including student building fees, arising from the ownership and operation of the project to the payment of the rental installments provided for under the terms of the contract or lease agreement;
  - (h) covenant as to the rights, liabilities, powers, and duties arising from the breach of any covenant or agreement contained in the agreement;
  - (i) covenant and agree to carry any insurance on the project, and the project's use and occupancy, as the board considers desirable, and to provide that the cost of the insurance shall be included as a part of the cost of operating the project;
  - (j) covenant to make and enforce such parietal rules and regulations with reference to the use of the facilities comprising the project, or any part of the project, and with reference to requiring any class of students to use the project, or any part of the project, as the board determines desirable for the institution; and
  - (k) covenant against the pledging of the revenues, fees, and charges, including student building fees, arising from the ownership and operation of the project for any purpose other than the payment of the rental installments required to be paid under the agreement, or against the issuance of any obligations payable therefrom, unless the pledge or obligations are made subordinate to the agreement.
- (8) Nothing in this section prevents the board from providing conditions and terms under which pledges may be made and obligations issued on a parity with the pledge of revenues, fees, and charges under the agreement.
- (9) It shall be specifically provided in the agreement that the board is not obligated to pay the rental installments or amortization of the acquisition cost of the project, and interest on the unpaid part of the acquisition cost, from any source other than the revenues, fees, and charges arising from the ownership and operation of the project, including student building fees levied for the use and availability of the facilities of the project.
- (10) Each agreement shall provide that the rental installments, or amortization of the acquisition cost of the project, including necessary equipment, furnishings, and land, and interest on the unpaid part of the acquisition cost, are not an obligation of the state, and that ad valorem taxes or appropriations from the state may not be used to pay or discharge the amounts required to be paid under the agreement.
- (11) The agreement shall also provide that when the amortized acquisition cost, as represented by the rental installments, has been paid in full and when all obligations, if any, issued by the person to finance the cost of the acquisition of the project have been paid in full as to both principal and interest, the agreement terminates and title to the project, including the land upon which the project is situated, and all equipment and furnishings, vests in the board.

- (12) The agreement may provide that the board may purchase the project, including the land upon which the project is situated, and all equipment and furnishings, which is subject to the agreement upon terms wherein rental installments previously made, or a portion of rental installments, are deducted from the cost of acquisition of the project, including the land upon which the project is situated, and all equipment and furnishings, as provided for in the agreement.
- (13) The board may furnish without charge heat, light, water, power, and similar facilities for any project leased by the board for operation by the board under this section, and all projects acquired and constructed under this section are exempt from taxation.
- (14) The agreement may provide that the board may lease the project, including the land upon which the project is situated, and all equipment and furnishings, to any person for a term not exceeding 99 years for operation by any person.
- (15)
  - (a) A lease may not be entered into unless the rental to be paid to the board by the person is sufficient to satisfy the rental to be paid by the board to the person from which the project was originally leased.
  - (b) The rental paid to the board may not be less than the fair rental value of the property leased.

Renumbered and Amended by Chapter 8, 2025 Special Session 1

**53H-9-310 Student building fees.**

- (1) The board issuing bonds under this part may impose and collect student building fees from all students in attendance at the institution in behalf of which the bonds are issued.
- (2) The board may also pledge the fees in the same manner provided for the pledging of other revenues of the board or institution under this part.

Renumbered and Amended by Chapter 8, 2025 Special Session 1

**53H-9-311 Refunding bonds -- Issuance -- Proceeds -- Limitations.**

- (1) Bonds may be issued under this part for the purpose of refunding any bonds previously issued under authority of this part, if:
  - (a) the bonds to be refunded are due or callable, redeemable, or repurchasable by the bond's terms on or prior to the date that the refunding bonds are issued;
  - (b) the bonds to be refunded will become due or callable, redeemable, or repurchasable by the bond's terms within 10 years thereafter; or
  - (c) the bonds to be refunded, even though not becoming due, callable, redeemable, or repurchasable within this period, are voluntarily surrendered by the bondholders for cancellation at the time of the issuance of the refunding bonds.
- (2)
  - (a) These refunding bonds shall have such details, bear such rate of interest, and be otherwise issued and secured as provided by the board authorizing the issuance of the bonds and as otherwise provided in this part.
  - (b) The board may make changes in the security and revenues pledged to the payment of the bonds, as provided in the proceedings authorizing the bonds.
  - (c) The board may not secure refunding bonds with revenues that this part does not authorize for the payment of bonds issued for purposes other than issuing a refund.
- (3)

- (a) Refunding bonds issued under this part may be exchanged for a like principal amount of the bonds to be refunded, may be sold in the manner provided in this part for the sale of other bonds, or may be exchanged in part and sold in part.
- (b) If sold, the proceeds of the sale not required for the payment of expenses may be invested in United States Government obligations or in obligations unconditionally guaranteed by the United States of America in a manner as may be provided in the authorizing resolution, so long as these investments will mature with interest so as to provide funds to pay when due, or called for redemption, the bonds to be refunded together with interest and redemption premiums, if any.
- (4) The proceeds or obligations shall, and other funds legally available to the board for such purposes may, be deposited in trust with an FDIC insured bank doing business in Utah, or the bank's successor, to be held for the payment and redemption of bonds to be refunded.
- (5) The deposit and any reinvestment shall be held in trust by the escrow agent for the payment of bonds with interest and redemption premiums, if any, on maturity or upon an available redemption date or upon an earlier voluntary surrender with the consent of the board.
- (6)
  - (a) No refunding bonds may be issued under this section in a principal amount in excess of the principal amount of the bonds to be refunded nor may any bonds not maturing or callable for redemption under the bond's terms as provided in this section be refunded without the consent of the holders of the bonds.
  - (b) Refunding bonds authorized and issued under this section may in the discretion of the board be combined with other bonds to be authorized and issued under this part, and a single issue of bonds may be authorized, part for improvement and part for refunding purposes.

Renumbered and Amended by Chapter 8, 2025 Special Session 1

**53H-9-312 Authorized loans for acquisition, construction, furnishing, and equipping of projects -- Evidence of indebtedness -- Provisions -- Agreements with lending institutions -- Satisfaction and discharge -- Exemption from taxation.**

- (1) For the purpose of paying all or part of the costs of a project under Section 53H-9-302, the board, on behalf of the institution of higher education for which the project is to be acquired, constructed, furnished, and equipped, may:
  - (a) borrow money on the credit of:
    - (i) the income and revenues to be derived from the operation of the project;
    - (ii) the imposition of student building fees;
    - (iii) land grant interest;
    - (iv) net proceeds from proprietary activities; or
    - (v) sources other than by appropriations by the Legislature to the issuing institutions; and
  - (b) to evidence the indebtedness may execute any promissory note or other evidence of indebtedness appropriate, provided the note or other evidence of indebtedness specifies on its face that it does not constitute a general obligation of the state.
- (2) The board may, in order to secure the payment of the loan, grant a mortgage, trust deed, or other security device covering:
  - (a) all or part of the project; and
  - (b) the land acquired for the project and upon which the project is situated.
- (3) The rights and remedies available in the event of a default to the mortgagee, trustee, or other lender are subject to agreement as contained in the:
  - (a) mortgage;

- (b) trust deed; or
  - (c) other security instrument.
- (4)
- (a) The agreement may provide that, in the event of a default in the payment or the violation of any agreement contained in the document, the mortgage, trust deed, or other security instrument may be foreclosed or otherwise realized in any manner permitted by law.
  - (b) The state and the borrowing institution are not subject to any general obligation or liability for breach of the agreement.
  - (c) A court may not enter a deficiency judgment in the event of a breach of the agreement.
- (5)
- (a) The note or other evidence of indebtedness may have all the qualities and incidents of negotiable paper.
  - (b) The note or other evidence of indebtedness is not subject to:
    - (i) taxation by the state, except for the corporate franchise tax; or
    - (ii) taxation by any county, municipality, or political subdivision of the state.
- (6) The note or other evidence of indebtedness and mortgage may contain additional provisions with respect to repayment out of:
- (a) the income and revenues derived from the operation of the building;
  - (b) the imposition of student building fees;
  - (c) land grant interest;
  - (d) net profits from proprietary activities; or
  - (e) from sources other than appropriations by the Legislature to any issuing institution as the board considers necessary and proper.
- (7) The board may enter into an agreement it considers necessary with the lending institution as to the:
- (a) use which will be made of any project;
  - (b) operation, maintenance, and supervision of the project;
  - (c) imposition of fees, charges, and rentals for the institution's use, including the equipment contained therein; and
  - (d) collection and disposition to be made of the proceeds of fees, charges, and rentals.
- (8) To secure the prompt payment of principal and interest and to pay the cost of the maintenance and operation of the project, the board has the same power and authority with respect to the indebtedness created under this section as it has in respect to the issuance of bonds under the other provisions of this part.
- (9) When any obligation owing to finance the cost of any project constructed or acquired under this section has been fully paid as to principal and interest, the mortgage is satisfied and discharged.
- (10) All buildings and additions to existing buildings erected, and the equipment therefor, is exempt from taxation as long as the legal title remains in the borrowing agency.

Renumbered and Amended by Chapter 8, 2025 Special Session 1

**53H-9-313 Financing projects and buildings -- Security instruments -- Terms.**

- (1) In connection with the financing of any project or building under this part, the board, on behalf of an institution of higher education, may grant a purchase money mortgage, trust deed, or other security device pledging any land, buildings, furnishings, equipment, or other facilities to be acquired or constructed and paid for from the proceeds of the financing.

- (2) The rights and remedies available in the event of a default to the mortgagee, trustee, or lender shall be as agreed upon between the board and the lender and contained in the document.
- (3) In making any agreements, the board does not have the power to obligate the board or the state, except with respect to:
  - (a) the project;
  - (b) the building and the application of the revenues from it;
  - (c) the revenues from any special fund pledged to repay it;
  - (d) the proceeds of any ad valorem tax; or
  - (e) any appropriations from the Legislature of the state.
- (4)
  - (a) Any purchase money mortgage, trust deed, or other security device made or granted by the board to secure the loan or other method of financing may also provide that in the event of a default in payment or the violation of any agreement, the mortgage, trust deed, or security device may be foreclosed or otherwise realized in any manner permitted by law.
  - (b) No deficiency judgment shall lie in any event and the breach of the agreement does not impose any general obligation or liability upon:
    - (i) the board;
    - (ii) the state;
    - (iii) the proceeds of ad valorem taxes; or
    - (iv) appropriations from the Legislature.
- (5) The purchase money mortgage, trust deed, or other security device may also provide that any mortgagee, trustee, lender, or the holder of any evidence of indebtedness secured by the security instrument may become the purchaser at any foreclosure sale, if the highest bidder.

Renumbered and Amended by Chapter 8, 2025 Special Session 1

**53H-9-314 Limitation on issuance of bonds.**

No bonds may be authorized or issued by the board or the board of any institution under this part without the prior approval of the Legislature.

Renumbered and Amended by Chapter 8, 2025 Special Session 1

**53H-9-315 Revenue bond authorizations.**

- (1) The Utah Board of Higher Education, formerly the Board of Regents, on behalf of the institutions listed below, may issue, sell, and deliver revenue bonds or other evidences of indebtedness to borrow money on the credit of the income and revenues of each respective institution, other than appropriations of the Legislature, to finance the cost or partial cost of constructing, furnishing, and equipping the specified projects.
- (2) The bonds or other evidences of indebtedness authorized by this section may not exceed the amounts for each institution and project specified below, and shall be issued in accordance with this part under such terms and conditions and in such amounts as the board, by resolution, determines are reasonable and necessary:
  - (a) Utah State University:
    - (i) student family housing project: \$6,600,000; and
    - (ii) human Resource Research Center: \$6,000,000;
  - (b) Weber State University, student services building: \$5,800,000;
  - (c) Southern Utah University:
    - (i) student housing project: \$6,000,000;

- (ii) student center addition: \$5,500,000; and
- (iii) stadium expansion: \$5,500,000;
- (d) Utah Tech University, student center building: \$3,100,000;
- (e) Utah Valley University, student center addition: \$13,500,000;
- (f) Salt Lake Community College:
  - (i) classroom/physical education facility: \$5,500,000; and
  - (ii) science/major industry building: \$5,150,000;
- (g) University of Utah:
  - (i) biology research building: \$21,050,000; and
  - (ii) Robert L. Rice Stadium renovation and expansion: \$12,000,000; and
- (h) Utah State University Eastern, Student center: \$3,300,000.

Renumbered and Amended by Chapter 8, 2025 Special Session 1

## **Part 4 Buildings and Facilities**

### **53H-9-401 General provisions -- Definitions.**

Reserved.

Enacted by Chapter 8, 2025 Special Session 1

### **53H-9-402 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 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.
- (3) The board shall make rules establishing the conditions under which facilities may be eligible to request state funds for operations and maintenance.
- (4) Before approving the purchase of a building, the board shall:
  - (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
  - (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.

Renumbered and Amended by Chapter 8, 2025 Special Session 1

### **53H-9-403 Powers of state board -- Capital facilities projects -- Exceptions.**

- (1) As used in this section, "capital facilities projects and buildings" includes any one or more institutional projects and buildings.
- (2) The board, on behalf of the institutions of higher education, may:
  - (a) acquire, purchase, construct, improve, remodel, add to, and extend capital facilities projects and buildings including necessary and related utilities;

- (b) accept buildings, land, or a combination of buildings and land, donated to an eligible higher education institution without obtaining approval of the donation from the director of the Division of Facilities Construction and Management;
  - (c) acquire necessary and suitable equipment, furnishings, and land for institutional projects and buildings;
  - (d) set aside portions of campuses for institutional projects and buildings;
  - (e) maintain and operate institutional projects and buildings; and
  - (f) impose and collect rents, fees, and charges for the use of institutional projects and buildings.
- (3) Notwithstanding any other provision of law, if a donor donates land to an eligible institution of higher education and commits to build a building or buildings on that land, and the institution agrees to provide funds for the operations and maintenance costs from sources other than state funds, and agrees that the building or buildings will not be eligible for state capital improvement funding, the higher education institution may:
- (a) oversee and manage the construction without involvement, oversight, or management from the Division of Facilities Construction and Management; or
  - (b) arrange for management of the project by the Division of Facilities Construction and Management.

Renumbered and Amended by Chapter 8, 2025 Special Session 1

**53H-9-404 Notice to local government when constructing student housing.**

- (1) Each institution that intends to construct student housing on property owned by the institution shall provide written notice of the intended construction, as provided in Subsection (2), before any funds are committed to the construction, if any of the proposed student housing buildings is within 300 feet of privately owned residential property.
- (2) Each notice under Subsection (1) shall be provided to the legislative body and, if applicable, the mayor of:
- (a) the county in whose unincorporated area the privately owned residential property is located; or
  - (b) the municipality in whose boundaries the privately owned residential property is located.
- (3)
- (a)
    - (i) Within 21 days after receiving the notice required by Subsection (1), a county or municipality entitled to the notice may submit a written request to the institution for a public hearing on the proposed student housing construction.
    - (ii) Each county or municipality that submits a written request for a hearing under Subsection (3)(a) shall deliver a copy of the request to the Division of Facilities Construction and Management.
  - (b) If a county or municipality requests a hearing under Subsection (3)(a), the legislative body of the affected county or municipality and the institution shall jointly hold a public hearing to provide information to the public and to allow the institution and the county or municipality to receive input from the public about the proposed student housing construction.
  - (c) A public hearing held under Subsection (3)(a) satisfies the public hearing requirement of Subsection 63A-5b-1104(2) for the same proposed student housing construction.

Renumbered and Amended by Chapter 8, 2025 Special Session 1

## **Part 5**

### **General Capital Developments**

#### **53H-9-501 General provisions -- Definitions.**

As used in this part:

- (1) "Capital development" means the same as capital development project, as defined in Section 63A-5b-401.
- (2) "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.
- (3) "Dedicated project" means a capital development project for which state funds from an institution's allocation are requested or used.
- (4) "Fund" means the Higher Education Capital Projects Fund created in Section 53H-9-502.
- (5) "Institution's allocation" means the total amount of money in the fund that an institution has been allocated in accordance with Section 53H-9-503.
- (6) "Nondedicated project" means a capital development project for which state funds from a source other than an institution's allocation are requested or used.
- (7) "State funds" means the same as that term is defined in Section 63A-5b-401.

Renumbered and Amended by Chapter 8, 2025 Special Session 1

#### **53H-9-502 Higher Education Capital Projects Fund -- Use of money in fund -- Appropriations to fund -- Administration of fund.**

- (1) There is created a capital projects fund known as the Higher Education Capital Projects Fund.
- (2) Subject to appropriation, money in the fund shall be used:
  - (a) for a dedicated project approved in accordance with Section 53H-9-504; or
  - (b) to pay debt service in accordance with Subsection (3).
- (3) Money in the fund may be used to pay debt service:
  - (a) on a general obligation bond issued for a capital development project in accordance with Title 63B, Chapter 1a, Master General Obligation Bond Act; and
  - (b) if the Legislature approves the use by a vote of two-thirds of all members elected to each house.
- (4) The fund shall be funded by appropriations.
- (5) The fund shall accrue interest, which shall be deposited into the fund.
- (6) The Division of Finance shall administer the fund in accordance with this part.

Renumbered and Amended by Chapter 8, 2025 Special Session 1

#### **53H-9-503 Fund money -- Degree-granting institution allocations.**

- (1)
  - (a) Based on appropriations to the fund, the board shall annually determine how to allocate among all degree-granting institutions money that has not been previously allocated to a degree-granting institution.
  - (b) The board shall make the determination described in Subsection (1)(a) based on each degree-granting institution's:
    - (i) enrollment;
    - (ii) total performance across the metrics described in Section 53H-8-304;
    - (iii) projected growth in student population;

- (iv) existing square feet per student full-time equivalent;
  - (v) facility age and condition; and
  - (vi) utilization of academic space, including off-campus facilities.
- (c) The board shall establish how the board will determine the amount of money to allocate to a degree-granting institution, including, for each factor described in Subsection (1)(b):
- (i) how the board will measure a degree-granting institution's fulfillment of the factor; and
  - (ii) the relative weight assigned to the factor.
- (2) On or before May 31 each year, the board shall notify the Division of Finance of the board's determination described in Subsection (1).
- (3) The Division of Finance shall:
- (a) maintain within the fund separate accounting for each degree-granting institution's allocation; and
  - (b) based on the notification described in Subsection (2), add to each degree-granting institution's allocation the amount of money determined by the board.

Renumbered and Amended by Chapter 8, 2025 Special Session 1

**53H-9-504 Funding request for capital development project -- Legislative approval -- Board prioritization, approval, and review.**

- (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.
- (2) A degree-granting institution shall submit to the board a proposal for a funding request for each dedicated project or nondedicated project for which the institution seeks legislative approval.
- (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) to:
    - (i) the governor;
    - (ii) the Transportation and Infrastructure Appropriations Subcommittee;
    - (iii) the Higher Education Appropriations Subcommittee; and
    - (iv) 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 this section, the board shall review the capital development project, including the costs and design of the capital development project.

Renumbered and Amended by Chapter 8, 2025 Special Session 1

## **Part 6**

### **Technical College Leasing and Capital Development**

#### **53H-9-601 General provisions -- Definitions.**

As used in this part:

- (1) "Capital development" means the same as capital development project, as defined in Section 63A-5b-401.
- (2) "Competency-based" means mastery of subject matter or skill level, as demonstrated through business and industry approved standards and assessments, achieved through participation in a hands-on learning environment, and which is tied to observable, measurable performance objectives.
- (3) "Dedicated project" means a capital development project for which state funds from the Technical Colleges Capital Projects Fund created in Section 53H-9-605 are requested or used.

- (4) "Nondedicated project" means a capital development project for which state funds from a source other than the Technical Colleges Capital Projects Fund created in Section 53H-9-605 are requested or used.
- (5) "State funds" means the same as that term is defined in Section 63A-5b-401.

Renumbered and Amended by Chapter 8, 2025 Special Session 1

**53H-9-602 Leasing authority -- Lease-purchase agreements -- Report.**

- (1) A technical college may enter into a lease with other higher education institutions, school districts, charter schools, state agencies, or business and industry for a term of:
  - (a) one year or less with the approval of the technical college board of trustees; or
  - (b) more than one year with the approval of the board if:
    - (i) the Legislature approves funding for the lease prior to a technical college entering into the lease; or
    - (ii) the lease agreement includes language that allows termination of the lease without penalty.
- (2)
  - (a) A technical college may enter into a lease-purchase agreement if:
    - (i) there is a long-term benefit to the state;
    - (ii) the project is included in the technical college master plan;
    - (iii) the lease-purchase agreement includes language that allows termination of the lease;
    - (iv) the lease-purchase agreement is approved by the technical college board of trustees and the board; and
    - (v) the lease-purchase agreement is:
      - (A) reviewed by the Division of Facilities Construction and Management; and
      - (B) approved by the Legislature.
  - (b) An approval under Subsection (2)(a) shall include a recognition of:
    - (i) all parties, dates, and elements of the agreement;
    - (ii) the equity or collateral component that creates the benefit; and
    - (iii) the options dealing with the sale and division of equity.
- (3)
  - (a) Each technical college shall provide an annual lease report to the board that details each of the technical college's leases, annual costs, location, square footage, and recommendations for lease continuation.
  - (b) The board shall compile and distribute an annual combined lease report for all technical colleges to the Division of Facilities Construction and Management and to others upon request.
- (4) The board shall use the annual combined lease report in determining planning, utilization, and budget requests.

Renumbered and Amended by Chapter 8, 2025 Special Session 1

**53H-9-603 Technical colleges -- Relationships with other public and higher education institutions -- Agreements -- Priorities -- New capital facilities.**

- (1) As used in this section, "higher education institution" means:
  - (a) Utah State University for:
    - (i) Bridgerland Technical College;
    - (ii) Tooele Technical College; and
    - (iii) Uintah Basin Technical College;

- (b) Weber State University for:
    - (i) Ogden-Weber Technical College; and
    - (ii) Davis Technical College;
  - (c) Utah Valley University for Mountainland Technical College;
  - (d) Southern Utah University for Southwest Technical College; and
  - (e) Utah Tech University for Dixie Technical College.
- (2) A technical college may enter into agreements:
- (a) with other higher education institutions to cultivate cooperative relationships; or
  - (b) with other public and higher education institutions to enhance career and technical education within the technical college's region.
- (3) Before a technical college develops new instructional facilities, the technical college shall give priority to:
- (a) maintaining the technical college's existing instructional facilities for both secondary and adult students;
  - (b) coordinating with the president of the technical college's degree-granting partner and entering into any necessary agreements to provide career and technical education to secondary and adult students that:
    - (i) maintain and support existing higher education career and technical education programs; and
    - (ii) maximize the use of existing higher education facilities; and
  - (c) developing cooperative agreements with school districts, charter schools, other higher education institutions, businesses, industries, and community and private agencies to maximize the availability of career and technical education instructional facilities for both secondary and adult students.
- (4)
- (a) Before submitting a funding request pertaining to new capital facilities and land purchases to the board, a technical college shall:
    - (i) ensure that all available instructional facilities are maximized in accordance with Subsections (3)(a) through (c); and
    - (ii) coordinate the request with the president of the technical college's degree-granting partner, if applicable.
  - (b) The Division of Facilities Construction and Management shall make a finding that the requirements of this section are met before the Division of Facilities Construction and Management may consider a funding request from the board pertaining to new capital facilities and land purchases for a technical college.
  - (c) A technical college may not construct, approve the construction of, or consent to the construction of a career and technical education facility without approval of the Legislature.
- (5) Before acquiring new fiscal and administrative support structures, a technical college shall:
- (a) review the use of existing public or higher education administrative and accounting systems, financial record systems, and student and financial aid systems for the delivery of education in the region;
  - (b) determine the feasibility of using existing systems; and
  - (c) with the approval of the technical college board of trustees and the board, use the existing systems.

Renumbered and Amended by Chapter 8, 2025 Special Session 1

**53H-9-604 Legislative approval -- Capital development projects -- Prioritization.**

- (1) As used in this section:
  - (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.
  - (b) "Fund" means the Technical Colleges Capital Projects Fund created in Section 53H-9-605.
- (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.
- (3) In accordance with Section 53H-9-603, a technical college shall 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.
- (4) The board shall:
  - (a) review each proposal submitted under Subsection (3) to ensure that the proposal complies with Section 53H-9-603;
  - (b) based on the results of the board's review under Subsection (4)(a), create:
    - (i) a list of approved dedicated projects, prioritized in accordance with Subsection (6); and
    - (ii) a list of approved nondedicated projects, prioritized in accordance with Subsection (6); and
  - (c) submit the lists described in Subsection (4)(b) to:
    - (i) the governor;
    - (ii) the Transportation and Infrastructure Appropriations Subcommittee;
    - (iii) the Higher Education Appropriations Subcommittee; and
    - (iv) the Division of Facilities Construction and Management for a:
      - (A) recommendation, for the list described in Subsection (4)(b)(i); or
      - (B) recommendation and prioritization, for the list described in Subsection (4)(b)(ii).
- (5) 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.
- (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).

Renumbered and Amended by Chapter 8, 2025 Special Session 1

**53H-9-605 Technical Colleges Capital Projects Fund -- Use of money in fund -- Appropriations to fund -- Administration of fund.**

- (1) As used in this section, "fund" means the Technical Colleges Capital Projects Fund created in this section.
- (2) There is created a capital projects fund known as the Technical Colleges Capital Projects Fund.
- (3) Subject to appropriation, money in the fund shall be used:
  - (a) for a dedicated project approved in accordance with Section 53H-9-604; or
  - (b) to pay debt service in accordance with Subsection (4).
- (4) Money in the fund may be used to pay debt service:
  - (a) on a general obligation bond issued for a capital development project in accordance with Title 63B, Chapter 1a, Master General Obligation Bond Act; and
  - (b) if the Legislature approves the use by a vote of two-thirds of all members elected to each house.
- (5) The fund shall be funded by appropriations.
- (6) The fund shall accrue interest, which shall be deposited into the fund.
- (7) The Division of Finance shall administer the fund in accordance with this section.

Renumbered and Amended by Chapter 8, 2025 Special Session 1