

Senator Leonard M. Blackham proposes to substitute the following bill:

UTAH CORRECTIONAL INDUSTRIES BUSINESS PARK

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Leonard M. Blackham

AN ACT RELATING TO THE DEPARTMENT OF CORRECTIONS AND FACILITIES
CONSTRUCTION AND MANAGEMENT; CREATING A CORRECTIONAL INDUSTRIES
BUSINESS PARK; CREATING A JOINT PLANNING BOARD; ESTABLISHING
PROCEDURES AND REQUIREMENTS FOR LESSEES AT THE PARK; AND PROVIDING
A COORDINATION CLAUSE.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

63A-5-206, as last amended by Chapters 225 and 285, Laws of Utah 1998

64-13a-3, as last amended by Chapter 92, Laws of Utah 1987

64-13a-6, as last amended by Chapter 13, Laws of Utah 1994

ENACTS:

63A-5-307, Utah Code Annotated 1953

64-13a-15, Utah Code Annotated 1953

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

Section 1. Section **63A-5-206** is amended to read:

63A-5-206. Construction, alteration, and repair of state facilities -- Powers of director -- Exceptions -- Expenditure of appropriations.

(1) As used in this section:

(a) "Analysis" means an economic assessment of competing design and maintenance alternatives, the object of which is to reduce cost and conserve energy.

(b) "Capital developments" means any:

- 26 (i) remodeling, site, or utility projects with a total cost of \$1,000,000 or more;
- 27 (ii) addition of new space that will cost more than \$100,000; or
- 28 (iii) land acquisition where an appropriation is requested.
- 29 (c) "Capital improvements" means any:
- 30 (i) remodeling, alteration, repair project with a total cost of less than \$1,000,000; or
- 31 (ii) site and utility improvement with a total cost of less than \$1,000,000.
- 32 (d) "Life cycle cost-effective" means the lowest cost of owning and operating a facility
- 33 over a 25-year period, including the initial cost, energy costs, operation and maintenance costs,
- 34 repair costs, and the costs of energy conservation and renewable energy systems.
- 35 (e) "Renewable energy system" means a system designed to use solar, wind, geothermal
- 36 power, wood, or other replenishable energy source to heat, cool, or provide electricity to a
- 37 building.
- 38 (f) "State-owned facilities" means those facilities identified in Section 63A-5-212.
- 39 (2) The director shall prepare or have prepared by private firms or individuals designs,
- 40 plans, and specifications for the various buildings and improvements, and other work carried out
- 41 by the division.
- 42 (3) (a) (i) Except as provided in Subsection (3)(a)(ii) or (3)(a)(iii), and except for facilities
- 43 under the jurisdiction of the State Capitol Preservation Board, the director shall recommend the
- 44 need for and exercise direct supervision over the design and construction of all alterations, repairs,
- 45 and improvements to all existing facilities of the state, its departments, commissions, institutions,
- 46 and agencies if the total project construction cost is greater than \$100,000.
- 47 (ii) The director may:
- 48 (A) authorize a department, commission, institution, or agency to control design and
- 49 construction of alterations, repairs, and improvements when the total project construction cost is
- 50 greater than \$100,000 by following the delegation requirements and procedures of Subsection
- 51 (3)(c); or
- 52 (B) by rule, authorize a particular department, commission, institution, or agency to control
- 53 design and construction on projects within a particular dollar range and a particular project type.
- 54 (iii) (A) At the request of This is the Place Foundation, the director may authorize the
- 55 foundation to control design and construction of alterations, repairs, or improvements to facilities
- 56 at This is the Place State Park to be made with funds of the foundation, including grant monies

57 from the state, or with donated services or materials.

58 (B) If the foundation controls design and construction as provided in Subsection
59 (3)(a)(iii)(A), the alterations, repairs, or improvements are subject to plan review and inspection
60 by Salt Lake City for the purpose of assuring compliance with building codes.

61 (b) (i) Except for the placement or installation of works of art through Title 9, Chapter 6,
62 Part 4, Utah Percent-for-Art Act, or as provided in Subsection (3)(b)(ii), and except for facilities
63 under the jurisdiction of the State Capitol Preservation Board, an existing facility may not be
64 altered, repaired, or improved on the property of any state institution, department, commission, or
65 agency if the total project construction cost exceeds \$100,000 until the location, design, plans, and
66 specifications are approved by the director and the officials charged with the administration of the
67 affairs of the particular department, commission, institution, or agency.

68 (ii) Alterations, repairs, or improvements to facilities at This is the Place State Park to be
69 made by This is the Place Foundation with funds of the foundation, including grant monies from
70 the state, or with donated services or materials, are exempt from Subsection (3)(b)(i).

71 (c) (i) The director may delegate control over design, construction, and all other aspects
72 of any project to entities of state government on a project-by-project basis if the state entity
73 requests that delegation in writing and the State Building Board approves the delegation.

74 (ii) (A) The director, his designee, or the state entity to whom control has been designated
75 pursuant to Subsection (5)(c)(i) shall notify in writing the elected representatives of local
76 government entities directly and substantively affected by any diagnostic, treatment, parole,
77 probation, or other secured facility project exceeding \$250,000, if:

78 (I) the nature of the project has been significantly altered since prior notification or
79 approval;

80 (II) the project would significantly change the nature of the functions presently conducted
81 at the location;

82 (III) the project adds 50% or more square feet to the area of the facility; or

83 (IV) the project is new construction.

84 (B) At the request of either the state entity or the local government entity, representatives
85 from the state entity and the affected local entity shall conduct or participate in a local public
86 hearing or hearings to discuss these issues.

87 (iii) The state entity to whom control is delegated shall assume fiduciary control over

88 project finances, shall assume all responsibility for project budgets and expenditures, and shall
89 receive all funds appropriated for the project, including any contingency funds contained in the
90 appropriated project budget.

91 (iv) Delegation of project control does not exempt the state entity from complying with
92 the codes and guidelines for design and construction adopted by the division and the State Building
93 Board.

94 (v) State entities that receive a delegated project may not have access to the building board
95 contingency funds authorized in Section 63A-5-209 for the delegated project.

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

98 (b) The estimated cost of the analysis shall be included in each program budget document
99 and in the project funding request submitted to the State Building Board, the governor, and the
100 Legislature.

101 (c) The final cost estimate shall reflect the most life cycle cost-effective building.

102 (d) The director, in consultation with the State Building Board and Division of Energy,
103 shall make rules to implement this subsection by following the procedures and requirements of
104 Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

105 (e) The State Building Board may exempt a facility from being life cycle cost-effective
106 pursuant to rules, after reviewing and concurring with a written request and justification from the
107 director.

108 (5) (a) Except as provided in Subsection (5)(c) or (5)(d), and except for facilities
109 constructed on property under the jurisdiction of the State Capitol Preservation Board, the director
110 shall recommend the need for and exercise direct supervision over the design and construction of
111 all new facilities of the state, its departments, commissions, institutions, and agencies if the total
112 project construction cost is in excess of \$100,000.

113 (b) (i) Except for the placement or installation of works of art under Title 9, Chapter 6,
114 Part 4, Utah Percent-for-Art Act, or as provided in Subsection (5)(b)(ii), (5)(b)(iii), or (5)(b)(iv),
115 and except for facilities constructed on property under the jurisdiction of the State Capitol
116 Preservation Board, a new facility may not be constructed on the property of any state department,
117 commission, institution, or agency if the total project construction cost of the facility, regardless
118 of the funding source, exceeds \$100,000, until the construction of the facility has been approved

119 by the Legislature in an Appropriations Act or by other specific legislation, and the location,
120 design, plans, and specifications are approved by the director and the official charged with the
121 administration of the affairs of the particular department, commission, institution, or agency.

122 (ii) Facilities to be built with nonstate funds and owned and occupied by nonstate entities
123 within research park areas are exempt from this Subsection (5)(b).

124 (iii) Facilities to be built for the Utah National Guard for which the funding for
125 construction, operations, and maintenance are derived totally from the United States Government
126 are exempt from the requirement of obtaining legislative approval required by this Subsection
127 (5)(b).

128 (iv) New facilities to be built at This is the Place State Park by This is the Place
129 Foundation with funds of the foundation, including grant monies from the state, or with donated
130 services or materials, are exempt from Subsection (5)(b)(i).

131 (v) Facilities to be built at the UCI Business Park, as defined in Section 64-13a-3, are
132 exempt from Subsection (5)(b) if the facility:

133 (A) is to be built with funds not provided by the state; and

134 (B) is to be developed under a land lease.

135 (c) (i) The director may delegate control over design, construction, and all other aspects
136 of any project to entities of state government on a project-by-project basis if the state entity
137 requests that delegation in writing and the State Building Board approves the delegation.

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

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

145 (iv) State entities that receive a delegated project may not have access to the building board
146 contingency funds authorized in Section 63A-5-209 for the delegated project.

147 (d) (i) At the request of This is the Place Foundation, the director may authorize the
148 foundation to control design and construction of any new facility at This is the Place State Park
149 to be built with funds of the foundation, including grant monies from the state, or with donated

150 services or materials.

151 (ii) If the foundation controls design and construction as provided in Subsection (5)(d)(i),
152 the new facility is subject to plan review and inspection by Salt Lake City for the purpose of
153 assuring compliance with building codes.

154 (6) The director may expend appropriations for statewide projects from funds provided by
155 the Legislature for those specific purposes and within guidelines established by the State Building
156 Board.

157 (7) (a) The director, with the approval of the Office of Legislative Fiscal Analyst, shall
158 develop standard forms to present capital development and capital improvement cost summary
159 data.

160 (b) The director shall:

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

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

165 (8) Notwithstanding the requirements of Title 63, Chapter 38, Budgetary Procedures Act,
166 the director may:

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

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

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

172 Section 2. Section **63A-5-307** is enacted to read:

173 **63A-5-307. Leasing of Utah Correctional Industries Business Park -- Joint Planning**
174 **Board.**

175 (1) As used in this section:

176 (a) "Compliance agency" has the same definition as in Section 58-56-3.

177 (b) "DCI" means the Division of Correctional Industries, created under Subsection
178 64-13a-4(a).

179 (c) "Division" means the Division of Facilities Construction and Management.

180 (d) "Joint Planning Board" means the planning board created in Subsection (7).

181 (e) "Lessee" means any entity that leases property in the UCI Business Park, other than the
182 state or an agency of the state.

183 (f) "UCI" means the Utah Correctional Industries Program which is operated by the DCI.

184 (g) "UCI Business Park" or "park" means the property owned by the state, consisting of
185 approximately 120 acres that lie west of the prison complex in Draper and south of the Bangerter
186 Highway.

187 (2) The division may lease property in the UCI Business Park to a lessee if the following
188 conditions are satisfactorily met:

189 (a) the DCI has certified that the lease will result in the employment of offenders as
190 provided in Section 64-13a-15;

191 (b) the Department of Corrections has not raised security objections regarding the lease;

192 (c) DCI has approved the business terms of the lease;

193 (d) the lease provides appropriate consideration to the state based on the value of the
194 property leased; and

195 (e) the division has obtained approval as required by the Joint Planning Board.

196 (3) The division shall ensure that the lease:

197 (a) protects the state from liability;

198 (b) places responsibility for any adverse environmental impact on the lessee;

199 (c) prohibits the manufacture or storage of significant quantities of hazardous materials
200 on the leased premises;

201 (d) requires the lessee to assume responsibility for any taxes or fees associated with its use
202 of the property and improvements on the property;

203 (e) establishes terms regarding the condition in which the lessee shall leave the property
204 upon termination of the lease; and

205 (f) provides that any improvements acquired or constructed upon the premises during the
206 term of the lease revert to and become the property of the state upon the expiration or termination
207 of the lease, including any extensions or renewals of the lease.

208 (4) Proceeds derived from the lease of property at the UCI Business Park shall be
209 deposited in the Utah Correctional Industries Enterprise Fund created in Section 51-5-4.

210 (5) The designs, plans, and specifications of any proposed improvements by a lessee are
211 subject to review and approval by the division, DCI, and the Joint Planning Board.

212 (6) (a) The use of the UCI Business Park and the use of any improvements constructed on
213 the park property by any lessee is subject to:

214 (i) development and planning approval and fees as required by the Joint Planning Board;
215 and

216 (ii) the business licensing requirements of Draper City, Utah.

217 (b) A use approved by the Joint Planning Board is considered to be a permitted use in the
218 park for purposes of business licensing.

219 (c) The use of the UCI Business Park and any improvements constructed on the park
220 property by the state or any agency of the state is not subject to the zoning authority of municipal
221 government as provided in Section 10-9-105. However, regarding improvements constructed on
222 park property by the state or any state agency, the division and DCI shall consider comments from
223 local governmental entities that are or may be affected by the use of the property.

224 (7) (a) The division and DCI shall enter into a cooperative agreement with Draper City for
225 the formation of an administrative body known as the Joint Planning Board. The board shall be
226 composed of five members, who serve at the pleasure of the appointing entity. The members are:

227 (i) one who is appointed by the director of the division;

228 (ii) one who is appointed by the executive director of the Department of Corrections;

229 (iii) two who are appointed by the governing body of Draper City; and

230 (iv) one who is appointed by the governor.

231 (b) The purpose of the Joint Planning Board is to develop and enforce reasonable
232 regulations regarding the use by lessees of the land within the UCI Business Park, except that the
233 use of the land within the park by the state or any agency of the state is not subject to the Joint
234 Planning Board or its regulations.

235 (c) The cooperative agreement under Subsection (7)(a) shall include:

236 (i) an acknowledgment that the waste sorting and transfer facility authorized under Section
237 63B-6-502 is an approved use in the UCI Business Park;

238 (ii) provisions for the adoption and enforcement of reasonable land use regulations by the
239 Joint Planning Board to ensure that a lessee's use of land within the park is compatible with uses
240 of land within Draper City that are located in the near vicinity of the park;

241 (iii) authorization for the Community Development Department of Draper City to conduct
242 an initial review and to make recommendations to the Joint Planning Board regarding applications

243 for development in the park by lessees;

244 (iv) appointment of Draper City as the compliance agency for purposes of enforcement of
245 building codes as required and adopted by the Uniform Building Codes Commission created under
246 Section 58-56-5;

247 (v) a requirement that:

248 (A) lessees within the park pay fees to Draper City or other entities that provide services
249 or infrastructure to the lessees; and

250 (B) the fees shall be applied by Draper City or the other entities imposing the fees in a
251 manner consistent with other businesses located in Draper City; and

252 (vi) a definition of the legal boundaries of the UCI Business Park.

253 Section 3. Section **64-13a-3** is amended to read:

254 **64-13a-3. Definitions.**

255 As used in this chapter:

256 [~~2~~] (1) "Board" means the Advisory Board of Utah Correctional Industries.

257 [~~1~~] (2) "Division" means the Division of Correctional Industries.

258 (3) "Lessee" means any entity that leases property in the UCI Business Park, other than the
259 state or an agency of the state.

260 (4) "UCI" Business Park" means the real property owned by the state and consisting of
261 approximately 120 acres that lie west of the state prison complex in Draper and south of the
262 Bangerter Highway.

263 Section 4. Section **64-13a-6** is amended to read:

264 **64-13a-6. Board powers and duties.**

265 The board has the following powers and duties:

266 (1) advise which enterprises should be conducted in the correctional facilities, and the
267 volume, kind, and place of enterprises, as to eliminate unnecessary inmate idleness at all facilities
268 and to provide diversified work activities which will serve as a means of enhancing vocational
269 skills;

270 (2) advise whether any enterprise should be established, expanded, diminished, or
271 discontinued;

272 (3) advise as to the establishment of policy with respect to the conduct of all enterprises;

273 (4) advise the prices at which all services and products provided, manufactured, produced,

274 or harvested by enterprises shall be furnished;

275 (5) consult regularly with state agencies and local public entities in order to develop new
276 enterprise products, adopt existing enterprise products, and establish new service functions to meet
277 their needs;

278 (6) act as liaison with private industry, organized labor, the Legislature, and the general
279 public;

280 (7) obtain and provide technical assistance for enterprise programs;

281 (8) recommend to the division the adoption of rules necessary to carry out the provisions
282 of this chapter;

283 (9) review and monitor an annual budget for all enterprises that includes a projected profit
284 analysis, sales forecast, and anticipated year-end financial forecast;

285 (10) advise on the development and management of the UCI Business Park, including the
286 types of businesses that should be solicited;

287 ~~[(10)]~~ (11) assist in the process of inmate occupational placement upon release from
288 confinement by coordination with the Board of Pardons and Parole, correctional institutions, and
289 field operations; and

290 ~~[(11)]~~ (12) prepare an annual report to the governor and the Legislature that contains:

291 (a) a detailed financial statement for each enterprise in each facility;

292 (b) a detailed financial statement of the fund;

293 (c) reasons for establishing or terminating enterprises;

294 (d) a summary of plans to develop additional enterprises;

295 (e) the number of inmates employed in each enterprise;

296 (f) the number of inmates available for work at each facility; and

297 (g) any further information requested by the governor or the Legislature.

298 Section 5. Section **64-13a-15** is enacted to read:

299 **64-13a-15. Administration of the UCI Business Park.**

300 In cooperation with the Division of Facilities Construction and Management, and subject
301 to Section 63A-5-307, the division shall:

302 (1) establish, maintain, and operate the UCI Business Park for the primary purpose of
303 providing training and employment opportunities for offenders by lessees;

304 (2) establish guidelines for the employment of offenders by lessees;

- 305 (3) solicit lessees who will provide training and employment opportunities to offenders;
- 306 (4) enter into agreements for the operation and maintenance of the UCI Business Park; and
- 307 (5) establish requirements to provide for the security of offenders receiving training and
- 308 employment.

Section 6. **Coordination clause.**

310 If this bill and H.B. 292, Capital Projects Approval and Administration, both pass, it is the
311 intent of the Legislature that the amendments in Section 63A-5-206 of this bill, S.B. 183, be
312 replaced with the following amendments to Sections 63A-5-104 and 63A-5-206 as amended by
313 HB 292:

314 1. Page 6, Line 164

315 House Floor Amendments

316 2-21-2000:

After "(3)(d)" delete "and" and insert " ;"

317 After "(e)," insert "and (f),"

318 2. Page 6, Line 182

319 House Floor Amendments

320 2-21-2000:

After Line 182 insert:

321 "(f) Legislative approval is not required for capital
322 development projects built at the UCI Business Park,

323 as defined in Section 63A-5-307, if the facility:

324 (i) is to be built with funds that are not provided by
325 the state; and

326 (ii) is to be developed under a land lease."

327 3. Page 14, Line 404:

After "construction;" delete "or"

328 4. Page 14, Line 406:

After "Program" delete " ;" and insert " ; or"

329 5. Page 14, Line 406:

After Line 406, insert:

330 "(e) is for facilities to be built at the UCI Business
331 Park, as defined in Section 63A-5-307, if the facility:

332 (i) is to be built with funds that are not provided by
333 the state; and

334 (ii) is to be developed under a land lease."

335 6. Page 15, Line 455:

After "(4);" delete "or"

336 7. Page 15, Line 457:

After "(5)(a)" delete "." and insert "; or"

337 8. Page 15, Line 457:

After Line 457 insert:

338

"(vi) the entity designated in Section 63A-5-307 for

339

projects under Subsection (3)(e)."