

1                                   **LEGISLATIVE APPROVAL FOR CAPITAL**

2   **PROJECTS**

3   2004 GENERAL SESSION

4   STATE OF UTAH

5   **Sponsor: David Ure**

---

---

7   **LONG TITLE**

8   **General Description:**

9                   This bill clarifies approval requirements for capital development and capital  
10 improvement projects.

11 **Highlighted Provisions:**

12                   This bill:

13                   ▶ defines the term "state funds" in order to clarify which capital projects require  
14 legislative approval.

15 **Monies Appropriated in this Bill:**

16                   None

17 **Other Special Clauses:**

18                   None

19 **Utah Code Sections Affected:**

20 AMENDS:

21                   **63A-5-104**, as last amended by Chapter 15, Laws of Utah 2002, Fifth Special Session

---

---

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

24                   Section 1. Section **63A-5-104** is amended to read:

25                   **63A-5-104. Capital development and capital improvement process -- Approval**  
26 **requirements -- Limitations on new projects -- Emergencies.**

27                   (1) As used in this section:



- 28 (a) "Capital developments" means any:  
29 (i) remodeling, site, or utility projects with a total cost of \$1,500,000 or more;  
30 (ii) new facility with a construction cost of \$250,000 or more; or  
31 (iii) purchase of real property where an appropriation is requested to fund the purchase.

- 32 (b) "Capital improvements" means any:  
33 (i) remodeling, alteration, replacement, or repair project with a total cost of less than  
34 \$1,500,000;  
35 (ii) site and utility improvement with a total cost of less than \$1,500,000; or  
36 (iii) new facility with a total construction cost of less than \$250,000.

37 (c) (i) "New facility" means the construction of any new building on state property  
38 regardless of funding source.

- 39 (ii) "New facility" includes:  
40 (A) an addition to an existing building; and  
41 (B) the enclosure of space that was not previously fully enclosed.

- 42 (iii) "New facility" does not mean:  
43 (A) the replacement of state-owned space that is demolished, if the total construction  
44 cost of the replacement space is less than \$1,500,000; or  
45 (B) the construction of facilities that do not fully enclose a space.

46 (d) "Replacement cost of existing state facilities" means the replacement cost, as  
47 determined by the Division of Risk Management, of state facilities, excluding auxiliary  
48 facilities as defined by the State Building Board.

49 (e) (i) "State funds" means:  
50 (A) public monies raised by operation of law for the support and operation of the state  
51 government; and

52 (B) all other monies, funds, and accounts, regardless of the source from which the  
53 monies, funds, or accounts are derived, that are owned, held, or administered by the state or any  
54 of its boards, commissions, institutions, departments, divisions, agencies, bureaus, laboratories,  
55 or other similar instrumentalities.

56 (ii) "State funds" does not mean monies donated to an agency for a specific capital  
57 development project.

58 (2) The State Building Board, on behalf of all state agencies, commissions,

59 departments, and institutions shall submit its capital development recommendations and  
60 priorities to the Legislature for approval and prioritization.

61 (3) (a) Except as provided in Subsections (3)(b), (d), and (e), a capital development  
62 project may not be constructed on state property without legislative approval.

63 (b) Legislative approval is not required for a capital development project if the State  
64 Building Board determines that:

65 (i) the requesting agency or institution has provided adequate assurance that state funds  
66 will not be used for the construction of, operations and maintenance to, and immediate or  
67 future capital improvements to the resulting facility; and

68 (ii) the use of the state property is:

69 (A) appropriate and consistent with the master plan for the property; and

70 (B) will not create an adverse impact on the state.

71 (c) The Division of Facilities Construction and Management shall maintain a record of  
72 facilities constructed under the exemption provided in Subsection(3)(b).

73 (d) Legislative approval is not required for:

74 (i) the renovation, remodeling, or retrofitting of an existing facility with nonstate funds;

75 (ii) facilities to be built with nonstate funds and owned by nonstate entities within  
76 research park areas at the University of Utah and Utah State University; or

77 (iii) facilities to be built at This is the Place State Park by This is the Place Foundation  
78 with funds of the foundation, including grant monies from the state, or with donated services or  
79 materials.

80 (e) (i) Legislative approval is not required for capital development projects to be built  
81 for the Department of Transportation as a result of an exchange of real property under Section  
82 72-5-111.

83 (ii) When the Department of Transportation approves those exchanges, it shall notify  
84 the president of the Senate, the speaker of the House, and the cochairs of the Capital Facilities  
85 and Administrative Services Subcommittee of the Legislature's Joint Appropriation Committee  
86 about any new facilities to be built under this exemption.

87 (4) (a) The State Building Board, on behalf of all state agencies, commissions,  
88 departments, and institutions shall by January 15 of each year, submit a list of anticipated  
89 capital improvement requirements to the Legislature for review and approval.

90 (b) Unless otherwise directed by the Legislature, the building board shall prioritize  
91 capital improvements from the list submitted to the Legislature up to the level of appropriation  
92 made by the Legislature.

93 (c) In prioritizing capital improvements, the building board shall consider the results of  
94 facility evaluations completed by an architect/engineer as stipulated by the building board's  
95 facilities maintenance standards.

96 (5) The Legislature may authorize:

97 (a) the total square feet to be occupied by each state agency; and

98 (b) the total square feet and total cost of lease space for each agency.

99 (6) (a) Except as provided in Subsection (6)(b), the Legislature may not fund the design  
100 or construction of any new capital development projects, except to complete the funding of  
101 projects for which partial funding has been previously provided, until the Legislature has  
102 appropriated 1.1% of the replacement cost of existing state facilities to capital improvements.

103 (b) (i) As used in this Subsection (6)(b), "operating deficit" means that estimated  
104 General Fund or Uniform School Fund revenues are less than budgeted for the current or next  
105 fiscal year.

106 (ii) If the Legislature determines that an operating deficit exists, the Legislature may, in  
107 eliminating the deficit, reduce the amount appropriated to capital improvements to 0.9% of the  
108 replacement cost of state buildings.

109 (7) (a) If, after approval of capital development and capital improvement priorities by  
110 the Legislature under this section, emergencies arise that create unforeseen critical capital  
111 improvement projects, the State Building Board may, notwithstanding the requirements of Title  
112 63, Chapter 38, Budgetary Procedures Act, reallocate capital improvement funds to address  
113 those projects.

114 (b) The building board shall report any changes it makes in capital improvement  
115 allocations approved by the Legislature to:

116 (i) the Office of Legislative Fiscal Analyst within 30 days of the reallocation; and

117 (ii) the Legislature at its next annual general session.

118 (8) (a) The State Building Board may adopt a rule allocating to institutions and  
119 agencies their proportionate share of capital improvement funding.

120 (b) The building board shall ensure that the rule:

121 (i) reserves funds for the Division of Facilities Construction and Management for  
122 emergency projects; and

123 (ii) allows the delegation of projects to some institutions and agencies with the  
124 requirement that a report of expenditures will be filed annually with the Division of Facilities  
125 Construction and Management and appropriate governing bodies.

126 (9) It is the intent of the Legislature that in funding capital improvement requirements  
127 under this section the General Fund be considered as a funding source for at least half of those  
128 costs.

---

---

**Legislative Review Note**  
**as of 1-15-04 7:58 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**

---

---

**Fiscal Note**

Legislative Approval for Capital Projects

23-Jan-04

**Bill Number HB0226**10:32 AM

---

---

**State Impact**

No fiscal impact.

---

**Individual and Business Impact**No fiscal impact.

---

**Office of the Legislative Fiscal Analyst**