

1                                   **SURPLUS PROPERTY AMENDMENTS**

2   2011 GENERAL SESSION

3   STATE OF UTAH

4   **Chief Sponsor: Stuart C. Reid**

5   House Sponsor: Ryan D. Wilcox

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7 **LONG TITLE**

8 **General Description:**

9           This bill modifies the Utah Administrative Services Code by moving the state surplus  
10 property program to the Division of Purchasing and General Services.

11 **Highlighted Provisions:**

12           This bill:

- 13           ▶ defines terms;
- 14           ▶ moves the state surplus property program from the Division of Fleet Operations of  
15 the Department of Administrative Services to the Division of Purchasing and  
16 General Services in the same department; and
- 17           ▶ makes technical changes.

18 **Money Appropriated in this Bill:**

19           None

20 **Other Special Clauses:**

21           None

22 **Utah Code Sections Affected:**

23 AMENDS:

24           **26-1-21**, as last amended by Laws of Utah 2008, Chapter 382

25           **63A-2-103**, as last amended by Laws of Utah 2009, Chapter 183

26 ENACTS:

27           **63A-2-101.5**, Utah Code Annotated 1953



28 RENUMBERS AND AMENDS:

29           **63A-2-401**, (Renumbered from 63A-9-801, as last amended by Laws of Utah 2008,  
30 Chapters 3 and 382)

31           **63A-2-402**, (Renumbered from 63A-9-802, as renumbered and amended by Laws of  
32 Utah 1997, Chapter 252)

33           **63A-2-403**, (Renumbered from 63A-9-803, as renumbered and amended by Laws of  
34 Utah 1997, Chapter 252)

35           **63A-2-404**, (Renumbered from 63A-9-805, as last amended by Laws of Utah 2001,  
36 Chapter 9)

37           **63A-2-405**, (Renumbered from 63A-9-807, as renumbered and amended by Laws of  
38 Utah 1997, Chapter 252)

39           **63A-2-406**, (Renumbered from 63A-9-808, as last amended by Laws of Utah 2008,  
40 Chapter 382)

41           **63A-2-407**, (Renumbered from 63A-9-808.1, as last amended by Laws of Utah 2005,  
42 Chapters 60 and 61)

43           **63A-2-408**, (Renumbered from 63A-9-809, as renumbered and amended by Laws of  
44 Utah 1997, Chapter 252)

45           **63A-2-409**, (Renumbered from 63A-9-806, as renumbered and amended by Laws of  
46 Utah 1997, Chapter 252)



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

49           Section 1. Section **26-1-21** is amended to read:

50           **26-1-21. Disposal of property by department.**

51           (1) The department may dispose of any personal property owned by it or any of the  
52 entities created under Section 26-1-13, in the manner provided in Title 63A, Chapter [9] 2, Part  
53 [8] 4, Surplus Property Service.

54           (2) The department may dispose of any real property owned by it or any of the entities  
55 created under Section 26-1-13, in the manner provided in Title 65A, Chapter 4 Acquisition and  
56 Disposition of Land by State Agencies.

57           Section 2. Section **63A-2-101.5** is enacted to read:

58           **63A-2-101.5. Definitions.**

59 As used in this chapter:

60 (1) "Division" means the Division of Purchasing and General Services created under  
61 Section 63A-2-101.

62 (2) "Information technology equipment" means equipment that is designed to  
63 electronically manipulate, store, or transfer a form of data.

64 (3) "Inventory property" means property in the possession of the division that is  
65 available for purchase by an agency or the public.

66 (4) "Judicial district" means a geographic district established by Section 78A-1-102.

67 (5) "Person with a disability" means a person with a severe, chronic disability that:

68 (a) is attributable to a mental or physical impairment or a combination of mental and  
69 physical impairments; and

70 (b) is likely to continue indefinitely.

71 (6) "Personal handheld electronic device":

72 (a) means an electronic device that is designed for handheld use and permits the user to  
73 store or access information, the primary value of which is specific to the user of the device; and

74 (b) includes a mobile phone, pocket personal computer, personal digital assistant, or  
75 similar device.

76 (7) "Property act" means the Federal Property and Administrative Services Act of  
77 1949, 40 U.S.C. Sec. 549.

78 (8) (a) "Surplus property" means property that an agency:

79 (i) intends for disposal; and

80 (ii) has acquired by purchase, seizure, or donation.

81 (b) "Surplus property" does not include ~~§~~ :

81a (i) ~~←§~~ real property ~~§~~ ; or

81b (ii) an aluminum can or an item made primarily of paper, plastic, or card  
81c board that is:

81d (A) discarded; and

81e (B) recyclable ~~←§~~ .

82 (9) "Transfer" means transfer of surplus property without cash consideration except for  
83 a fee described in Subsection 63A-2-401(3)(c).

84 Section 3. Section **63A-2-103** is amended to read:

85 **63A-2-103. General services provided -- Subscription by state departments, state**  
86 **agencies, and certain local governmental entities -- Fee schedule.**

87 (1) (a) The director of the Division of Purchasing and General Services shall operate,  
88 manage, and maintain:

89 (i) a central mailing service; [~~and~~]

90 (ii) an electronic central store system for procuring goods and services[-]; and  
 91 (iii) the state surplus property program in accordance with Title 63A, Chapter 2, Part 4,  
 92 Surplus Property Services.

93 (b) The director may establish microfilming, duplicating, printing, addressograph, and  
 94 other central services.

95 (2) (a) Each state department and agency shall subscribe to all of the services described  
 96 in [~~Subsection~~] Subsections (1)(a)(i) and (ii), unless the director delegates the director's  
 97 authority to a department or agency under Section 63A-2-104.

98 (b) An institution of higher education, school district, or political subdivision of the  
 99 state may subscribe to one or more of the services described in [~~Subsection~~] Subsections  
 100 (1)(a)(i) and (ii).

101 (3) The director shall:

102 (a) prescribe a schedule of fees to be charged for all services provided by the division  
 103 to any department or agency after the director:

104 (i) submits the proposed rate, fees, or other amounts for services provided by the  
 105 division's internal service fund to the Rate Committee established in Section 63A-1-114; and

106 (ii) obtains the approval of the Legislature, as required by Sections 63J-1-410 and  
 107 63J-1-504;

108 (b) when practicable, ensure that the fees are approximately equal to the cost of  
 109 providing the services; and

110 (c) periodically conduct a market analysis [~~by July 1, 2005, and periodically thereafter~~]  
 111 of fees, which analysis shall include comparison of the division's rates with the fees of other  
 112 public or private sector providers where comparable services and rates are reasonably available.

113 Section 4. Section **63A-2-401**, which is renumbered from Section 63A-9-801 is  
 114 renumbered and amended to read:

115 **Part 4. Surplus Property Service**

116 [~~63A-9-801~~]. **63A-2-401. State surplus property program -- Definitions --**

117 **Administration.**

118 (1) As used in this [~~section: (a)] part, "agency" means:~~

119 [(~~it~~)] (a) the Utah Departments of Administrative Services, Agriculture[-] and Food,  
 120 Alcoholic Beverage Control, Commerce, Community and Culture, Corrections, Workforce

121 Services, Health, Human Resource Management, Human Services, Insurance, Natural  
 122 Resources, Public Safety, Technology Services, and Transportation and the Labor  
 123 Commission;

124 ~~[(ii)]~~ (b) the Utah Offices of the Auditor, Attorney General, Court Administrator,  
 125 Crime Victim Reparations, Rehabilitation, and Treasurer;

126 ~~[(iii)]~~ (c) the Public Service Commission and State Tax Commission;

127 ~~[(iv)]~~ (d) the State Boards of Education, Pardons and Parole, and Regents;

128 ~~[(v)]~~ (e) the Career Service Review ~~[Board]~~ Office;

129 ~~[(vi)]~~ (f) other state agencies designated by the governor;

130 ~~[(vii)]~~ (g) the legislative branch, the judicial branch, and the State Board of Regents;

131 and

132 ~~[(viii)]~~ (h) an institution of higher education, its president, and its board of trustees for  
 133 purposes of Section ~~[63A-9-802]~~ 63A-2-402.

134 ~~[(b) "Division" means the Division of Fleet Operations.]~~

135 ~~[(c) "Information technology equipment" means any equipment that is designed to  
 136 electronically manipulate, store, or transfer any form of data.]~~

137 ~~[(d) "Inventory property" means property in the possession of the division that is  
 138 available for purchase by an agency or the public.]~~

139 ~~[(e) "Judicial district" means the geographic districts established by Section  
 140 78A-1-102.]~~

141 ~~[(f) (i) "Surplus property" means property purchased by, seized by, or donated to, an  
 142 agency that the agency wishes to dispose of.]~~

143 ~~[(ii) "Surplus property" does not mean real property.]~~

144 ~~[(g) "Transfer" means transfer of surplus property without cash consideration.]~~

145 (2) (a) The division shall make rules establishing a state surplus property program that  
 146 meets the requirements of this chapter by following the procedures and requirements of Title  
 147 63G, Chapter 3, Utah Administrative Rulemaking Act.

148 (b) ~~[Those]~~ The rules shall include:

149 (i) a requirement prohibiting the transfer of surplus property from one agency to  
 150 another agency without written approval from the division;

151 (ii) procedures and requirements governing division administration requirements that

152 an agency must follow;

153 (iii) requirements governing purchase priorities;

154 (iv) requirements governing accounting, reimbursement, and payment procedures;

155 (v) procedures for collecting bad debts;

156 (vi) requirements and procedures for disposing of firearms;

157 (vii) the elements of the rates or other charges assessed by the division for services and  
158 handling;

159 (viii) procedures governing the timing and location of public sales of inventory  
160 property; and

161 (ix) procedures governing the transfer of information technology equipment by state  
162 agencies directly to public schools.

163 (c) The division shall report all transfers of information technology equipment by state  
164 agencies to public schools to the Utah Technology Commission and to the Legislative Interim  
165 Education Committee at the end of each fiscal year.

166 (3) In creating and administering the program, the division shall:

167 (a) when conditions, inventory, and demand permit:

168 (i) establish facilities to store inventory property at geographically dispersed locations  
169 throughout the state; and

170 (ii) hold public sales of property at geographically dispersed locations throughout the  
171 state;

172 (b) establish, after consultation with the agency requesting the sale of surplus property,  
173 the price at which the surplus property shall be sold; and

174 (c) transfer proceeds arising from the sale of state surplus property to the agency  
175 requesting the sale in accordance with Title 63J, Chapter 1, Budgetary Procedures Act, less [~~an~~  
176 ~~amount established by the division by rule~~] a fee approved in accordance with Sections  
177 63A-1-114 and 63J-1-410, to pay the costs of administering the surplus property program.

178 (4) Unless specifically exempted from this [~~chapter~~] part by explicit reference to this  
179 [~~chapter~~] part, each state agency shall dispose of and acquire surplus property only by  
180 participating in the division's program.

181 Section 5. Section ~~63A-2-402~~, which is renumbered from Section 63A-9-802 is  
182 renumbered and amended to read:

183            ~~[63A-9-802].~~            63A-2-402. **State surplus property program -- Participation**  
 184 **by institutions of higher education.**

185            The Board of Regents shall:

186            (1) implement a policy requiring each institution of higher education to submit to the  
 187 division a listing of surplus property available for sale outside the institution, at least 15 days  
 188 prior to the intended sale date;

189            (2) supervise and assist compliance by the institutions of higher education with the  
 190 requirement of this part; and

191            (3) encourage institutions of higher education to acquire federal surplus property from  
 192 the division to reduce expenditures.

193            Section 6. Section **63A-2-403**, which is renumbered from Section 63A-9-803 is  
 194 renumbered and amended to read:

195            ~~[63A-9-803].~~            63A-2-403. **Methods of disposition of surplus authorized.**

196            The division may dispose of state surplus property by public auction, sealed bids, or by  
 197 other means established by rule in accordance with Title 63G, Chapter 3, Utah Administrative  
 198 Rulemaking Act.

199            Section 7. Section **63A-2-404**, which is renumbered from Section 63A-9-805 is  
 200 renumbered and amended to read:

201            ~~[63A-9-805].~~            63A-2-404. **Acquisition of federal surplus property -- Powers**  
 202 **and duties -- Advisory boards and committees -- Expenditures and contracts --**  
 203 **Clearinghouse of information -- Reports.**

204            ~~[(1) As used in this section:]~~

205            ~~[(a) "Property" includes equipment, materials, books, and other supplies.]~~

206            ~~[(b) "Property act" means Section 203(j) of the Federal Property and Administrative~~  
 207 ~~Services Act of 1949:]~~

208            ~~[(2)]~~ (1) The division may:

209            (a) acquire from the United States ~~[of America]~~ under and in conformance with the  
 210 property act any property under the control of any department or agency of the United States  
 211 that is usable and necessary for any purposes authorized by federal law;

212            (b) warehouse that property if it is not real property; and

213            (c) distribute that property within ~~[Utah]~~ this state to:

- 214 (i) tax-supported medical institutions, hospitals, clinics, and health centers;
- 215 (ii) school systems, schools, colleges, and universities;
- 216 (iii) other nonprofit medical institutions, hospitals, clinics, health centers, schools,
- 217 colleges, and universities that are exempt from taxation under Section 501(c)(3) of the United
- 218 States Internal Revenue Code of 1954;
- 219 (iv) civil defense organizations;
- 220 (v) political subdivisions; and
- 221 (vi) any other types of institutions or activities that are eligible to acquire the property
- 222 under federal law.

223 [~~3~~] (2) The division may:

- 224 (a) receive applications from eligible health and educational institutions for the
- 225 acquisition of federal surplus real property;
- 226 (b) investigate the applications;
- 227 (c) obtain opinions about those applications from the appropriate health or educational
- 228 authorities of [~~Utah~~] this state;
- 229 (d) make recommendations about the need of the applicant for the property, the merits
- 230 of the applicant's proposed use of the property, and the suitability of the property for those
- 231 purposes; and
- 232 (e) otherwise assist in the processing of those applications for acquisition of real and
- 233 related personal property of the United States under the property act.

234 [~~4~~] (3) The division may appoint advisory boards or committees.

235 [~~5~~] (4) If required by law or regulation of the United States in connection with the

236 disposal of surplus real property and the receipt, warehousing, and distribution of surplus

237 personal property received by the division from the United States, the division may:

- 238 (a) make certifications, take action, and make expenditures;
- 239 (b) enter into contracts, agreements, and undertakings for and in the name of the state
- 240 including cooperative agreements with the federal agencies providing for use by and exchange
- 241 between them of the property, facilities, personnel, and services of each by the other;
- 242 (c) require reports; and
- 243 (d) make investigations.

244 [~~6~~] (5) The division shall act as the clearinghouse of information for public and



245 private nonprofit institutions, organizations, and agencies eligible to acquire federal surplus  
 246 real property to:

247 (a) locate both real and personal property available for acquisition from the United  
 248 States;

249 (b) ascertain the terms and conditions under which that property may be obtained;

250 (c) receive requests from those institutions, organizations, and agencies and transmit to  
 251 them all available information in reference to that property; and

252 (d) aid and assist those institutions, organizations, and agencies in every way possible  
 253 in those acquisitions or transactions.

254 [~~(7)~~] (6) The division shall:

255 (a) cooperate with the departments or agencies of the United States;

256 (b) file a state plan of operation;

257 (c) operate according to that plan;

258 (d) take the actions necessary to meet the minimum standards prescribed by the  
 259 property act;

260 (e) make any reports required by the United States or any of its departments or  
 261 agencies; and

262 (f) comply with the laws of the United States and the regulations of any of the  
 263 departments or agencies of the United States governing the allocation of, transfer of, use of, or  
 264 accounting for any property donated to the state.

265 Section 8. Section **63A-2-405**, which is renumbered from Section 63A-9-807 is  
 266 renumbered and amended to read:

267 [~~63A-9-807~~]. **63A-2-405. Charges and fees assessed for surplus property.**

268 If approved in accordance with Sections 63A-1-114 and 63J-1-410, the division:

269 (1) [~~The division~~] may assess charges and fees for the acquisition, warehousing,  
 270 distribution, or transfer of any property of the United States for educational, public health, or  
 271 civil defense purposes, including research, only if those charges and fees are reasonably related  
 272 to the division's care and handling costs of acquiring, receipting, warehousing, distributing, or  
 273 transferring the property[-];

274 (2) [~~The division~~] may reduce or eliminate charges on property that is found not to be  
 275 usable for the purpose for which it was procured[-]; and

276 (3) [~~The division~~] shall limit the charges and fees assessed against real property to the  
277 reasonable administrative costs that the division incurred in effecting transfer.

278 Section 9. Section **63A-2-406**, which is renumbered from Section 63A-9-808 is  
279 renumbered and amended to read:

280 ~~[63A-9-808].~~ **63A-2-406. Rulemaking on giving priority to state and local**  
281 **agencies in purchasing surplus property -- Rulemaking on the sale or use of a personal**  
282 **handheld electronic device.**

283 [~~(1) As used in this section, "personal handheld electronic device":]~~

284 [~~(a) means an electronic device that is designed for handheld use and permits the user~~  
285 ~~to store or access information, the primary value of which is specific to the user of the device;~~  
286 ~~and]~~

287 [~~(b) includes a mobile phone, pocket personal computer, personal digital assistant,~~  
288 ~~wireless, or similar device.]~~

289 [~~(2)~~] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
290 the division shall make rules:

291 [~~(a)~~] (1) giving state and local agencies priority to purchase surplus property for a  
292 30-day period except for personal handheld electronic devices under Subsection (2)[~~(b)~~]; and

293 [~~(b)~~] (2) allowing the sale of a personal handheld electronic device to a user who:

294 [~~(i)~~] (a) is provided the device as part of the user's employment; and

295 [~~(ii)~~] (b) subsequently makes a change in employment status including, departure,  
296 retirement, or transfer to another agency within state government.

297 Section 10. Section **63A-2-407**, which is renumbered from Section 63A-9-808.1 is  
298 renumbered and amended to read:

299 ~~[63A-9-808.1].~~ **63A-2-407. Transfer of information technology equipment**  
300 **for persons with a disability.**

301 [~~(1) As used in this section, "a person with a disability" means a person with a severe,~~  
302 ~~chronic disability that:]~~

303 [~~(a) is attributable to a mental or physical impairment or a combination of mental and~~  
304 ~~physical impairments; and]~~

305 [~~(b) is likely to continue indefinitely.]~~

306 [~~(2)~~] (1) The division may transfer information technology equipment, or authorize the

307 transfer of technology equipment by an agency, to a nonprofit entity for distribution to and use  
 308 by a person with a disability.

309 ~~[(3)]~~ (2) Interagency transfers and sales of surplus property to state and local agencies  
 310 within the 30-day period under Section ~~[63A-9-808]~~ 63A-2-406 shall have priority over  
 311 transfers under Subsection ~~[(2)]~~ (1).

312 ~~[(4)]~~ (3) The division shall annually report to the Division of Services for People With  
 313 Disabilities the:

- 314 (a) names of the nonprofit entities receiving transfers under Subsection ~~[(2)]~~ (1); and
- 315 (b) types and amounts of equipment received.

316 Section 11. Section **63A-2-408**, which is renumbered from Section 63A-9-809 is  
 317 renumbered and amended to read:

318 ~~[63A-9-809].~~ **63A-2-408. Authority of state or local subdivision to receive**  
 319 **property -- Revocation of authority of officer.**

320 (1) Notwithstanding any other provision of law, the governing board or the executive  
 321 director of any state department, instrumentality, or agency or the legislative body of any city,  
 322 county, school district, or other political subdivision may by order or resolution give any officer  
 323 or employee the authority to:

324 (a) secure the transfer to it of surplus property through the division under the  
 325 ~~[provisions of Section 203(j) of the Federal Property and Administrative Services Act of 1949,~~  
 326 ~~as amended]~~ the property act; and

327 (b) obligate the state or political subdivision and its funds to the extent necessary to  
 328 comply with the terms and conditions of those transfers.

329 (2) The authority conferred upon any officer or employee by an order or resolution  
 330 remains in effect until:

- 331 (a) the order or resolution is revoked; and
- 332 (b) the division has received written notice of the revocation.

333 Section 12. Section **63A-2-409**, which is renumbered from Section 63A-9-806 is  
 334 renumbered and amended to read:

335 ~~[63A-9-806].~~ **63A-2-409. Bonds.**

336 The executive director of the Department of Administrative Services may bond any  
 337 person employed by the division who handles money, signs checks, or receives or distributes

338 surplus property.

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**Legislative Review Note**  
**as of 1-26-11 9:03 AM**

**Office of Legislative Research and General Counsel**

# FISCAL NOTE

S.B. 130

SHORT TITLE: **Surplus Property Amendments**

SPONSOR: **Reid, S.**

2011 GENERAL SESSION, STATE OF UTAH

## STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

## LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments.

## DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.