

1 **CAPITAL FACILITIES AMENDMENTS**

2 2010 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Curtis S. Bramble**

5 House Sponsor: Stephen D. Clark

6

7 **LONG TITLE**

8 **General Description:**

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

11 **Highlighted Provisions:**

12 This bill:

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

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

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

21 ▶ make technical changes.

22 **Monies Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 AMENDS:



28 **63A-5-209**, as last amended by Laws of Utah 2002, Fifth Special Session, Chapter 20



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, and
41 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 separate
68 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 construction
83 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 Percent-for-Art
101 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.

Legislative Review Note
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Office of Legislative Research and General Counsel