

**CAPITAL FACILITIES AMENDMENTS**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: Stephen D. Clark

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**LONG TITLE**

**General Description:**

This bill amends provisions regarding capital projects accounting and use of project reserve money.

**Highlighted Provisions:**

This bill:

- ▶ requires the director of the Division of Facilities Construction and Management to account for reserve money accrued from state appropriated funds generated from bid savings and project residuals in separate accounts, one for capital improvement projects and one for capital development projects;

- ▶ allows the state building board to re-allocate bid savings and project residuals for approved capital improvement projects;

- ▶ provides for certain limitations and reporting of the transfer of funds between projects; and

- ▶ make technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**63A-5-209**, as last amended by Laws of Utah 2002, Fifth Special Session, Chapter 20

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

31 Section 1. Section **63A-5-209** is amended to read:

32 **63A-5-209. Building appropriations supervised by director -- Contingencies --**  
33 **Disposition of project reserve funds -- Set aside for Utah Percent-for-Art Program.**

34 (1) The director shall:

35 (a) (i) supervise the expenditure of funds in providing plans, engineering  
36 specifications, sites, and construction of the buildings for which legislative appropriations are  
37 made; and ~~[shall]~~

38 (ii) specifically allocate money appropriated when more than one project is included in  
39 any single appropriation without legislative directive;

40 (b) (i) expend the amount necessary from appropriations for planning, engineering,  
41 and architectural work; and

42 (ii) (A) allocate amounts from appropriations necessary to cover expenditures  
43 previously made from the planning fund under Section 63A-5-211 in the preparation of plans,  
44 engineering, and specifications ~~[shall be returned to the fund]; and~~

45 (B) return the amounts described in Subsection (1)(b)(ii)(A) to the planning fund; and

46 (c) hold in a statewide contingency reserve the amount budgeted for contingencies;

47 (i) in appropriations for the construction or remodeling of facilities~~[-for~~  
48 ~~contingencies]; and~~

49 (ii) which may be over and above all amounts obligated by contract for planning,  
50 engineering, ~~[and]~~ architectural work, sites, and construction contracts.

51 ~~[(i) The]~~ (2) (a) The director shall base the amount budgeted for contingencies ~~[shall~~  
52 ~~be based]~~ on a sliding scale percentage of the construction cost~~[- The sliding scale shall range~~  
53 ~~from] ranging from:~~

54 (i) 4-1/2% to 6-1/2% for new construction~~[-]; and [from]~~

55 (ii) 6% to 9-1/2% for remodeling projects.

56 ~~[(ii) (b) The]~~ director shall hold the statewide contingency funds ~~[shall be held by the~~  
57 ~~director]~~ to cover;

58 (i) costs ~~[such as]~~ of change orders; and ~~[other]~~  
59 (ii) unforeseen, necessary costs beyond those specifically budgeted for the project.  
60 ~~[(iii)-(A)]~~ (c) (i) The Legislature shall annually review the percentage and the amount  
61 held in the statewide contingency reserve.

62 ~~[(B)]~~ (ii) The Legislature may reappropriate to other building needs, including the cost  
63 of administering building projects, any amount from the statewide contingency reserve that is  
64 ~~[determined to be]~~ in excess of the reserve required to meet future contingency needs.

65 ~~[(2)]~~ (3) (a) The director shall hold in a separate reserve those state appropriated funds  
66 accrued through bid savings and project residual as a project reserve.

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

69 (i) bid savings and project residual from a capital improvement project, as defined in  
70 Section 63A-5-104; and

71 (ii) bid savings and project residual from a capital development project, as defined in  
72 Section 63A-5-104.

73 (c) The State Building Board may authorize the use of project reserve funds in the  
74 account described in Subsection (3)(b)(i) for a capital improvement project:

75 (i) approved under Section 63A-5-104; and

76 (ii) for which funds are not allocated.

77 ~~[(a)]~~ (d) The director may:

78 (i) authorize the use of project reserve funds ~~[only]~~ in the accounts described in  
79 Subsection (3)(b) for the award of contracts in excess of ~~[the]~~ a project's construction budget if  
80 ~~[this]~~ the use is required to meet the intent of the project~~[-]; and~~

81 (ii) transfer money from the account described in Subsection (3)(b)(i) to the account  
82 described in Subsection (3)(b)(ii) if a capital development project has exceeded its  
83 construction budget.

84 (e) The director shall report to the Office of the Legislative Fiscal Analyst within 30  
85 days:

86 (i) an authorization under Subsection (3)(c); or

87 (ii) a transfer under Subsection (3)(d).

88 ~~[(b)]~~ (f) The Legislature shall annually review the amount held in the project reserve  
89 for possible reallocation by the Legislature to other building needs, including the cost of  
90 administering building projects.

91 ~~[(3)]~~ (4) If any part of the appropriation for a building project, other than the part set  
92 aside for the Utah Percent-for-Art Program under Title 9, Chapter 6, Part 4, remains  
93 unencumbered after the award of construction and professional service contracts~~[-]~~ and  
94 establishing a reserve for fixed and moveable equipment, the balance of the appropriation  
95 ~~[shall be]~~ is dedicated to the project reserve and does not revert to the General Fund.

96 ~~[(4)]~~ (5) (a) One percent of the amount appropriated for the construction of any new  
97 state building or facility may be appropriated and set aside for the Utah Percent-for-Art  
98 Program administered by the Division of Fine Arts under Title 9, Chapter 6, Part 4.

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

102 (c) Funds from appropriations for any state building or facility of which any part is  
103 derived from the issuance of bonds, to the extent it would jeopardize the federal income tax  
104 exemption otherwise allowed for interest paid on bonds, may not be set aside.