

1 **CAPITAL IMPROVEMENT AND CAPITAL DEVELOPMENT**

2 **PROJECT AMENDMENTS**

3 2014 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Wayne A. Harper**

6 House Sponsor: Gage Froerer

7
8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Utah Administrative Services Code by amending provisions
11 relating to capital improvement and capital development projects.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ adds infrastructure to the definition of replacement cost of existing state facilities;
- 15 ▶ adds infrastructure to the prohibition that the Legislature may not fund the design or
16 construction of any new capital development projects until the Legislature has
17 appropriated a certain percentage of the replacement cost of existing state facilities
18 and infrastructure to capital improvements;

18a **Ŝ→ ▶ prohibits the Legislature from funding the programming, design, and construction of a**
18b **new building or facility in phases over more than one year unless the Legislature has approved**
18c **each phase of the funding for the construction of the new building or facility by the affirmative**
18d **vote of two-thirds of all the members elected to each house; ←Ŝ**

19 ▶ repeals the July 1, 2014, sunset date on the provision requiring the State Building
20 Board, in prioritizing capital improvements, to allocate at least 80% of the funds the
21 Legislature appropriates for certain capital improvements;

22 ▶ repeals the July 1, 2014, sunset date on the provision requiring the State Building
23 Board, in prioritizing capital improvements, to allocate no more than 20% of the
24 funds the Legislature appropriates for capital improvements to remodeling and



25 aesthetic upgrades or the construction of an addition to an existing building or
26 facility; and
27 ▶ makes technical corrections.

28 **Money Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **63A-5-104**, as last amended by Laws of Utah 2013, Chapters 250 and 409

35 **63I-1-263**, as last amended by Laws of Utah 2013, Chapters 28, 62, 101, 167, 250, and

36 413



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

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

40 **63A-5-104. Definitions -- Capital development and capital improvement process**

41 **-- Approval requirements -- Limitations on new projects -- Emergencies.**

42 (1) As used in this section:

43 (a) "Capital developments" means a:

44 (i) remodeling, site, or utility project with a total cost of \$2,500,000 or more;

45 (ii) new facility with a construction cost of \$500,000 or more; or

46 (iii) purchase of real property where an appropriation is requested to fund the purchase.

47 (b) "Capital improvements" means a:

48 (i) remodeling, alteration, replacement, or repair project with a total cost of less than

49 \$2,500,000;

50 (ii) site and utility improvement with a total cost of less than \$2,500,000; or

51 (iii) new facility with a total construction cost of less than \$500,000.

52 (c) (i) "New facility" means the construction of a new building on state property

53 regardless of funding source.

54 (ii) "New facility" includes:

55 (A) an addition to an existing building; and

56 (B) the enclosure of space that was not previously fully enclosed.

57 (iii) "New facility" does not mean:

58 (A) the replacement of state-owned space that is demolished or that is otherwise

59 removed from state use, if the total construction cost of the replacement space is less than
60 \$2,500,000; or

61 (B) the construction of facilities that do not fully enclose a space.

62 (d) "Replacement cost of existing state facilities and infrastructure" means the
63 replacement cost, as determined by the Division of Risk Management, of state facilities,
64 excluding auxiliary facilities as defined by the State Building Board and the replacement cost
65 of infrastructure as defined by the State Building Board.

66 (e) "State funds" means public money appropriated by the Legislature.

67 (2) The State Building Board, on behalf of all state agencies, commissions,
68 departments, and institutions shall submit its capital development recommendations and
69 priorities to the Legislature for approval and prioritization.

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

72 (b) Legislative approval is not required for a capital development project that consists
73 of the design or construction of a new facility if the State Building Board determines that:

74 (i) the requesting state agency, commission, department, or institution has provided
75 adequate assurance that:

76 (A) state funds will not be used for the design or construction of the facility; and

77 (B) the state agency, commission, department, or institution has a plan for funding in
78 place that will not require increased state funding to cover the cost of operations and
79 maintenance to, or state funding for, immediate or future capital improvements to the resulting
80 facility; and

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

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

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

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

86 (ii) For facilities constructed under the exemption provided in Subsection (3)(b), a state
87 agency, commission, department, or institution may not request:

88 (A) increased state funds for operations and maintenance; or

89 (B) state capital improvement funding.

90 (d) Legislative approval is not required for:

91 (i) the renovation, remodeling, or retrofitting of an existing facility with nonstate funds
92 that has been approved by the State Building Board;

93 (ii) a facility to be built with nonstate funds and owned by nonstate entities within
94 research park areas at the University of Utah and Utah State University;

95 (iii) a facility to be built at This is the Place State Park by This is the Place Foundation
96 with funds of the foundation, including grant money from the state, or with donated services or
97 materials;

98 (iv) a capital project that:

99 (A) is funded by:

100 (I) the Uintah Basin Revitalization Fund; or

101 (II) the Navajo Revitalization Fund; and

102 (B) does not provide a new facility for a state agency or higher education institution; or

103 (v) a capital project on school and institutional trust lands that is funded by the School
104 and Institutional Trust Lands Administration from the Land Grant Management Fund and that
105 does not fund construction of a new facility for a state agency or higher education institution.

106 (e) (i) Legislative approval is not required for capital development projects to be built
107 for the Department of Transportation:

108 (A) as a result of an exchange of real property under Section [72-5-111](#); or

109 (B) as a result of a sale or exchange of real property from a maintenance facility if the
110 real property is exchanged for, or the proceeds from the sale of the real property are used for,
111 another maintenance facility, including improvements for a maintenance facility and real
112 property.

113 (ii) When the Department of Transportation approves a sale or exchange under
114 Subsection (3)(e), it shall notify the president of the Senate, the speaker of the House, and the
115 cochairs of the Infrastructure and General Government Appropriations Subcommittee of the
116 Legislature's Joint Appropriation Committee about any new facilities to be built or improved
117 under this exemption.

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

- 121 (ii) The list shall identify:
- 122 (A) a single project that costs more than \$1,000,000;
- 123 (B) multiple projects within a single building or facility that collectively cost more than
- 124 \$1,000,000;
- 125 (C) a single project that will be constructed over multiple years with a yearly cost of
- 126 \$1,000,000 or more and an aggregate cost of more than \$2,500,000;
- 127 (D) multiple projects within a single building or facility with a yearly cost of
- 128 \$1,000,000 or more and an aggregate cost of more than \$2,500,000;
- 129 (E) a single project previously reported to the Legislature as a capital improvement
- 130 project under \$1,000,000 that, because of an increase in costs or scope of work, will now cost
- 131 more than \$1,000,000; and
- 132 (F) multiple projects within a single building or facility previously reported to the
- 133 Legislature as a capital improvement project under \$1,000,000 that, because of an increase in
- 134 costs or scope of work, will now cost more than \$1,000,000.
- 135 (b) Unless otherwise directed by the Legislature, the State Building Board shall
- 136 prioritize capital improvements from the list submitted to the Legislature up to the level of
- 137 appropriation made by the Legislature.
- 138 (c) In prioritizing capital improvements, the State Building Board shall consider the
- 139 results of facility evaluations completed by an architect/engineer as stipulated by the building
- 140 board's facilities maintenance standards.
- 141 (d) Beginning on July 1, 2013, in prioritizing capital improvements, the State Building
- 142 Board shall allocate at least 80% of the funds that the Legislature appropriates for capital
- 143 improvements to:
- 144 (i) projects that address:
- 145 (A) a structural issue;
- 146 (B) fire safety;
- 147 (C) a code violation; or
- 148 (D) any issue that impacts health and safety;
- 149 (ii) projects that upgrade:
- 150 (A) an HVAC system;
- 151 (B) an electrical system;

- 152 (C) essential equipment;
- 153 (D) an essential building component; or
- 154 (E) infrastructure, including a utility tunnel, water line, gas line, sewer line, roof,
- 155 parking lot, or road; or
- 156 (iii) projects that demolish and replace an existing building that is in extensive
- 157 disrepair and cannot be fixed by repair or maintenance.
- 158 (e) Beginning on July 1, 2013, in prioritizing capital improvements, the State Building
- 159 Board shall allocate no more than 20% of the funds that the Legislature appropriates for capital
- 160 improvements to:
 - 161 (i) remodeling and aesthetic upgrades to meet state programmatic needs; or
 - 162 (ii) construct an addition to an existing building or facility.
 - 163 (f) The State Building Board may require an entity that benefits from a capital
 - 164 improvement project to repay the capital improvement funds from savings that result from the
 - 165 project.
 - 166 (g) The State Building Board may provide capital improvement funding to a single
 - 167 project, or to multiple projects within a single building or facility, even if the total cost of the
 - 168 project or multiple projects is \$2,500,000 or more, if:
 - 169 (i) the capital improvement project or multiple projects require more than one year to
 - 170 complete; and
 - 171 (ii) the Legislature has affirmatively authorized the capital improvement project or
 - 172 multiple projects to be funded in phases.
 - 173 (5) The Legislature may authorize:
 - 174 (a) the total square feet to be occupied by each state agency; and
 - 175 (b) the total square feet and total cost of lease space for each agency.
 - 176 (6) If construction of a new building or facility will be paid for by nonstate funds, but
 - 177 will require an immediate or future increase in state funding for operations and maintenance or
 - 178 for capital improvements, the Legislature may not authorize the new building or facility until
 - 179 the Legislature appropriates funds for:
 - 180 (a) the portion of operations and maintenance, if any, that will require an immediate or
 - 181 future increase in state funding; and
 - 182 (b) the portion of capital improvements, if any, that will require an immediate or future

183 increase in state funding.

184 (7) (a) Except as provided in Subsection (7)(b) or (c), the Legislature may not fund the
185 design or construction of any new capital development projects, except to complete the funding
186 of projects for which partial funding has been previously provided, until the Legislature has
187 appropriated 1.1% of the replacement cost of existing state facilities and infrastructure to
188 capital improvements.

189 (b) (i) As used in this Subsection (7)(b):

190 (A) "Education Fund budget deficit" is as defined in Section 63J-1-312; and

191 (B) "General Fund budget deficit" is as defined in Section 63J-1-312.

192 (ii) If the Legislature determines that an Education Fund budget deficit or a General
193 Fund budget deficit exists, the Legislature may, in eliminating the deficit, reduce the amount
194 appropriated to capital improvements to 0.9% of the replacement cost of state buildings and
195 infrastructure.

196 (c) (i) The requirements under Subsections (6)(a) and (b) do not apply to the 2008-09,
197 2009-10, 2010-11, 2011-12, and 2012-13 fiscal years.

198 (ii) For the 2013-14 fiscal year, the amount appropriated to capital improvements shall
199 be reduced to 0.9% of the replacement cost of state facilities.

199a **§→ (8) It is the policy of the Legislature that a new building or facility be approved and**
199b **funded for construction in a single budget action, therefore the Legislature may not fund the**
199c **programming, design, and construction of a new building or facility in phases over more than**
199d **one year unless the Legislature has approved each phase of the funding for the construction of**
199e **the new building or facility by the affirmative vote of two-thirds of all the members elected to**
199f **each house.** ←§

200 **§→ [(8)] (9) ←§** (a) If, after approval of capital development and capital improvement
200a priorities by
201 the Legislature under this section, emergencies arise that create unforeseen critical capital
202 improvement projects, the State Building Board may, notwithstanding the requirements of Title
203 63J, Chapter 1, Budgetary Procedures Act, reallocate capital improvement funds to address
204 those projects.

205 (b) The State Building Board shall report any changes it makes in capital improvement
206 allocations approved by the Legislature to:

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

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

209 **§→ [(9)] (10) ←§** (a) The State Building Board may adopt a rule allocating to

209a institutions and
210 agencies their proportionate share of capital improvement funding.
211 (b) The State Building Board shall ensure that the rule:
212 (i) reserves funds for the Division of Facilities Construction and Management for
213 emergency projects; and

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

217 ~~§~~ → [(10)] (11) ← ~~§~~ It is the intent of the Legislature that in funding capital improvement
 217a requirements
 218 under this section the General Fund be considered as a funding source for at least half of those
 219 costs.

220 ~~§~~ → [(11)] (12) ← ~~§~~ (a) Subject to Subsection ~~§~~ → [(11)] (12) ← ~~§~~ (b), at least 80% of the
 220a state funds appropriated for
 221 capital improvements shall be used for maintenance or repair of the existing building or
 222 facility.

223 (b) The State Building Board may modify the requirement described in Subsection
 224 ~~§~~ → [(11)] (12) ← ~~§~~ (a) if the State Building Board determines that a different allocation of capital
 225 improvements funds is in the best interest of the state.

226 Section 2. Section **63I-1-263** is amended to read:

227 **63I-1-263. Repeal dates, Titles 63A to 63M.**

228 (1) Section [63A-4-204](#), authorizing the Risk Management Fund to provide coverage to
 229 any public school district which chooses to participate, is repealed July 1, 2016.

230 [~~(2)~~ Subsections [63A-5-104](#)(4)(d) and (e) are repealed on July 1, 2014.]

231 [~~(3)~~ (2) Section [63A-5-603](#), State Facility Energy Efficiency Fund, is repealed July 1,
 232 2016.

233 [~~(4)~~ (3) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed
 234 July 1, 2018.

235 [~~(5)~~ (4) Section [53B-24-402](#), rural residency training program, is repealed July 1,
 236 2015.

237 [~~(6)~~ (5) Title 63C, Chapter 13, Prison Relocation and Development Authority Act, is
 238 repealed July 1, 2014.

239 [~~(7)~~ (6) Title 63C, Chapter 14, Federal Funds Commission, is repealed July 1, 2018.

240 [~~(8)~~ (7) Subsection [63G-6a-1402](#)(7) authorizing certain transportation agencies to
 241 award a contract for a design-build transportation project in certain circumstances, is repealed
 242 July 1, 2015.

243 [~~(9)~~ (8) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed
 244 July 1, 2020.

245 ~~[(10)]~~ (9) The Resource Development Coordinating Committee, created in Section
246 63J-4-501, is repealed July 1, 2015.

247 ~~[(11)]~~ (10) Title 63M, Chapter 1, Part 4, Enterprise Zone Act, is repealed July 1, 2018.

248 ~~[(12)]~~ (11) (a) Title 63M, Chapter 1, Part 11, Recycling Market Development Zone
249 Act, is repealed January 1, 2021.

250 (b) Subject to Subsection ~~[(12)]~~ (11)(c), Sections 59-7-610 and 59-10-1007 regarding
251 tax credits for certain persons in recycling market development zones, are repealed for taxable
252 years beginning on or after January 1, 2021.

253 (c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

254 (i) for the purchase price of machinery or equipment described in Section 59-7-610 or
255 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

256 (ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if
257 the expenditure is made on or after January 1, 2021.

258 (d) Notwithstanding Subsections ~~[(12)]~~ (11)(b) and (c), a person may carry forward a
259 tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

260 (i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

261 (ii) (A) for the purchase price of machinery or equipment described in Section
262 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31,
263 2020; or

264 (B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the
265 expenditure is made on or before December 31, 2020.

266 ~~[(13)]~~ (12) (a) Section 63M-1-2507, Health Care Compact is repealed on July 1, 2014.

267 (b) (i) The Legislature shall, before reauthorizing the Health Care Compact:

268 (A) direct the Health System Reform Task Force to evaluate the issues listed in
269 Subsection ~~[(13)]~~ (12)(b)(ii), and by January 1, 2013, develop and recommend criteria for the
270 Legislature to use to negotiate the terms of the Health Care Compact; and

271 (B) prior to July 1, 2014, seek amendments to the Health Care Compact among the
272 member states that the Legislature determines are appropriate after considering the
273 recommendations of the Health System Reform Task Force.

274 (ii) The Health System Reform Task Force shall evaluate and develop criteria for the
275 Legislature regarding:

- 276 (A) the impact of the Supreme Court ruling on the Affordable Care Act;
- 277 (B) whether Utah is likely to be required to implement any part of the Affordable Care
- 278 Act prior to negotiating the compact with the federal government, such as Medicaid expansion
- 279 in 2014;
- 280 (C) whether the compact's current funding formula, based on adjusted 2010 state
- 281 expenditures, is the best formula for Utah and other state compact members to use for
- 282 establishing the block grants from the federal government;
- 283 (D) whether the compact's calculation of current year inflation adjustment factor,
- 284 without consideration of the regional medical inflation rate in the current year, is adequate to
- 285 protect the state from increased costs associated with administering a state based Medicaid and
- 286 a state based Medicare program;
- 287 (E) whether the state has the flexibility it needs under the compact to implement and
- 288 fund state based initiatives, or whether the compact requires uniformity across member states
- 289 that does not benefit Utah;
- 290 (F) whether the state has the option under the compact to refuse to take over the federal
- 291 Medicare program;
- 292 (G) whether a state based Medicare program would provide better benefits to the
- 293 elderly and disabled citizens of the state than a federally run Medicare program;
- 294 (H) whether the state has the infrastructure necessary to implement and administer a
- 295 better state based Medicare program;
- 296 (I) whether the compact appropriately delegates policy decisions between the
- 297 legislative and executive branches of government regarding the development and
- 298 implementation of the compact with other states and the federal government; and
- 299 (J) the impact on public health activities, including communicable disease surveillance
- 300 and epidemiology.
- 301 ~~[(14)]~~ (13) The Crime Victim Reparations and Assistance Board, created in Section
- 302 [63M-7-504](#), is repealed July 1, 2017.
- 303 ~~[(15)]~~ (14) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1,
- 304 2017.

Legislative Review Note
as of 1-29-14 4:14 PM

Office of Legislative Research and General Counsel